

CHAPTER 103B

WATER PLANNING AND PROJECT
IMPLEMENTATION

103B.155	State water and related land resource plan.	103B.315	Comprehensive water plan review and adoption.
103B.211	Joint powers watershed management organization.	103B.321	Duties of the board.
103B.231	Watershed plans.	103B.3355	Public value criteria for wetlands.
103B.311	County water planning and management.	103B.3363	Definitions.
		103B.3365	Water retention.
		103B.345	Resolution of disputes.

103B.155 STATE WATER AND RELATED LAND RESOURCE PLAN.

The commissioner of natural resources, in cooperation with other state and federal agencies, regional development commissions, the metropolitan council, local governmental units, and citizens, shall prepare a statewide framework and assessment water and related land resources plan for presentation to the legislature by November 15, 1975, for its review and approval or disapproval. This plan must relate each of the programs of the department of natural resources for specific aspects of water management to the others. The statewide plan must include:

- (1) regulation of improvements and land development by abutting landowners of the beds, banks, and shores of lakes, streams, watercourses, and marshes by permit or otherwise to preserve them for beneficial use;
- (2) regulation of construction of improvements on and prevention of encroachments in the flood plains of the rivers, streams, lakes, and marshes of the state;
- (3) reclamation or filling of wet and overflowed lands;
- (4) repair, improvement, relocation, modification or consolidation in whole or in part of previously established public drainage systems within the state;
- (5) preservation of wetland areas;
- (6) management of game and fish resources as related to water resources;
- (7) control of water weeds;
- (8) control or alleviation of damages by flood waters;
- (9) alteration of stream channels for conveyance of surface waters, navigation, and any other public purposes;
- (10) diversion or changing of watercourses in whole or in part;
- (11) regulation of the flow of streams and conservation of their waters;
- (12) regulation of lake water levels;
- (13) maintenance of water supply for municipal, domestic, industrial, recreational, agricultural, aesthetic, wildlife, fishery, or other public use;
- (14) sanitation and public health and regulation of uses of streams, ditches, or watercourses to dispose of waste and maintain water quality;
- (15) preventive or remedial measures to control or alleviate land and soil erosion and siltation of affected watercourses or bodies of water;
- (16) regulation of uses of water surfaces; and
- (17) identification of high priority regions for wetland preservation, enhancement, restoration, and establishment.

History: 1991 c 354 art 2 s 1

103B.211 JOINT POWERS WATERSHED MANAGEMENT ORGANIZATION.

[For text of subs 1 to 3, see M.S.1990]

Subd. 4. Appropriations from small watercourses. (a) This subdivision applies in Hennepin and Ramsey counties to the following public waters:

(1) a public water basin or wetland wholly within the county that is less than 500 acres; or

(2) a protected watercourse that has a drainage area of less than 50 square miles.

(b) An appropriation of water that is below the minimum established in section 103G.271, subdivision 4, for a nonessential use, as defined under section 103G.291, is prohibited unless a permit is obtained from the watershed district or watershed management organization having jurisdiction over the public water basin, wetland, or watercourse. The watershed district or watershed management organization may impose a fee to cover the cost of issuing the permit. This subdivision must be enforced by the home rule charter or statutory city where the appropriation occurs. Violation of this subdivision is a petty misdemeanor, except that a second violation within a year is a misdemeanor. Affected cities shall mail notice of this law to affected riparian and adjoining landowners.

Subd. 5. [Repealed, 1991 c 199 art 1 s 16]

History: 1991 c 199 art 1 s 15

103B.231 WATERSHED PLANS.

[For text of subs 1 to 5, see M.S.1990]

Subd. 6. **Contents.** (a) The plan shall:

(1) describe the existing physical environment, land use, and development in the area and the environment, land use, and development proposed in existing local and metropolitan comprehensive plans;

(2) present information on the hydrologic system and its components, including drainage systems previously constructed under chapter 103E, and existing and potential problems related thereto;

(3) state objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics;

(4) set forth a management plan, including the hydrologic and water quality conditions that will be sought and significant opportunities for improvement;

(5) describe the effect of the plan on existing drainage systems;

(6) identify high priority areas for wetland preservation, enhancement, restoration, and establishment and describe any conflicts with wetlands and land use in these areas;

(7) describe conflicts between the watershed plan and existing plans of local government units;

(8) set forth an implementation program consistent with the management plan, which includes a capital improvement program and standards and schedules for amending the comprehensive plans and official controls of local government units in the watershed to bring about conformance with the watershed plan; and

(9) set out a procedure for amending the plan.

(b) The board shall adopt rules to establish standards and requirements for amendments to watershed plans. The rules must include:

(1) performance standards for the watershed plans, which may distinguish between plans for urban areas and rural areas;

(2) minimum requirements for the content of watershed plans and plan amendments, including public participation process requirements for amendment and implementation of watershed plans;

(3) standards for the content of capital improvement programs to implement watershed plans, including a requirement that capital improvement programs identify structural and nonstructural alternatives that would lessen capital expenditures; and

(4) how watershed plans are to specify the nature of the official controls required to be adopted by the local units of government, including uniform erosion control, stormwater retention, and wetland protection ordinances in the metropolitan area.

[For text of subds 7 to 14, see M.S.1990]

History: 1991 c 354 art 2 s 2

103B.311 COUNTY WATER PLANNING AND MANAGEMENT.

[For text of subds 1 to 5, see M.S.1990]

Subd. 6. Scope of plans. Comprehensive water plans must include:

(1) a description of the existing and expected changes to physical environment, land use, and development in the county;

(2) available information about the surface water, groundwater, and related land resources in the county, including existing and potential distribution, availability, quality, and use;

(3) objectives for future development, use, and conservation of water and related land resources, including objectives that concern water quality and quantity, and sensitive areas, wellhead protection areas, high priority areas for wetland preservation, enhancement, restoration, and establishment, and related land use conditions, and a description of actions that will be taken in affected watersheds or groundwater systems to achieve the objectives;

(4) a description of potential changes in state programs, policies, and requirements considered important by the county to management of water resources in the county;

(5) a description of conflicts between the comprehensive water plan and existing plans of other local units of government;

(6) a description of possible conflicts between the comprehensive water plan and existing or proposed comprehensive water plans of other counties in the affected watershed units or groundwater systems;

(7) a program for implementation of the plan that is consistent with the plan's management objectives and includes schedules for amending official controls and water and related land resources plans of local units of government to conform with the comprehensive water plan, and the schedule, components, and expected state and local costs of any projects to implement the comprehensive water plan that may be proposed, although this does not mean that projects are required by this section; and

(8) a procedure for amending the comprehensive water plan.

Subd. 7. Data acquisition. The data collected under this section that has common value as determined by the director of the office of strategic and long-range planning for natural resources planning must be provided and integrated into the Minnesota land management information systems geographic and summary data bases according to published data compatibility guidelines.

History: 1991 c 345 art 2 s 13; 1991 c 354 art 2 s 3

103B.315 COMPREHENSIVE WATER PLAN REVIEW AND ADOPTION.

[For text of subds 1 to 4, see M.S.1990]

Subd. 5. State review. (a) After conducting the public hearing but before final adoption, the county board must submit its comprehensive water plan, all written comments received on the plan, a record of the public hearing under subdivision 4, and a summary of changes incorporated as a result of the review process to the board for review. The board shall complete the review within 90 days after receiving a comprehensive water plan and supporting documents. The board shall consult with the departments of agriculture, health, and natural resources; the pollution control agency; the environmental quality board; and other appropriate state agencies during the review.

(b) The board may disapprove a comprehensive water plan if the board determines the plan is not consistent with state law. If a plan is disapproved, the board shall provide a written statement of its reasons for disapproval. A disapproved comprehensive water plan must be revised by the county board and resubmitted for approval by

the board within 120 days after receiving notice of disapproval of the comprehensive water plan, unless the board extends the period for good cause. The decision of the board to disapprove the plan may be appealed by the county to district court.

[For text of subs 6 and 7, see M.S.1990]

History: 1991 c 345 art 2 s 14

103B.321 DUTIES OF THE BOARD.

Subdivision 1. **General.** The board shall:

- (1) develop guidelines for the contents of comprehensive water plans that provide for a flexible approach to meeting the different water and related land resources needs of counties and watersheds across the state;
- (2) coordinate assistance of state agencies to counties and other local units of government involved in preparation of comprehensive water plans, including identification of pertinent data and studies available from the state and federal government;
- (3) conduct an active program of information and education concerning the requirements and purposes of sections 103B.301 to 103B.355 in conjunction with the association of Minnesota counties;
- (4) determine contested cases under section 103B.345;
- (5) establish a process for review of comprehensive water plans that assures the plans are consistent with state law;
- (6) report to the legislative commission on Minnesota resources as required by section 103B.351; and
- (7) make grants to counties for comprehensive local water planning, implementation of priority actions identified in approved plans, and sealing of abandoned wells.

[For text of subs 2 and 3, see M.S.1990]

History: 1991 c 254 art 2 s 36

103B.3355 PUBLIC VALUE CRITERIA FOR WETLANDS.

(a) The board of water and soil resources, in consultation with the commissioner of natural resources, shall adopt rules establishing criteria to determine the public value of wetlands. The rules must consider the public benefit and use of the wetlands and include:

- (1) criteria to determine the benefits of wetlands for water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, and utilization of the wetland as a recharge area for groundwater;
- (2) criteria to determine the benefits of wetlands for floodwater retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;
- (3) criteria to determine the benefits of wetlands for public recreation, including wildlife habitat, hunting and fishing areas, wildlife breeding areas, wildlife viewing areas, aesthetically enhanced areas, and nature areas;
- (4) criteria to determine the benefits of wetlands for commercial uses, including wild rice growing and harvesting and aquaculture; and
- (5) criteria to determine the benefits of wetlands for other public uses.

(b) The criteria established under this section must be used to determine the public value of wetlands in the state. The board of water and soil resources, in consultation with the commissioner of natural resources, shall also use the criteria in identifying regions of the state where preservation, enhancement, restoration, and establishment of wetlands would have high public value. Before the criteria are adopted, the board, in consultation with the commissioner, may identify high priority wetland regions using available information relating to the factors listed in paragraph (a). The board

shall notify local units of government with water planning authority of these high priority regions.

History: 1991 c 354 art 2 s 4

103B.3363 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to sections 103B.3363 to 103B.3369.

[For text of subds 2 to 5, see M.S.1990]

History: 1991 c 160 s 1

103B.3365 WATER RETENTION.

Subdivision 1. **Impervious surface over one acre.** New development that covers or replaces surface vegetation with an impervious surface of one acre or more may not take place without water retention devices or areas being required for the development site by the local unit of government.

Subd. 2. **Exemptions.** Linear projects such as sidewalks, paths, trails, and the reconstruction, repair, reconditioning, or resurfacing of existing roads or impervious surfaces are exempt from this section.

Subd. 3. **Application.** This section does not preclude a local unit of government from imposing more stringent requirements authorized by law on the development site.

Subd. 4. **Local water plans.** Each water management plan required by sections 103B.201 to 103B.355 must specify controls that utilize the best available technology to minimize off-site stormwater runoff, maximize overland flow and flow distances over surfaces covered with vegetation, increase on-site infiltration, replicate predevelopment hydrologic conditions as nearly as possible, minimize off-site discharge of pollutants to ground and surface water, encourage natural filtration functions, and reduce mosquito breeding habitat.

Subd. 5. **Guidelines.** By January 1, 1992, the board of water and soil resources must develop guidelines to assist local units of government in implementing subdivision 1.

History: 1991 c 160 s 2

103B.345 RESOLUTION OF DISPUTES.

[For text of subd 1, see M.S.1990]

Subd. 2. **Petition for hearing.** A county or other local unit of government may petition for a 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.

[For text of subd 3, see M.S.1990]

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 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. Within 60 days after 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.

[For text of subd 5, see M.S.1990]

History: 1991 c 214 s 1,2