

MACPZA 2017

Legislative Summary



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Despite a surplus of \$1.65 billion for the upcoming biennium, reaching agreement on budget bills between Republican Leaders of the House and Senate and a Democrat Governor proved to be challenging this session.

All bills relating to environment and natural resources (Omnibus Environment and Natural Resources Bill, Legacy Bill and Environment and Natural Resources Trust Fund Appropriations Bill) passed before the end of regular session. The majority of budget bills, however, did not pass before time ran out on the last night of session on May 22. Governor Dayton called a special session starting on May 23 and the legislators were able to wrap up their work on May 26. Governor Dayton signed most of the bills on Tuesday, May 30.

This summary includes topics that relate to county planning and zoning that passed this session, as well as a few issues that were discussed but did not pass.

LEGISLATIVE PRIORITIES

Subdivision of Land / Lot Split (2017 1st Special Session, HF 1, Article 2, Section 8)

Legislation passed during the 2017 Special Session as part of the Omnibus Tax Bill that provides counties the same subdivision of land review authority already afforded to municipalities and townships to ensure that land is divided in a way that doesn't prevent a future or current owner from building on the land or using it in the way they intend to. This has been a top legislative priority for MACPZA for the last three or four years.

Status: Signed into law on May 30, 2017, 1st Special Session [Chapter 1](#)

Natural Resources Block Grant (NRBG) Reporting (SF 844, Article 1, Section 4(p))

Legislation passed during the 2017 Session as part of the Omnibus Environment and Natural Resources Bill that exempts the appropriations to the Board of Water and Soil Resources (BWSR) for grants (including the NRBG) from Department of Administration Office of Grants Management Policy 08-08 Grants Payments and 08-10 Grant Monitoring. The intent of this legislation is to reduce duplicative reporting requirements for grant recipients. This policy change was a key legislative priority for MACPZA this session.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

AQUATIC INVASIVE SPECIES (AIS)

County AIS Prevention Aid

No change was made to the County AIS Prevention Aid this year in the Omnibus Tax Bill, so the base amount of \$10,000,000 per year will be available. This program was established through legislation in 2014 and provides funding to counties twice per year, at the same time as other aid payments, allocated using a formula based 50

percent on each county's share of boat launches and 50 percent based on each county's share of boat trailer parking spaces.

Department of Natural Resources Appropriations (SF 844, Article 1, Section 3)

The Omnibus Environment and Natural Resources Bill appropriated funding to address AIS, including:

- \$6,448,000 each fiscal year for management, public awareness, assessment and monitoring research, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands.
- \$410,000 each fiscal year for grants to the Minnesota Aquatic Invasive Species Research Center at the University of Minnesota to prioritize, support, and develop research-based solutions that can reduce the effects of AIS.
- \$1,718,000 each year for enforcement efforts to prevent the spread of AIS.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Environment and Natural Resources Trust Fund (LCCMR) (SF 550, Section 2, Subd. 6 (a))

\$2,700,000 was appropriated from the Environment and Natural Resources Trust Fund in FY17 to the University of Minnesota to support the Minnesota Aquatic Invasive Species Research Center in finding solutions to Minnesota's AIS problems through research, control, prevention, and early detection of existing and emerging AIS threats.

Status: Signed into law on May 30, 2017, [Chapter 96](#)

BUFFERS

Riparian Protection (Buffer) Aid (SF 844, Article 1, Section 11 & Article 2, Section 146 and 2017 1st Special Session HF 1, Article 4, Sections 24 & 25)

The Omnibus Environment and Natural Resources Bill appropriated \$2,000,000 each year for riparian protection (buffer) aid payments to counties and watershed districts that accept jurisdiction to enforce the buffer law. The Omnibus Tax Bill appropriated an additional \$6,000,000 for FY18 and \$8,000,000 for FY19 for this program and it will be funded in the amount of \$10,000,000 per year going forward.

Both bills also included policy language establishing the program and providing the mechanism for distributing the riparian protection aid payments to counties and watershed districts who have affirmed their jurisdiction to enforce the buffer law. The formula to determine a county's proportion of the aid will be based on class 2A agricultural land, miles of public watercourses, and miles of public drainage system ditches in each county. Aid to a county will be no greater than \$200,000 or less than \$50,000 per year. If a watershed district located within the county has affirmed jurisdiction, the county shall pass on to the watershed district their portion of the riparian protection aid. If a county or watershed district does not opt to enforce the buffer law, that portion of the aid payment will go to BWSR.

The riparian protection aid will be available for the first time in July 2017 and payments will be made to counties who have opted to enforce the buffer law at the same time as other aid payments.

Status: Signed into law on May 30, 2017, [Chapter 93](#) and 1st Special Session [Chapter 1](#)

Changes to Buffer Law (SF 844, Article 2, Sections 105, 106 & 150)

A few policy provisions were included in the Omnibus Environment and Natural Resources Policy Bill that made changes to the buffer law, including:

- Definition of public waters clarified to mean public waters that are on the public waters inventory.
- Alternative practices section of the law clarified to include common alternative practices adopted and published by BWSR or practices based on local conditions approved by the SWCD that are consistent with the Field Office Technical Guide.
- Requirement that buffers be planted using only seed mixes verified by MDA to prevent contamination with Palmer amaranth or other noxious weed seeds.
- Allowance of a waiver to be granted until July 1, 2018 to landowners who have filed parcel-specific riparian protection compliance plans with the SWCD by November 1, 2017.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

DNR Appropriations (HF 707, Article 2, Section 6(i))

The Legacy Bill appropriated \$100,000 per year to the DNR for maintenance and updates to buffer maps and for technical guidance on buffer map interpretation to local units of government for implementation of buffer requirements.

Status: Signed into law on May 30, 2017, [Chapter 91](#)

BWSR Appropriations (HF 707, Article 2, Section 7)

The Legacy Bill appropriated funding to BWSR for a few different programs relating to buffers, including:

- \$2,500,000 each year to provide assistance, oversight, and grants for supporting local governments in implementing and complying with riparian protection and excessive soil loss requirements.
- \$425,000 each year for a program to systematically collect data and produce county, watershed, and statewide estimates of soil erosion caused by water and wind.
- \$5 million the first year for SWCDs for cost-sharing contracts with landowners or authorized agents to implement riparian buffers or alternative practices on public waters or public ditches consistent with the Minnesota Buffer Law. Of this amount, up to \$2.5 million may be targeted outside the 54-county Conservation Reserve Enhancement Area.

Status: Signed into law on May 30, 2017, [Chapter 91](#)

CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) (HF 707, SF 550, 1st SS HF 5)

Earlier this year Minnesota entered into an agreement with the US Department of Agriculture for \$350,000,000 in federal funding for the Minnesota Conservation Reserve Enhancement Program (CREP). The targeted area for the program is 60,000 acres in 54 counties in southern and western Minnesota. Projects eligible through the Minnesota CREP include buffer creation, wetlands restoration, and wellhead protection for drinking water.

To leverage the full \$350,000,000 in federal funds, the state must commit \$150,000,000, of which \$54,810,000 has already been appropriated in past legislative sessions. This year, an additional \$61,481,000 was appropriated for

the state match for CREP (\$31,981,000 in the Legacy Bill, \$19,500,000 in the Environment and Natural Resources Trust Fund Bill, and \$10,000,000 in the Capital Investment Bill).

Status: Signed into law on May 30, 2017, [Chapter 91](#), [Chapter 96](#) and 1st Special Session [Chapter 8](#)

COUNTY GEOLOGIC ATLASES (HF 707, Article 2, Section 6(h) and Section 10(a) and SF 550, Section 2, Subd. 3(a))

The Environment and Natural Resources Trust Fund Bill provided \$2,000,000 in FY17 to the University of Minnesota for the production of county geologic atlases for the purpose of sustainable management of surface water and groundwater resources. An additional \$125,000 per fiscal year was appropriated to the DNR and \$125,000 per fiscal year to the University of Minnesota for this project through the Clean Water Fund/Legacy Bill.

Status: Signed into law on May 30, 2017, [Chapter 91](#) and [Chapter 96](#)

DRAINAGE

BWSR Appropriation (SF 844, Article 1, Section 4(h))

The Omnibus Environment and Natural Resources Bill included a \$166,000 appropriation each year to BWSR to provide technical assistance to local drainage management and to coordinate the stakeholder drainage work group. The bill also included language requiring the work group to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips and report its findings to the legislature by February 1, 2018.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Legacy Appropriation (Clean Water Fund) (HF 707, Article 2, Section 7(j))

The Legacy Bill appropriated \$750,000 each year to BWSR for technical assistance grants for the conservation drainage program in consultation with the drainage work group, including projects to improve multipurpose water management.

Status: Signed into law on May 30, 2017, [Chapter 91](#)

Environment and Natural Resources Trust Fund Appropriation (SF 550, Article 2, Subd. 3(g))

The Environment and Natural Resources Trust Fund Bill appropriated \$540,000 in FY18 to BWSR to facilitate statewide modernization of public drainage records and integrate new specifications into existing drainage records modernization guidelines through matching cost-share grants to drainage authorities.

Status: Signed into law on May 30, 2017, [Chapter 96](#)

EMERALD ASH BORER (SF 550, Section 2, Subd. 6 (b))

The Environment and Natural Resources Trust Fund Bill appropriated \$729,000 in FY18 to the MDA in cooperation with the University of Minnesota to implement biocontrol of emerald ash borer using a newly approved parasite wasp, assess the impact of the statewide program, and engage citizen volunteers.

Status: Signed into law on May 30, 2017, [Chapter 96](#)

ENVIRONMENTAL ASSESSMENT WORKSHEETS (EAW) AND ENVIRONMENTAL IMPACT STATEMENTS (EIS) REVIEW (SF 844, Article 2, Section 138)

The Omnibus Environment and Natural Resources Bill included policy language requiring, by December 1, 2018 and every three years after, the EQB, PCA DNR and DOT to consult with political subdivisions and provide a list of mandatory EAW and EIS categories for which the agency or a political subdivision is designated as the responsible government unit to the chairs of the House and Senate environment committees, and recommend any changes.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

ENVIRONMENTAL QUALITY BOARD (EQB) MEMBERSHIP (SF 844, Article 2, Sections 135 and 154)

The Omnibus Environment and Natural Resources Bill included a provision making changes to the membership of the EQB. The bill removes a representative of the governor's office and adds appointees from the general public – one from each congressional district - who are knowledgeable on environmental review or permitting and are not registered lobbyists or legislators.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

FEEDLOTS

County Feedlot Program (SF 844, Article 1, Section 2, Subd. 8(a))

The Omnibus Environment and Natural Resources Bill appropriated \$1,959,000 to the MPCA each fiscal year for grants to delegated counties to administer the county feedlot program (this is the base funding level).

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Feedlots under 300 Animal Units (SF 844, Article 1, Section 4(c))

The Omnibus Environment and Natural Resources Bill appropriated \$260,000 each fiscal year to BWSR for feedlot water quality cost share grants for feedlots under 300 animal units and nutrient and manure management projects in watersheds where there are impaired waters.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Open Air Swine Basins (SF 844, Article 2, Section 134)

The Omnibus Environment bill included a provision to extend the ban on new open air swine basins for another five years until 2022.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Nuisance Lawsuits (HF 1717, HF 1221, HF 1026, SF 1015 and SF 901)

Legislation was introduced and heard this session providing feedlots with protection from nuisance liability. There were a few different versions of bills on this topic, including a study examining the impact of nuisance lawsuits on agriculture in Minnesota, but ultimately nothing passed this session relating to nuisance lawsuits.

Status: Did not pass

Environmental Review/Public Notice Requirements (SF 844, Article 2, Section 137)

A bill was introduced this session (SF1016) that would modify the current EAW requirements, stating that an EAW is not required for an animal feedlot facility with a capacity of less than 2,000 animal units or an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 2,000 animal units. Originally, the bill also required to the extent practicable, the responsible governmental unit to include a public notice and comment period for the purpose of environmental review that is concurrent with any public notice and comment period for the same animal feedlot facility for the purpose of obtaining a conditional use permit for a LGU.

Based on concerns from counties, the bill author agreed to remove the second portion of the bill. Neither provision from the original bill passed this session. However, it appears the language was modified and included in the final Environment and Natural Resources Omnibus Bill, requiring that all agencies having jurisdiction over a permit identified in the draft EAW scoping document begin reviewing any permit application upon publication of the notice of preparation of the EIS.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

NATURAL RESOURCES BLOCK GRANT (NRBG) (SF 844, Article 1, Section 4)

The Omnibus Environment and Natural Resources Bill included a \$3,423,000 appropriation each year to BWSR for natural resources block grants to local governments. This section of the bill also included policy language exempting grants awarded by BWSR under this section of law from Department of Administration, Office of Grants Management Policy 08-08 Grant Payments and 08-10 Grant Monitoring. The intent of this provision is to reduce duplicative reporting requirements for grant recipients.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

NOXIOUS WEEDS

Grants to Local Government Units (HF 1545, Article 1, Section 2, Subd. 2 (j))

The Omnibus Agriculture Bill appropriated \$300,000 in each fiscal year to the noxious weed and invasive plant species assistance account at the Minnesota Department of Agriculture to award grants to local government units (LGUs) with preference to those responding to Palmer amaranth or other weeds on the eradicate list.

Status: Signed into law on May 30, 2017, [Chapter 88](#)

Notification Requirement (HF 1545, Article 2, Section 8)

The Omnibus Agriculture Bill included a policy provision requiring the MDA Commissioner to post notice on the department's Web site and alert appropriate media outlets when a weed on the eradicate list is confirmed for the first time in a county.

Status: Signed into law on May 30, 2017, [Chapter 88](#)

Cost-Share Programs (SF 844, Article 1, Section 4(e))

The Omnibus Environment and Natural Resources Bill appropriated \$100,000 each year to the Board of Water and Soil Resources for county cooperative weed management cost-share programs and to restore native plants in selected invasive species management sites.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

ONE WATERSHED, ONE PLAN (HF 707, Article 2, Section 6(a) & (i))

\$4,875,000 was appropriated each year to BWSR through the Legacy Bill for a pilot program to provide performance-based grants to local government units. The grants are for projects identified in a comprehensive watershed plan developed under the One Watershed, One Plan or metropolitan surface water management frameworks or ground water plans. The Legacy Bill also appropriated \$1,995,000 each year to BWSR for assistance, oversight, and grants to local governments to transition local water management plans to a watershed approach (One Watershed, One Plan).

Status: Signed into law on May 30, 2017, [Chapter 91](#)

SILICA SAND RULEMAKING (SF 844, Article 2, Section 148)

The Omnibus Environment and Natural Resources Bill included a change to silica sand rulemaking by replacing the word “shall” with “may” and removing the requirement for the MPCA to adopt rules pertaining to the control of particulate emissions from silica sand projects.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

STATE ASSUMPTION OF SECTION 404 PERMIT (SF 844, Article 2, Section 4(g))

The Omnibus Environment and Natural Resources bill appropriated \$300,000 in FY18 for improving the efficiency and effectiveness of Minnesota’s wetland regulatory programs through continued examination of US Clean Water Act section 404 assumption, including negotiation of draft agreements with the EPA and Army Corps of Engineers. This is the next phase of examining assumption of the 404 permit (legislation in 2015 required a study be completed).

Status: Signed into law on May 30, 2017, [Chapter 93](#)

SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS) (SF 844, Article 1, Section 2 and HF 707, Article 2, Section 5(g))

The Omnibus Environment and Natural Resources Bill appropriated \$615,000 in FY18 and \$614,000 in FY19 for subsurface sewage treatment systems (SSTS) program administration and community technical assistance and education, including assistance to counties through grants for SSTS. The Legacy Bill also provided funding to MPCA in the amounts of \$3.5 million in FY 18 and \$3.37 million in FY19 for enhancing the county-level delivery systems for SSTS activities.

Status: Signed into law on May 30, 2017, [Chapter 93](#) and [Chapter 91](#)

SUBDIVISION OF LAND / LOT SPLIT (2017 1st Special Session, HF 1, Article 2, Section 8)

Legislation passed during the 2017 Special Session as part of the Omnibus Tax Bill that provides counties the same subdivision of land review authority already afforded to municipalities and townships to ensure that land is divided in a way that doesn’t prevent a future or current owner from building on the land or using it in the way they intend to.

Status: Signed into law on May 30, 2017, 1st Special Session [Chapter 1](#)

SOIL AND WATER CONSERVATION DISTRICT (SWCD) CAPACITY FUNDING (HF 707, Article 2, Section 7(n))

The Legacy Bill appropriated \$11 million each fiscal year for payments to soil and water conservation districts for capacity funding. From this appropriation, each SWCD will receive \$100,000 per year for base funding. Money remaining after the base increase is available for matching grants based on county allocations to SWCDs.

Status: Signed into law on May 30, 2017, [Chapter 91](#)

WATER MONITORING (SF 844, Article 1, Section 3, Subd. 3(i))

The Omnibus Environment and Natural Resource Bill appropriated \$6,000,000 each fiscal year for activities relating to water monitoring and analysis, including financial reimbursement and technical support to SWCDs or other local units of government for groundwater level monitoring.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

WETLANDS

Wetland Mitigation under Permit to Mine / New Contested Case Hearing Process / Appeals (SF 844, Article 2, Sections 56, 57, 58, 59, 110, 111, 113, 114)

The Omnibus Environment and Natural Resources Bill includes a number of provisions making changes to wetland mitigation under permits to mine, including significant changes to the appeals process and creating new procedures for contested case hearings. Specifically, the language:

- Authorizes the DNR to allocate surplus wetland credits approved under a permit to mine on or after July 1, 1991, that are not otherwise deposited in a state wetland bank.
- Modifies provisions allowing the DNR's decisions on permits to mine to be challenged to accommodate the new contested case procedures, which are also included in these sections.
- Provides that only final mining permit orders are appealable and they must be appealed directly to the Court of Appeals.
- Authorizes projects requiring a mining permit to include surplus wetland credits to be allocated by the DNR Commissioner to offset future mining-related impacts under any permits to mine held by the permittee, operator, permittee's or operator's parent, affiliated subsidiary, or an assignee.
- Provides that wetland replacement sites identified in an EIS may be approved under the Wetland Conservation Act, within one year of the adequacy determination, without further modification.
- Requires members of a technical evaluation panel who have an ownership interest in a wetland bank to disclose details of that ownership in writing to affected local governments.
- Requires that measures to mitigate any adverse effect on a rare natural community be considered when determining whether or not such a community will be permanently adversely affected as part of the analysis of a wetland replacement plan.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

Wetland Replacement Siting (SF 844, Article 2, Sections 108, 109, 111)

The Omnibus Environment and Natural Resources Bill contains a few sections that apply the definitions of “greater than 80 percent area” and “less than 50 percent area” to a wetland bank service area and remove certain wetland replacement siting limitations. These sections also prohibit wetland replacement siting in a greater than 80 percent area when the wetlands drained or filled are in an area outside of an 80 percent area.

Status: Signed into law on May 30, 2017, [Chapter 93](#)

WIND ENERGY SYSTEMS SITING (SF 1706)

Legislation was introduced and heard in a Senate committee this session relating to large wind energy conversion systems (LWECS). Part of the proposal would repeal the following statutory language relating to county zoning “a county may adopt by ordinance standards for LWECS that are more stringent than standards in commission rules or in the commission’s permit standards. The commission, in considering a permit application for LWECS in a county that has adopted more stringent standards, shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards.”

MACPZA was able to work with the bill’s author and sponsor to successfully remove the language repealing this section of law during the committee meeting. Ultimately, no provisions in this bill became law this session.

Status: Did not pass