

1.1 A bill for an act
1.2 relating to natural resources; providing for the acceleration of public drainage
1.3 system acquisition and compensation of ditch buffer strips; amending Minnesota
1.4 Statutes 2018, sections 17.117, subdivision 11; 103E.021, subdivision 6; 103E.071;
1.5 103E.351, subdivisions 1, 2, 3.

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

1.7 Section 1. Minnesota Statutes 2018, section 17.117, subdivision 11, is amended to read:

1.8 Subd. 11. **Loans issued to borrower.** (a) Local lenders may issue loans only for projects
1.9 that are approved and certified by the local government unit as meeting priority needs
1.10 identified in a comprehensive water management plan or other local planning documents,
1.11 are in compliance with accepted practices, standards, specifications, or criteria, and are
1.12 eligible for financing under Environmental Protection Agency or other applicable guidelines.

1.13 (b) The local lender may use any additional criteria considered necessary to determine
1.14 the eligibility of borrowers for loans.

1.15 (c) Local lenders shall set the terms and conditions of loans to borrowers, except that:

1.16 (1) no loan to a borrower may exceed \$200,000; and

1.17 ~~(2) no loan for a project may exceed \$200,000; and~~

1.18 ~~(3)~~ (2) no borrower shall, at any time, have multiple loans from this program with a total
1.19 outstanding loan balance of more than \$200,000.

1.20 (d) The maximum term length for projects in this paragraph is ten years.

1.21 (e) Fees charged at the time of closing must:

- 2.1 (1) be in compliance with normal and customary practices of the local lender;
- 2.2 (2) be in accordance with published fee schedules issued by the local lender;
- 2.3 (3) not be based on participation program; and
- 2.4 (4) be consistent with fees charged other similar types of loans offered by the local
- 2.5 lender.

2.6 (f) The interest rate assessed to an outstanding loan balance by the local lender must not

2.7 exceed three percent per year.

2.8 Sec. 2. Minnesota Statutes 2018, section 103E.021, subdivision 6, is amended to read:

2.9 Subd. 6. **Incremental ~~implementation~~ establishment; vegetated buffer strips and**

2.10 **side inlet controls.** (a) Notwithstanding other provisions of this chapter requiring

2.11 appointment of viewers and redetermination of benefits and damages, a drainage authority

2.12 may ~~implement~~ make findings and order the establishment of permanent buffer strips of

2.13 perennial vegetation approved by the drainage authority or side inlet controls, or both,

2.14 adjacent to a public drainage ditch, where necessary to control erosion and sedimentation,

2.15 improve water quality, or maintain the efficiency of the drainage system. The drainage

2.16 authority's finding that the establishment of permanent buffer strips of perennial vegetation

2.17 or side inlet controls is necessary to control erosion and sedimentation, improve water

2.18 quality, or maintain the efficiency of the drainage system, is sufficient to confer jurisdiction

2.19 under this subdivision. Preference should be given to planting native species of a local

2.20 ecotype. The approved perennial vegetation shall not impede future maintenance of the

2.21 ditch. The permanent strips of perennial vegetation shall be 16-1/2 feet in width measured

2.22 outward from the top edge of the existing constructed channel. Drainage system rights-of-way

2.23 for the acreage and additional property required for the permanent strips must be acquired

2.24 by the authority having jurisdiction.

2.25 (b) A project under this subdivision shall be implemented as a repair according to section

2.26 103E.705, except that the drainage authority may appoint an engineer to examine the drainage

2.27 system and prepare an engineer's repair report for the project.

2.28 (c) Damages shall be determined by the drainage authority, or viewers, appointed by

2.29 the drainage authority, according to section 103E.315, subdivision 8. A damages statement

2.30 shall be prepared, including an explanation of how the damages were determined for each

2.31 property affected by the project, and filed with the auditor or watershed district. Within 30

2.32 days after the damages statement is filed, the auditor or watershed district shall prepare

2.33 property owners' reports according to section 103E.323, subdivision 1, clauses (1), (2), (6),

3.1 (7), and (8), and mail a copy of the property owner's report and damages statement to each
3.2 owner of property affected by the proposed project.

3.3 (d) After a damages statement is filed, the drainage authority shall set a time, by order,
3.4 not more than 30 days after the date of the order, for a hearing on the project. At least ten
3.5 days before the hearing, the auditor or watershed district shall give notice by mail of the
3.6 time and location of the hearing to the owners of property and political subdivisions likely
3.7 to be affected by the project.

3.8 (e) The drainage authority shall make findings and order the repairs to be made if the
3.9 drainage authority determines from the evidence presented at the hearing and by the viewers
3.10 and engineer, if appointed, that the repairs are necessary for the drainage system and the
3.11 costs of the repairs are within the limitations of section 103E.705.

3.12 Sec. 3. Minnesota Statutes 2018, section 103E.071, is amended to read:

3.13 **103E.071 COUNTY ATTORNEY.**

3.14 The county attorney shall represent the county in all drainage proceedings and related
3.15 matters without special compensation, except as provided in section 388.09, subdivision 1.
3.16 A county attorney, the county attorney's assistant, or any attorney associated with the county
3.17 attorney in business, may not otherwise appear in any drainage proceeding for any interested
3.18 person.

3.19 Sec. 4. Minnesota Statutes 2018, section 103E.351, subdivision 1, is amended to read:

3.20 Subdivision 1. **Conditions to redetermine benefits and damages; appointing**
3.21 **viewers.** (a) If the drainage authority determines that the original benefits or damages of
3.22 record determined in a drainage proceeding do not reflect reasonable present day land values
3.23 or that the benefited or damaged areas have changed, or if more than 50 percent of the
3.24 owners of property benefited or damaged by a drainage system petition for correction of an
3.25 error that was made at the time of the proceedings that established the drainage system, the
3.26 drainage authority may appoint three viewers to redetermine and report the benefits and
3.27 damages and the benefited and damaged areas.

3.28 (b) If more than 26 percent of the owners of property, or owners of 26 percent of the
3.29 property, benefited or damaged by a drainage system petition for a redetermination of
3.30 benefits and damages, the drainage authority shall make a determination on the petition in
3.31 accordance with paragraph (a).

4.1 Sec. 5. Minnesota Statutes 2018, section 103E.351, subdivision 2, is amended to read:

4.2 Subd. 2. **Hearing and procedure.** (a) The redetermination of benefits and damages
4.3 shall proceed as provided for viewers and the viewers' report in sections 103E.311 to
4.4 103E.321.

4.5 (b) The auditor or secretary must prepare a property owners' report from the viewers'
4.6 report. A copy of the property owners' report must be mailed to each owner of property
4.7 affected by the drainage system.

4.8 (c) The drainage authority shall hold a final hearing on the report and confirm the benefits
4.9 and damages and benefited and damaged areas. The final hearing shall proceed as provided
4.10 under sections 103E.325, 103E.335, and 103E.341, ~~except that the hearing shall be held~~
4.11 ~~within 30 days after the property owners' report is mailed.~~

4.12 Sec. 6. Minnesota Statutes 2018, section 103E.351, subdivision 3, is amended to read:

4.13 Subd. 3. **Using redetermined benefits and damages.** The redetermined benefits and
4.14 damages and benefited and damaged areas must be used in place of the ~~original~~ benefits
4.15 and damages and benefited and damaged areas of record in all subsequent proceedings
4.16 relating to the drainage system.