

# 2013 Legislative Session Review



**Minnesota Pollution  
Control Agency**



## 2013 Legislative Session Review

### Key Bills

#### Omnibus Environment, Natural Resources, and Agriculture Appropriation and Policy Bill (HF976\*/SF1607)

**Summary & History:** This legislation contains all the appropriations for the 2014 – 2015 biennium for the agencies involved in the areas of the environment, natural resources, and agriculture. Overall, the MPCA saw an increase of 4 percent when looking at all the funds in the bill (Clean Water Fund dollars are separate in the Legacy Bill). It included allocation changes in the use of General Fund dollars; resulting in a 0.7 percent General Fund reduction.

**New Allocations** (biennial numbers):

\$1 million (\$624k General Fund and \$376k Environmental Fund) to the Environmental Quality Board (EQB) for strategic planning, interagency coordination, environmental review oversight and continuous improvement, and public portal for environmental review information

\$1 million (General Fund) for silica sand technical assistance team to create model ordinances, standards and assist local units of governments with reviewing/permitting individual projects

\$600k (General Fund – onetime) for the silica sand rulemakings in the bill regarding fine particulate emissions, reclamation and environmental review of silica sand projects

\$3 million (Environmental Fund) for the Water and Air programs each to improve permitting and compliance efforts as demand increases because of a growing economy, help replace aging data systems and develop a smart permitting system with online tools to improve service to citizens and businesses

\$500k (Environmental Fund) to cover the inflationary expense increases of the air permitting program

\$1.38 million (Environmental Fund) for improving outdoor air quality by reducing emissions from a variety of widespread/nonpoint pollutant sources

\$420k (Environmental Fund) for localized air monitoring to examine if there are disparities in air quality in various communities

\$1.813 million (Environmental Fund) for the joint MDH/MPCA environmental health risk program focusing on urban air pollution and asthma, mercury levels in children, and PFCs in the East Metropolitan area

**Funding Reductions** (biennial numbers):

\$949k (General Fund) reduction in the Environmental Assistance and Cross Media program allocation, activities will be covered by Environmental Fund reallocation

\$742k (General Fund) reduction in administrative services activities

\$2.1 million (General Fund) reduction in the Closed Landfill Fund Repayment in FY '15, although the amount is to be repaid in future years

It also contained many policy provisions, including some recommended by the DNR, MPCA, BWSR, and MDA as part of their agency bills.

#### *Bills and Provisions Contained in Omnibus Bill*

Pesticide Education and Training ([HF151/SF550](#)) – A provision in the Agriculture article of the bill, it requires an update of the pesticide education and training programs and manuals to include information on current science and issues such as pesticide drift, and to discuss prevention of pesticides in ground and surface water.

Beneficial Reuse of Wastewater ([HF436/SF1260](#)) – This provision requires the MPCA to assign 30 (or more) points to certain wastewater treatment systems projects on the project priority list for funding. Specifically, it calls for points for projects that treat wastewater so it can be used in other processes, offsetting the use of ground water or other water sources. (This is in addition to current points for projects that treat for land discharge.) We are already undertaking a rulemaking to implement this change.

Biofuels ([HF462/SF448](#)) – This bill changes many of the requirements surrounding the use of biofuels in Minnesota. It moves from requiring the use of ethanol to a more broadly defined use of biofuel. It also repeals the existing E20 mandate, and replaces it with new goals for petroleum replacement by biofuels (14percent by 2015, going up to 30percent by 2025.)

MPCA Policy Bill ([HF737/SF423](#)) – Our policy bill contained several general fix up provisions. The first allows us to effectively use environmental covenants in our petroleum remediation program, as we do in the Superfund program. Other changes were made to reduce the frequency of certain legislative reports, and to repeal obsolete rules. The largest provision, at least in terms of statute language, was to transfer duties surrounding the formation and dissolution of sanitary districts from the MPCA to the Office of Administrative Hearings (which has a municipal boundary adjustments unit).

Product Stewardship ([HF865/SF639](#)) – The MPCA's product stewardship bill was incorporated into the omnibus finance bill. The House bill contained programs for all three products proposed by the MPCA – paint, carpet, and batteries. The Senate removed the provisions for carpet during a hearing in the Commerce committee, and the battery provisions during the Environment Finance committee hearing. The final bill contained only the provisions for paint product stewardship. This is the third time paint product stewardship has passed the Legislature, it was previously vetoed.

Silica Sand ([HF906/SF1018](#)) – This bill was the main genesis of the silica sand requirements placed in the omnibus bill. There are several portions to the silica sand language. First, EQB is to develop model standards and criteria for silica sand mining and associated processing and transportation. Local governments can choose to use these model standards as they permit silica sand projects. A technical assistance team is also set up, which local governments can draw

on to provide assistance in reviewing/permitting projects. A library of permits and ordinances is to be created. It also sets interim (two year) requirements for an EAW from any project that excavates more than 20 acres (compared to the current 40 acres threshold) and any storage facility that holds more than 7,500 tons or has a throughput of more than 200,000 tons annually. EAWs done under this section have some additional requirements compared to a regular EAW.

The bill also includes language requiring a one mile setback from all trout streams in SE Minnesota, unless DNR issues the project a silica sand trout mining setback permit (a new type of permit) after certain study of the hydrogeology of the area.

Finally, three rulemakings are required – from DNR for reclamation, from the MPCA for the control of particulates from silica sand projects, and from the EQB to revise the environmental review thresholds for silica sand. All rulemakings are exempt from the requirement to be completed within 18 months.

Wastewater Lab Quality Assurance Reform -- The language transfers from the MN Department of Health to MPCA the program to register and audit noncommercial labs that test wastewater effluent to ensure the quality of the results. It will streamline the certification requirements and reduce the cost for the labs that do just wastewater work (MN Department of Health requires additional items for its drinking water quality assurance program). The fees collected will cover the Agency's expenses.

Agriculture Water Quality Certification ([HF1175/SF1373](#)) – This provision would establish the Minnesota agricultural water quality certification program (MAWQCP) at the Department of Agriculture, in consultation with DNR, BWSR and MPCA. Under this program, a farmer demonstrating the implementation of best management practices to protect water quality receives a 10 year certification. The certification would demonstrate that the farmer is meeting water quality goals and will not be required to implement additional water quality practices for the duration of the certificate.

Mobile Monitoring ([HF1191/SF1044](#)) – Originally, this bill required the MPCA to purchase a mobile air monitoring lab (such as a trailer or bus) to monitoring for various pollutants. Included in the final bill is an MPCA-preferred provision that changes this to use a stationary monitor but to move the monitor every one to three months, with a focus on environmental justice areas, in order to determine if there are areas that experience disproportionately adverse air quality.

Fugitive Dust ([HF1300/SF1092](#)) – This bill is primarily aimed at Magnetation and its facilities. It directs the MPCA to change our rules on how to calculate potential to emit (PTE) for the purpose of determining if a facility needs an air emission permit. We currently count fugitive dust unless a federal rule requires us not to. The bill requires us to change our rules to NOT count fugitive dust emissions unless a federal rule requires it.

Beverage Container Recycling Report – The MPCA is required to conduct a report examining the potential for a beverage bottle refund program in improving recycling rates to 80%.

Session Law: [Chapter 114](#)

Effective Date: Various

Legacy Finance Bill ([HF1183](#)\*/[SF1051](#))

**Summary & History:** The Omnibus Legacy Finance Bill includes clean water, parks and trails, outdoor heritage, and arts and culture appropriations. Of most interest to the MPCA are the Clean Water Fund (CWF) appropriations. The MPCA saw an 18.5 percent increase in its allocation. The increased allocation is directed toward the following:

- Watershed Assessment and Monitoring at \$14 million for the biennium, to continue ongoing work of completing assessments of surface water quality with 10 percent of total assessments conducted each year.
  - An additional \$1 million to monitor and assess contaminants of new or emerging concern in both surface water and ground water.
- Total Maximum Daily Load (TMDL) and Watershed Restoration and Protection Strategies (WRAPS) development was funded at \$18.8 million for the biennium, which allows the MPCA to continue to develop WRAPS for our impaired water. The bill sets forth a goal to have the MPCA complete an average of 10 percent of the TMDLs each year.
- The Subsurface Sewage Treatment Systems program received \$6.9 million over the biennium for county base grants and competitive grants to counties that have plans to significantly reduce the number of failing systems. The counties are required to do additional reporting as part of their annual report, to show the numbers of systems that were upgraded. \$750,000 each year is for grants to low-income landowners to deal with failing systems.
- The Clean Water Partnership program receives a total of \$3 million (\$1 million in the first year and \$2 million in the second year) for grants to study nonpoint pollution problems, and to protect and improve waters with a focus on preventing impairments.
- Groundwater assessment received \$2.250 million, designated for additional ambient groundwater monitoring, modeling and trends. This includes re-assessment, through compilation of information, the state of contaminated groundwater that was found during assessments ten to 15 years ago. The MPCA must also submit a report by January 2016 with recommendations for improving and/or preventing the degradation of groundwater quality.
- The St Louis River Area of Concern received \$750,000 over the biennium for water quality improvements.
- The TMDL Database and Interagency Data Portal were both funded, with \$2.3 million over the biennium for the MPCA's internal TMDL research and database development and \$2 million to start on the development of a multi-agency watershed database and data portal.
- National Pollution Discharge Elimination System (NPDES) wastewater and stormwater implementation received \$1.8 million over the biennium.



- Stormwater and wastewater both received funding for guidance and technical assistance. There is \$550,000 over the biennium for stormwater research and guidance and \$750,000 for developing wastewater treatment systems design and practices and technical assistance to address new and emerging wastewater treatment challenges. The wastewater treatment portion designates some funding (\$145,000 annually) to the University of Minnesota and requires the MPCA to work with the University.
- The Clean Water Council receives \$40,000 per year.

*Bills and Policy Provisions Contained in Omnibus Bill*

National Park Sanitary Sewer (HF313/SF234) – \$1.5 million in the first year of the biennium is for a competitive grant program for sewer projects that help protect water quality in any national park. This is designed to allow a comprehensive sewer/wastewater project in Voyageurs National Park to go forward. There is a 25 percent match of non-Clean Water fund dollars required.

Clean Water Accountability Act (HF1122/SF1192) – This bill was supported by the Minnesota Environmental Partnership. It addresses the MPCA's new Watershed Restoration and Protection Strategies (WRAPS) document. The bill sets requirements for the contents of each WRAPS document – such as the identification of point and nonpoint pollution sources and an implementation table of strategies and actions to achieve needed pollutant reductions – and requires reporting on the program towards implementation of completed TMDLs and WRAPS documents. The bill also requires the Board of Water and Soil Resources to prepare a priority funding plan for potential nonpoint pollution reduction actions.

Coal Tar Sealants Ban (HF1423/SF1401) – The Legacy bill initially included only funding to support local government units in addressing the water quality impacts of PAHs from coal tar products. During the House floor debate, an amendment was added to prohibit the use and sale of coal-tar sealant products. This was carried forward in the final bill, and, effective January 1, 2014, coal tar sealant products cannot be used or sold in Minnesota.

**Session Law:** [Chapter 37](#)

**Effective Date:** Various

**Omnibus Tax Bill (HF677\*/SF552)**

**Summary & History:** Taxes were one of the most talked about items this session, and the omnibus tax bill is always considered one of the most important bills, as an agreement on taxes can set the framework for the remainder of the finance and appropriation bills. It is also generally one of the last bills completed in the session. This summary focuses only on those provisions of interest to the MPCA.

*Bills and Provisions Contained in Omnibus Bill*

Taconite Taxes – The tax bill appropriates to the mining environmental and regulatory account in the special revenue fund an amount equal to a 2.5 cent tax on each ton of taconite produced. The money is sent to the DNR to fund agency staff to work on environmental issues and provide regulatory services for ferrous and nonferrous mining operations. DNR is directed to enter into an interagency agreement with the MPCA to assist with monitoring and permitting. This is expected to generate approximately \$1 million annually.

Mortgage and Deed Tax (SF13/HF205): Extends the authority of Hennepin and Ramsey counties to impose a mortgage and deed tax, which originally expired on January 1, 2013. The tax is effective beginning July 1, 2013 and expires January 1, 2028. The tax is used to pay for brownfield cleanups.

**Session Law:** [Chapter 143](#)

**Effective Date:** Various

#### Other Enacted Bills of Interest

##### Drainage Bill (HF66\*/SF113)

**Summary & History:** This bill contains the recommendations of the Board of Water and Soil Resources' Drainage Work Group for updating the Chapter 103E drainage law. The bill covers drainage system records, allows repair of ditches to incorporate measures to improve water quality, and other related provisions.

**Session Law:** [Chapter 4](#)

**Effective Date:** August 1, 2013

##### Organized Collection (HF128/SF510\*)

**Summary & History:** The bill streamlines the process local units of government (typically cities) must go through to institute the organized collection of solid waste (garbage only, not recyclables). In an organized system, waste hauling services are coordinated by a public entity through a competitive bidding process. Organized collection systems consistently result in lower overall costs to consumers. In addition, recycling capture rates are typically higher in organized systems. Organized collection also reduces noise pollution, road wear, air emissions and fuel consumption.

The current system makes it very prohibitive for cities to successfully establish organized collection, because of the process requirements and timelines. The bill establishes a system where waste haulers servicing a community have a 60 day window to negotiate with a city an agreement to organize collection of solid waste and meet the city's priorities. If a city does not approve an agreement and still wants to move to organized collection, it must now create an organized collection options committee to



examine and evaluate various methods of organized collection. Before the committee's report and recommendations are approved by the city council a public hearing must be held.

**Session Law:** [Chapter 45](#).

**Effective Date:** May 8, 2013.

**Formaldehyde in Children's Products Ban (HF458\*/SF357)**

**Summary & History:** A bill supported by the Healthy Legacy Coalition. It places a ban on the sale of children's products (those intended primarily for use by someone under the age of eight) that contain formaldehyde or ingredients that degrade under normal conditions to produce formaldehyde. No manufacturers or wholesalers can sell such items after August 1, 2014 and no retailer after August 1, 2015.

**Session Law:** [Chapter 58](#)

**Effective Date:** May 14, 2013 and August 1, 2013

**BPA in Children's Food Containers Ban (HF459\*/SF379)**

**Summary & History:** A bill supported by the Healthy Legacy Coalition. It places a ban on the sale of infant formula, baby food, or toddler food that is stored in a container that contains intentionally added BPA. No manufacturers or wholesalers can sell such items after August 1, 2014 and no retailer after August 1, 2015.

**Session Law:** [Chapter 71](#)

**Effective Date:** August 1, 2013

**Whistleblower Protection (HF542\*/SF443)**

**Summary & History:** Protects staff from retaliation (through discharge, discipline, etc.) for providing information in good faith to a legislator or legislative staff, along with the legislative auditor or to any constitutional officer.

**Session Law:** [Chapter 83](#)

**Effective Date:** May 24, 2013

**Omnibus Data Practices Bill (HF695/SF745\*)**

**Summary & History:** The key portion of this bill for the MPCA is the piece concerning individual data, particularly email addresses, which are maintained primarily for notification lists. The bill defines telephone numbers, email address, and any identifying internet username or address collected as part of a subscription list as private data. (This does not include any data submitted as part of a public comment or rulemaking e-mail list.)

Session Law: [Chapter 82](#)

**Effective Date:** Various. The data privacy piece mentioned above is effective May 23, 2013.

**Omnibus Jobs and Economic Development Finance Bill (HF729\*/SF1057)**

**Summary & History:** The Jobs and Economic Development Finance Bill was, in the Senate, coupled with the Environment, Natural Resources, and Agriculture Finance bill. It was then separated out for conference committee, and then the Energy bill was rolled in.

*Bills and Provisions Contained in Omnibus Bill*

Host Community Economic Development Grants – This creates an economic development grant program within DEED for “host communities,” to pay for capital costs of eligible projects. A “host community” is defined as a city located within the seven-county metro that is the site of a waste disposal facility accepting unprocessed mixed MSW. The state grant can cover 100 percent of the total cost, with no local match required. The provision was put forward by the Cities of Burnsville and Inver Grove Heights to offset potential impacts from full compliance of the law requiring processing of solid waste at resource recovery facilities before any can be landfilled.

**Omnibus Energy Bill (HF956\*/SF901)**

Rate Reporting – Renewable Energy Compliance – Requires the Public Utilities Commission (PUC) to develop a uniform reporting system for each utility’s reporting of the estimate of the rate impact of compliance with the state’s renewable energy objectives.

Emissions-Reduction Rider – Allows electric generating power plants located outside of Minnesota to qualify for the emission reduction rate rider, as long as an Advance Determination of Prudence is obtained.

PACE – Expands the Property-Assessed Clean Energy (PACE) program (allowing energy projects to be paid for through property special assessment) to include more types of energy projects (such as efficiency).

Distributed Generation – Allows for better development of distributed generation through net metering and other policies

Solar Energy – Sets up a solar energy incentive program for <20kW solar systems and allows community solar gardens. Also sets up a solar energy standard of 1.5percent of total retail sales being provided from solar by 2020, with 10percent of that goal being from the systems <20kW. Includes production incentives for “Made in Minnesota” solar photovoltaic modules and solar thermal systems, and a ban on the use of solar pv modules NOT made in Minnesota for projects funded by appropriations in the bill

Various Energy Studies and Plans – Legislative Energy Commission will develop a framework for transition to a renewable energy economy. PUC will require electric utilities and transmission companies to study the impacts, costs and reliability of increasing the state renewable energy standard to 40percent by 2030. Commerce will conduct a study of on-site, grid-connected, energy storage; a study on the potential costs and benefits of solar thermal; and a study on energy-savings goals and policies.

**Session Law:** [Chapter 85](#)

**Effective Date:** Various

**Hazardous Substance Release Reporting (HF814\*/SF1033)**

**Summary & History:** Requires a person reporting the release of a hazardous substance to notify the state emergency response center (no change from current law) and, if directed by the center, to notify the local 911 emergency dispatch center. The law then specifies that the state emergency response center should tell the caller to call 911 if the situation requires immediate response or if the area is unknown to the center. Otherwise, the emergency response center must notify local firefighting/law enforcement within 24 hours.

**Session Law:** [Chapter 92](#)

**Effective Date:** January 1, 2014

**PFA Technical Bill (HF819\*/SF613)**

**Summary & History:** The Public Facilities Authority (PFA) technical bill made several updates to their program. This includes an expansion of the TMDL Grant Program to include phosphorous limits in MPCA permits (elimination of separate program), water quality based effluent limits in MPCA permits, and nitrogen limits for land-based treatment. Certain loans are also allowed to be converted to grants.

**Session Law:** [Chapter 105](#)

**Effective Date:** August 1<sup>st</sup>, 2013

**Bonding Bill (HF1070)**

**Summary & History:** When the first Omnibus Bonding Bill (HF270) did not pass, the Legislature developed a streamlined bonding proposal to cover Capitol building renovations and other small projects. Rather than the \$800 million proposed in the original House bill (and the \$750 million Governor's bonding proposal), this proposal contained only \$176.8 million for bonding. This included \$109 million for the Capitol renovations, \$20 million for DNR for flood mitigation projects, and \$8 million for PFA to leverage \$40 million in federal funds for the clean water and drinking water revolving funds.

**Session Law:** [Chapter 136](#)

**Effective Date:** July 1<sup>st</sup>, 2013

**Omnibus Bonding Bill ([HF270](#))**

**Summary & History:** The House proposed an \$800 million bonding bill. It contained \$3.1 million for the MPCA and Capital Assistance Grant Program to assist with the development of recycling and solid waste facilities. The bill also included several water-related projects, such as sanitary sewer and inflow/infiltration projects.

**Status:** Did not receive the three-fifths majority necessary to pass. A smaller bill containing Capitol restoration and other small projects was passed (HF1070).

**Legislative Water Commission ([HF683/SF243](#))**

**Summary & History:** Bill would re-establish the Legislative Water Commission. The Commission will be made up of six members of the Senate and six members of the House, three from each party. The Commission is to review water policy reports and recommendations from state agencies, including EQB, BWSR, MPCA, and DNR. They are then to make recommendations to the Legislature on appropriate legislation dealing with water. There is a sunset date of July 1, 2018.

**Status:** Bill passed the House, but was tabled in the Senate. Did not receive any Senate hearings

**Toxic Free Kids Act ([HF605/SF466](#))**

**Summary & History:** This was one of the trio of bills being supported by the Healthy Legacy Coalition. The bill would have required manufacturers of children's products that contain a chemical on MDH's priority chemical list to report that fact to the MPCA. In addition, the MPCA was to conduct an exposure assessment, to determine if a child would be exposed to the priority chemical through normal use of the product. There was then a prohibition on the sale of children's products that caused exposure to the priority chemical. The State of Washington has a reporting system in place.

As the bill moved through the process MPCA, MDH and Department of Commerce worked on an alternative proposal that focused on detailed reporting to provide clear and useful guidance to consumers about priority chemicals in children's products; along with disincentives and incentives to spur the removal of priority chemicals from the products.

**Status:** Heard in several committees, and now resides in Senate Commerce Committee (failed vote) and House Environment Policy Committee (not heard)

**Prohibition of School Construction on Landfills ([HF957/SF775](#))**

**Summary & History:** Would prohibit a school (including athletic fields) from being located within ¼ mile from land that was formerly used as a dump or landfill. Already constructed schools within ¼ mile would need to provide information to students and employees about the dump or landfill. MPCA staff had conversations with the chief author and offered suggestions for improving the bill. The author was open to our ideas and interim work on this issue is likely.

**Status:** House held a hearing in Education Policy, referred to Environment Policy (no vote). Environment Policy will likely hear it early next session. Senate did not hold hearings.

#### **Chamber's Permitting Efficiency Bill ([HF1133/SF1027](#))**

**Summary & History:** Would set a 40 day goal for construction permits and 90 days for non-construction permits. Also required rulemaking to establish training for permit professionals and allow them to issue permits. Added a pollution control ombudsperson

**Status:** No hearings held.

#### **Triclosan Ban ([HF1322/SF1166](#))**

**Summary & History:** The bill would prohibit the sale of any personal care products, cosmetics, or cleaning products that contain triclosan, triclocarbon, or similar antibacterial compounds. There was an exemption for products used only in medical facilities.

**Status:** In the Senate, the bill passed the Environment and Energy committee but was tabled in the Commerce committee. The House companion did not receive any hearings.

#### **Silica Sand Tax ([HF1336/SF1487](#))**

**Summary & History:** This introduced bill contained taxes on extraction and processing.

**Status:** Early versions of the omnibus tax bill on the House side contained taxes imposed on silica sand – both mining and transportation/storage. However, these provisions were NOT contained in the final bill.

#### **MPCA's Permitting Efficiency Bill ([HF1358/SF1149](#))**

**Summary & History:** This would have set tiered permit goals – 90 days for simpler (Tier 1) permits, while maintaining the 150-day goal for more complex (Tier 2) permits. It would also have allowed more flexibility in the MPCA's expedited permit program – allowing such projects to happen during regular business hours rather than only during overtime. It also would have extended some state water permit terms to 10 years (from 5 years), where not in conflict with federal requirements.

**Status:** No policy hearings.

#### **Silica Sand GEIS and Moratorium ([SF786](#))**

**Summary & History:** This bill received most of the early attention for the silica sand issue. It was a good vehicle for surfacing many of the issues surrounding silica sand. The bill would have created a Southeastern Minnesota Silica Sand Board through a joint powers agreement, and then have that group establish a technical advisory team and develop model ordinances for silica sand mining. It also would have mandated that the EQB complete a generic environmental impact statement, with a moratorium on new projects until the GEIS was complete.

**Status:** Never had a House companion bill. Tabled in the Senate Finance committee