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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 2593

01/29/2016 Authored by Bly; Johnson, C.; Hornstein; Hansen and Hausman
The bill was referred to the Committee on Environment and Natural Resources Policy and Finance

1.1 A bill for an act
1.2 relating to environment; reinstating the Minnesota Pollution Control Agency
1.3 Citizens' Board; amending Minnesota Statutes 2015 Supplement, sections
1.4 116.02; 116.03, subdivisions 1, 2a.

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

1.6 Section 1. Minnesota Statutes 2015 Supplement, section 116.02, is amended to read:

1.7 **116.02 POLLUTION CONTROL AGENCY, CREATION AND POWERS.**

1.8 Subdivision 1. **Creation.** A pollution control agency, designated as the Minnesota
1.9 Pollution Control Agency, is hereby created. The agency consists of the commissioner
1.10 and a citizens' board of eight members appointed by the governor, by and with the advice
1.11 and consent of the senate. One member must be a person knowledgeable in the field of
1.12 agriculture, and one must be a representative of organized labor.

1.13 Subd. 2a. **Terms; compensation; removal; vacancies.** The membership terms,
1.14 compensation, removal of members, and filling of vacancies on the Minnesota Pollution
1.15 Control Agency Citizens' Board are as provided in section 15.0575.

1.16 Subd. 3a. **Membership.** The membership of the Minnesota Pollution Control
1.17 Agency Citizens' Board must be broadly representative of the skills and experience
1.18 necessary to effectuate the policy of sections 116.01 to 116.075, except that no member
1.19 other than the commissioner may be an officer or employee of the state or federal
1.20 government. Only two members at one time may be officials or employees of a
1.21 municipality or governmental subdivision, but neither may be a member ex officio or
1.22 otherwise on the management board of a municipal sanitary sewage disposal system.

2.1 Subd. 4a. **Chair.** The commissioner serves as chair of the Minnesota Pollution
 2.2 Control Agency Citizens' Board. The board shall elect other officers as the board deems
 2.3 necessary.

2.4 Subd. 5. **Agency is successor to commission.** The Pollution Control Agency is
 2.5 the successor of the Water Pollution Control Commission, and all powers and duties now
 2.6 vested in or imposed upon said commission by chapter 115, or any act amendatory thereof
 2.7 or supplementary thereto, are hereby transferred to, imposed upon, and vested in the
 2.8 commissioner of the Pollution Control Agency, except those powers and duties assigned
 2.9 to the Minnesota Pollution Control Agency Citizens' Board.

2.10 Subd. 6a. **Required decisions.** The Minnesota Pollution Control Agency Citizens'
 2.11 Board shall make final decisions on the following matters:

2.12 (1) a petition for the preparation of an environmental assessment worksheet, if the
 2.13 project proposer or a person commenting on the proposal requests that the decision be
 2.14 made by the board and the board requests that it make the decision under subdivision 8a;

2.15 (2) the need for an environmental impact statement following preparation of an
 2.16 environmental assessment worksheet under applicable rules if:

2.17 (i) the board has received a request for an environmental impact statement;

2.18 (ii) the project proposer or a person commenting on the proposal requests that the
 2.19 declaration be made by the board and the board requests that it make the decision under
 2.20 subdivision 8a; or

2.21 (iii) the commissioner is recommending preparation of an environmental impact
 2.22 statement;

2.23 (3) the scope and adequacy of environmental impact statements;

2.24 (4) issuance, reissuance, modification, or revocation of a permit if:

2.25 (i) a variance is sought in the permit application or a contested case hearing request
 2.26 is pending; or

2.27 (ii) the permit applicant, the permittee, or a person commenting on the permit action
 2.28 requests that the decision be made by the board and the board requests that it make the
 2.29 decision under subdivision 8a;

2.30 (5) final adoption or amendment of agency rules for which a public hearing is
 2.31 required under section 14.25 or for which the commissioner decides to proceed directly to
 2.32 a public hearing under section 14.14, subdivision 1;

2.33 (6) approval or denial of an application for a variance from an agency rule if:

2.34 (i) granting the variance request would change an air, soil, or water-quality standard;

2.35 (ii) the commissioner has determined that granting the variance would have a
 2.36 significant environmental impact; or

3.1 (iii) the applicant or a person commenting on the variance request requests that the
 3.2 decision be made by the board and the board requests that it make the decision under
 3.3 subdivision 8a; and

3.4 (7) whether to reopen, rescind, or reverse a decision of the board.

3.5 Subd. 7a. **Additional decisions.** The commissioner may request that the Minnesota
 3.6 Pollution Control Agency Citizens' Board make additional decisions or provide advice to
 3.7 the commissioner.

3.8 Subd. 8a. **Other actions.** Any other action not specifically within the authority of the
 3.9 commissioner must be made by the Minnesota Pollution Control Agency Citizens' Board if:

3.10 (1) prior to the commissioner's final decision on the action, one or more members of
 3.11 the board notify the commissioner of their request that the decision be made by the board; or

3.12 (2) any person submits a petition to the commissioner requesting that the decision
 3.13 be made by the board and the commissioner grants the petition. If the commissioner
 3.14 denies a petition submitted under this clause, the commissioner must advise the board and
 3.15 the petitioner of the reasons for the denial.

3.16 Subd. 9a. **Informing public.** The commissioner must inform interested persons,
 3.17 as appropriate, in public notices and other public documents of their right to request the
 3.18 Minnesota Pollution Control Agency Citizens' Board to make decisions in specific matters
 3.19 provided in subdivision 6a and the right of board members to request that decisions be made
 3.20 by the board as provided in subdivision 8a. The commissioner must also regularly inform
 3.21 the board of activities that have broad policy implications or potential environmental
 3.22 significance and of activities in which the public has exhibited substantial interest.

3.23 Subd. 11. **Changing decisions.** (a) The Minnesota Pollution Control Agency
 3.24 Citizens' Board must not reopen, rescind, or reverse a decision of the board except upon:

3.25 (1) the affirmative vote of two-thirds of the board; or

3.26 (2) a finding that there was an irregularity in a hearing related to the decision, an
 3.27 error of law, or a newly discovered material issue of fact.

3.28 (b) The requirements in paragraph (a) are minimum requirements and do not limit
 3.29 the agency's authority under sections 14.06 and 116.07, subdivision 3, to adopt rules:

3.30 (1) applying the requirement in paragraph (a), clause (1) or (2), to certain decisions
 3.31 of the board; or

3.32 (2) establishing additional or more stringent requirements for reopening, rescinding,
 3.33 or reversing decisions of the board.

3.34 Sec. 2. Minnesota Statutes 2015 Supplement, section 116.03, subdivision 1, is
 3.35 amended to read:

4.1 Subdivision 1. **Office.** (a) The Office of Commissioner of the Pollution Control
4.2 Agency is created and is under the supervision and control of the commissioner, who is
4.3 appointed by the governor under the provisions of section 15.06.

4.4 (b) The commissioner may appoint a deputy commissioner and assistant
4.5 commissioners who shall be in the unclassified service.

4.6 (c) The commissioner shall make all decisions on behalf of the agency that are not
4.7 required to be made by the Minnesota Pollution Control Agency Citizens' Board under
4.8 section 116.02.

4.9 Sec. 3. Minnesota Statutes 2015 Supplement, section 116.03, subdivision 2a, is
4.10 amended to read:

4.11 Subd. 2a. **Mission; efficiency.** It is part of the agency's mission that within the
4.12 agency's resources the commissioner and the Minnesota Pollution Control Agency
4.13 Citizens' Board shall endeavor to:

4.14 (1) prevent the waste or unnecessary spending of public money;

4.15 (2) use innovative fiscal and human resource practices to manage the state's
4.16 resources and operate the agency as efficiently as possible;

4.17 (3) coordinate the agency's activities wherever appropriate with the activities of
4.18 other governmental agencies;

4.19 (4) use technology where appropriate to increase agency productivity, improve
4.20 customer service, increase public access to information about government, and increase
4.21 public participation in the business of government;

4.22 (5) utilize constructive and cooperative labor-management practices to the extent
4.23 otherwise required by chapters 43A and 179A;

4.24 (6) report to the legislature on the performance of agency operations and the
4.25 accomplishment of agency goals in the agency's biennial budget according to section
4.26 16A.10, subdivision 1; and

4.27 (7) recommend to the legislature appropriate changes in law necessary to carry out
4.28 the mission and improve the performance of the agency.

4.29 Sec. 4. **REVISOR'S INSTRUCTION.**

4.30 The revisor of statutes shall prepare draft legislation to amend statutes to conform
4.31 with the changes to the Minnesota Pollution Control Agency under section 1. By January
4.32 1, 2017, the revisor shall submit the proposed legislation to the chairs of the house of
4.33 representatives and senate legislative committees having jurisdiction over environment
4.34 policy.