

LCC Subcommittee on Minnesota Water Policy Draft Legislative Issue for the 2020 Session

Members,

Following are titles with following short descriptions of draft legislative issues for the 2020 session. We discussed these during our October meeting. During our November 12 meeting, I would appreciate your decision about moving forward with all, or some, of the topics as bills. The agenda for that meeting is pretty full, so I am not planning to discuss these in detail. It would be helpful to have you consider each of the topics for our meeting. Let me know if you have questions or concerns. I am moving on to other topics that have come forward during the past several weeks. I'll discuss those during our next meeting.

Jim

Detailed position papers, for each issue, are available on request.

- Issue 1A: Simplifying the Water-Quality Standards Review and Revision Process
- Issue 1B: Simplifying the Irrigation Water Appropriation Process
- Issue 1C: State Assumption of Federal Wetlands Permit Responsibilities
- Issue 1X: Addressing Soil and Water Conservation District Funding
- Issue 2A: Prioritizing Outcomes for Clean Water Programs
- Issue 2C: Provide Incentives for Healthy Soil
- Issue 3A: Preparing for an Uncertain Future
- Issue 3D: Ensure Safe and Sustainable Drinking Water for the
- Issue 4A: Keeping Water on the Land-Quantifying Water Storage and Retention:
- Issue 4C: Encourage and Funding Research and Outreach that Promotes Precision Agriculture:
- Issue 5D: Reduce the over-use of salt to protect lakes, rivers and groundwater
- Issue 5Eand 6B: Encourage efficient wastewater and storm-water technology and treatment
- Issue 6C: Legislative Support to Improve Minnesota's Water Infrastructure
- Issue 7A: Creation of a Department of Water Resources
- Issue 7B: Change the structure and Function of the Clean Water Council and the LCC Subcommittee on Water Policy
- Issue 7D: Leveraging Dedicated Funding Programs to Maximize Conservation Outcomes:

Following are short descriptions of draft legislative issues for the 2020 session. Detailed position papers for each issue are available:

Issue 1A: Simplifying the Water-Quality Standards Review and Revision Process: The Clean Water Act requires regular reviews of water-quality standards. The rule regarding conductivity serves as an example. The process of amending standards takes a great deal of time and there is concern, within this committee, that this process negatively affects opportunities for economic growth and development. The committee may want to request a legislative report, or hearing, that describes the process and explores efficiencies. Based on the findings and results from that report, or hearing, changes to policy may be considered. **Committee Recommendations:** Direct the preparation of a legislative report (or hearing) with the MPCA that address the process, issues and concerns. Based on the findings, determine if changes to policy or process are needed.

Issue 1B: Simplifying the Irrigation Water Appropriation Process: The time required to obtain an irrigation water-appropriation permit is of concern to some members of this committee. The committee may decide to facilitate a hearing, or briefing paper, with, or from, DNR staff to determine whether a legislative review or agency report is appropriate. This review would consider possible options for simplifying the process while recognizing the need to balance the need for economic development with efforts to ensure sustainable supplies of groundwater. **Committee Recommendation:** A first step would be a hearing, with DNR staff, to determine whether an agency/legislative review process or report to the Legislature, or a policy change, is needed. This report could explore options for simplifying the appropriation and permitting process for groundwater withdrawals. The report should incorporate the need to balance economic development with the need to ensure sustainable supplies of groundwater for the future.

Issue 1C: State Assumption of Federal Wetlands Permit Responsibilities (Clean Water Act, Section 404): Committee Recommendation: The EQB received funds, during the previous session, to plan for assumption. BWSR has applied for an EPA grant to supplement funding for the assumption-application process. Law and Rule changes, state costs and staffing needs, associated with assumption, are unclear at this time. The role of local units of government also is unclear. There is no legislative need at this time. The committee should be kept informed about requirements that will be needed to accomplish the assumption process which likely will take place during the 2021 session.

Issue 1X: Addressing Soil and Water Conservation District Funding: SWCD's are important special-purpose units of government that carry out local conservation programs. SWCD staff work with landowners in providing technical expertise and financial assistance to maintain and improve the quality, quantity and sustainability of water. Capacity funding falls short of the need. The committee may wish to propose supplemental aid, in the tax bill, or through options for local fees, a SWCD levy authority, or additional sales taxes. **Committee Recommendation:** Provide additional financial support for SWCDs. Options include aid in the tax bill, local fees based on sediment runoff, optional SWCD Levy Authority, new additional dedicated sales tax, Ad valorem levy authority, or fees on property.

Issue 2A: Prioritizing Outcomes for Clean Water Programs: Minnesota's citizens passed the Clean Water, Land and Legacy Amendment in 2008. It dedicated a portion of the sales tax to water improvement. Much has been accomplished in improving water our waters. However, recent information suggests that improvements, when the amendment expires in 2034, will not meet citizen's expectations. As the amendment period reaches halfway, there is need to place additional emphasis on achieving and demonstrating outcomes. State and local agencies have a great opportunity to work together by making minor adjustments that prioritize programs to improve water, increase our return on investment, and show greater outcomes. To ensure adequate and clean water for the future, we need to increase efforts to restore, preserve, and protect the waters of the state while ensuring a healthy public and healthy economy. The recent report, "Putting Minnesota on a Clean Water Trajectory" by the Freshwater Society and the Clean Water Accountability Act, provide thoughtful recommendations to move forward toward these goals. **Committee Recommendations:** Evaluate how to better coordinate the state's varying clean water programs (e.g., MPCA, MDH, DNR, MDA, BWSR, EQB) to ensure they are synchronized and working together efficiently and effectively. Provide legislative direction that makes minor adjustments to the Clean Water Programs that recognizes the priorities in the Clean Water Accountability Act (Act) and Freshwater's Trajectory Report. These minor adjustments would: 1) focus on incremental funding increases to protect waters of high quality; 2) provide a method and implement strategy to quantify results of state investments (including analysis of those investments that provide the greatest return toward the state's goals); 3) include a mechanism to measure and demonstrate progress at multiple scales (local, watershed and regional); 4) provides a plan that places additional emphasis on areas that likely will provide the greatest improvements toward state water-quality goals (those should include areas closest to meeting water quality standards, areas where the protection of high quality unimpaired waters are at the greatest risk of becoming impaired, and areas needing restoration and protection of water resources for public use and public health, including drinking water); and 5) provide a plan that prioritizes activities that are most likely to make measurable progress toward clean water goals.

Issue 2C: Provide Incentives for Healthy Soil: Soil Health is good for agriculture and water. However, improving soil health is a long-term issue. Legislative support is needed for long-term support to the Office for Soil Health (UM) that includes recognition and funding for the development of a state-wide soil-health action plan with increased outreach for implementing practices that build soil health.

Committee Recommendations: Recommend continued and long long-term support for soil health programs from the University of Minnesota's Office of Soil Health, supported by the General Fund, beyond the current Clean Water funding. This policy should provide recognition of the long-term nature and need for improving soil health through funding for preparation of a state-wide soil-health action plan. The plan should be a cooperative effort among the University of Minnesota, BWSR and MDA. It would incorporate long-term research, outreach and implementation to improve soil health, across the state that recognizes the long-term nature of soil health improvement. It should include implementation and outreach activities as well as irrigation management and fertilizer management. Funding: Provide a plan to support funding for activities at the University of Minnesota, BWSR and the MDA. This funding would supplement and be coordinated with work being done by the USDA. A budget estimate for maintaining the Office for Soil Health is approximately \$300,000 per biennium. Expanding the work including extension activities and long term research and trials would be approximately \$500,000-\$700,000 per biennium.

Issue 3A: Preparing for an Uncertain Future: The state has a need for an enhanced Statewide Water Plan that adds focus to preparing for changes that are taking place to our climate, landscapes, biota, hydrology, lakes, and infrastructure. Legislative direction and support is needed for greater interagency/legislative planning and reporting to the Legislature as a first step. An enhanced interagency/legislative water-policy team should be considered to develop this Future State of Water as part of an enhanced water policy plan for the Legislature. The plan should include return on investment reviews of best management practices to improve water quality that provides a better understanding of where to place emphasis that provides the greatest benefits at the lowest cost. **Committee Recommendation:** Provide legislative direction, and additional funding for an interagency/legislative planning process that includes a report to the Legislature as a first step, coordinated by the Environmental Quality board. This would include a comprehensive Statewide Water Policy to guide policy climate, landscapes, biota, hydrology, lakes and infrastructure adaptive management.

Issue 3D: Ensure Safe and Sustainable Drinking Water for the future: The safety of our drinking water is one of the most critical responsibilities of government. Safe drinking water has been key to some of the greatest public health achievements of the last half-century, including the dramatic reductions in disease and improvements in longevity. The value of Minnesota's water goes beyond human health and the health of our environment. Jobs and economic development depend on communities having a reliable source of clean and safe water. The following actions are intended to cover the most important steps in providing safe and sustainable sources of drinking water.

Committee Recommendations: Policy: Apply existing and on-going monitoring data and information to solve our groundwater challenges: Authorize the preparation of an implementation plan to coordinate groundwater management and to improve the comprehensive ongoing groundwater information, monitoring and mapping programs needed to define priority areas and to solve Minnesota's groundwater problems. Each agency prioritizes groundwater based on their respective missions. This effort would combine existing and accumulating information from the agencies with the foundation provided by the on-going County Atlas Program (DNR and MGS). The plan would be a first step to the better protection of groundwater as a whole as well as in identifying groundwater priority areas.

Groundwater priority areas (aquifers and watersheds) frequently cross county boundaries. This effort would outline a plan to synthesize that information across boundaries, both comprehensively and in priority areas. It would provide information and tools to understand existing groundwater information needed to manage groundwater quality and sustainability at aquifer and watershed scales. The plan would support priority efforts of each of the "water agencies". Initially, the development of the plan would require a small amount of funding. Based on the outcomes, additional funding would be required to implement the plan. The effort would support priority issues, shown below, that were most important to stakeholders. This effort would enhance the work of the IW/IP and Groundwater Management Programs across the state. Details are available in the accompanying position paper.

- Generate and manage monitoring and information to integrate water-sustainability assessment into regulatory programs.
- Incorporate robust water-budget information into water planning
- Enhance the water appropriation process
- Expand groundwater analysis and modeling because geology is crucial to the success of any model
- Assess benefits of ensuring water sustainability
- Allow for planning of managed recharge
- Support and encourage processes such as the Metropolitan Council's regional planning and coordination process and the DNR's groundwater-management area process.
- Enhance our understanding of the connections between hydrology and aquatic biology
- Increase information to understand groundwater and surface water interactions.
- Identify programs to protect our most vulnerable aquifers that are sources of private drinking water
- Improve monitoring, public information and education, about contaminants in drinking water used for private wells
- Support the Clean Water Council's recommendations (and funding) of policy and market-driven approaches to increase continuous vegetative cover on cropland.

Issue 4A: Keeping Water on the Land-Quantifying Impacts and Encouraging Water Storage and Retention: While cropland drainage provides benefits, it also results in environmental concern. There is general agreement that we should increase efforts to retain water on the land to reduce peak flows and to improve water quality. A fundamental obstacle is understanding which best management practices are most effective in specific landscapes and the beneficial impacts of water storage has not been fully assessed. Information and models are now available to assess the location and numbers of structures that are optimal. This effort would complement work being done by the One Watershed, One Plan process. **Committee Recommendations:**

- Fund a pilot analysis to identify peak-storage structures opportunities in the most critical places in a pilot area such as Area II or the Red River Valley.
- Include assessment of best-management practices for peak storage appropriate in specific landscape settings. The process would involve existing watershed models, flow data and water quality data.
- Based on that assessment, prioritize best-management practice locations in the most appropriate areas
- Identify appropriate BMPs for specific landscape settings. Include a cost/benefit analysis of conservation drainage-management practices to understand benefits
- Based on that analysis, identify an appropriate incentive process that can be built into the IWIP process.
- Based on success, expand this process to the state's other agricultural watersheds.

Issue 4C: Encourage and Fund Research and Outreach that Promotes Precision Agriculture: Self-managing and sustainable farming is imperative to ensuring agricultural competitiveness and to protect our waters. This required modern and emerging technologies such as satellites, advanced data analytics, automated sensors, and robotics. The committee may wish to consider policy, and a legislative initiative, that provides additional resources for research and outreach through the UM Precision Agriculture Center.

Legislative Recommendations: Increase funding to the University of Minnesota that focuses on research and outreach. Provide policy that includes plans for data privacy, public-private partnerships, research and technical assistance focused on the on the most challenges agricultural and water issues. Policy should also consider economic cost and benefits, soil health, irrigation management and nutrient and

pesticide management. Provide funding for research and outreach in the following areas: variable rate nitrogen and phosphorus, variable rate irrigation, estimation of nitrogen mineralization from soils to make better fertilizer recommendations, remote sensing for early detection of crop stress (nutrients, insects, disease), delineation of management zones, and extension programming to promote accelerate adoption of precision agriculture. Details, with budgetary implications, are available on request.

Issue 5D: Reduce the over-use of salt: Protect our lakes, rivers and groundwater: De-icing roads, parking lots, and sidewalks, water softening, and dust suppression each introduce chloride to lakes, streams and groundwater. Chloride degrades our waters and it is very difficult and expensive to remediate. It is feasible to reduce the use of salt. The committee should consider providing support for limiting liability for applicators and to provide applicator training. There also is a one-time need to the significance of other sources of chloride, such as water softening and dust suppression. **Committee Recommendations:**

- Support the Clean Water Council’s recommendation for trainings and licensure for applicators
- Recommend continued general budget funding for long-term applicator training
- Support and provide funding for research on alternatives to using salt (University of Minnesota)
- Support a legislative initiative to quantify the significance of other sources of chloride to waters of the state (septic systems, water softeners, roadway dust suppression) Are these important?
- Sponsor bill for limited liability for certified salt applicators
- Require salt use reporting for cities, counties and agencies
- Determine the scope and impact of centralized softening. Hold hearings on the goal of requiring centralized softening of public water supplies. As cities move toward central softening, require removal of in-house water softeners as a condition of their permits and/or permit variances and fund a mechanism for removal.

Issue 5Eand 6B: Encourage efficient wastewater and storm-water technology and treatment options: Cities and towns struggle with maintaining and upgrading water supply and wastewater-treatment facilities. There is a great need to encourage and provide new technology and alternative approaches. The committee should consider supporting and encouraging innovative technology, regional partnerships, improved asset management, coordinated administrative and operational activities, shared wastewater operators, and decentralized utility services. Legislative Recommendations:

1. Support and recommend full-capacity PFA funding at \$200 million per biennium. Allocate a percentage for cities and towns currently having no wastewater treatment.
2. Policy: Programs need to be expanded that develop an adaptive approach for pollutant trading or pollutant banking at a watershed scale. Expand the ability for cities to participate in water-quality trading by creating a model, and a broker system.
3. Incentivize more water storage sing non-point source trades.
4. Provide funds to the MPCA to develop basin-wide data that shows where “potential to emit” conditions exist that would necessitate facility upgrades.
5. Increase funding for storm water management
6. Support expanded support and research for innovative wastewater at the University of Minnesota, by creating a Small Wastewater Innovation Center which would focus on:
 - Coordinating stakeholder input on research and technology transfer needs.
 - Providing technical facility support through regional UM offices to provide facilitation, advocacy, technical and management support.
 - Performing a technical and economic evaluation of current permitting limits and rules to determine if changes are needed based on risk.
 - Funding research related to cost-effective wastewater treatment solutions for small communities.
7. Enable Independent, qualified, cost-effectiveness review of best-management practices at wastewater facilities: The societal benefits of cleaner water, resulting from improvements in wastewater treatment, are difficult to measure directly because they are qualitative. Therefore, we need to move toward infrastructure-improvement decisions that are based on cost-effectiveness reviews that examine feasible alternatives to meet required pollutant reduction relative to the cost.
8. Funding: Address the loss of wastewater treatment operators from smaller to larger cities with a student debt reimbursement program, based on employment longevity
9. Create a pilot regional wastewater coordinator- facilitator position, within a regional development organization, to assist in regional training programs, to encourage cross-jurisdictional cooperation and to promote cost effective and innovative waste water practices

Issue 6C: Legislative Support to Improve Minnesota’s Water Infrastructure: Minnesota’s water-related infrastructure is aging and threatens our economic and public health. The committee should consider ways to encourage cost-effectiveness reviews, alternative best-management practices, asset-management reviews, efficient infrastructure alternatives, and water-quality trading options. Programs are also needed to identify and improve leaking septic systems and to fix inflow and infiltration infrastructure leaks.

Committee Recommendations:

1. Support and recommend full-capacity PFA funding at \$200 million per biennium. Allocate a percentage for cities and towns currently having no wastewater treatment.
2. Re-activate the Water Advisory Committee (at the MPCA) to address water supply systems, impacts of climate change, wastewater treatment facilities and operator certification

3. Increase MPCA and MDH funding to encourage innovative best-management practices at drinking water, wastewater and storm-water facilities including accelerated technical assistance for facility efficiencies through training, tools and technical support
4. Support enhanced cost-effectiveness review process for wastewater treatment facilities
5. Increase agency resources to conduct asset-management reviews and implement efficient infrastructure alternatives.
6. Address inflow and infiltration infrastructure leaks also affects drinking water, groundwater quality and wastewater treatment. Broken sewer lines affects our ability to successfully treat waste water and the problem continues continue to grow over time.
7. Support funding requests to increase resources to assist communities in developing and maintaining assets management plans. This is a critical first step to advancing the asset management approach among small communities.
8. Recommend increased funding to enhance MPCA's cost-effectiveness reviews for treatment-alternatives to optimize operations (funding for MPCA to MRWA of MNTAP)
9. Support funding to assess, encourage and implement efficient wastewater infrastructure alternatives, based on pilot studies that are underway (regionalization and administrative and staff cooperation among willing communities) (MPCA)
10. Support legislative recommendations that support MDH initiatives that address risks to public health, such as lead service-line replacements. (MDH)
11. Support recommendations to support programs that identify areas with worst areas of leaking septic systems and proposes and incentive programs to address the problem (MPCA)

Issue 7A: Creation of a Department of Water Resources-- Water Governance: Minnesota's waters are governed by hundreds of laws and regulations that involve 20 federal agencies, 7 state agencies, and many LGU's. An introduced bill (SF2102) calls for a reorganization of the state's water governance structure. The issue of a Department of Water been studied and reported on twice in the past. Regardless of or prior to movement on the bill, recommendations from previous reports should be evaluated. The recommendations focus on cooperation, efficiency and service to citizens. The committee may want to examine existing recommendations as a guide for reorganization or for policy changes to make agencies more efficient and effective. (SF 2102) **Committee Recommendation:** Based on the call for a reorganization of state water governance, it is important to evaluate Minnesota's water governance structure. This would allow for the thoughtful review needed as a foundation for a proposed reorganization. The idea has been studied and reported on at least twice in the past. The recommendations presented in those reports that resulted from past initiatives should be considered prior to a legislative decision on agency reorganization. The suggestions from the previous reports should be evaluated because they focus on agency cooperation, efficiency, and service to the citizens of the state. **Committee Recommendations--**

Initiative a legislative hearing to:

- Discuss a method to assess budgetary considerations of reorganization
- Review recommendations from the two previous reports on water governance
- Apply that assessment to guide policy recommendations for agency reorganization, or for changes to make the work of the agencies more efficient and effective.

Issue 7B: Change the structure and Function of the Clean Water Council and the LCC Subcommittee on Water Policy: HF 2902 proposes far-reaching changes to the structure and function of the Clean Water Council and to the LCC Water Policy Subcommittee by creating the Legislative and Citizens Commission on Minnesota Waters. The bill contains thoughtful suggestions for improvements. If the bill moves forward, several existing functions of the two organizations should be preserved. These include significant and long term support for agency clean-water programs and continued coordination among the administration, stakeholders, the legislature agencies and citizen experts. The subcommittee may want to discuss this bill in detail. **Committee Recommendation: The Subcommittee should decide to hold a hearing on this bill.**

1. Request a position paper, or hearing with the Clean Water Council and the Subcommittee, that explores the implications, staffing and budgetary considerations
2. Based on that information, determine whether the Committee can support a decision for restructure.

Issue 7D: Leveraging Dedicated Funding Programs to Maximize Conservation Outcomes: The committee may want to request increased emphasis on mutual benefits from dedicated funding programs. Improvements to environmental outcomes could improve based on a comprehensive analysis of those programs. Each program is involved in strategic planning efforts that focus on outcomes. Greater coordination of common goals and mutual benefits could improve environmental outcomes. The committee may want to consider an analysis the common goals that improve outcomes that provide support for the continuation of the state's dedicated environmental funding programs in the future.

There is need to prepare for a comprehensive analysis of dedicated funding programs, including programs such as the Clean Water Fund Program, the Outdoor Heritage Program and the Legislative and Citizen's Commission on Minnesota Resource's (LCCMR). Each of these programs is involved in strategic planning efforts. By including greater consideration of common goals, objectives and benefits, these programs could provide additional environmental outcomes for the citizens of the state though better communication and cooperation. Committee

Committee Recommendations:

- Direct the preparation of an analysis of the common goals and objectives of the dedicated funding programs that include the Clean Water Fund the Outdoor Heritage and the Legislative and Citizen's Commission on Minnesota Resources Programs. Each of these programs is involved in strategic planning efforts. By including consideration of greater mutual benefits, these programs could provide increased environmental outcomes for the citizens of the state.

- Prepare a comprehensive review of strategic plans from the CWC, LSHOC and LCCMR
- Following the recommendations of the plans, prepare a joint analysis of objectives that are in common across the programs
- Prioritize programs that can leverage efforts that are common to the commissions and councils
- Plan ahead for continuation of vital programs when funding sources expire.