

be closely regulated and administered only in research or necessary medical circumstances for one year after the effective date of sections 2 and 4 of this act until June 12, 1992.

Sec. 5. EFFECTIVE DATE.

(a) Except as provided in paragraph (b), sections 1 to 4 are effective 30 days after the commissioner of agriculture publishes notice in the State Register that (1) the states of Minnesota and Wisconsin, or (2) states having 40 percent or more of milk production as determined by the United States Department of Agriculture statistics for the most recent available calendar year, including Minnesota, have adopted provisions that restrict general use of biosynthetic bovine somatotropin (BST) and remain in effect only so long as restrictions are effective in the state of Wisconsin or in states having 40 percent or more of milk production, including Minnesota. On the date that restrictions on the general use of biosynthetic bovine somatotropin are no longer in effect in the state of Wisconsin and in states having 40 percent or more of milk production, including Minnesota, sections 1 to 4 have no effect and biosynthetic bovine somatotropin may be sold for general use.

(b) Sections 1 to 4 are effective the day after final enactment and the commissioner of agriculture is not required to publish notice in the State Register if restrictions on the general use of biosynthetic bovine somatotropin are effective in the state of Wisconsin on that date.

Presented to the governor May 23, 1991

Became law without the governor's signature May 28, 1991

[Revisor's Note: While the governor attempted to veto this chapter, it was filed with the secretary of state with a letter from the secretary of the senate saying that the governor returned it to the senate after the three-day constitutional requirement.]

CHAPTER 214—S.F.No. 1064

*An act relating to waters; exempting certain proceedings by the board of water and soil resources from the administrative procedure act; changing administrative appeal procedures; authorizing appeals to the court of appeals; exempting the Minnesota housing finance agency from restrictions on transfers of marginal land and wetlands; limiting a prohibition on certain new water use permits to the metropolitan area; exempting tree and shrub planting from certain notification requirements; amending Minnesota Statutes 1990, sections 103B.345, subdivisions 2 and 4; 103D.105, subdivision 1; 103D.111; 103F.535, subdivision 1; 103G.271, subdivision 4a; and 216D.01, subdivision 5.*

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

Section 1. Minnesota Statutes 1990, section 103B.345, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **PETITION FOR HEARING.** A county or other local unit of government may petition for a ~~contested case~~ hearing by the board under this section if:

(1) the interpretation and implementation of a comprehensive water plan is challenged by a local unit of government aggrieved by the plan;

(2) two or more counties disagree about the apportionment of the costs of a project implementing a comprehensive water plan; or

(3) a county and another local unit of government disagree about a change in a local water and related land resources plan or official control recommended by the county under section 103B.325.

Sec. 2. Minnesota Statutes 1990, section 103B.345, subdivision 4, is amended to read:

Subd. 4. **HEARING.** If the aggrieved county or other local unit of government files a petition for a hearing, a hearing must be conducted by the ~~state office of administrative hearings under the contested case procedure of chapter 14~~ board within 60 days of the request. The subject of the hearing may not extend to questions concerning the need for a comprehensive water plan. ~~In the report of the administrative law judge, the fees of the office of administrative hearings and transcript fees must be equally apportioned among the parties to the proceeding.~~ Within 60 days after receiving the report of the administrative law judge the close of the hearing, the board shall, by resolution containing findings of fact and conclusions of law, make a final decision with respect to the issue before it.

Sec. 3. Minnesota Statutes 1990, section 103D.105, subdivision 1, is amended to read:

Subdivision 1. **PROCEDURE.** (a) A rulemaking hearing must be conducted under chapter 14.

(b) A hearing ~~must be conducted as a contested case under chapter 14 if the hearing is:~~

~~(1) in a proceeding to establish or terminate a watershed district; or~~

~~(2) of an appeal under section 103D.535 must be conducted.~~

(c) Notwithstanding chapter 14, other hearings under this chapter, ~~except hearings under paragraphs (a) and (b),~~ shall be conducted by the board under this section. The board may refer the hearing to one or more members of the board or an administrative law judge to hear evidence and make findings of fact and report them to the board.

Sec. 4. Minnesota Statutes 1990, section 103D.111, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**103D.111 APPEAL OF BOARD ORDERS.**

**Subdivision 1. REVIEW OF ESTABLISHMENT AND TERMINATION DECISIONS.** In a proceeding to establish or terminate a watershed district where the board elected not to refer the proceeding to the office of administrative hearings, a local unit of government or 25 or more residents within the area affected by the proceeding may, prior to judicial appeal of the board's decision, demand a contested case hearing to be conducted by the office of administrative hearings. In the report of the administrative law judge, the fees of the office of administrative hearings and transcript fees may be apportioned among the parties and the board. Apportionment must be based on the degree to which the parties and the board prevailed, or caused unnecessary delay or expense. Following receipt of the report of the administrative law judge, the board shall make a final decision in accordance with chapter 14.

**Subd. 2. APPEALS OF FINAL BOARD DECISIONS.**

A party that is aggrieved by the final decision made by the ~~order of~~ the board may appeal the order decision to the ~~district court of~~ appeals in the manner provided by sections 14.63 to 14.69.

Sec. 5. Minnesota Statutes 1990, section 103F.535, subdivision 1, is amended to read:

**Subdivision 1. RESERVATION OF MARGINAL LAND AND WETLANDS.** (a) Notwithstanding any other law, marginal land and wetlands are withdrawn from sale by the state unless use of the marginal land or wetland is restricted by a conservation easement as provided in this section.

(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 conservation easement 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 Class C nonagricultural land with local units of government under sections 94.342, 94.343, 94.344, and 94.349;

(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).

New language is indicated by underline, deletions by ~~strikeout~~.

(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 conservation easement 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.

Sec. 6. Minnesota Statutes 1990, section 103G.271, subdivision 4a, is amended to read:

Subd. 4a. **MT. SIMON-HINCKLEY AQUIFER.** (a) The commissioner may not issue new water use permits that will appropriate water from the Mt. Simon-Hinckley aquifer in a metropolitan county, as defined in section 473.121, subdivision 4, unless the appropriation is for potable water use, there are no feasible or practical alternatives to this source, and a water conservation plan is incorporated with the permit.

(b) The commissioner shall terminate all permits authorizing appropriation and use of water from the Mt. Simon-Hinckley aquifer for once-through systems ~~in the seven-county~~ a metropolitan area county, as defined in section 473.121, subdivision 4, by December 31, 1992.

Sec. 7. Minnesota Statutes 1990, section 216D.01, subdivision 5, is amended to read:

Subd. 5. **EXCAVATION.** "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically-powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

- (1) the repair or installation of agricultural drainage tile for which notice has been given as provided by section 116I.07, subdivision 2;
- (2) the extraction of minerals;
- (3) the opening of a grave in a cemetery;
- (4) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;
- (5) plowing, cultivating, planting, harvesting, and similar operations in con-

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nection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more; or

(6) landscaping or gardening unless one of the activities disturbs the soil to a depth of 12 inches or more.

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 9:15 a.m.

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### CHAPTER 215—S.F.No. 84

*An act relating to state lands; authorizing sale of certain tax-forfeited land that borders public water in the city of Barnesville in Clay county.*

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

#### Section 1. SALE OF TAX-FORFEITED LAND; CLAY COUNTY.

(a) Notwithstanding Minnesota Statutes, section 282.018, subdivision 1, Clay county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land that may be conveyed is located in the city of Barnesville in Clay county and is described as:

McGrath's First Addition

City of Barnesville

Lots 5 and 6, less East 10 feet of Lot 5, Block 3

(d) The lots on either side of this parcel have residential homes built on them. It would be in the best interests of the taxpayers of the city and county to have these lots sold for private residential purposes. These lots have little potential for use as conservation land. The city has expressed concern that the lots be kept mowed and the weeds controlled.

#### Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 24, 1991

Signed by the governor May 28, 1991, 9:15 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.