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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3874

02/15/2024 Authored by Hansen, R.; Fischer; Jordan; Finke and Virnig

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

02/29/2024 Adoption of Report: Re-referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to natural resources; modifying administrative penalty order authority for
1.3 enforcing public water and drainage ditch buffer requirements; making certain
1.4 lawns to legumes program data private; amending Minnesota Statutes 2022, sections
1.5 103B.101, subdivisions 12, 12a; 103F.48, subdivision 7; Minnesota Statutes 2023
1.6 Supplement, section 103B.104.

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

1.8 Section 1. Minnesota Statutes 2022, section 103B.101, subdivision 12, is amended to read:

1.9 Subd. 12. **Authority to issue penalty orders.** (a) ~~Except as provided under subdivision~~
1.10 ~~12a,~~ The board may issue an order requiring violations to be corrected and administratively
1.11 assessing monetary penalties of up to \$10,000 per violation for violations of this chapter
1.12 and chapters 103C, 103D, 103E, 103F, and 103G, any rules adopted under those chapters,
1.13 and any standards, limitations, or conditions established by the board.

1.14 (b) Administrative penalties issued by the board under paragraph (a) ~~or subdivision 12a,~~
1.15 may be appealed according to section 116.072, if the recipient of the penalty requests a
1.16 hearing by notifying the commissioner in writing within 30 days after receipt of the order.
1.17 For the purposes of this section, the terms "commissioner" and "agency" as used in section
1.18 116.072 mean the board. If a hearing is not requested within the 30-day period, the order
1.19 becomes a final order not subject to further review.

1.20 (c) Administrative penalty orders issued under paragraph (a) ~~or subdivision 12a,~~ may
1.21 be enforced under section 116.072, subdivision 9. Penalty amounts must be remitted within
1.22 30 days of issuance of the order.

2.1 (d) If the board determines that sufficient steps have been taken to fully resolve
 2.2 noncompliance, all or part of a penalty issued under this subdivision may be forgiven.

2.3 Sec. 2. Minnesota Statutes 2022, section 103B.101, subdivision 12a, is amended to read:

2.4 Subd. 12a. **Authority to issue penalty orders; counties and watershed districts.** (a)
 2.5 A county or watershed district with jurisdiction ~~or the Board of Water and Soil Resources~~
 2.6 may issue an order requiring violations of the water resources riparian protection requirements
 2.7 under sections 103F.415, 103F.421, and 103F.48 to be corrected and administratively
 2.8 assessing monetary penalties up to ~~\$500~~ \$10,000 for noncompliance commencing on day
 2.9 one of the 11th month after the noncompliance notice was issued. The proceeds collected
 2.10 from an administrative penalty order issued under this section must be remitted to the county
 2.11 or watershed district with jurisdiction over the noncompliant site, or otherwise remitted to
 2.12 the Board of Water and Soil Resources.

2.13 (b) Before exercising this authority, the Board of Water and Soil Resources must adopt
 2.14 a plan containing procedures for the issuance of administrative penalty orders by local
 2.15 governments and the board as authorized in this subdivision and subdivision 12. This plan,
 2.16 and any subsequent amendments, ~~will become~~ is effective 30 days after being published in
 2.17 the State Register. ~~The initial plan must be published in the State Register no later than July~~
 2.18 ~~1, 2017.~~

2.19 (c) Administrative penalties may be reissued and appealed under paragraph (a) according
 2.20 to section 103F.48, subdivision 9.

2.21 Sec. 3. Minnesota Statutes 2023 Supplement, section 103B.104, is amended to read:

2.22 **103B.104 LAWNS TO LEGUMES PROGRAM.**

2.23 (a) The Board of Water and Soil Resources may provide financial and technical assistance
 2.24 to plant residential landscapes and community spaces with native vegetation and
 2.25 pollinator-friendly forbs and legumes to:

2.26 (1) protect a diversity of pollinators with declining populations; and

2.27 (2) provide additional benefits for water management, carbon sequestration, and landscape
 2.28 and climate resiliency.

2.29 (b) The board must establish criteria for grants or payments awarded under this section.
 2.30 Grants or payments awarded under this section may give priority consideration for proposals
 2.31 in areas identified by the United States Fish and Wildlife Service as areas where there is a
 2.32 high potential for rusty patched bumble bees and other priority species to be present.

3.1 (c) The board may collaborate with and enter into agreements with federal, state, and
3.2 local agencies; Tribal Nations; nonprofit organizations; and contractors to implement and
3.3 promote the program.

3.4 (d) Data on individuals who apply for or receive financial or technical assistance to plant
3.5 residential landscapes or community spaces under the program are classified as private data
3.6 on individuals, as defined by section 13.02, subdivision 12. Section 13.05, subdivision 11,
3.7 applies to an agreement between the board and a private person to implement the program.

3.8 Sec. 4. Minnesota Statutes 2022, section 103F.48, subdivision 7, is amended to read:

3.9 Subd. 7. **Corrective actions.** (a) If the soil and water conservation district determines
3.10 a landowner is not in compliance with this section, the district must notify the county or
3.11 watershed district with jurisdiction over the noncompliant site and the board. The county
3.12 or watershed district with jurisdiction or the board must provide the landowner with a list
3.13 of corrective actions needed to come into compliance and a practical timeline to meet the
3.14 requirements in this section. The county or watershed district with jurisdiction must provide
3.15 a copy of the corrective action notice to the board.

3.16 (b) A county or watershed district exercising jurisdiction under this subdivision and the
3.17 enforcement authority granted in section 103B.101, subdivision 12a, shall affirm their
3.18 jurisdiction and identify the ordinance, rule, or other official controls to carry out the
3.19 compliance provisions of this section and section 103B.101, subdivision 12a, by notice to
3.20 the board prior to March 31, 2017. A county or watershed district must provide notice to
3.21 the board at least 60 days prior to the effective date of a subsequent decision on their
3.22 jurisdiction.

3.23 (c) If the landowner does not comply with the list of actions and timeline provided, the
3.24 county or watershed district may enforce this section under the authority granted in section
3.25 103B.101, subdivision 12a, or by rule of the watershed district or ordinance or other official
3.26 control of the county. Before exercising administrative penalty authority, a county or
3.27 watershed district must adopt a plan consistent with the plan adopted by the board containing
3.28 procedures for the issuance of administrative penalty orders and may issue orders beginning
3.29 November 1, 2017. If a county or watershed district with jurisdiction over the noncompliant
3.30 site has not adopted a plan, rule, ordinance, or official control under this paragraph, the
3.31 board must enforce this section under the authority granted in section 103B.101, subdivision
3.32 ~~12a~~ 12.

3.33 (d) If the county, watershed district, or board determines that sufficient steps have been
3.34 taken to fully resolve noncompliance, all or part of the penalty may be forgiven.

4.1 (e) An order issued under paragraph (c) may be appealed to the board as provided under
4.2 subdivision 9.

4.3 (f) A corrective action is not required for conditions resulting from a flood or other act
4.4 of nature.

4.5 (g) A landowner agent or operator of a landowner may not remove or willfully degrade
4.6 a riparian buffer or water quality practice, wholly or partially, unless the agent or operator
4.7 has obtained a signed statement from the property owner stating that the permission for the
4.8 work has been granted by the unit of government authorized to approve the work in this
4.9 section or that a buffer or water quality practice is not required as validated by the soil and
4.10 water conservation district. Removal or willful degradation of a riparian buffer or water
4.11 quality practice, wholly or partially, by an agent or operator is a separate and independent
4.12 offense and may be subject to the corrective actions and penalties in this subdivision.