

April 27, 2018

The Honorable Jim Knoblach, Chair
Ways and Means Committee
Minnesota House of Representatives
453 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

The Honorable Lyndon Carlson Sr., DFL-Lead
Ways and Means Committee
Minnesota House of Representatives
283 State Office Building
100 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

Dear Representative Knoblach and Representative Carlson:

I write in regard to House File 4289 the Omnibus Employment, Economic Development and Energy bill, which is before the House Ways and Means Committee on Friday, April 27. I am strongly opposed to a \$300,000 general fund appropriation in this bill for three key reasons:

- 1) It sets up a system of unequal access to the regulatory and permitting process,
- 2) It creates delays in the permitting process, and
- 3) It adds a redundant step to the stakeholder input process for rulemaking and permitting.

First, this appropriation and language create unintended consequences around fairness and special access that could create legal exposure. Currently, citizens and stakeholder groups that provide their input to the agency do so without the financial support of the taxpayers. HF 4289 would change that, by funding the participation of the Minnesota Environmental Science and Economic Review Board (MESERB) in existing public processes. Because MESERB is *only one among many* stakeholders that have a strong interest in MPCA's work, this appropriation creates a fairness issue. Many other joint powers boards like MESERB regularly comment on our work (see list below). Providing public funds for review by one specific stakeholder can be perceived as favoring one viewpoint over others. The language on 6.15 – 6.25 directs MESERB to provide input and reports to both the agency and the legislature separately from the process for everyone else to comment on our work. This is preferential treatment that will confuse the public record and could potentially result in legal challenges that both prolong the administrative process and result in costly litigation.

Second, the new "administrative hoops" funded with this appropriation will serve only to slow down the MPCA's permitting work. By mandating another layer of review, this appropriation will slow down a process that many stakeholders already believe takes too long – at a time when we are working hard to streamline our services and improve efficiencies. In 2011 Governor Dayton set a 150-day deadline for permitting, and we are meeting that goal 95% percent of the time. Instead of adding bureaucratic layers that take more time, it would be more efficient to spend scarce public dollars to speed up our work, for example getting more data and permitting services online.

Finally, this appropriation and language sets up a new layer of review in the regulatory and permitting process for one stakeholder group, in duplication of current law and practice. Chapter 14, the administrative procedures act, has a robust rulemaking process with multiple ways that the public and stakeholders can be engaged in examining MPCA's regulatory work. With respect to permitting, a

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robust public notice and comment process, along with contested case hearing and judicial review provisions in Minnesota statutes and rules provide multiple opportunities for stakeholders to participate in the permitting process. We get hundreds to thousands of public comments each year on our standards and permits. We respond to every single one of these, and we many times have changed our work in light of public input. Last year, we added yet another review process for water quality standards through a commissioner's order for peer review of our scientific and technical work. The new stakeholder review in HF 4289 duplicates an already strong review process and therefore is redundant and unnecessary.

For these reasons, I oppose this bill and urge you to remove this appropriation and language.

Sincerely,

A handwritten signature in black ink that reads "John L. Stine". The signature is written in a cursive, flowing style.

John Linc Stine
Commissioner

Attachment

cc: The Honorable Dan Fabian, Assistant Majority Leader, Minnesota House of Representatives
The Honorable Rick Hansen, DFL-Lead, Minnesota House of Representatives
Erin Campbell, Governor Dayton's Office
Stephanie Zawistowski, Governor Dayton's Office
Anna Henderson, Governor Dayton's Office
Commissioner Jessica Looman, Minnesota Department of Commerce

Other Joint Powers Boards that comment on MPCA work:

Mississippi Headwaters Board

Northern Itasca Joint Powers Board

Crow Wing County Joint Powers Board

Vermillion River Watershed Joint Powers Board

Whitewater River Watershed Joint Powers board

Greater Blue Earth Basin Joint Powers Board

Southeast Minnesota Water Resources Board

Upper Mississippi Drinking Water Joint Powers Board

Area 2 Joint Powers Board