



SIERRA CLUB

NORTH STAR CHAPTER

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The Honorable Mary Kiffmeyer
Chair, Minnesota Senate Committee on State Government Finance and Policy and Elections
95 University Ave W, Room 3103
Saint Paul, MN 55155

March 6, 2017

Dear Chair Kiffmeyer,

The Senate Committee on State Government Finance and Policy and Elections will be considering action on Senate File 695 on Monday, March 6, 2017. This bill is of interest to Sierra Club members around the state. We would like to take this opportunity to share our initial thoughts with you on this important legislation, and are always available to discuss these issues further with you as appropriate.

Senate File 695 would significantly increase the cost and time for administering Water Quality Standards. The current process is scientifically rigorous and incorporates local concern as well as national standards. The bill proposes:

- Judicial review of Water Quality Standards impacting a regulated entity's permit, land, or water body or other interested parties
- An expert review process to support judicial review of the Water Quality Standard
- That Water Quality Standards under judicial review are to be considered unadopted and then cannot be implemented while the judicial process goes forward

This bill would have several potential impacts. These include:

1. Allowing judicial review undermines the authority of the MPCA in setting Water Quality Standards and issuing regulations for water quality protection as required by them under the Clean Water Act. Judicial review of Water Quality Standards is already available under administrative law.
2. Any Water Quality Standard is going through the proposed court review, implementation and enforcement process is suspended while the court considers the issue. During periods when standards are being challenged, water quality is likely to be threatened or degraded without enforceable protection. Public health impacts are a significant concern.
3. The proposed law requires additional expert review when the MPCA has already completed this, usually based on local studies, expertise within the agency or their contractors, and the

University of Minnesota. This is added expense that is not needed. All of these studies are public and available during the MPCA regulation promulgation process.

4. The MPCA regulations promulgation process includes opportunity for public and stakeholder input, which provides for a balanced process. New regulations require the development of a SONAR (Statement of Need and Reasonableness), which assists in balancing interests and benefit vs. costs of regulation promulgation. This promulgation process already provides opportunity for exhaustive Water Quality Standard review.
5. The MPCA is required to consider and comply with federal mandates or changes as part of the Water Quality Standards. The proposed Minnesota judicial review has the potential to impact Federal funding from the Environmental Protection Agency (EPA) or other sources should there be delays or noncompliance with the Clean Water Act.

While we are always open to a conversation about how to make Minnesota's Water Quality Standards work more effectively, Senate File 695 would clearly create additional costs and barriers to the effective implementation of standards that protect our water. For these reasons, the Sierra Club opposes this bill.

Thank you,



Margaret Levin
State Director
Sierra Club North Star Chapter