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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3238

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

1.1 A bill for an act
1.2 relating to waters; providing for sustainable water use; requiring conservation
1.3 rate structures; requiring drinking water emergency ordinance; requiring sharing
1.4 groundwater information; creating Pollution Control Agency ombudsman for
1.5 groundwater pollution education and assistance; increasing certain fees; requiring
1.6 conservation pricing for industrial and commercial users; requiring a report;
1.7 amending Minnesota Statutes 2006, sections 103G.101, subdivision 1; 103G.291,
1.8 by adding a subdivision; 144.3831, subdivision 1; 444.075, subdivisions 1, 3,
1.9 3a; Minnesota Statutes 2007 Supplement, section 103G.291, subdivision 3;
1.10 proposing coding for new law in Minnesota Statutes, chapters 103G; 103H; 116.

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

1.12 Section 1. Minnesota Statutes 2006, section 103G.101, subdivision 1, is amended to
1.13 read:

1.14 Subdivision 1. **Development.** The commissioner shall develop a water resources
1.15 conservation program for the state. The program must include conservation, allocation,
1.16 and development of waters of the state ~~for the best interests of the people~~ to ensure
1.17 sustainable water use. "Sustainable water use" means use of water resources that maintains
1.18 or enhances the current economic and community well-being while protecting and
1.19 restoring the natural environment. Sustainable water use meets the needs of the present
1.20 without compromising the ability of future generations to meet their own needs.

1.21 Sec. 2. Minnesota Statutes 2007 Supplement, section 103G.291, subdivision 3, is
1.22 amended to read:

1.23 Subd. 3. **Water supply plans; demand reduction.** (a) Every public water supplier
1.24 serving more than 1,000 people must submit a water supply plan to the commissioner
1.25 for approval by January 1, 1996. In accordance with guidelines developed by the
1.26 commissioner, the plan must address projected demands, adequacy of the water supply

2.1 system and planned improvements, existing and future water sources, natural resource
2.2 impacts or limitations, emergency preparedness, water conservation, supply and demand
2.3 reduction measures, and allocation priorities that are consistent with section 103G.261.
2.4 Public water suppliers must update their plan and, upon notification, submit it to the
2.5 commissioner for approval every ten years.

2.6 (b) The water supply plan in paragraph (a) is required for all communities in the
2.7 metropolitan area, as defined in section 473.121, with a municipal water supply system
2.8 and is a required element of the local comprehensive plan required under section 473.859.
2.9 Water supply plans or updates submitted after December 31, 2008, must be consistent
2.10 with the metropolitan area master water supply plan required under section 473.1565,
2.11 subdivision 1, paragraph (a), clause (2).

2.12 (c) Public water suppliers serving more than 1,000 people must employ water
2.13 use demand reduction measures, including a conservation rate structure, as defined in
2.14 subdivision 4, paragraph (a), unless exempted under subdivision 4, paragraph (c), before
2.15 requesting approval from the commissioner of health under section 144.383, paragraph
2.16 (a), to construct a public water supply well or requesting an increase in the authorized
2.17 volume of appropriation. Demand reduction measures must include ~~evaluation of~~
2.18 ~~conservation rate structures and~~ a public education program that may include a toilet
2.19 and showerhead retrofit program.

2.20 (d) Public water suppliers serving more than 1,000 people must submit records
2.21 that indicate the number of connections and amount of use by customer category and
2.22 volume of water unaccounted for with the annual report of water use required under
2.23 section 103G.281, subdivision 3.

2.24 (e) For the purposes of this ~~subdivision~~ section, "public water supplier" means
2.25 an entity that owns, manages, or operates a public water supply, as defined in section
2.26 144.382, subdivision 4.

2.27 Sec. 3. Minnesota Statutes 2006, section 103G.291, is amended by adding a
2.28 subdivision to read:

2.29 Subd. 4. **Conservation rate structure required.** (a) For the purposes of this
2.30 section, "conservation rate structure" means a rate structure that encourages conservation
2.31 by increasing the rate the higher the level of use or during certain time periods and may
2.32 include inverted block rates, seasonal rates, time of use rates, individualized goal rates,
2.33 or excess use rates.

2.34 (b) To encourage conservation, a public water supplier serving more than 1,000
2.35 people in the metropolitan area, as defined in section 473.121, subdivision 2, shall use

3.1 a conservation rate structure by January 1, 2010. All remaining public water suppliers
3.2 servicing more than 1,000 people shall use a conservation rate structure by January 1, 2013.

3.3 (c) A public water supplier without the proper measuring equipment to track the
3.4 amount of water used by its users is exempt from this subdivision and the conservation
3.5 rate structure requirement under subdivision 3, paragraph (c).

3.6 **Sec. 4. [103G.292] DRINKING WATER EMERGENCY ORDINANCE.**

3.7 Subdivision 1. **Model ordinance.** The commissioner of natural resources, in
3.8 cooperation with the commissioners of health and the Pollution Control Agency, shall
3.9 develop a model drinking water emergency ordinance that can be adapted for use by cities
3.10 and counties to meet the requirement in subdivision 2. The model ordinance must address
3.11 procedures during a drinking water emergency or other emergency that would affect
3.12 drinking water supplies, such as a water shortage or contamination, natural disaster, or
3.13 pandemic, and must include procedures for:

3.14 (1) the use of alternative supplies of water;

3.15 (2) the use of alternative water treatment options;

3.16 (3) prioritization of water use;

3.17 (4) implementation of conservation measures;

3.18 (5) communication responsibilities and procedures so that public communication
3.19 during emergency situations is accomplished in a timely and efficient manner;

3.20 (6) identification of local, state, and federal responsibilities; and

3.21 (7) coordination between local, state, and federal authorities.

3.22 Subd. 2. **Ordinance required.** By January 1, 2011, all counties and statutory and
3.23 home rule charter cities shall adopt an emergency drinking water ordinance that addresses
3.24 the procedures listed in subdivision 1 and submit the ordinance to the commissioner
3.25 of natural resources.

3.26 **Sec. 5. [103H.176] GROUNDWATER INFORMATION STANDARD.**

3.27 (a) The commissioner of health, in cooperation with the commissioners of natural
3.28 resources, agriculture, and the Pollution Control Agency, shall develop a standardized
3.29 format for groundwater information. The format must allow easy transfer of information
3.30 between state and local units of government and include a means for collecting and
3.31 transferring information collected from wells, including well location, such as a well's
3.32 global positioning system coordinates, and the unique well number.

3.33 (b) A state or local unit of government collecting groundwater information shall
3.34 share the information, upon request, with other state and local units of government.

4.1 (c) A state or local unit of government is considered a "person" under chapter 13 for
4.2 purposes of bringing an action against a responsible authority or political subdivision to
4.3 obtain groundwater information.

4.4 (d) For the purposes of this section, a "local unit of government" is a county,
4.5 statutory or home rule charter city, or town exercising powers under chapter 368 and
4.6 located in the metropolitan area, as defined in section 473.121, subdivision 2.

4.7 **Sec. 6. [116.20] OMBUDSMAN FOR GROUNDWATER POLLUTION**
4.8 **EDUCATION AND ASSISTANCE.**

4.9 Subdivision 1. **Appointment.** The Pollution Control Agency shall appoint an
4.10 ombudsman for groundwater pollution education and assistance in the classified service.

4.11 Subd. 2. **Duties.** The ombudsman's duties include, but are not limited to:

4.12 (1) providing education and assistance to the general public on any aspect of
4.13 groundwater pollution;

4.14 (2) disseminating information on the financing and program funding sources for
4.15 cleanup and restoration of groundwater pollution;

4.16 (3) monitoring, reviewing, and providing comments and recommendations to
4.17 federal, state, and local groundwater quality authorities on laws and regulations;

4.18 (4) providing information to federal, state, and local groundwater quality authorities
4.19 and the public on the requirements of the Clean Water Act;

4.20 (5) disseminating information concerning proposed state groundwater quality
4.21 regulations, control technologies, and other information to small businesses, property
4.22 owners, and other interested parties;

4.23 (6) participating in and sponsoring meetings and conferences concerning
4.24 groundwater quality laws and regulations with state and local regulatory officials, industry
4.25 groups, and the public;

4.26 (7) investigating and assisting in the resolution of complaints and disputes from the
4.27 public against state or local groundwater quality authorities or responsible parties;

4.28 (8) arranging for and assisting in the preparation of groundwater quality program
4.29 guideline documents to ensure that the language is readily understandable by the lay
4.30 person;

4.31 (9) establishing cooperative programs with trade associations and small businesses
4.32 to promote and achieve voluntary compliance with federal and state groundwater quality
4.33 laws and regulations; and

5.1 (10) performing the ombudsman's duties in cooperation and coordination with
 5.2 governmental entities and private organizations as appropriate so as to eliminate overlap
 5.3 and duplication to the extent practicable.

5.4 Subd. 3. **Independence of action.** In carrying out the duties under this section,
 5.5 the ombudsman may act independently of the Pollution Control Agency in providing
 5.6 testimony to the legislature, contacting and making periodic reports to federal and state
 5.7 officials as necessary to carry out the duties under this section, and addressing problems
 5.8 of concern to the public.

5.9 Subd. 4. **Qualifications.** The ombudsman must be knowledgeable about federal
 5.10 and state water quality laws and regulations, control technologies, and federal and state
 5.11 legislative and regulatory processes. The ombudsman must be experienced in dealing
 5.12 with both private enterprise and governmental entities, arbitration and negotiation,
 5.13 interpretation of laws and regulations, investigation, record keeping, report writing, public
 5.14 speaking, and management.

5.15 Subd. 5. **Office support.** The Pollution Control Agency shall provide the
 5.16 ombudsman with the necessary office space, supplies, equipment, and clerical support to
 5.17 effectively perform the duties under this section.

5.18 Sec. 7. Minnesota Statutes 2006, section 144.3831, subdivision 1, is amended to read:

5.19 Subdivision 1. **Fee setting.** The commissioner of health may assess an annual fee
 5.20 of ~~\$6.36~~ \$..... for every service connection to a public water supply that is owned or
 5.21 operated by a home rule charter city, a statutory city, a city of the first class, or a town.
 5.22 The commissioner of health may also assess an annual fee for every service connection
 5.23 served by a water user district defined in section 110A.02.

5.24 Sec. 8. Minnesota Statutes 2006, section 444.075, subdivision 1, is amended to read:

5.25 Subdivision 1. **Definitions.** The definitions in this subdivision apply in this section.

5.26 (a) "Municipality" means a home rule charter or statutory city or a town that is not in
 5.27 an orderly annexation process on October 3, 1989.

5.28 (b) "Governing body" means the town board with respect to towns.

5.29 (c) "Waterworks" means waterworks systems, including mains, valves, hydrants,
 5.30 service connections, wells, pumps, reservoirs, tanks, treatment plants, and other
 5.31 appurtenances of a waterworks system.

5.32 (d) "Sanitary sewer" means sanitary sewer systems, including sewage treatment
 5.33 works, disposal systems, and other facilities for disposing of sewage, industrial waste, or
 5.34 other wastes.

6.1 (e) "Storm sewer" means storm sewer systems, including mains, holding areas
6.2 and ponds, and other appurtenances and related facilities for the collection and disposal
6.3 of storm water.

6.4 (f) "Facilities" means and includes waterworks, sanitary sewer and storm sewer
6.5 systems, or any portion or portions thereof.

6.6 (g) "Conservation rate structure" means a rate structure that encourages conservation
6.7 by increasing the rate the higher the level of use or during certain time periods and may
6.8 include inverted block rates, seasonal rates, time of use rates, individualized goal rates,
6.9 or excess use rates.

6.10 Sec. 9. Minnesota Statutes 2006, section 444.075, subdivision 3, is amended to read:

6.11 Subd. 3. **Charges; net revenues.** (a) To pay for the construction, reconstruction,
6.12 repair, enlargement, improvement, or other obtainment, the maintenance, operation and
6.13 use of the facilities, and of obtaining and complying with permits required by law, the
6.14 governing body of a municipality or county may impose just and equitable charges for
6.15 the use and for the availability of the facilities and for connections with them and make
6.16 contracts for the charges as provided in this section. The charges may be imposed with
6.17 respect to facilities made available by agreement with other municipalities, counties
6.18 or private corporations or individuals, as well as those owned and operated by the
6.19 municipality or county itself.

6.20 (b) Charges made for service rendered shall be as nearly as possible proportionate to
6.21 the cost of furnishing the service, except as provided under subdivision 3a.

6.22 Sec. 10. Minnesota Statutes 2006, section 444.075, subdivision 3a, is amended to read:

6.23 Subd. 3a. **Sanitary sewer charges.** (a) Except as provided in paragraph (b), sanitary
6.24 sewer charges may be fixed:

6.25 (1) on the basis of water consumed; or

6.26 (2) by reference to a reasonable classification of the types of premises to which
6.27 service is furnished; or

6.28 (3) by reference to the quantity, pollution qualities and difficulty of disposal of
6.29 sewage produced; or

6.30 (4) on any other equitable basis including any combination of equitable bases
6.31 referred to in clauses (1) to (3), but specifically excluding use of the basis referred to in
6.32 subdivision 3b, clause (1); and otherwise without limit.

6.33 (b) Sanitary sewer charges for commercial and industrial users shall follow a
6.34 conservation rate structure by January 1, 2010.

7.1 Sec. 11. **WATER AND SEWER PRICING REPORT REQUIRED.**

7.2 By January 15, 2009, the commissioner of natural resources, in cooperation with the
7.3 Metropolitan Council, shall submit a written report to the legislature, in compliance with
7.4 Minnesota Statutes, sections 3.195 and 3.197, on decoupling or separation of revenues
7.5 from changes in use of water and sewer services. The purpose of the decoupling must be
7.6 to reduce the disincentive for water suppliers and sewer systems to promote conservation.