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# HOUSE FILE No. 3502

## FIRST COMMITTEE ENGROSSMENT

March 8, 2010

Authored by Wagenius and Murphy, M.  
The bill was read for the first time and referred to the Committee on Finance

*Referred by Chair to Environment and Natural Resources Finance Division.*

March 18, 2010

*Returned to the Committee on Finance as Amended.*

1.1 A bill for an act  
1.2 relating to water; establishing a metropolitan area groundwater monitoring  
1.3 account and fee; appropriating money; amending Minnesota Statutes 2009  
1.4 Supplement, section 103G.271, subdivision 6; Laws 2009, chapter 172, article 2,  
1.5 section 4; proposing coding for new law in Minnesota Statutes, chapter 103G.

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

1.7 Section 1. **CLEAN WATER FUND APPROPRIATIONS.**

1.8 The sums shown in the columns marked "Appropriations" are appropriated to the  
1.9 agencies and for the purposes specified in this act. The appropriations are from the clean  
1.10 water fund, or another named fund, and are available for the fiscal years indicated for each  
1.11 purpose. The figures "2010" and "2011" used in this act mean that the appropriations  
1.12 listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011,  
1.13 respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011.  
1.14 "The biennium" is fiscal years 2010 and 2011. Appropriations for the fiscal year ending  
1.15 June 30, 2010, are effective the day following final enactment. All appropriations in  
1.16 this act are onetime only.

		<b><u>APPROPRIATIONS</u></b>	
		<b><u>Available for the Year</u></b>	
		<b><u>Ending June 30</u></b>	
		<b><u>2010</u></b>	<b><u>2011</u></b>
1.21	Sec. 2. <b><u>POLLUTION CONTROL AGENCY</u></b> \$	-0-	\$ <b><u>310,000</u></b>
1.22	<u>\$310,000 the second year is for continued</u>		
1.23	<u>rulemaking to establish water quality</u>		

2.1 standards for total nitrogen and nitrate  
2.2 nitrogen.

2.3 **Sec. 3. DEPARTMENT OF NATURAL**  
2.4 **RESOURCES**

\$

-0- \$

5,000,000

2.5 \$5,000,000 the second year shall be  
2.6 transferred to the metropolitan area  
2.7 groundwater monitoring account established  
2.8 under Minnesota Statutes, section 103G.272,  
2.9 to be used by the commissioner of natural  
2.10 resources for the following purposes:

2.11 (1) establish a groundwater monitoring  
2.12 network in the 11-county metropolitan area  
2.13 that monitors nonstressed systems to provide  
2.14 information on aquifer characteristics and  
2.15 natural water level and water quality trends;  
2.16 and

2.17 (2) develop an automated data system,  
2.18 including existing wells, to capture  
2.19 groundwater level and water use data to  
2.20 enhance the evaluation of water resource  
2.21 changes in aquifer systems that are stressed  
2.22 by pumping of existing wells.

2.23 The commissioner shall collaborate with the  
2.24 commissioners of health and the Pollution  
2.25 Control Agency in designing the methods  
2.26 used to collect and evaluate the data.

2.27 **Sec. 4. BOARD OF WATER AND SOIL**  
2.28 **RESOURCES**

\$

-0- \$

1,615,000

2.29 (a) \$558,000 the second year is to purchase  
2.30 and restore permanent conservation  
2.31 easements on riparian buffers of up to 120  
2.32 feet adjacent to public waters, excluding  
2.33 wetlands, to keep water on the land in  
2.34 order to decrease sediment, pollutant, and

3.1 nutrient transport, reduce hydrologic impacts  
3.2 to surface waters, and increase infiltration  
3.3 for groundwater recharge. The riparian  
3.4 buffers must be at least 50 feet unless  
3.5 there is a natural impediment, a road, or  
3.6 other impediment beyond the control of  
3.7 the landowner. This appropriation may  
3.8 be used for restoration of riparian buffers  
3.9 protected by easements purchased with  
3.10 this appropriation and for stream bank  
3.11 restorations when the riparian buffers have  
3.12 been restored. Up to five percent may be  
3.13 used for administration of this program and  
3.14 up to five percent may be used for technical  
3.15 design, construction, and project oversight.  
3.16 (b) \$557,000 the second year is for grants  
3.17 to watershed districts and watershed  
3.18 management organizations for: (1) structural  
3.19 or vegetative management practices that  
3.20 reduce storm water runoff from developed  
3.21 or disturbed lands to reduce the movement  
3.22 of sediment, nutrients, and pollutants or  
3.23 to leverage federal funds for restoration,  
3.24 protection, or enhancement of water quality  
3.25 in lakes, rivers, and streams and to protect  
3.26 groundwater and drinking water; and (2)  
3.27 the installation of proven and effective  
3.28 water retention practices including, but not  
3.29 limited to, rain gardens and other vegetated  
3.30 infiltration basins and sediment control  
3.31 basins in order to keep water on the land.  
3.32 The projects must be of long-lasting public  
3.33 benefit, include a local match, and be  
3.34 consistent with TMDL implementation plans  
3.35 or local water management plans. Watershed  
3.36 district and watershed management

4.1 organization staff and administration may  
4.2 be used for the local match. Priority may be  
4.3 given to school projects that can be used to  
4.4 demonstrate water retention practices. Up to  
4.5 five percent may be used for administering  
4.6 the grants and up to five percent may be  
4.7 used for technical design, construction, and  
4.8 project oversight.

4.9 (c) \$500,000 the second year is for  
4.10 permanent conservation easements on  
4.11 wellhead protection areas under Minnesota  
4.12 Statutes, section 103F.515, subdivision 2,  
4.13 paragraph (d). Priority must be placed on  
4.14 land that is located where the vulnerability  
4.15 of the drinking water supply management  
4.16 area, as defined under Minnesota Rules,  
4.17 part 4720.5100, subpart 13, is designated as  
4.18 high or very high by the commissioner of  
4.19 health. Up to five percent may be used for  
4.20 administration of this program and up to five  
4.21 percent may be used for technical design,  
4.22 construction, and project oversight.

4.23 (d) The Star Lake Board, established under  
4.24 Minnesota Statutes, section 103B.702, shall  
4.25 provide recommendations to the Board of  
4.26 Water and Soil Resources on a set of criteria  
4.27 that could be used to designate a lake or river  
4.28 as a "Minnesota Star Lake" or "Minnesota  
4.29 Star River."

4.30 Sec. 5. Minnesota Statutes 2009 Supplement, section 103G.271, subdivision 6, is  
4.31 amended to read:

4.32 Subd. 6. **Water use permit processing fee.** (a) Except as described in paragraphs  
4.33 (b) to (f), a water use permit processing fee must be prescribed by the commissioner in  
4.34 accordance with the schedule of fees in this subdivision for each water use permit in force

5.1 at any time during the year. The schedule is as follows, with the stated fee in each clause  
5.2 applied to the total amount appropriated:

5.3 (1) \$140 for amounts not exceeding 50,000,000 gallons per year;

5.4 (2) \$3.50 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less  
5.5 than 100,000,000 gallons per year;

5.6 (3) \$4 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less  
5.7 than 150,000,000 gallons per year;

5.8 (4) \$4.50 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but  
5.9 less than 200,000,000 gallons per year;

5.10 (5) \$5 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less  
5.11 than 250,000,000 gallons per year;

5.12 (6) \$5.50 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but  
5.13 less than 300,000,000 gallons per year;

5.14 (7) \$6 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less  
5.15 than 350,000,000 gallons per year;

5.16 (8) \$6.50 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but  
5.17 less than 400,000,000 gallons per year;

5.18 (9) \$7 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but less  
5.19 than 450,000,000 gallons per year;

5.20 (10) \$7.50 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but  
5.21 less than 500,000,000 gallons per year; and

5.22 (11) \$8 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

5.23 (b) For once-through cooling systems, a water use processing fee must be prescribed  
5.24 by the commissioner in accordance with the following schedule of fees for each water use  
5.25 permit in force at any time during the year:

5.26 (1) for nonprofit corporations and school districts, \$200 per 1,000,000 gallons; and

5.27 (2) for all other users, \$420 per 1,000,000 gallons.

5.28 (c) The fee is payable based on the amount of water appropriated during the year  
5.29 and, except as provided in paragraph (f), the minimum fee is \$100.

5.30 (d) For water use processing fees other than once-through cooling systems:

5.31 (1) the fee for a city of the first class may not exceed \$250,000 per year;

5.32 (2) the fee for other entities for any permitted use may not exceed:

5.33 (i) \$60,000 per year for an entity holding three or fewer permits;

5.34 (ii) \$90,000 per year for an entity holding four or five permits; or

5.35 (iii) \$300,000 per year for an entity holding more than five permits;

5.36 (3) the fee for agricultural irrigation may not exceed \$750 per year;

6.1 (4) the fee for a municipality that furnishes electric service and cogenerates steam  
6.2 for home heating may not exceed \$10,000 for its permit for water use related to the  
6.3 cogeneration of electricity and steam; and

6.4 (5) no fee is required for a project involving the appropriation of surface water to  
6.5 prevent flood damage or to remove flood waters during a period of flooding, as determined  
6.6 by the commissioner.

6.7 (e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of two  
6.8 percent per month calculated from the original due date must be imposed on the unpaid  
6.9 balance of fees remaining 30 days after the sending of a second notice of fees due. A fee  
6.10 may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal  
6.11 governmental agency holding a water appropriation permit.

6.12 (f) The minimum water use processing fee for a permit issued for irrigation of  
6.13 agricultural land is \$20 for years in which:

6.14 (1) there is no appropriation of water under the permit; or

6.15 (2) the permit is suspended for more than seven consecutive days between May 1  
6.16 and October 1.

6.17 (g) A surcharge of \$30 per million gallons in addition to the fee prescribed in  
6.18 paragraph (a) shall be applied to the volume of water used in each of the months of June,  
6.19 July, and August that exceeds the volume of water used in January for municipal water  
6.20 use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities  
6.21 with more than one permit shall be determined based on the total appropriations from all  
6.22 permits that supply a common distribution system.

6.23 (h) Beginning January 1, 2010, until June 30, 2015, a water monitoring fee of .0008  
6.24 cents per gallon shall be applied to the volume of groundwater used in the counties  
6.25 of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne,  
6.26 Washington, and Wright. Beginning July 1, 2015, and thereafter, the fee shall be .0006  
6.27 cents per gallon. Fees collected under this paragraph must be credited to the metropolitan  
6.28 area groundwater monitoring account established in section 103G.272.

6.29 **Sec. 6. [103G.272] METROPOLITAN AREA GROUNDWATER MONITORING**  
6.30 **ACCOUNT.**

6.31 A metropolitan area groundwater monitoring account is created in the natural  
6.32 resources fund. Money in the account is appropriated to the commissioner of natural  
6.33 resources to provide for monitoring the groundwater quantity and quality of nonstressed  
6.34 systems in the 11-county metropolitan area, to include the installation, maintenance, and  
6.35 sealing of new or existing groundwater level monitoring wells, monitoring equipment,

7.1 groundwater data analysis, and data management systems. Money received from the water  
 7.2 monitoring fee under section 103G.271, subdivision 6, paragraph (h), and interest earned  
 7.3 on the account shall be deposited into the account.

7.4 Sec. 7. Laws 2009, chapter 172, article 2, section 4, is amended to read:

7.5				<b><u>27,285,000</u></b>
7.6	Sec. 4. <b>POLLUTION CONTROL AGENCY</b>	\$	<b>24,076,000</b>	\$ <b><u>22,785,000</u></b>

7.7 (a) \$9,000,000 the first year and \$9,000,000  
 7.8 the second year are to develop total  
 7.9 maximum daily load (TMDL) studies and  
 7.10 TMDL implementation plans for waters  
 7.11 listed on the United States Environmental  
 7.12 Protection Agency approved impaired  
 7.13 waters list in accordance with Minnesota  
 7.14 Statutes, chapter 114D. The agency shall  
 7.15 complete an average of ten percent of the  
 7.16 TMDLs each year over the biennium. Of  
 7.17 this amount, \$348,000 the first year is to  
 7.18 retest the comprehensive assessment of the  
 7.19 biological conditions of the lower Minnesota  
 7.20 River and its tributaries within the Lower  
 7.21 Minnesota River Major Watershed, as  
 7.22 previously assessed from 1976 to 1992 under  
 7.23 the Minnesota River Assessment Project  
 7.24 (MRAP). The assessment must include the  
 7.25 same fish species sampling at the same 116  
 7.26 locations and the same macroinvertebrate  
 7.27 sampling at the same 41 locations as the  
 7.28 MRAP assessment. The assessment must:  
 7.29 (1) include an analysis of the findings; and  
 7.30 (2) identify factors that limit aquatic life in  
 7.31 the Minnesota River.

7.32 Of this amount, \$250,000 the first year is  
 7.33 for a pilot project for the development of  
 7.34 total maximum daily load (TMDL) studies

8.1 conducted on a watershed basis within  
8.2 the Buffalo River watershed in order to  
8.3 protect, enhance, and restore water quality  
8.4 in lakes, rivers, and streams. The pilot  
8.5 project shall include all necessary field  
8.6 work to develop TMDL studies for all  
8.7 impaired subwatersheds within the Buffalo  
8.8 River watershed and provide information  
8.9 necessary to complete reports for most of the  
8.10 remaining watersheds, including analysis of  
8.11 water quality data, identification of sources  
8.12 of water quality degradation and stressors,  
8.13 load allocation development, development  
8.14 of reports that provide protection plans  
8.15 for subwatersheds that meet water quality  
8.16 standards, and development of reports that  
8.17 provide information necessary to complete  
8.18 TMDL studies for subwatersheds that do not  
8.19 meet water quality standards, but are not  
8.20 listed as impaired.

8.21 (b) \$500,000 the first year is for development  
8.22 of an enhanced TMDL database to manage  
8.23 and track progress. Of this amount, \$63,000  
8.24 the first year is to promulgate rules. By  
8.25 November 1, 2010, the commissioner shall  
8.26 submit a report to the chairs of the house of  
8.27 representatives and senate committees with  
8.28 jurisdiction over environment and natural  
8.29 resources finance on the outcomes achieved  
8.30 with this appropriation.

8.31 (c) \$1,500,000 the first year and \$3,169,000  
8.32 the second year are for grants under  
8.33 Minnesota Statutes, section 116.195, to  
8.34 political subdivisions for up to 50 percent  
8.35 of the costs to predesign, design, and  
8.36 implement capital projects that use treated



9.1 municipal wastewater instead of groundwater  
9.2 from drinking water aquifers, in order to  
9.3 demonstrate the beneficial use of wastewater,  
9.4 including the conservation and protection of  
9.5 water resources. Of this amount, \$1,000,000  
9.6 the first year is for grants to ethanol plants  
9.7 that are within one and one-half miles of a  
9.8 city for improvements that reuse greater than  
9.9 300,000 gallons of wastewater per day.

9.10 (d) \$1,125,000 the first year and \$1,125,000  
9.11 the second year are for groundwater  
9.12 assessment and drinking water protection to  
9.13 include:

9.14 (1) the installation and sampling of at least  
9.15 30 new monitoring wells;

9.16 (2) the analysis of samples from at least 40  
9.17 shallow monitoring wells each year for the  
9.18 presence of endocrine disrupting compounds;  
9.19 and

9.20 (3) the completion of at least four to  
9.21 five groundwater models for TMDL and  
9.22 watershed plans.

9.23 (e) \$2,500,000 the first year is for the clean  
9.24 water partnership program. Priority shall be  
9.25 given to projects preventing impairments and  
9.26 degradation of lakes, rivers, streams, and  
9.27 groundwater in accordance with Minnesota  
9.28 Statutes, section 114D.20, subdivision 2,  
9.29 clause (4). Any balance remaining in the first  
9.30 year does not cancel and is available for the  
9.31 second year.

9.32 (f) \$896,000 the first year is to establish  
9.33 a network of water monitoring sites, to  
9.34 include at least 20 additional sites, in public  
9.35 waters adjacent to wastewater treatment

10.1 facilities across the state to assess levels of  
10.2 endocrine-disrupting compounds, antibiotic  
10.3 compounds, and pharmaceuticals as required  
10.4 in this article. The data must be placed on  
10.5 the agency's Web site.

10.6 (g) \$155,000 the first year is to provide  
10.7 notification of the potential for coal tar  
10.8 contamination, establish a storm water  
10.9 pond inventory schedule, and develop best  
10.10 management practices for treating and  
10.11 cleaning up contaminated sediments as  
10.12 required in this article. ~~\$345,000~~ \$645,000  
10.13 the second year is ~~to develop a model~~  
10.14 ~~ordinance for the restricted use of undiluted~~  
10.15 ~~coal tar sealants and~~ to provide grants to local  
10.16 units of government for up to 50 percent of  
10.17 the costs to implement best management  
10.18 practices to treat or clean up contaminated  
10.19 sediments in storm water ponds and other  
10.20 waters as defined under this article. Local  
10.21 governments must have adopted an ordinance  
10.22 for the restricted use of undiluted coal tar  
10.23 sealants in order to be eligible for a grant,  
10.24 unless a statewide restriction has been  
10.25 implemented. A grant awarded under this  
10.26 paragraph must not exceed \$100,000. Up to  
10.27 \$145,000 of the appropriation in the second  
10.28 year may be used to complete work required  
10.29 under section 28, paragraph (c).

10.30 (h) \$350,000 the first year and ~~\$400,000~~  
10.31 \$600,000 the second year are for a restoration  
10.32 project in the lower St. Louis River and  
10.33 Duluth harbor in order to improve water  
10.34 quality. This appropriation must be matched  
10.35 by nonstate money at a rate of at least \$2 for  
10.36 every \$1 of state money.

11.1 (i) \$150,000 the first year and \$196,000 the  
11.2 second year are for grants to the Red River  
11.3 Watershed Management Board to enhance  
11.4 and expand existing river watch activities in  
11.5 the Red River of the North. The Red River  
11.6 Watershed Management Board shall provide  
11.7 a report that includes formal evaluation  
11.8 results from the river watch program to the  
11.9 commissioners of education and the Pollution  
11.10 Control Agency and to the legislative natural  
11.11 resources finance and policy committees  
11.12 and K-12 finance and policy committees by  
11.13 February 15, 2011.

11.14 (j) \$200,000 the first year and \$300,000 the  
11.15 second year are for coordination with the  
11.16 state of Wisconsin and the National Park  
11.17 Service on comprehensive water monitoring  
11.18 and phosphorus reduction activities in the  
11.19 Lake St. Croix portion of the St. Croix  
11.20 River. The Pollution Control Agency  
11.21 shall work with the St. Croix Basin Water  
11.22 Resources Planning Team and the St. Croix  
11.23 River Association in implementing the  
11.24 water monitoring and phosphorus reduction  
11.25 activities. This appropriation is available  
11.26 to the extent matched by nonstate sources.  
11.27 Money not matched by November 15, 2010,  
11.28 cancels for this purpose and is available for  
11.29 the purposes of paragraph (a).

11.30 (k) \$7,500,000 the first year and \$7,500,000  
11.31 the second year are for completion of 20  
11.32 percent of the needed statewide assessments  
11.33 of surface water quality and trends. Of this  
11.34 amount, \$175,000 the first year and \$200,000  
11.35 the second year are for monitoring and

12.1 analyzing endocrine disruptors in surface  
12.2 waters.

12.3 (l) \$100,000 the first year and \$150,000  
12.4 the second year are for civic engagement  
12.5 in TMDL development. The agency shall  
12.6 develop a plan for expenditures under  
12.7 this paragraph. The agency shall give  
12.8 consideration to civic engagement proposals  
12.9 from basin or sub-basin organizations,  
12.10 including the Mississippi Headwaters Board,  
12.11 the Minnesota River Joint Powers Board,  
12.12 Area II Minnesota River Basin Projects,  
12.13 and the Red River Basin Commission.  
12.14 By November 15, 2009, the plan shall be  
12.15 submitted to the house and senate chairs  
12.16 and ranking minority members of the  
12.17 environmental finance divisions.

12.18 ~~(m) \$5,000,000 the second year is for~~  
12.19 ~~groundwater protection or prevention of~~  
12.20 ~~groundwater degradation activities. By~~  
12.21 ~~January 15, 2010, the commissioner, in~~  
12.22 ~~consultation with the commissioner of~~  
12.23 ~~natural resources, the Board of Water and~~  
12.24 ~~Soil Resources, and other agencies, shall~~  
12.25 ~~submit a report to the chairs of the house of~~  
12.26 ~~representatives and senate committees with~~  
12.27 ~~jurisdiction over the clean water fund on the~~  
12.28 ~~intended use of these funds. The legislature~~  
12.29 ~~must approve expenditure of these funds by~~  
12.30 ~~law.~~

12.31 *(n) \$100,000 the first year and \$100,000 the*  
12.32 *second year are for grants to the Star Lake*  
12.33 *Board established under Minnesota Statutes,*  
12.34 *section 103B.702. The appropriation is a*  
12.35 *pilot program to focus on engaging citizen*

- 13.1 *participation and fostering local partnerships*  
13.2 *by increasing citizen involvement in water*  
13.3 *quality enhancement by designating star*  
13.4 *lakes and rivers. The board shall include*  
13.5 *information on the results of this pilot*  
13.6 *program in its next biennial report under*  
13.7 *Minnesota Statutes, section 103B.702. The*  
13.8 *second year grants are available only if*  
13.9 *the Board of Water and Soil Resources*  
13.10 *determines that the money granted in the first*  
13.11 *year furthered the water quality goals in the*  
13.12 *star lakes program in Minnesota Statutes,*  
13.13 *section 103B.701. \* (The preceding*  
13.14 **paragraph beginning "(n) \$100,000 the**  
13.15 **first year" was indicated as vetoed by the**  
13.16 **governor.)**
- 13.17 Notwithstanding Minnesota Statutes, section  
13.18 16A.28, the appropriations encumbered on or  
13.19 before June 30, 2011, as grants or contracts in  
13.20 this section are available until June 30, 2013.