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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
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HOUSE FILE No. 3238

February 19, 2008

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

March 3, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Local Government and Metropolitan Affairs

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 management plan; requiring
1.4 disclosure of contaminated wells; requiring sharing groundwater information;
1.5 creating Pollution Control Agency ombudsman for groundwater pollution
1.6 education and assistance; extending the expiration date for the Metropolitan
1.7 Area Water Supply Advisory Committee; amending Minnesota Statutes
1.8 2006, sections 103G.101, subdivision 1; 103G.291, by adding a subdivision;
1.9 103I.236; 473.1565, subdivision 2; Minnesota Statutes 2007 Supplement, section
1.10 103G.291, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.11 chapters 103G; 103H; 116.

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

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

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

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

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

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

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

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

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

2.25 (e) For the purposes of this ~~subdivision~~ section, "public water supplier" means
2.26 an entity that owns, manages, or operates a public water supply, as defined in section
2.27 144.382, subdivision 4.

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

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

3.1 (b) To encourage conservation, a public water supplier serving more than 1,000
 3.2 people in the metropolitan area, as defined in section 473.121, subdivision 2, shall use
 3.3 a conservation rate structure by January 1, 2010. All remaining public water suppliers
 3.4 serving more than 1,000 people shall use a conservation rate structure by January 1, 2013.

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

3.8 **Sec. 4. [103G.292] DRINKING WATER EMERGENCY MANAGEMENT PLAN.**

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

- 3.16 (1) the use of alternative supplies of water;
- 3.17 (2) the use of alternative water treatment options;
- 3.18 (3) prioritization of water use;
- 3.19 (4) implementation of conservation measures;
- 3.20 (5) communication responsibilities and procedures so that public communication
 3.21 during emergency situations is accomplished in a timely and efficient manner;
- 3.22 (6) identification of local, state, and federal responsibilities; and
- 3.23 (7) coordination between local, state, and federal authorities.

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

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

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

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

4.3 (c) For the purposes of this section, a "local unit of government" is a county,
 4.4 statutory or home rule charter city, or town.

4.5 Sec. 6. Minnesota Statutes 2006, section 103I.236, is amended to read:

4.6 **103I.236 CONTAMINATED WELL DISCLOSURE IN WASHINGTON**
 4.7 **COUNTY.**

4.8 (a) Before signing an agreement to sell or transfer real property in Washington
 4.9 County that is not served by a municipal water system, the seller must state in writing to
 4.10 the buyer whether, to the seller's knowledge, the property is located within a special well
 4.11 construction area designated by the commissioner of health under Minnesota Rules, part
 4.12 4725.3650. If the disclosure under section 103I.235, subdivision 1, paragraph (a), states
 4.13 that there is an unsealed well on the property, the disclosure required under this clause
 4.14 must be made regardless of whether the property is served by a municipal water system.

4.15 (b) Before signing an agreement to sell or transfer real property that is not served
 4.16 by a municipal water system, the seller must state in writing to the buyer whether, to the
 4.17 seller's knowledge, the property contains a well known to be contaminated.

4.18 Sec. 7. **[116.20] OMBUDSMAN FOR GROUNDWATER POLLUTION**
 4.19 **EDUCATION AND ASSISTANCE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

5.20 Subd. 4. **Qualifications.** The ombudsman must be knowledgeable about federal
5.21 and state water quality laws and regulations, control technologies, and federal and state
5.22 legislative and regulatory processes. The ombudsman must be experienced in dealing
5.23 with both private enterprise and governmental entities, arbitration and negotiation,
5.24 interpretation of laws and regulations, investigation, record keeping, report writing, public
5.25 speaking, and management.

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

5.29 Sec. 8. Minnesota Statutes 2006, section 473.1565, subdivision 2, is amended to read:

5.30 Subd. 2. **Advisory committee.** (a) A Metropolitan Area Water Supply Advisory
5.31 Committee is established to assist the council in its planning activities in subdivision 1.
5.32 The advisory committee has the following membership:

5.33 (1) the commissioner of agriculture or the commissioner's designee;

5.34 (2) the commissioner of health or the commissioner's designee;

5.35 (3) the commissioner of natural resources or the commissioner's designee;

6.1 (4) the commissioner of the Pollution Control Agency or the commissioner's
6.2 designee;

6.3 (5) two officials of counties that are located in the metropolitan area, appointed by
6.4 the governor;

6.5 (6) five officials of noncounty local governmental units that are located in the
6.6 metropolitan area, appointed by the governor; and

6.7 (7) the chair of the Metropolitan Council or the chair's designee, who is chair of
6.8 the advisory committee.

6.9 A local government unit in each of the seven counties in the metropolitan area must
6.10 be represented in the seven appointments made under clauses (5) and (6).

6.11 (b) Members of the advisory committee appointed by the governor serve at the
6.12 pleasure of the governor. Members of the advisory committee serve without compensation
6.13 but may be reimbursed for their reasonable expenses as determined by the Metropolitan
6.14 Council. The advisory committee expires December 31, ~~2008~~ 2010.

6.15 (c) The council must consider the work and recommendations of the advisory
6.16 committee when the council is preparing its regional development framework.

6.17 **Sec. 9. APPLICATION.**

6.18 Section 8 applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,
6.19 Scott, and Washington.