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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 190

01/12/2017 Authored by Wagenius, Hansen, Pinto, Lee, Davnie and others
The bill was read for the first time and referred to the Committee on Agriculture Policy

1.1 A bill for an act
1.2 relating to water; requiring actions to protect the upper Mississippi River as drinking
1.3 water source for 1,000,000 Minnesotans; appropriating money.

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

1.5 Section 1. ACTIONS TO PROTECT UPPER MISSISSIPPI RIVER WATERSHED;
1.6 APPROPRIATIONS.

1.7 Subdivision 1. Definition. For the purposes of this section, the Upper Mississippi River
1.8 Source Water Protection Area is defined as the upper Mississippi River basin that serves
1.9 as the watershed for the upper Mississippi River used by over 1,000,000 Minnesotans for
1.10 drinking water, including the Minneapolis, St. Paul, and St. Cloud drinking water systems.

1.11 Subd. 2. Pollution Control Agency. (a) \$228,000 in fiscal year 2018 and \$228,000 in
1.12 fiscal year 2019 are appropriated from the general fund to the commissioner of the Pollution
1.13 Control Agency to review manure and nutrient management requirements and guidance
1.14 established by the Pollution Control Agency and modify requirements, recommendations,
1.15 and management practices for areas within the Upper Mississippi River Source Water
1.16 Protection Area to ensure protection of the Mississippi River for purposes of drinking water.
1.17 This is a onetime appropriation and the work must be completed by July 1, 2020.

1.18 (b) \$114,000 in fiscal year 2018 is appropriated from the general fund to the commissioner
1.19 of the Pollution Control Agency to incorporate surface water protection strategies specific
1.20 to drinking water sources when preparing watershed restoration and protection strategy
1.21 reports (WRAPSs) and total maximum daily load (TMDLs). This is a onetime appropriation.

2.1 (c) \$720,000 in fiscal year 2019 is appropriated from the general fund to the commissioner
2.2 of the Pollution Control Agency to review and incorporate surface water protection strategies
2.3 specific to drinking water sources into best management practices, guidance, and rules
2.4 related to feedlots, subsurface treatment systems, storm water management, and state disposal
2.5 system/national pollutant discharge elimination system permits and when issuing state
2.6 disposal system/national pollutant discharge elimination system permits. The base for this
2.7 appropriation is \$720,000 in fiscal year 2020, \$492,000 in fiscal year 2021, and \$0 in fiscal
2.8 year 2022.

2.9 (d) \$28,000 in fiscal year 2018 is appropriated from the general fund to the commissioner
2.10 of the Pollution Control Agency to prepare and submit a report to the chairs and ranking
2.11 minority members of the house of representatives and senate committees and divisions with
2.12 jurisdiction over the environment and natural resources on the status of the efforts required
2.13 under paragraphs (a) and (b) and any necessary legislative changes needed to ensure effective
2.14 strategies to protect the upper Mississippi River as a drinking water source are implemented.
2.15 The report must be submitted by July 1, 2018. This is a onetime appropriation.

2.16 (e) \$151,000 in fiscal year 2018 and \$151,000 in fiscal year 2019 are appropriated from
2.17 the general fund to the commissioner of the Pollution Control Agency to complete rulemaking
2.18 to establish a water quality standard for nitrate nitrogen to protect aquatic life and human
2.19 health. This is a onetime appropriation.

2.20 (f) To the extent practicable, the commissioner must focus water quality assessment
2.21 work and other relevant work of the agency within the Upper Mississippi River Source
2.22 Water Protection Area.

2.23 Subd. 3. **Health.** (a) The commissioner of health, in consultation with the commissioners
2.24 of natural resources and the Pollution Control Agency, must develop a schedule to test and
2.25 regularly test drinking water sources, including surface waters, for contaminants, including:

2.26 (1) microorganisms, including bacteria, that are regulated as contaminants of drinking
2.27 water by the United States Environmental Protection Agency;

2.28 (2) the following pesticides and their degradates: acetochlor; alachlor; atrazine;
2.29 metolachlor; metribuzin; and neonicotinoids, including clothianidin, imidacloprid, and
2.30 thiamethoxam;

2.31 (3) nitrates;

3.1 (4) pharmaceuticals, including those identified by the Pollution Control Agency as part
3.2 of the agency's 2008 and 2013 work sampling and identifying pharmaceuticals present in
3.3 Minnesota's lakes and rivers; and

3.4 (5) other endocrine disruptors and unregulated contaminants commonly found when
3.5 testing waters in the state, including an estimate of the total quantity of endocrine disrupting
3.6 chemicals.

3.7 (b) Water tested for contaminants under this subdivision must include samples taken
3.8 from:

3.9 (1) the Crow River, including the mouth of the river and various locations along the
3.10 river;

3.11 (2) Minneapolis, St. Paul, and St. Cloud drinking water system intake locations; and

3.12 (3) areas identified as potential sources of drinking water contamination along the upper
3.13 Mississippi River and its tributaries.

3.14 (c) By July 1, 2018, the commissioner must submit a report on the status and results of
3.15 the testing required under this subdivision to the chairs and ranking minority members of
3.16 the house of representatives and senate committees and divisions with jurisdiction over the
3.17 environment and natural resources and health.

3.18 (d) By January 1, 2019, the commissioner must adopt health risk limits for:

3.19 (1) the following neonicotinoids: clothianidin, imidacloprid, and thiamethoxam; and

3.20 (2) breakdown products of pesticides commonly found in groundwater and surface water
3.21 samples in the Upper Mississippi River Source Water Protection Area.

3.22 Health risk limits adopted under this paragraph must be consistent with Minnesota Statutes,
3.23 section 144.0751, requiring reasonable margins of safety for the protection of infants,
3.24 children, and adults.

3.25 (e) The commissioner must test finished water for all contaminants the department has
3.26 adopted health risk limits for and must test finished water for pharmaceuticals and endocrine
3.27 disruptors to determine the effectiveness of drinking water treatment infrastructure in
3.28 removing pharmaceuticals and endocrine disruptors.

3.29 (f) \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the
3.30 general fund to the commissioner of health for the purposes of this subdivision. This is a
3.31 onetime appropriation.

4.1 Subd. 4. **Natural resources.** (a) The commissioner of natural resources must study
4.2 groundwater and surface water connections within the Upper Mississippi River Source
4.3 Water Protection Area and determine the potential impact those connections and water
4.4 appropriation permits in the area have on drinking water for Minneapolis, St. Paul, and St.
4.5 Cloud. The commissioner must share the determinations made under this paragraph with
4.6 affected public water suppliers and submit a report to the chairs and ranking minority
4.7 members of the house of representatives and senate committees and divisions with jurisdiction
4.8 over the environment and natural resources with the determinations and recommendations.

4.9 (b) The commissioner must review public water access sites and other state lands and
4.10 facilities to ensure that the department is using best management practices to protect the
4.11 upper Mississippi River as a drinking water source.

4.12 (c) To the extent practicable, the commissioner must focus stream monitoring and fish
4.13 index of biological integrity work within the Upper Mississippi River Source Water
4.14 Protection Area.

4.15 (d) \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the
4.16 general fund to the commissioner of natural resources for the purposes of this subdivision.
4.17 This is a onetime appropriation.

4.18 Subd. 5. **Agriculture.** (a) The commissioner of agriculture must ensure that education
4.19 and training for pesticide applicators and manure applicators includes information and best
4.20 management practices specifically addressing surface water quality for drinking water
4.21 protection.

4.22 (b) The commissioner of agriculture must review setback requirements for pesticide
4.23 applications to determine whether the requirements protect surface waters during extreme
4.24 weather events and incorporate the findings when registering pesticides and annually
4.25 renewing registrations under Minnesota Statutes, chapter 18B.

4.26 (c) The commissioner of agriculture must incorporate measures estimated to protect
4.27 drinking water sources from nitrate nitrogen when preparing the department's nitrogen
4.28 fertilizer rule.

4.29 (d) The commissioner of agriculture must require incident response plans required under
4.30 Minnesota Statutes, sections 18B.37 and 18C.235, to incorporate provisions necessary to
4.31 protect surface waters used for drinking water.

5.1 (e) \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the
5.2 general fund to the commissioner of agriculture for the purposes of this subdivision. This
5.3 is a onetime appropriation.

5.4 Subd. 6. **Data coordination.** (a) The commissioners of the Pollution Control Agency,
5.5 health, natural resources, and agriculture must review procedures and data collection and
5.6 storage to improve efficiencies and ensure data is available across state entities to ensure
5.7 that the state's drinking water sources are protected.

5.8 (b) \$..... in fiscal year 2018 is appropriated from the general fund as follows for the
5.9 purposes of this subdivision:

5.10 (1) \$63,000 is to the commissioner of the Pollution Control Agency;

5.11 (2) \$..... is to the commissioner of health;

5.12 (3) \$..... is to the commissioner of natural resources; and

5.13 (4) \$..... is to the commissioner of agriculture.

5.14 This is a onetime appropriation.

5.15 Subd. 7. **Source water protection plan review.** (a) The commissioner of health must
5.16 review source water protection plans for areas in other states that use surface water for
5.17 drinking water, including New York, New York; Boston, Massachusetts; and Portland,
5.18 Maine. The commissioner must compile a list of source water protection strategies from
5.19 those areas and others, including both on-the-ground practices and regulatory strategies.
5.20 By January 1, 2018, the commissioner must submit a report on the strategies to the chairs
5.21 and ranking minority members of the house of representatives and senate committees and
5.22 divisions with jurisdiction over the environment and natural resources and health.

5.23 (b) By July 1, 2018, the commissioner of the Pollution Control Agency, in cooperation
5.24 with the commissioners of natural resources, health, and agriculture, must evaluate the
5.25 source water protection strategies identified under paragraph (a) and submit a report
5.26 identifying the most effective strategies to the chairs and ranking minority members of the
5.27 house of representatives and senate committees and divisions with jurisdiction over the
5.28 environment and natural resources and health.