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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4736

03/31/2022 Authored by Hansen, R.,
04/08/2022 The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy
Adoption of Report: Amended and re-referred to the Committee on Capital Investment

1.1 A bill for an act
1.2 relating to environment; requiring rulemaking to address certain climate issues for
1.3 wastewater and water supply projects; modifying water infrastructure funding
1.4 program; providing for lead service line replacement; appropriating money;
1.5 amending Minnesota Statutes 2020, sections 116.182, subdivision 5; 446A.072,
1.6 subdivision 5a; 446A.081, subdivision 12.

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

1.8 Section 1. Minnesota Statutes 2020, section 116.182, subdivision 5, is amended to read:

1.9 Subd. 5. Rules. The agency shall adopt rules for the administration of the financial
1.10 assistance program. For wastewater treatment projects, the rules must include:

- 1.11 (1) application requirements;
1.12 (2) criteria for the ranking of projects in order of priority based on factors including:
1.13 (i) the type of project and;
1.14 (ii) the degree of environmental impact, and;
1.15 (iii) scenic and wild river standards;
1.16 (iv) climate resiliency; and
1.17 (v) reduction of greenhouse gas emissions; and
1.18 (3) criteria for determining essential project components.

1.19 Sec. 2. Minnesota Statutes 2020, section 446A.072, subdivision 5a, is amended to read:

1.20 Subd. 5a. Type and amount of assistance. (a) For a governmental unit receiving grant
1.21 funding from the USDA/RECD, the authority may provide assistance in the form of a grant

2.1 of up to 65 percent of the eligible grant need determined by USDA/RECD. A governmental  
2.2 unit may not receive a grant under this paragraph for more than \$5,000,000 per project or  
2.3 \$20,000 per existing connection, whichever is less, unless specifically approved by law.

2.4 (b) For a governmental unit receiving a loan from the clean water revolving fund under  
2.5 section 446A.07, the authority may provide assistance under this section in the form of a  
2.6 grant if the ~~average annual residential wastewater system cost after completion of the project~~  
2.7 ~~would otherwise exceed 1.4 percent of the median household income of the project service~~  
2.8 ~~area. In determining whether the average annual residential wastewater system cost would~~  
2.9 ~~exceed 1.4 percent, the authority must consider the total costs associated with building,~~  
2.10 ~~operating, and maintaining the wastewater system, including existing wastewater debt~~  
2.11 ~~service, debt service on the eligible project cost, and operation and maintenance costs. Debt~~  
2.12 ~~service costs for the proposed project are calculated based on the maximum loan term~~  
2.13 ~~permitted for the clean water revolving fund loan under section 446A.07, subdivision 7.~~  
2.14 ~~The amount of the grant is equal to 80 percent of the amount needed to reduce the average~~  
2.15 ~~annual residential wastewater system cost to 1.4 percent of median household income in~~  
2.16 ~~the project service area, to a maximum of \$5,000,000 per project or \$20,000 per existing~~  
2.17 ~~connection, whichever is less, unless specifically approved by law. The eligible project cost~~  
2.18 ~~is determined by multiplying the total project costs minus any other grants by the essential~~  
2.19 ~~project component percentage calculated under subdivision 3, paragraph (c), clause (1).~~  
2.20 ~~project service area includes, in whole or in part, a census tract where at least three of the~~  
2.21 ~~following apply as determined using the most recently published data from the United States~~  
2.22 ~~Census Bureau or United States Centers for Disease Control and Prevention:~~

2.23 (1) 20 percent or more of the residents have income below the federal poverty thresholds;

2.24 (2) the tract has a United States Centers for Disease Control and Prevention Social  
2.25 Vulnerability Index greater than 0.80;

2.26 (3) the upper limit of the lowest quintile of household income is less than the state upper  
2.27 limit of the lowest quintile;

2.28 (4) the housing vacancy rate is greater than the state average; or

2.29 (5) the percent of the population receiving Supplemental Nutrition Assistance Program  
2.30 (SNAP) benefits is greater than the state average.

2.31 In no case may the amount of the grant exceed 80 percent of the eligible project cost.

2.32 (c) For a governmental unit receiving a loan from the drinking water revolving fund  
2.33 under section 446A.081, the authority may provide assistance under this section in the form

3.1 of a grant if the average annual residential drinking water system cost after completion of  
3.2 the project would otherwise exceed 1.2 percent of the median household income of the  
3.3 project service area. In determining whether the average annual residential drinking water  
3.4 system cost would exceed 1.2 percent, the authority must consider the total costs associated  
3.5 with building, operating, and maintaining the drinking water system, including existing  
3.6 drinking water debt service, debt service on the eligible project cost, and operation and  
3.7 maintenance costs. Debt service costs for the proposed project are calculated based on the  
3.8 maximum loan term permitted for the drinking water revolving fund loan under section  
3.9 446A.081, subdivision 8, paragraph (e). The amount of the grant is equal to 80 percent of  
3.10 the amount needed to reduce the average annual residential drinking water system cost to  
3.11 1.2 percent of median household income in the project service area, to a maximum of  
3.12 \$5,000,000 per project or \$20,000 per existing connection, whichever is less, unless  
3.13 specifically approved by law. The eligible project cost is determined by multiplying the  
3.14 total project costs minus any other grants by the essential project component percentage  
3.15 calculated under subdivision 3, paragraph (e), clause (1). project service area includes, in  
3.16 whole or in part, a census tract where at least three of the following apply as determined  
3.17 using the most recently published data from the United States Census Bureau or United  
3.18 States Centers for Disease Control and Prevention:

3.19 (1) 20 percent or more of the residents have income below the federal poverty thresholds;

3.20 (2) the tract has a United States Centers for Disease Control and Prevention Social  
3.21 Vulnerability Index greater than 0.80;

3.22 (3) the upper limit of the lowest quintile of household income is less than the state upper  
3.23 limit of the lowest quintile;

3.24 (4) the housing vacancy rate is greater than the state average; or

3.25 (5) the percent of the population receiving SNAP benefits is greater than the state average.

3.26 In no case may the amount of the grant exceed 80 percent of the eligible project cost.

3.27 (d) Notwithstanding the limits in paragraphs (a), (b), and (c), for a governmental unit  
3.28 receiving supplemental assistance under this section after January 1, 2002, if the authority  
3.29 determines that the governmental unit's construction and installation costs are significantly  
3.30 increased due to geological conditions of crystalline bedrock or karst areas and discharge  
3.31 limits that are more stringent than secondary treatment, the maximum award under this  
3.32 section shall not be more than \$25,000 per existing connection.

4.1 Sec. 3. Minnesota Statutes 2020, section 446A.081, subdivision 12, is amended to read:

4.2 Subd. 12. **Rules of the department.** (a) The Department of Health shall adopt rules  
4.3 relating to the procedures for administration of the Department of Health's duties under the  
4.4 act and this section.

4.5 (b) Rules that establish criteria for ranking new or upgrade water supply system projects  
4.6 in order of priority must assign priority points for projects that:

4.7 (1) address climate resiliency; and

4.8 (2) reduce greenhouse gas emissions.

4.9 Sec. 4. **INTERIM PROJECT PRIORITY LIST RECOMMENDATIONS;**  
4.10 **POLLUTION CONTROL AGENCY.**

4.11 Until rules factoring in climate resiliency and greenhouse gas emissions are adopted  
4.12 under Minnesota Statutes, section 116.182, subdivision 5, the commissioner of the Pollution  
4.13 Control Agency must review each project priority list developed and provide  
4.14 recommendations to the Public Facilities Authority that prioritize the projects based on  
4.15 climate resiliency and the reduction of greenhouse gas emissions. The Public Facilities  
4.16 Authority must use the recommendations when developing the intended use plan developed  
4.17 under Minnesota Statutes, section 446A.07, and when making other funding decisions  
4.18 dependent on the Pollution Control Agency's project priority list.

4.19 Sec. 5. **INTERIM PROJECT PRIORITY LIST RECOMMENDATIONS;**  
4.20 **COMMISSIONER OF HEALTH.**

4.21 Until rules factoring climate resiliency and greenhouse gas emissions are adopted under  
4.22 Minnesota Statutes, section 446A.081, subdivision 12, the commissioner of health must  
4.23 review each project priority list developed and provide recommendations to the Public  
4.24 Facilities Authority that prioritize the projects based on climate resiliency and the reduction  
4.25 of greenhouse gas emissions. The Public Facilities Authority must use the recommendations  
4.26 when developing the intended use plan developed under Minnesota Statutes, section  
4.27 446A.081, subdivision 5, and when making other funding decisions dependent on the  
4.28 Department of Health's project priority list.

4.29 Sec. 6. **LEAD SERVICE LINE REPLACEMENT; APPROPRIATION.**

4.30 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have  
4.31 the meanings given.

5.1 (b) "Community water system" has the meaning given in United States Code, title 42,  
5.2 section 300f(15).

5.3 (c) "Lead service line" means a water supply connection that is made of or lined with a  
5.4 material consisting of lead and that connects a water main to a building. A lead pigtail, lead  
5.5 gooseneck, or other lead fitting is considered a lead service line, regardless of the composition  
5.6 of the service line or other portions of piping to which the piece is attached. A galvanized  
5.7 service line is considered a lead service line.

5.8 (d) "Service line" means any piping, tubing, or fitting connecting a water main to a  
5.9 building. Service line includes the property owner side and the system side of a service line.

5.10 (e) "System side" means the portion of a service line that is owned by a community  
5.11 water system.

5.12 Subd. 2. **Appropriation.** \$2,335,000 in fiscal year 2023 is appropriated from the general  
5.13 fund to the Metropolitan Council for grants to cities and other entities operating community  
5.14 water systems to replace the privately owned portion of residential lead service lines. Grants  
5.15 from this appropriation must first be used to supplement any federal money provided to the  
5.16 state as principal forgiveness or grants under Public Law 117-58, the Infrastructure  
5.17 Investment and Jobs Act, to cover 100 percent of the cost to replace privately owned  
5.18 residential lead service lines.

5.19 Subd. 3. **Eligibility.** Grants awarded under this section must be used to replace or partially  
5.20 replace lead service lines within census tracts where at least three of the following apply  
5.21 using the most recently published data from the United States Census Bureau or United  
5.22 States Centers for Disease Control and Prevention:

5.23 (1) 20 percent or more of the residents have income below the federal poverty thresholds;

5.24 (2) the tract has a United States Centers for Disease Control and Prevention Social  
5.25 Vulnerability Index greater than 0.80;

5.26 (3) the upper limit of the lowest quintile of household income is less than the state upper  
5.27 limit of the lowest quintile;

5.28 (4) the housing vacancy rate is greater than the state average; or

5.29 (5) the percent of the population receiving Supplemental Nutrition Assistance Program  
5.30 (SNAP) benefits is greater than the state average.

5.31 Subd. 4. **Prevailing wage.** Laborers and mechanics performing work on a project funded  
5.32 by a grant under this section, including removal of lead service lines and installation of

- 6.1 replacement service lines, must be paid the prevailing wage rate for the work as defined in
- 6.2 Minnesota Statutes, section 177.42, subdivision 6. The project is subject to the requirements
- 6.3 and enforcement provisions of Minnesota Statutes, sections 177.30 and 177.41 to 177.45.