

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1290

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DATE	D-PG	OFFICIAL STATUS
02/22/2017	703	Introduction and first reading
		Referred to Environment and Natural Resources Policy and Legacy Finance
03/07/2017	1146	Author added Weber
03/14/2017		Comm report: To pass as amended and re-refer to Environment and Natural Resources Finance

1.1 A bill for an act

1.2 relating to water; modifying groundwater appropriation permit requirements;

1.3 modifying well interference claim requirements; appropriating money; amending

1.4 Minnesota Statutes 2016, sections 103G.223; 103G.271, subdivision 7, by adding

1.5 a subdivision; 103G.287, subdivisions 1, 4; 103G.289.

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

1.7 Section 1. Minnesota Statutes 2016, section 103G.223, is amended to read:

1.8 **103G.223 CALCAREOUS FENS.**

1.9 (a) Calcareous fens, as identified by the commissioner by written order published in the

1.10 State Register, may not be filled, drained, or otherwise degraded, wholly or partially, by

1.11 any activity, unless the commissioner, under an approved management plan, decides some

1.12 alteration is necessary. Identifications made by the commissioner are not subject to the

1.13 rulemaking provisions of chapter 14 and section 14.386 does not apply.

1.14 (b) Notwithstanding paragraph (a), the commissioner must allow temporary reductions

1.15 in groundwater resources on a seasonal basis under an approved management plan for

1.16 appropriating water.

1.17 Sec. 2. Minnesota Statutes 2016, section 103G.271, subdivision 7, is amended to read:

1.18 Subd. 7. **Transfer of permit.** A water-use permit may be transferred to a successive

1.19 owner of real property if the permittee conveys the real property where the source of water

1.20 is located. The new owner must notify the commissioner immediately after the conveyance

1.21 and request transfer of the permit. If notified, the commissioner must transfer the permit to

1.22 the successive owner.

2.1 Sec. 3. Minnesota Statutes 2016, section 103G.271, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 8. **Management plans; economic impacts.** Before requiring a change to a
2.4 management plan for appropriating water, the commissioner must provide estimates of the
2.5 economic impact of any new restriction or policy on existing and future groundwater users
2.6 and local governments in the affected area. Strategies to address economic impacts must
2.7 be included in the plan.

2.8 Sec. 4. Minnesota Statutes 2016, section 103G.287, subdivision 1, is amended to read:

2.9 Subdivision 1. **Applications for groundwater appropriations; preliminary well**
2.10 **construction approval.** (a) Groundwater use permit applications are not complete until the
2.11 applicant has supplied:

2.12 (1) a water well record as required by section 103I.205, subdivision 9, information on
2.13 the subsurface geologic formations penetrated by the well and the formation or aquifer that
2.14 will serve as the water source, and geologic information from test holes drilled to locate the
2.15 site of the production well;

2.16 (2) the maximum daily, seasonal, and annual pumpage rates and volumes being requested;

2.17 (3) information on groundwater quality in terms of the measures of quality commonly
2.18 specified for the proposed water use and details on water treatment necessary for the proposed
2.19 use;

2.20 (4) the results of an aquifer test completed according to specifications approved by the
2.21 commissioner. The test must be conducted at the maximum pumping rate requested in the
2.22 application and for a length of time adequate to assess or predict impacts to other wells and
2.23 surface water and groundwater resources. The permit applicant is responsible for all costs
2.24 related to the aquifer test, including the construction of groundwater and surface water
2.25 monitoring installations, and water level readings before, during, and after the aquifer test;
2.26 and

2.27 (5) the results of any assessments conducted by the commissioner under paragraph (c).

2.28 (b) The commissioner may waive an application requirement in this subdivision if the
2.29 information provided with the application is adequate to determine whether the proposed
2.30 appropriation and use of water is sustainable and will protect ecosystems, water quality,
2.31 and the ability of future generations to meet their own needs.

3.1 (c) The commissioner shall provide an assessment of a proposed well needing a
3.2 groundwater appropriation permit. The commissioner shall evaluate the information submitted
3.3 as required under section 103I.205, subdivision 1, paragraph (f), and determine whether the
3.4 anticipated appropriation request is likely to meet the applicable requirements of this chapter.
3.5 If the appropriation request is likely to meet applicable requirements, the commissioner
3.6 shall provide the person submitting the information with a letter providing preliminary
3.7 approval to construct the well and the requirements, including test-well information, that
3.8 will be needed to obtain the permit.

3.9 (d) The commissioner must provide an applicant denied a groundwater use permit or
3.10 issued a groundwater use permit that is reduced or restricted from the original request with
3.11 all information the commissioner used in making the determination, including hydrographs,
3.12 flow tests, aquifer tests, topographic maps, field reports, photographs, and proof of equipment
3.13 calibration.

3.14 Sec. 5. Minnesota Statutes 2016, section 103G.287, subdivision 4, is amended to read:

3.15 Subd. 4. **Groundwater management areas.** (a) The commissioner may designate
3.16 groundwater management areas and limit total annual water appropriations and uses within
3.17 a designated area to ensure sustainable use of groundwater that protects ecosystems, water
3.18 quality, and the ability of future generations to meet their own needs. Water appropriations
3.19 and uses within a designated management area must be consistent with a groundwater
3.20 management area plan approved by the commissioner that addresses water conservation
3.21 requirements and water allocation priorities established in section 103G.261. At least 30
3.22 days prior to implementing or modifying a groundwater management area plan under this
3.23 subdivision, the commissioner shall consult with the advisory team established in paragraph
3.24 (c).

3.25 (b) Notwithstanding section 103G.271, subdivision 1, paragraph (b), and Minnesota
3.26 Rules, within designated groundwater management areas, the commissioner may require
3.27 general permits as specified in section 103G.271, subdivision 1, paragraph (c), for water
3.28 users using less than 10,000 gallons per day or 1,000,000 gallons per year and water suppliers
3.29 serving less than 25 persons for domestic purposes. The commissioner may waive the
3.30 requirements under section 103G.281 for general permits issued under this paragraph, and
3.31 the fee specified in section 103G.301, subdivision 2, paragraph (c), does not apply to general
3.32 permits issued under this paragraph.

3.33 (c) When designating a groundwater management area, the commissioner shall assemble
3.34 an advisory team to assist in developing a groundwater management area plan for the area.

4.1 The advisory team members shall be selected from public and private entities that have an
4.2 interest in the water resources affected by the groundwater management area. A majority
4.3 of the advisory team members shall be public and private entities that currently hold water-use
4.4 permits for water appropriations from the affected water resources. The commissioner shall
4.5 consult with the League of Minnesota Cities, the Association of Minnesota Counties, the
4.6 Minnesota Association of Watershed Districts, and the Minnesota Association of Townships
4.7 in appointing the local government representatives to the advisory team. The advisory team
4.8 may also include representatives from the University of Minnesota, the Minnesota State
4.9 Colleges and Universities, other institutions of higher learning in Minnesota, political
4.10 subdivisions with jurisdiction over water issues, nonprofits with expertise in water, and
4.11 federal agencies.

4.12 (d) Before making a change under a groundwater management area plan, the
4.13 commissioner must provide estimates of the economic effect of any new restriction or policy
4.14 on existing and future groundwater users and local governments in the affected area.
4.15 Strategies to address economic impacts must be included in any plan.

4.16 Sec. 6. Minnesota Statutes 2016, section 103G.289, is amended to read:

4.17 **103G.289 WELL INTERFERENCE; WELL SEALING.**

4.18 (a) The commissioner shall not validate a well interference claim if the affected well
4.19 has been sealed prior to the completion of the commissioner's investigation of the complaint.
4.20 If the well is sealed prior to completion of the investigation, the commissioner must dismiss
4.21 the complaint.

4.22 (b) An agreement, written offer, or settlement between a complainant and permittee or
4.23 permit applicant must take into account depreciation of 2.5 percent per year when calculating
4.24 the costs a permittee or permit applicant is responsible for as a result of a well interference
4.25 claim.

4.26 Sec. 7. **WATER USE PERMIT AND DATA COLLECTION; APPROPRIATION.**

4.27 (a) Notwithstanding Minnesota Statutes, sections 84.0895 and 103G.223, or other law
4.28 to the contrary, the commissioner of natural resources must issue, upon application, a water
4.29 use permit for calcareous fens located in the South Half of Section 28, Township 106 North,
4.30 Range 44 West, Pipestone County. The permittee must agree to the following permit
4.31 conditions:

5.1 (1) the permit is for a term of 15 years, but may be revoked after five years if paragraph
5.2 (b) applies;

5.3 (2) water use under the permit is limited to irrigation of agricultural crops at a rate of
5.4 no more than 800 gallons per minute in accordance with an irrigation plan submitted with
5.5 the water use permit application;

5.6 (3) the permittee must pay for the irrigation system installed during the term of the
5.7 permit; and

5.8 (4) installation of the irrigation system must minimize disturbance to the existing plant
5.9 community in the calcareous fens. The commissioner must provide technical advice for
5.10 installation of the irrigation system.

5.11 (b) If, at any time after five years of water use, the commissioner determines the
5.12 drawdown of water from the fens endangers the continued sustainability of the calcareous
5.13 fens, the commissioner may revoke the permit. If the commissioner revokes the permit
5.14 before the permit's expiration date, the permittee must be reimbursed for the cost of the
5.15 irrigation system, prorated over the full 15-year term of the original permit.

5.16 (c) The commissioner must monitor the calcareous fens to collect data on the effects of
5.17 water use from the fens for the duration of the permit. If the commissioner concludes that,
5.18 based on collected data, the calcareous fens remain viable after 15 years of water use, the
5.19 commissioner must renew the water use permit for an additional 15 years, free of the
5.20 condition imposed under paragraph (a), clause (1).

5.21 (d) \$..... in fiscal year 2017 is appropriated from the natural resources fund to the
5.22 commissioner of natural resources to provide technical assistance and collect data according
5.23 to this section.