

1.1 A bill for an act
1.2 relating to natural resources; providing a runoff and sediment delivery option for
1.3 public drainage ditch repair charges; proposing coding for new law in Minnesota
1.4 Statutes, chapter 103E.

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

1.6 Section 1. **[103E.729] ALTERNATIVE REPAIR COST APPORTIONMENT**
1.7 **OPTION.**

1.8 Subdivision 1. **Option.** Notwithstanding any conflicting provision of this chapter, a
1.9 drainage authority may use the option under this section to apportion repair costs on all
1.10 property contributing runoff to the drainage system, based on relative runoff and relative
1.11 sediment delivery in an approved repair cost apportionment report, in accordance with
1.12 subdivision 2. Repair costs apportioned using the method in this section are charges for
1.13 property contributing runoff to the drainage system that shall be considered repair cost
1.14 assessments in this chapter.

1.15 Subd. 2. **Repair cost apportionment report.** (a) When the drainage authority has
1.16 determined that a drainage system repair is necessary, the drainage authority may apportion
1.17 costs for the repair of a drainage system based on relative runoff and relative sediment
1.18 delivery from any property, public road, street, railway, or other utility contributing runoff
1.19 to the drainage system as provided in this subdivision. If this cost apportionment method
1.20 is used, costs must be determined prior to ordering the repair of all or any part of a drainage
1.21 system as provided in section 103E.705, subdivision 3, or 103E.715, subdivision 4, or prior
1.22 to levying a repair fund assessment as provided in section 103E.735, subdivision 1.

2.1 (b) The drainage authority shall appoint one or more persons qualified to use geographic
2.2 information system technology and applicable digital information, including but not limited
2.3 to conditioned topographic data, soils and land use data, and property, road, and utility
2.4 corridor identification data, together with appropriate on-site verification, to equitably
2.5 apportion repair costs.

2.6 (c) The person or persons conducting the cost apportionment shall file a repair cost
2.7 apportionment report with the drainage authority explaining in nontechnical language the
2.8 method, data, and interpretations used, and the cost apportionment results. The report shall
2.9 present data and results in a format so that individual property owners, political subdivisions,
2.10 and utilities can clearly examine the information applicable to their property, public road,
2.11 street, railway, or other utility, including for each parcel having a separate property
2.12 identification number.

2.13 Subd. 3. **Hearing on report.** (a) When a repair cost apportionment report is filed, the
2.14 drainage authority, in consultation with the auditor or secretary, shall set a time, by order,
2.15 for a hearing on the report not more than 30 days after the date of the order. At least 20 days
2.16 before the hearing, the auditor or secretary shall give notice by mail of the time and location
2.17 of the hearing to the owners of property, political subdivisions, and utilities proposed to be
2.18 assessed in the report. The notice of hearing must include a copy of the portion of the report
2.19 explaining in nontechnical language the method, data, and interpretations used, the cost
2.20 apportionment results applicable to the property owner, political subdivision, or utility
2.21 receiving notice, and a statement of the location where the entire repair cost apportionment
2.22 report has been filed for public inspection.

2.23 (b) At the hearing, the drainage authority shall hear and consider the testimony presented
2.24 by all interested parties. At least one person responsible for preparing the repair cost
2.25 apportionment report shall be present at the initial hearing.

2.26 (c) If the drainage authority determines that the apportionment of costs is not equitable,
2.27 the drainage authority may amend the repair cost apportionment report and shall make
2.28 necessary and proper findings and an order in relation to the report, or resubmit matters to
2.29 the preparer of the repair cost apportionment report for further consideration. If matters are
2.30 resubmitted, the hearing may be continued as necessary to make and hear an amended report.
2.31 The report preparer shall proceed promptly to reconsider resubmitted matters and shall make
2.32 and file an amended report. The drainage authority may replace the original report with the
2.33 amended report for apportionment of repair costs and make necessary and proper findings
2.34 and an order to approve the amended report. The jurisdiction of the drainage authority

3.1 continues in the property given proper notice, and new or additional notice is not required
3.2 for that property.

3.3 Subd. 4. **Findings; approval.** After consideration of the repair cost apportionment report,
3.4 any amended report, and all evidence presented, the drainage authority shall make findings,
3.5 approve the report, and apportion repair costs consistent with the values in the repair cost
3.6 apportionment report if it finds that the cost apportionment is equitable based on:

3.7 (1) the weighting of relative runoff and relative sediment delivery is appropriate for the
3.8 type of repair;

3.9 (2) the data inputs are reliable; and

3.10 (3) the computation method is reliable.

3.11 Subd. 5. **Report updates.** The drainage authority may continue to apportion repair costs
3.12 consistent with the values in the repair cost apportionment report of record. After a repair
3.13 cost apportionment report has been approved under this subdivision, an owner of property,
3.14 a political subdivision, or a utility assessed in the repair cost apportionment report of record
3.15 may request in writing that the drainage authority update the report based on changed land
3.16 use. The request shall be filed with the auditor of the county where the property is located
3.17 or the secretary. Prior to the next approval by the drainage authority of a repair cost
3.18 assessment for the drainage system, the drainage authority shall determine if the repair cost
3.19 apportionment report of record reasonably reflects current land use, relative runoff, and
3.20 relative sediment delivery. If it does not, the drainage authority shall make findings and
3.21 shall appoint one or more persons to prepare and file an updated repair cost apportionment
3.22 report for the drainage system in accordance with subdivision 2.

3.23 Subd. 6. **Conservation lands.** Proper consideration must be given to property that is
3.24 used for conservation that prohibits development or land use change by ownership, deed
3.25 restriction, or conservation easement, or is enrolled in a program that prohibits agricultural
3.26 crop production.

3.27 Subd. 7. **Appeals.** The owner of any property subject to cost apportionment listed in the
3.28 adopted repair cost apportionment report may appeal findings of the drainage authority
3.29 under subdivision 4 as provided in section 103E.095.

3.30 Subd. 8. **Definitions.** For the purpose of this section:

3.31 (1) "relative runoff" means the surface and subsurface runoff potential from a specific
3.32 property compared on an equitable basis to all other properties contributing runoff to the
3.33 drainage system; and

- 4.1 (2) "relative sediment delivery" means the sediment delivery potential from a specific
4.2 property compared on an equitable basis to all other properties contributing runoff to the
4.3 drainage system.