

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1820

(SENATE AUTHORS: MCEWEN and Hawj)

DATE
02/16/2023

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Introduction and first reading
Referred to Environment, Climate, and Legacy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to waters; modifying rulemaking requirements for wetland banking;
1.3 amending Minnesota Statutes 2022, section 103G.2242, subdivision 1.

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

1.5 Section 1. Minnesota Statutes 2022, section 103G.2242, subdivision 1, is amended to
1.6 read:

1.7 Subdivision 1. **Rules.** (a) The board, in consultation with the commissioner, shall adopt
1.8 rules governing the approval of wetland value replacement plans under this section and
1.9 public-waters-work permits affecting public waters wetlands under section 103G.245. These
1.10 rules must address the criteria, procedure, timing, and location of acceptable replacement
1.11 of wetland values and may address the state establishment and administration of a wetland
1.12 banking program for public and private projects, including provisions for an in-lieu fee
1.13 program; the mitigation and banking of other water and water-related resources; the
1.14 administrative, monitoring, and enforcement procedures to be used; and a procedure for the
1.15 review and appeal of decisions under this section. In the case of peatlands, the replacement
1.16 plan rules must consider the impact on carbon. Any in-lieu fee program established by the
1.17 board must conform with Code of Federal Regulations, title 33, section 332.8, as amended.

1.18 (b) After the adoption of the rules, a replacement plan must be approved by a resolution
1.19 of the governing body of the local government unit, consistent with the provisions of the
1.20 rules or a comprehensive wetland protection and management plan approved under section
1.21 103G.2243.

2.1 (c) If the local government unit fails to apply the rules, or fails to implement a local
2.2 comprehensive wetland protection and management plan established under section
2.3 103G.2243, the government unit is subject to penalty as determined by the board.

2.4 (d) When making a determination under rules adopted pursuant to this subdivision on
2.5 whether a rare natural community will be permanently adversely affected, consideration of
2.6 measures to mitigate any adverse effect on the community must be considered.