



LOWER MINNESOTA RIVER WATERSHED DISTRICT

Executive Summary for Action

Lower Minnesota River Watershed District Board of Managers Meeting
Wednesday, May 16, 2018

Agenda Item

Item 6. F. - 2018 Legislative Action

Prepared By

Linda Loomis, Administrator

Summary

While the LMRWD did not have a specific goal at the Capitol this session Lisa Frenette and I have spent time meeting with Legislators to keep our issues - management of flow in the basin and funding for dredge management - in front of them. On April 25th, we met with Representatives Hamilton, Masin, Torkelson, Fabian and Senators Westrom, and Ingebritsen. On May 3rd, Lisa and I spoke with Representatives Loon, Andrew Carlson, Rosenthal, and Torkelson and Senators Dahm and Wicklund. Both houses were in session that day, so we asked Legislators to step off the floor. Several of them had previously contacted the District about the Plan amendment and had heard from constituents, so we updated them on the process.

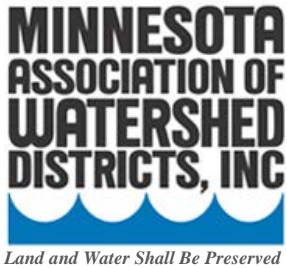
As for legislation that was introduced, several of the bills were in response to the LMRWD plan amendment. These bills and others are included in the update provided by MAWD that is attached. There is one bill in particular that although the update from MAWD says they are dead for the session, Lisa has concerns that one bill in particular, HF3805/SF3379, may turn up as an amendment. That concern was shared with Legislators when we spoke with them.

Attachments

MAWD Legislative update

Recommended Action

No action recommended



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MN Association of Watershed Districts LEGISLATIVE UPDATE: April 23, 2018

All committee deadlines have now come and gone. Bills are now being grouped together in larger omnibus bills. We have made progress on several initiatives but as Yogi Berra said, "It ain't over till it's over." Here are a few highlights:

Watershed Planning and Management. We have made significant progress on legislation that will reduce the duplicative efforts between the Total Maximum Daily Load (TMDL) studies, the Watershed Restoration and Protection Strategy (WRAPS) reports and One Watershed One Plan (1W1P) efforts. This is a joint effort between the Association of MN Counties (AMC), the MN Association of Soil and Water Conservation Districts (MASWCD), and the state agencies. Several other bills have been introduced by others with varying potential impacts to authorities of watershed districts, but those bills failed to get hearings and are now considered dead.

Levy Authorities. Although there has been little interest from legislators to sponsor a bill that would increase the general levy cap for rural watershed districts, there is movement on improving the flexibility of how the project tax levy authority can be used to match more types of grants, such as from the Clean Water Fund.

Drainage. We introduced two pieces of legislation this session. The first piece of legislation would remove impediments, identified by the drainage work group, that are standing in the way of getting buffers established on public ditches. The second piece of legislation would allow drainage authorities to use an optional "Runoff and Sediment Delivery" method to calculate how repair costs could be apportioned without doing a full redetermination of benefits. This second piece of legislation ran into political problems and will likely be revisited this summer by the drainage work group. If it moves ahead, outreach will be needed to correct misinformation that has spread about the bill.

Appropriations. Funding recommendations for the Clean Water Fund and the Lessard Sams Outdoor Heritage Council are moving through the legislature with money being allocated to several watershed district programs and projects.

Bonding. We are still waiting for some word on the progress of development of a capital investment (bonding) bill in both bodies. The Senate began hearing some bonding proposals last week and we view that as a good sign. There is much work yet to be done with these bills as they move through the process once they are laid on the table for all to see.

Water Resource Programs. Legislation providing limited liability protection to certified commercial salt applicators is still moving through the House and our efforts to be included in the stakeholder process on stormwater reuse was heard.

Electronic Meeting Attendance. Although we decided to pull our legislation that brought more clarification for allowing managers to attend meetings electronically, we will continue to provide the needed clarification administratively now rather than legislatively.

Lastly, although we have made every effort to provide the most accurate information as possible, this legislative update may already be out-of-date by the time you read this. Please give us a call if you have questions or concerns. And a big thanks to everyone who has helped advance our legislative priorities this session!

Watershed Planning and Management

COORDINATED WATERSHED MANAGEMENT

LEADING THIS EFFORT with AMC, MASWCD, BWSR, MPCA

MAWD Resolution 2017-01: Advocate for coordination and integration of state watershed programs with local watershed implementation.

- [HF 3908 Clean Water Legacy Act modified, and coordinated watershed management provided](#) (Fischer, Torkelson)
 - 4/17/18 – HF3908 was included in the **Environment & Natural Resources Policy & Finance Committee’s** Omnibus bill ([HF3502DE2](#) Article 2 Sections 28, 29, 31-32, 39-52, and 103)
 - 4/19/18 – Section 29 was **amended** and sent to the **Ways and Means** Committee.
- [SF 3647 Clean Water Legacy Act modified, and coordinated watershed management provided](#) (M. Johnson, Ruud)
 - 4/17/18 – SF3647 was included in the **Environment & Natural Resources Finance Committee’s** Omnibus bill
 - 4/18/18 – [SF3141 2nd Engrossment](#) (Article 2 Sections 33-34, 36-37, 49-62, and 105) was sent to the **Finance** Committee

METRO “SLOW THE FLOW”

PROPOSED BY OTHERS → MONITOR & ACT WHEN NECESSARY

MAWD Board Direction: Monitor and act on proposed changes to 103B.

Description: This bill would **require** metro watershed management programs to slow the movement of water to improve water quality and increase groundwater recharge, as well as protect and enhance surface water and groundwater used for drinking water.

- [HF 2989 Watershed management organization planning requirements modified, and WD purpose modified](#) (Wagenius, Hoppe, Hansen, Gunther, Bly, Anselmo)
 - 2/22/18 – Referred to **Environment and Natural Resources Policy and Finance** committee
 - No action, bill is dead for this session.
- [SF 3407 Watershed management organization planning requirements and district purposes modifications](#) (Dibble, Carlson, Cwodzinki, Hawj)
 - 3/15/18 – Referred to **Environment and Natural Resources Policy and Legacy Finance** committee
 - No action, bill is dead for this session.

DISTRICT PROVISIONS MODIFIED

PROPOSED BY OTHERS → MONITOR & ACT WHEN NECESSARY

MAWD Board Direction: Monitor and act on proposed changes to 103D.

Description: This bill would make significant changes to the rule-making procedures and authorities of WDs.

- [HF 3805 Watershed district provisions modified](#) (Heintzeman)
 - 3/14/18 – referred to **Environment and Natural Resources Policy and Finance** committee
 - No action, bill is dead for this session.
- [SF 3379 Watershed districts provisions modification](#) (Draheim)
 - 3/15/18 – referred to **Environment and Natural Resources Policy and Legacy Finance** committee
 - No action, bill is dead for this session.

UPDATE: These bills did not meet committee deadlines, so they should be dead for this session. MAWD has met with the developer pushing this legislation and have agreed to continue discussions to see if any resolutions can be found.

DISTRICT PLANNING REQUIREMENTS MODIFIED

PROPOSED BY OTHERS → MONITOR & ACT WHEN NECESSARY

MAWD Board Direction: Monitor and act on proposed changes to 103D.

Description: This bill recognizes that municipalities and counties affected by watershed management plans may make recommendations on the plan to the WD and notify affected property owners.

- [HF3603 Watershed district planning requirements modified](#) (Loon)
 - 3/12/18 - referred to **Environment and Natural Resources Policy and Finance** committee
 - Not heard in committee... bill is dead for this session (and no senate file was ever introduced.)

WATERSHED MANAGEMENT IN MN RIVER BASIN**PROPOSED BY OTHERS → MONITOR & ACT WHEN NECESSARY**

2015 MAWD Resolution: Support establishment of watershed-based water management organizations in the MN River basin

Description: This bill would convene a technical stakeholder group to design a comprehensive nutrient reduction strategy for point and nonpoint sources in the MN River basin.

- [HF 3940 Funding to reduce nutrients in the MN River basin, money appropriated](#) (C. Johnson, Considine)
 - 3/15/18 – referred to **Environment and Natural Resources Policy and Finance** committee
 - No action, bill dead for session
- [SF 3620 Minnesota River basin nutrient reduction strategy appropriation](#) (Frentz, Marty, Eaton)
 - 3/19/18 – referred to **Environment and Natural Resources Policy and Legacy Finance** committee
 - No action, bill dead for session

District Levy Authorities

PROJECT LEVY STATUTE MODIFICATION**LEADING THIS EFFORT**

2016 MAWD Resolution: Advocate for a statutory clarification to allow broader use of levy funds with new state sources of project funding. (Modify 103D.905, subd. 9 to allow the project tax levy to be used as match for more types of grants.)

- [HF 2456 Watershed district levy authority modified](#) (Baker, Marquart, Kunesh-Podein)
 - 2/21/18 – Referred to **Property Tax and Local Government Finance Division** committee
 - Committee hearing requested. Tax committee has no deadlines.
- [SF 3077 Watershed districts levy authority modification](#) (Lang, Sparks, Weber, Eken, Johnson)
 - 3/08/18 – Referred to **Taxes** committee
 - 4/25/18 – Bill will be heard in the **Taxes** Committee. Margaret Johnson, Middle Fork Crow River WD will testify on behalf of watershed districts. Thank you, Margaret!

GENERAL LEVY INCREASE**LEADING THIS EFFORT**

MAWD Resolutions: Modify/increase the general fund levy limit for all non-metro watershed districts to \$500,000 (2016) Support increasing the general fund levy limit for the Middle Fork Crow River Watershed District. (2017-05)

UPDATE: We discussed the general levy increase with several legislators. One suggested an inflationary increase to \$350k, but there was no real interest in authoring the tax increase legislation this year.

Drainage (MN Statute 103E)

DRAINAGE WORK GROUP LEGISLATION

MAWD Board Direction: Promote consensus legislation put forth by the drainage work group (DWG).

Description: There were two pieces of legislation brought forward this year – see details below.

DWG 1 – RECOMMENDATIONS FOR ASSISTING WITH DITCH BUFFER IMPLEMENTATION**LEAD w/ AMC, MASWCD**

Description: The legislation introduced was directly related to the [report](#) the drainage work group sent to the legislature on February 1, 2018: “Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices” (See Recommendations F1, S1, S2, S3, S6, and P4.)

- [HF 3835 Cost-sharing funding provided to implement riparian buffer strips or alternative practices along public drainage ditches and outreach to landowners, drainage authorities, and their advisors; and money appropriated](#) (Torkelson)
 - Additional funding placed in legislation through the Clean Water Fund (\$5M)
- [HF 3836 \(Article 1\) Agricultural best management practice loan conditions modified to include environmental service providers, and drainage law modified to accelerate ditch buffer implementation](#) (Torkelson)
 - 4/17/18 – 3 provisions from HF3838 Article 1 were included in the **Environment & Natural Resources Policy & Finance Committee’s** Omnibus bill ([HF3502DE2](#) Sections 33, 34, 106) and sent to the **Ways and Means** Committee on 4/19/18

- Three sections of Article 1 that would allow drainage authorities to access larger loans from the Ag BMP Loan Program on behalf of multiple landowners was not included but may show up in another omnibus bill.
- [SF 3410 \(Article 1\) Agricultural best management practice loan conditions modifications to include environmental service providers; drainage law modification to accelerate ditch buffer strip implementation](#) (Weber, Sparks)
 - 4/17/18 – SF3410 was included in the **Environment & Natural Resources Finance Committee's** Omnibus bill
 - 4/18/18 – [SF3141 2nd Engrossment](#) (Article 3) was sent to the **Finance** Committee

DWG 2 – RUNOFF AND SEDIMENT DELIVERY OPTION (FOR REPAIR COST APPORTIONMENT) LEADING w/ AMC

Consensus was reached after the session began and the language was placed on HF3836 & SF3410 as Article 2 of both bills. This legislation has typically been noncontroversial, but due to the lingering controversy surrounding the buffer law, it has become a point of contention politically with some misinformation being spread about any bill dealing with water and especially drainage. The drainage work group will likely revisit over the summer and make sure everyone is on the same page before moving forward again.

- [HF 3836 \(Article 2\) Agricultural best management practice loan conditions modified to include environmental service providers, and drainage law modified to accelerate ditch buffer implementation](#) (Torkelson)
 - 3/15/18 – referred to **Agriculture Policy** committee
 - 3/20/18 – Heard in committee and passed on to the ENR Finance & Policy Committee. Agreed to work with author and several legislators on language.
 - Article 2 was dropped and did not move forward to the **Environment and Natural Resources Policy and Finance Committee's** Omnibus bill
- [SF 3410 \(Article 2\) Agricultural best management practice loan conditions modifications to include environmental service providers; drainage law modification to accelerate ditch buffer strip implementation](#) (Weber, Sparks)
 - 4/17/18 – SF3410 was included in the **Environment & Natural Resources Finance Committee's** Omnibus bill
 - 4/18/18 – SF3141 2nd Engrossment (Article 4) was sent to the **Finance** Committee, but we have been told it will be taken out

DNR PERMITS FOR 103E PROJECTS

PROPOSED BY OTHERS → MONITOR & ACT WHEN NECESSARY

MAWD Board Direction: Monitor and act on any changes to the 103E.

Description: This bill would clarify when DNR permits are required for ditch system repair projects.

- [HF 2687 Public waters and public drainage system laws clarified](#) (Fabian, Hamilton, Poppe, Green, P. Anderson, Grossell, Torkelson, Dettmer)
 - 5/18/17 – Referred to **Environment and Natural Resources Policy and Finance** committee
 - No action in committee, bill is dead for the session
- [SF 2419 Public waters and public drainage system laws clarification](#) (Westrom, Weber, Eken, Sparks, Ingebrigtsen)
 - 5/21/17 Referred to **Environment and Natural Resources Policy and Legacy Finance** committee
 - No action in committee, bill is dead for the session

NOTE: The DNR has issued a Guidance Memo on this topic. See March 23rd Leg update for more details.

DRAINAGE LIEN PRINCIPAL INTEREST RATE MODIFICATION

PROPOSED BY OTHERS → MONITOR / ACT

MAWD Board Direction: Monitor and act on any changes to the 103E.

Description: This bill would remove the interest rate cap set by the state court.

- [HF 3512 Drainage lien principal interest rate modified, definitions modified, and code references updated](#) (Davids)
 - 3/08/18 – referred to **Environment and Natural Resources Policy and Finance** committee
 - 3/15/18 – removed from hearing agenda

- [SF 3097 Drainage lien principle interest rate modification](#) (Chamberlain)
 - 3/08/18 – referred to **Taxes** committee
 - 3/15/18 – withdrawn and re-referred to **Judiciary and Public Safety Finance and Policy** committee
 - 3/20/18 – Heard by committee and amended and re-referred to Taxes

ALLOW BENEFITS TO BE UPDATED BASED ON MARKET VALUES FOR REPAIR PROJECTS

MONITOR/ACT

MAWD Board Direction: Monitor and act on any changes to the 103E.

- [HF 2876 Drainage system repair procedures modified](#) (Backer)
 - 2/20/18 – referred to **Environment and Natural Resources Policy and Finance** committee
 - No action, bill dead for session
- [SF 3181 Drain System repair procedures modification](#)
 - 3/12/18 – referred to **Agriculture, Rural Development, and Housing Policy** committee
 - 3/20/18 – Heard in committee, amended and re-referred to **ENR Policy & Legacy Finance** Committee
 - No further action on this bill

NOTE: BWSR sent a letter to Bois de Sioux WD on 3/16/18 explaining how they can do this without any changes to law.

Appropriations

CLEAN WATER FUND

SUPPORT/MONITOR/ACT

This bill specifies how the nearly \$26M extra Clean Water Funds are to be spent in FY 2019. There is currently \$3.67M for additional One Watershed One Plan “Fund the Plan” grants and \$3.5M for competitive grants.

- [HF 4269 Clean water fund money appropriated](#) (Torkelson)
 - 4/19/18 – Bill was included in the Legacy Funding Finance omnibus bill ([HF4167DE1_1](#) Article 2)
- There is currently no senate file with language for Clean Water Fund appropriations.

UPDATE: MAWD sent a letter to legislators and the Governor in support of the recommendations of the Clean Water Council and although this legislation differs from what was proposed, the new appropriations are in line with general watershed priorities.

OUTDOOR HERITAGE FUND

SUPPORT/MONITOR/ACT

Description: These bills specify how \$113.9M is to be spent in FY 2019 with projects identified in the Shell Rock River, Buffalo-Red River, and Minnehaha Creek WDs.

- [HF2789 Outdoor heritage fund appropriations, and notice to local government required before acquiring land in fee](#) (Fabian, Hansen, Gunther, Lillie)
 - 4/19/18 – Bill was included in the Legacy Funding Finance omnibus bill ([HF4167DE1_1](#) Article 2)
- [SF 2688 Outdoor heritage fund appropriations](#) (Lang, Tomassoni, Ingebrigtsen)
 - 4/19/18 – Last action was a second reading in the **Finance** Committee

Bonding

FLOOD HAZARD PROGRAMS / BONDING

SUPPORT/MONITOR/ACT

MAWD Resolution 2017-06: Support stable funding for the DNR's Flood Damage Reduction Grant Program.

Support bonding requests from watershed districts for the Flood Hazard Mitigation Program (2016)

Support a \$500,000 request for flood water retention engineering in the Lac qui Parle Yellow Bank watershed (2013)

- [HF 3742 Cedar River WD funding provided, bonds issues, and money appropriated](#) (Poppe)
 - 3/14/18 – referred to **Environment and Natural Resources Policy and Finance** committee
- [SF 3347 Cedar River WD bond issue and appropriation](#) (Sparks)
 - 3/14/18 – referred to **Capital Investment** committee
- [HF 2818 Buffalo-Red River WD flood hazard mitigation funding provided, bonds issued, \\$ appropriated](#) (Backer)
 - 2/20/18 – referred to **Environment and Natural Resources Policy and Finance** committee

- [SF 2509 Buffalo-Red River WD flood hazard mitigation bond issue and appropriation](#) (Westrom)
 - 2/20/18 – referred to **Capital Investment** committee
- [HF 1230 Lac qui Parle Yellow Bank WD funding provided, bonds issues, and money appropriated](#) (Swedzinski)
 - 2/15/17 – referred to **Environment and Natural Resources Policy and Finance** committee
- [SF 761 Lac qui Parle Yellow Bank WD grant bond issue and appropriation](#) (Dahms)
 - 2/09/17 – referred to **Capital Investment** committee

UPDATE: All capital investment bills will be sent directly to the bonding committees for their consideration. The Capital Investment committee in the House has begun to hear bills, the Senate side has not. We really don't know when to expect this bill to be made public.

Water Resource Programs

LIMITED LIABILITY FOR COMMERCIAL SALT APPLICATION

SUPPORT/MONITOR/ACT

MAWD Resolution 2017-04: Support limited liability protections for certified commercial salt applicators (17)

- [HF 3577 Certified salt applicator program established, and liability limited](#) (Anselmo, R. Barr, Haley, Smith, Fenton, Loon, Jurgens, Pugh, Metsa, Fischer, Poston, Heintzeman)
 - 4/17/18 – HF3908 was included in the **Environment & Natural Resources Policy & Finance** Committee's Omnibus bill (HF3502DE2: Article 1 Section 2 appropriates \$199k to the MPCA to administer the program and Article 2 Section 80 contains the policy language.)
 - 4/19/18 – Section 80 subdivision 3 was [amended](#) and sent to the **Ways and Means** Committee.
- [SF 3199 Certified salt applicator program establishment](#) (Ruud, Ingebrigtsen, P. Anderson, Hall, Tomassoni)
 - 3/22/18 – Last action was to refer this to the **Judiciary and Public Safety Finance and Policy** Committee

STORMWATER REUSE TASK FORCE

LEADING THIS EFFORT

MAWD Resolution 2017-07: Create a Stormwater Reuse Task Force that consists of local and state officials involved in water management.

UPDATE: The MN Department of Health released a report that have led us to conclude that our concerns have been heard to the degree we will continue to work with them in an administrative capacity instead of using legislative action at this time.

CRP in FARM BILL

SUPPORT/MONITOR/ACT

MAWD Resolution 2017-03: Support a strong Conservation Reserve Program (CRP) in the 2018 Federal Farm Bill

- Senator Tina Smith is holding listening sessions and asking for feedback on what Minnesotans want to see in the next Farm Bill. Contact your administrator for more information on how you can send feedback to the Senator. MAWD provided details through an email on how to submit comments.

Board Meetings and Manager Per Diems

ELECTRONIC MEETING ATTENDANCE

LEADING THIS EFFORT

MAWD Resolution: Amend the Open Meeting Law to allow electronic meeting participation by WD managers & outside of WD boundaries. (16)

- [HF 3834 WD board meeting requirements clarified for meetings conducted by interactive television](#) (Dettmer, Fischer, Torkelson)
 - 3/15/18 – referred to **Environment and Natural Resources Policy and Finance** committee
- [SF 3499 WD board meeting requirements for meetings conducted by interactive television](#) (Johnson, Sparks, Lang)
 - 3/15/18 – referred to **Environment and Natural Resources Policy and Legacy Finance** committee

NOTE: This legislative effort has been somewhat confusing because the League of MN Cities and some LGU's are presently interpreting the law that they can conduct meetings via interactive TV outside of their geographical boundary legally already. Those groups have asked us not to pursue the legislation and work with them to get the law clarified administratively over the summer and fall. We were scheduled to have a hearing on Monday, March 26th but have decided to pull the legislation at this time to work with LGUs to attain guidance from BWSR and the Attorney General's office on this law (13D).

MANAGER PER DIEMS

LEADING THIS EFFORT

2015 MAWD Resolution: Increase per diems for managers to \$100 per day.

- No action taken on this initiative. MASWCD has a similar resolution to increase per diems to \$150 per day. They have also elected not to pursue the issue this year.

Miscellaneous

AGENCY PERMITTING, WATERSHED TRADING CREDIT

MONITOR/ACT

- [HF 3120 Environmental agency permitting, rulemaking, and fees modified; watershed credit exchange program provided; compliance requirements modified; and money appropriated](#) (Fabian, Heintzeman, Lueck, Ecklund)
 - 2/26/19 – Referred to House ENR Policy & Finance Committee
 - 3/27/18 – Heard in committee and referred to the floor.
- [SF 2705 Environmental agencies permitting, rulemaking, and fees modifications; watershed credit exchange program establishment; effluent limitation compliance, appropriation](#) (Ingebrigtsen, Tomassoni, Ruud, Weber, Mathews)
 - 2/26/18 – Referred to Environmental and Natural Resources (ENR) Policy & Legacy Finance committee
 - 3/15/18 – Committee passed and re-referred to ENR Finance committee
 - Language placed in ENR Omnibus Bill SF3141

CONSERVATION EASEMENT TAX RELIEF

MONITOR/ACT

MAWD Resolution: Advocate for allowing more favorable tax treatment of conservations easements (2016)

- [HF 3512 Agricultural classification of land converted from agricultural use for environmental purposes allowed](#) (Davids)
 - 3/16/18 - Referred by Chair to **Property Tax and Local Government Finance Division** committee
 - No action, AMC opposes legislation
- [SF 3097 Agricultural classification of land converted from agricultural use to environmental purposes authorization](#) (Chamberlain)
 - 3/15/18 – referred to **Taxes** committee, re-referred to ENR Finance, amended, re-referred back to Taxes.
 - No action, AMC opposes legislation

AQUATIC INVASIVE SPECIES QUARANTINE

MAWD Resolution 2017-02: Support temporary quarantine authority to control the spread of aquatic invasive species.

- No action taken on this initiative

CLEAN WATER COUNCIL APPOINTMENTS

2015 MAWD Resolution: Protect the integrity of Clean Water Council appointments from undue influence by state agencies

- No action taken on this initiative