

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4469

(SENATE AUTHORS: FARNSWORTH)

DATE
03/04/2024

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Introduction and first reading
Referred to Environment, Climate, and Legacy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to drainage; requiring counties to pay for reestablishing drainage system
1.3 records in certain situations; amending Minnesota Statutes 2022, section 103E.101,
1.4 subdivision 4a.

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

1.6 Section 1. Minnesota Statutes 2022, section 103E.101, subdivision 4a, is amended to read:

1.7 Subd. 4a. **Reestablishing records.** (a) If, after thorough investigation of drainage system
1.8 records, a drainage authority finds that records establishing the alignment, cross section,
1.9 profile, or right-of-way of a drainage system that it administers are lost, destroyed, or
1.10 otherwise incomplete, it may, by order, reestablish records defining the alignment; cross
1.11 section; profile; hydraulic structure locations, materials, dimensions, and elevations; or
1.12 right-of-way of the drainage system as originally constructed or subsequently improved in
1.13 accordance with this chapter. The procedure for reestablishing drainage system records
1.14 must involve, at a minimum, investigation and a report of findings by a professional engineer
1.15 licensed in Minnesota supported by existing records and evidence, including, but not limited
1.16 to, applicable aerial photographs, soil borings or test pits, culvert dimensions and invert
1.17 elevations, and bridge design records. The existing and reestablished records together must
1.18 define the alignment; cross section; profile; hydraulic structure locations, materials,
1.19 dimensions, and elevations; and right-of-way of the drainage system. Drainage system
1.20 records reestablished under this subdivision do not interrupt prescriptive occupation.

1.21 (b) The description of a drainage system under this subdivision may be initiated by the
1.22 drainage authority on its own motion or by any party affected by the drainage system filing
1.23 a petition. If the system is under the jurisdiction of a county board, the petition must be filed

2.1 with the auditor. If the system is under the jurisdiction of a joint county drainage authority,
2.2 the petition must be filed with the auditor of the county with the largest area of property in
2.3 the drainage system. If the system is under the jurisdiction of a watershed district board,
2.4 the petition must be filed with the secretary.

2.5 (c) When a drainage authority directs by resolution or when a petition is filed under this
2.6 subdivision, the drainage authority, in consultation with the auditor or secretary, shall set
2.7 a time and location for a hearing after the engineer's report is complete. The auditor or
2.8 secretary shall give notice of the hearing by mail to the commissioner of natural resources,
2.9 the executive director of the Board of Water and Soil Resources, the petitioner or petitioners,
2.10 and all property owners benefited or damaged by the drainage system and shall give notice
2.11 to other interested parties either in a newspaper of general circulation in the drainage system
2.12 area or by publication on a website of the drainage authority.

2.13 (d) Drainage system records reestablished under this subdivision constitute official
2.14 drainage system records. A finding of drainage system right-of-way in the applicable order
2.15 is a defense to a trespass claim and shall be given due weight in any subsequent court
2.16 proceeding to establish the existence or nature of a property encumbrance.

2.17 (e) Notwithstanding any other provision of this chapter to the contrary, a county that
2.18 was the custodian or that contracted for a third party to be the custodian of drainage system
2.19 records that have been lost or destroyed or are otherwise incomplete must pay all costs
2.20 related to reestablishing records under this section.

2.21 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2018.