

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

S.F. No. 2358

(SENATE AUTHORS: INGEBRIGTSEN, Weber and Westrom)

DATE
04/06/2021

D-PG

Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to natural resources; requiring hydrologic evaluation when water
1.3 appropriation permit denied because of effects on calcareous fens; appropriating
1.4 money; amending Minnesota Statutes 2020, section 103G.223.

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

1.6 Section 1. Minnesota Statutes 2020, section 103G.223, is amended to read:

1.7 **103G.223 CALCAREOUS FENS.**

1.8 (a) Calcareous fens, as identified by the commissioner by written order published in the
1.9 State Register, may not be filled, drained, or otherwise degraded, wholly or partially, by
1.10 any activity, unless the commissioner, under an approved management plan, decides some
1.11 alteration is necessary or as provided in paragraph (b). Identifications made by the
1.12 commissioner are not subject to the rulemaking provisions of chapter 14 and section 14.386
1.13 does not apply.

1.14 (b) The commissioner may allow water appropriations that result in temporary reductions
1.15 in groundwater resources on a seasonal basis under an approved calcareous fen management
1.16 plan.

1.17 (c) If the commissioner determines that a water appropriation permit cannot be issued
1.18 or renewed because of this section, the commissioner must, within one year of the date of
1.19 denial and at no cost to the applicant, provide the applicant with a groundwater and surface
1.20 water hydrologic evaluation that demonstrates by a preponderance of the evidence the basis
1.21 for that conclusion.

2.1 (d) An applicant whose permit is denied under this section may file a written request
2.2 with the commissioner to designate a mutually agreed upon third party expert to review the
2.3 evaluation provided under paragraph (c) at no cost to the applicant and to make
2.4 recommendations to the commissioner about whether or not the permit should be issued.
2.5 The third party expert must agree to provide the commissioner and applicant with the expert's
2.6 recommendations within 90 days of agreeing to review the evaluation.

2.7 (e) A permit applicant may file for a contested case hearing under chapter 14 within 30
2.8 days of the later of the following:

2.9 (1) the date by which the hydrologic evaluation was required to have been provided to
2.10 the applicant under paragraph (c);

2.11 (2) receiving the recommendations of the third party who is reviewing the evaluation
2.12 under paragraph (d); or

2.13 (3) determining that no mutually agreed upon third party expert can be found.

2.14 (f) Any permit applicant who has had a water appropriation permit previously denied
2.15 under this section may resubmit a permit application under this section and is entitled to all
2.16 rights and reviews available under this section.

2.17 **Sec. 2. APPROPRIATION; IMPLEMENTATION.**

2.18 \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are appropriated from the general
2.19 fund to the commissioner of natural resources to implement Minnesota Statutes, section
2.20 103G.223, as amended by section 1.