

HOUSE RESEARCH

Bill Summary

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Overview

This bill includes a number of policy provisions related to natural resources. Two policy initiatives of the Department of Natural Resources (DNR) are included. The first would require the net proceeds from the sale of administrative sites under the control of the DNR be deposited in an account to be used for administration facilities for the department (the proceeds are currently being used for land acquisition for the outdoor recreation system). The second would give authority to the DNR to use administrative penalty orders for violations of certain water laws and rules (the DNR plans to use the new authority to address egregious and repeat violations in order to reduce the need for criminal proceedings).

Other provisions contained in this bill include requiring environmental learning centers to meet certain health and safety standards, permitting the Pine Grove Zoo in Little Falls to receive lottery-in-lieu funds, and requiring the DNR, if closing or relocating its regional forestry office in Cloquet, to relocate it within a ten-mile radius of the city.

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- 1 Facilities management account.** Amends § 84.0857. Appropriates the proceeds from the sale of administrative sites under the control of the DNR (as provided in section 2) for use to acquire facilities, renovate facilities, acquire land, or design and construct facilities for administrative use by the department.
- 2 Environmental learning centers.** Amends § 84.0875. Requires environmental learning

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centers to follow the same rules and standards related to space requirements as those developed by the commissioner of health to protect the health and safety of those attending youth camps.

3 Proceeds from natural resources land. Amends § 94.16, subd. 3. Requires the net proceeds from the sale of administrative sites to be deposited in the facilities management account for use to acquire facilities, renovate facilities, acquire land, or design and construct facilities for administrative use by the department. (These proceeds currently are deposited in the land acquisition account to be used for acquisition of natural resource lands or interests in lands within the outdoor recreation system under chapter 86A.)

4 Administrative penalty orders. Adds § 103G.252. Allows the commissioner of natural resources to use administrative penalty orders for certain violations involving the state's water and related laws and rules. States that the maximum amount of an administrative penalty order is \$10,000 for each violator.

5 Administrative penalty order procedure. Adds § 103G.253.

Subd. 1. Contents of order. Establishes minimum requirements for an administrative penalty order under this act.

Subd. 2. Amount of penalty; considerations. Provides guidance to the commissioner in determining the amount or the requirements of an administrative penalty order.

Subd. 3. Corrective order. Allows the commissioner to issue a corrective order. Requires a person issued a corrective order, within 30 days of receiving the order, to provide the commissioner with information demonstrating that the violation has been corrected or that a corrective plan has been developed. Requires the commissioner to make a determination on whether the violation has been corrected or whether the plan is acceptable and notify the person issued the corrective order.

Subd. 4. Penalty. Allows the commissioner to forgive the monetary penalty for a violation when the violation has been corrected or when a corrective plan has been developed, except for orders for serious and repeated violations issued where the monetary penalty is not forgivable. States that the monetary penalty is due on the 31st day after the order was received unless an expedited administrative hearing (as provided in subdivision 5) has been requested. States that interest begins to accrue on penalties on the 31st day after the order was received.

Subd. 5. Expedited administrative hearing. Paragraph (a) allows a person to request an expedited administrative hearing and establishes a process for requesting the hearing. Requires the commissioner to notify the person of the time and place of the hearing at least 15 days before the hearing, and requires that the hearing be held within 30 days after receiving the request unless otherwise agreed to.

Paragraph (b) requires all written arguments for the hearing to be submitted ten days following the close of the hearing.

Paragraph (c) requires the administrative law judge to issue a report to the

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commissioner with recommended actions by the commissioner. Prohibits the administrative law judge from changing the proposed penalty or corrective order unless the administrative law judge determines that they are unreasonable according to the guidelines established in subdivision 2.

Paragraph (d) allows the administrative law judge to increase the amount of the penalty by the costs of the hearing charged to the department when the judge finds that the hearing request was solely for the purposes of delay or was frivolous.

Paragraph (e) requires the commissioner to refund the costs of the hearing charged to a person when the administrative law judge recommends the dismissal of the order. States that the administrative law judge may recommend attorney fees to be refunded up to the amount of the penalty order.

Paragraph (f) requires the commissioner to wait five days after receiving the administrative law judge's report before issuing a final order and allows the person issued the order to comment to the commissioner on the administrative law judge's recommendation during that time. Allows the final order to be appealed.

Paragraph (g) requires the penalty to be paid within 30 days after the final order unless the final order is being appealed. States that interest accrues from the 31st day if the order is not appealed or the final order is upheld.

Subd. 6. Alternative dispute resolution. Allows the commissioner and person issued an order to agree to mediation or other alternative dispute resolution.

Subd. 7. Enforcement. Allows the attorney general to enforce penalties under this section and petition the district court to file an administrative order as an order of the court. Allows the attorney general to bring a civil action in district court if a person fails to pay the penalty or comply with a corrective order.

Subd. 8. Revocation and suspension of permit, license, or registration. Allows the commissioner to revoke or fail to reissue or renew permits, licenses or registrations for persons failing to pay a penalty under this section.

Subd. 9. Cumulative remedy. States that the commissioner may use other remedies available under current law in addition to an administrative penalty order under this section, except that the state may not seek civil penalties under any other law for violations covered by the order.

6 Deposit of revenues. Amends § 297A.94. Adds the Pine Grove Zoo in Little Falls to the list of entities that may be funded through state lottery payments in lieu of sales taxes. Zoos that are not accredited by the American Zoological Association can expend funds under this section only for purposes that will help them in obtaining accreditation. Under current law, two percent of the receipts of the lottery in lieu payments must be deposited in the natural resources fund and may be spent on the Minnesota Zoological Garden, the Como Park Zoo and Conservatory, and the Duluth Zoo.

7 Implementation plan; rulemaking exemption. Requires the commissioner to develop a

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plan to implement the administrative penalty order provisions contained in this bill by December 31, 2008 , and provide a 30-day period for public comment. Exempts the plan from rulemaking procedures.

- 8** **Cloquet area forestry office.** Requires the commissioner of natural resources to relocate the Cloquet area forestry office within a ten-mile radius of the city of Cloquet if the current office is closed or relocated.