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S.F. No. 3559 - BWSR Policy Bill (As Amended by the A-2 Author's Amendment)

Author: Senator Foug Hawj

Prepared by: Ben Stanley, Senate Counsel (651/296-4793)

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Section 1 [Defining Minnesota Public Drainage Manual] adds a definition of the Minnesota Public Drainage Manual to Minnesota Statutes.

Section 2 [Ensuring Soil Health Is State Policy] adds ensuring continued soil health to the statute that governs soil and water conservation policy and permissible activities of soil and water conservation districts (SWCDs).

Section 3 [BWSR Approval Not Required to Move SWCD Office] repeals the requirement to obtain BWSR approval to move the principal office of a SWCD.

Section 4 through 7 [Conforming Changes] make technical changes in response to the repeal of Section 103A.206, which was duplicative of another statute. Section 7 also recognizes that SWCDs have a role in soil and water implementation practices beyond what the statute currently recognizes.

Sections 8 through 10 [Technical Changes] modify various statutes to recognize that SWCDs have a role in soil and water implementation practices beyond what the statutes currently recognize.

Section 11 [Public Comment and Hearing Required/Comprehensive Plans] requires SWCDs to hold a hearing and accept public comments before submitting a comprehensive plan to BWSR. Makes various technical changes.

Section 12 and 13 [Technical Changes] modify various statutes to recognize that SWCDs have a role in soil and water implementation practices beyond what the statutes currently recognize.

Section 14 [BWSR Can Require Compensation for Operations and Maintenance] authorizes SWCDs to require compensation for operations and maintenance provided on privately-owned land.

Section 15 [SWCDs May Apply for State Funding] expands authority for SWCDs to apply for funding from state sources. Current law authorizes SWCDs to apply for funding from federal sources only.

Section 16 [Technical Change] makes a technical change to clean up the statute.

Section 17 [SWCDs May Work with Multiple Partners] authorizes SWCDs to work with multiple partners when implementing soil and water conservation projects.

Section 18 [SWCDs May Obtain Loans] authorizes SWCDs to obtain loans to accomplish their statutory duties.

Section 19 [Expanding Definition of “Engineer”] expands the definition of “engineer” to acknowledge that multiple professional disciplines are often involved in watershed projects.

Section 20 [Modernizing Watershed District Purposes Statute] modernizes watershed district statutes to reduce redundancies, harmonize the statute with the Wetland Conservation Act, and for other purposes.

Section 21 [Technical Changes] makes technical clean up changes to the statute that governs filing a petition to establish a watershed district.

Section 22 [Acknowledging That Some Areas have Fewer Than 50 Resident Owners] modifies the statute governing watershed district boundary changes to acknowledge that in some areas there may be fewer than 50 resident owners.

Section 23 [Requiring Mailed Notice of Boundary Change Hearings] requires that watershed districts be notified by mail at least ten days before hearings on proposed watershed district boundary changes.

Section 24 [Managers May Seek Withdrawal of Watershed District Territory] authorizes managers to seek withdrawal of territory from a watershed district.

Section 25 [Managers May Seek Enlargement of Watershed District Territory] authorizes managers to seek enlargement of the territory included in a watershed district.

Section 26 [Notice of Watershed District Enlargement] requires watershed district managers to file an order enlarging a watershed district with the auditor of each county affected by the watershed district, the commissioner, and the watershed district.

Section 27 [Termination Hearings Can Be Held Outside of District] authorizes a watershed district termination hearing to be held at publicly accessible facilities outside the district when such facilities are not available within the district itself.

Section 28 [Distribution of Watershed District Managers in Multicounty Districts] requires proportional distribution of managers among counties affected by a multicounty watershed district.

Section 29 [Equitable Staggering of Multicounty District Manager Terms] ensures the equitable staggering of watershed district manager terms in a multicounty watershed district.

Section 30 [Majority of Managers Required for Petition to Increase Number of Managers] requires the majority of the managers of a watershed district, not a mere quorum, to sign a petition to increase the number of watershed district managers.

Section 31 [Process for Increasing Number of Watershed District Managers] adds details to the statutory subdivision that governs decisions to increase the number of watershed district managers. The added details include a requirement to make certain findings and filing requirements.

Section 32 [Staff Can Receive Records of Appointments] allows staff to receive records of appointments of watershed district managers.

Section 33 [Increasing Time for First Meeting of Watershed District Managers] increasing from 10 to 30 the number of days within which the first meeting of watershed district managers must occur.

Section 34 [Calling of Meetings Must Accord with Open Meetings Law] requires that meetings of watershed district managers be called in accordance with Minnesota's open meetings law (Chapter 13D).

Section 35 [Aligning Meeting Requirements with Open Meetings Law] aligns language governing meetings of watershed district managers with the requirements of Minnesota's open meetings law.

Section 36 [Tribal Representation on Advisory Committees] adds a tribal representative to watershed district advisory committees, where available.

Section 37 [Watershed Districts May Dispose of Property] authorizes watershed district managers to dispose of real or personal property when the property no longer serves the purposes of the district.

Section 38 [Clarifying Extent of Watershed District Rulemaking] clarifies that watershed district manager's rulemaking authority is limited to implementing their regulatory authority.

Section 39 [Authorizing Additional Forms of Financial Assurance] authorizes watershed district managers to allow forms of financial assurance other than bonds in connection with permit applications.

Section 40 [Submitting Annual Audit Reports] requires watershed district managers to submit annual audit reports to BWSR and to the state auditor's office.

Section 41 [Removing Watershed District Managers] authorizes removal of a watershed district manager for violation of a watershed district code of ethics, where applicable, or for malfeasance, nonfeasance, or misfeasance.

Section 42 [Various Watershed Management Plan Changes] makes various changes to the statute governing watershed management plans including:

- Clarifying that participation in comprehensive watershed management planning (1W1P) does not affect a district's authority to adopt and maintain a watershed management plan.

- Making technical modifications to reflect the fact that metropolitan watersheds are covered separately under Chapter 103B of the statutes (see § 103B.231).
- Providing a 60-day timeframe for review of proposed watershed management plans.
- Making watershed district managers, instead of BWSR, responsible for giving notice and holding hearings on proposed watershed management plans.
- Requiring additional information to be submitted to BWSR for final plan review.
- Authorizing BWSR to disapprove of parts of a proposed plan that it finds do not conform to Chapter 103D.
- Clarifying that it is the watershed district that takes the final step to adopt the plan.
- Providing a plan amendment process.

Section 43 [Managers Are Responsible for Revising Plan] imposes on the district managers, rather than both the managers and BWSR, the duty to revise the watershed management plan once every ten years.

Section 44 [Allowing Staff to Perform Administrative Task] allows district staff to perform an administrative task related to providing notice of certain orders.

Sections 45 [Lowering Threshold for Manager-Initiated Projects] allows a majority of watershed district managers to initiate a watershed district project. Current law requires unanimous consent among managers to initiate a management-initiated project.

Section 46 [Petitioners May Request Alternate Sources of Project Funding] allows a project petition to include a request that managers use sources other than assessment to fund some or all of a watershed district project.

Section 47 [Technical Change] moves statutory language that is currently located in § 103D.711 to § 103D.705.

Section 48 [Process for Manager-Initiated Projects] consolidates the process to be followed when watershed projects are initiated by watershed district managers.

Section 49 [Terminating Manager-Initiated Projects] clarifies that watershed district managers may terminate manager-initiated projects at any time and makes various technical changes to the statutes.

Section 50 [Technical Change] makes a technical change to acknowledge that some projects may not be funded with assessments.

Section 51 through 52 [Conforming Changes] make a technical conforming change to a cross reference to reflect changes made elsewhere in the bill.

Section 53 and 54 [Whether Benefits Outweigh Costs Is Property-Specific] provide that for a proposed project, the determination of whether benefits are greater than costs must be made for each property to be assessed.

Section 55 [Allowing Staff to Perform Administrative Task] allows certain documents to be filed with staff of a watershed district instead of only with the secretary of the district.

Section 56 [Managers Must Approve Project Contracts] provides that managers must approve any contract for a watershed district project.

Section 57 [Conforming Change] makes a conforming change to reflect statutory changes made elsewhere.

Section 58 [Extending Alternative Drainage System Repair Cost Apportionment] extends the availability of the alternative method for apportioning drainage repair costs available under § 103E.729 to July 31, 2029. It would otherwise expire on July 31, 2024.

Section 59 [Definition of County “With Jurisdiction” for Buffer Law Requirements] clarifies that in order for BWSR to determine that a county has jurisdiction for purposes of § 103F.48, the county must be implementing its rule and not merely have adopted it. This section also clarifies that the determination is revocable by BWSR.

Sections 60 through 68 [Moving Definitions from Rule to Statute] moves from rules to statute various definitions related to the protection of water resources (Chapter 103F).

Section 69 [Reinvest in Minnesota (RIM) Reserve Requirement Modifications] modifies the lands that are eligible for inclusion in the RIM Reserve program by:

- Allowing inclusion of floodplain land
- Allowing inclusion of environmentally sensitive land, including grasslands, peatlands, shorelands, karst geology, trout stream watersheds, and forest lands in priority areas.
- Repealing the minimum size requirement of 5 acres
- Repealing the requirement that most land have been in agricultural crop production for two of the previous 5 years

This section would also require conservation easements to prohibit mining on land enrolled in the program, enumerates various participant requirements in statute that are currently enumerated in rule, and would make other changes to the program.

Section 70 through 72 [Moving Requirements from Rule to Statute] makes statutory various requirements of the RIM Reserve program that are currently in rule.

Section 73 [Splitting of Projects] current law prohibits the splitting of a project under Chapter 103G for the “sole” purpose of acquiring exemptions from otherwise applicable requirements. This section repeals the word “sole” so that splitting a project for this purpose is prohibited even where it is not the sole reason for the splitting of the project.

Section 74 [Modernizing Definition of Wetland Type] repeals the current definition of “wetland type” that is based on outdated typing and replaces it with a definition that relies on a hydrogeomorphic method.

Section 75 [Modernizing Definition of Wetland] modifies the definition of “wetland” in response to the United States Supreme Court decision in *Sackett v. Environmental Protection Agency* (598 U.S. 691, 2023). The change ensures that wetlands are protected to the same extent as they were prior to *Sackett*.

Section 76 [Conforming Change] makes a technical conforming change in response to the changes made in section 75.

Section 77 [Wetland Replacement Plan Exemptions] repeals exemptions to the requirement to prepare a wetland replacement plan that have no federal counterpart and replaces them with an exemption that does.

Section 78 [Drainage-Related Wetland Replacement Changes] repeals an exemption to the requirement to prepare a wetland replacement plan for draining certain agricultural land and makes various statutory changes to reflect the repeal of the type-based definition of wetland type by Section 74.

Section 79 [Utility-Related Wetland Replacement Changes] modifies utility-related exemptions to the requirement to prepare a wetland replacement plan to better align with similar federal exemptions.

Section 80 [De Minimis Wetland Replacement Changes] modifies the impacts that do not require a wetland replacement plan because they fall within the de minimis exemption to the requirement to prepare a wetland replacement plan.

Section 81 [Conforming Change] makes a technical conforming change in response to changes made elsewhere in the bill.

Section 82 [Wetland Banking Project Review Timelines] requires BWSR to establish by rule timelines for wetland banking project review and comment.

Section 83 [Wetland Banking Program May Include Monetary Payments] clarifies that BWSR may administer a wetland banking program that may include monetary payments, which is required in order for Minnesota's programs to be federally recognized.

Section 84 [Revisor Instruction] requires the Revisor of Statutes to make various technical changes to the statutes to conform them to the changes made in this act.

Section 85 [Repealer] repeals various statutes and rules, including:

- § 103A.206 – Being repealed because it is largely duplicative of § 103C.005
- § 103D.315, subd. 4 – Requiring watershed district managers to adopt a seal
- § 103D.405, subd. 2-6 – Governing the revision of watershed management plans
- § 103D.411 – Governing amendment of watershed management plans
- §§ 103D.601, 103D.605, subd. 1-5, 103D.611 – Watershed district project procedures
- § 103F.511, subd. 8b – Defining “Reinvest in Minnesota reserve program”
- § 103F.950 – Beaver Damage Control Grants

- Minnesota Rules Part, 8400.3000; 8400.3030; 8400.3110; 8400.3210; 8400.3260; 400.3300; 400.3400; 8400.3460; 8400.3600; 8400.3610; 8400.3630; 8400.3700; 8400.3730; 400.3800; 8400.3830; and 8400.3930 (Easement Programs)