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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2714

03/04/2014 Authored by Hansen

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to natural resources; establishing review and certification process for
1.3 ordinances and variances adopted under Lower St. Croix Wild and Scenic River
1.4 Act; establishing variance criteria; amending Minnesota Statutes 2012, section
1.5 103F.351, by adding subdivisions.

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

1.7 Section 1. Minnesota Statutes 2012, section 103F.351, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 6. Review and certification of certain actions. (a) To ensure that the
1.10 standards and criteria for the lower St. Croix River are not nullified by unjustified
1.11 exceptions in particular cases and to promote uniformity in the treatment of applications
1.12 for exceptions, a review and certification procedure is established for the following land
1.13 use decisions by local authorities that directly affect the use of the land on the lower
1.14 St. Croix River:

1.15 (1) adopting or amending a lower St. Croix River ordinance regulating the use of
1.16 land, including rezoning of particular tracts of land; and

1.17 (2) granting a variance from a lower St. Croix River ordinance that relates to the
1.18 dimensional standards and criteria in rules adopted under subdivision 4.

1.19 (b) Within 90 days of a law or rule change, each local authority with jurisdiction on
1.20 the lower St. Croix River shall adopt or amend its ordinances and land use district maps
1.21 to the extent necessary to comply with amended standards and criteria adopted by rule
1.22 under subdivision 4 or to reflect amendments to this section. If a local authority fails to
1.23 adopt or amend adequate ordinances or maps within 90 days, the commissioner of natural
1.24 resources shall adopt the ordinances, maps, or amendments in the manner and with the
1.25 effect specified in section 103F.215.

2.1 (c) No action under paragraph (a), clause (1) or (2), becomes effective unless and
2.2 until the commissioner of natural resources has certified that the action complies with the
2.3 intent of the National Wild and Scenic Rivers Act, the federal Lower St. Croix River Act
2.4 of 1972, this section, the master plan adopted under subdivision 2, and the standards
2.5 and criteria adopted by rule under subdivision 4. In determining the acceptability of the
2.6 proposed action, the items in the hearing and record of decision of the local authority
2.7 shall also be considered.

2.8 (d) For the purposes of this subdivision, "local authority" means that person or body
2.9 of persons affiliated with a county or municipal government that has authority to take an
2.10 action described in paragraph (a), clause (1) or (2).

2.11 **EFFECTIVE DATE.** This section is effective the day following final enactment
2.12 and applies to actions by a local authority after that date.

2.13 Sec. 2. Minnesota Statutes 2012, section 103F.351, is amended by adding a subdivision
2.14 to read:

2.15 Subd. 7. **Variance review criteria.** (a) A variance from a lower St. Croix River
2.16 ordinance shall be granted only when the applicant has demonstrated that, in addition to
2.17 all of the variance criteria in section 394.27 or 462.357, all of the following criteria are
2.18 satisfied:

2.19 (1) granting the variance is consistent with the intent of the National Wild and
2.20 Scenic Rivers Act, the federal Lower St. Croix River Act of 1972, and the master plan
2.21 adopted under subdivision 2;

2.22 (2) the practical difficulty cannot be alleviated by any alternative feasible method
2.23 other than a variance; and

2.24 (3) granting the variance will provide minimal relief and minor deviation from the
2.25 required provision.

2.26 (b) In approving a variance, the zoning authority shall require the applicant to
2.27 address, as appropriate, storm water runoff management, reducing impervious surfaces,
2.28 increasing setbacks, protection and restoration of wetlands, protection and restoration of
2.29 native vegetation and habitat, sewage treatment and water supply capabilities, and other
2.30 conservation-designed actions.

2.31 (c) When seeking a variance from the ordinance, the burden is on the applicant
2.32 to show why the ordinance cannot be accommodated. The applicant must submit, in
2.33 a format prescribed by the commissioner of natural resources, information sufficient
2.34 to demonstrate that all criteria in section 394.27 or 462.357 and under paragraph (a),
2.35 clauses (1) to (3), are satisfied.

3.1 (d) The variance must be granted if without it there is no reasonable use for the
3.2 property.

3.3 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.4 and applies to actions by a local authority after that date.