



# STATE OF MINNESOTA

## Office of Governor Mark Dayton

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

May 12, 2017

The Honorable Kurt Daudt  
Speaker of the House  
State Office Building, Room 463  
100 Rev. Dr. Martin Luther King, Jr. Blvd.  
Saint Paul, Minnesota 55155

Dear Mr. Speaker:

I have vetoed and am returning Chapter 42, House File 888, a bill relating to state government, appropriating money for environment and natural resources.

Our environment and natural resources are central to our economy, culture, and wellbeing. House File 888 puts at risk core values that define our state's identity of practical and common sense protections supported by efficient government programs that guarantee a clean, healthy environment where all Minnesotans can thrive.

In a time of surplus, and after years of implementing improvements to our permitting and environmental review systems, this bill leaves a significant funding gap and makes unwarranted policy changes that would thwart the progress we have made together. Ultimately, this bill would lead to a significant reduction of environmental services and layoffs of public servants.

Outdoor enthusiasts are passionate constituents unwilling to see their outdoors experience diminished. My proposed budget includes reasonable operating and fees increases for the Department of Natural Resources (DNR) to ensure state programs and services are maintained. Hunting, fishing, and outdoor recreation – in a clean environment and with open public access – defines us as a people. While the conference committee proposal does include fee increases for state parks, it does not include fee increases for hunting and fishing licenses and for certain recreational vehicle registrations. Neither does it include operating adjustments. Without these funds, services and facilities will be reduced. Some state park campgrounds will be closed or their seasons shortened. Fewer lakes will be stocked with fish. DNR's ability to coordinate and collaborate with lake associations and conservation clubs will be reduced. The refusal to invest in Minnesota's outdoor heritage is an affront to all who hunt, fish, boat, use ATVs, and snowmobile.

My administration has strived to improve the efficiency of the permitting and environmental review process to ensure that our state is competitive and supportive of business. We have worked to balance this with the need to protect, manage, and restore the air, water, and land that make the quality of living so great in Minnesota.

Lack of funding for operating adjustments will mean slower decision times for businesses seeking permits from DNR and the Minnesota Pollution Control Agency (MPCA). This bill also discontinues the funding of an effort to modernize the Environmental Review program through the Environmental Quality Board (EQB). As a further attack on the EQB, it shifts all of its base funds into the MPCA's Environmental Fund, thereby funding one office exclusively through the fees collected by a separate agency. Moreover, the policies included in this bill add on layers of unneeded procedural steps and oversight, undermining the abilities of the agencies to swiftly do their work and make timely decisions.

The MPCA is the messenger of information that can be a challenge to address, and this has clearly made it a target in this bill. The agency mission to protect and restore our air, land, and water is critical for public health and natural resource management. This bill will hamstring the agency by diminishing needed flexibility to address emerging problems for emergency response or legacy pollution cleanup by making unwarranted changes to the Environmental Fund. The bill cancels more than \$5 million of the fund, sending it back to the General Fund. It caps transfers to the Remediation Fund at \$34 million, reducing resources available to cleanup Superfund and brownfield sites, and other programs. Further, the bill transfers almost \$11 million of program costs from General Fund into Environmental Fund without adding resources to pay for them, putting the fund and critical programs at risk of going into the red, and eliminates all General Fund from the agency.

In my travels across the state, I have heard a common reaction to the buffer law – locals know best how to protect and restore their lakes and rivers. Soil and Water Conservation Districts (SWCDs) are at the front lines, working with landowners to support practices that protect our water and soils. However, they do not have fee or levy-generating mechanisms to support their capacity for staff or the matching funds required for grants. That is why I am so concerned about the elimination of \$22 million for capacity building from the General Fund. While this funding appears as a two-year appropriation in the Legacy Bill, the proposed shift does not provide the stability the 2015 Legislature decided was needed when it established General Fund base support starting in FY18. Further, the shift creates a series of domino effects, cutting funding for projects approved by the citizen councils that recommend appropriations from the Lessard-Sams Outdoor Heritage Fund and the Environment and Natural Resource Trust Fund.

In addition to the shifts and cuts noted above, the bill contains the following omissions:

- Minimal funding without an operating increase for DNR enforcement will result in a zero net increase in enforcement officers.
- Lack of an operating adjustment will impact the DNR's Forestry program, resulting in reduced forest inventory, forest stand improvement and forest road management.
- No operating adjustment for the Board of Water and Soil Resources (BWSR).
- No appropriation increase for MPCA's air quality services, totaling \$453,000 for FY2018-19 biennium, is included, putting MPCA in violation of state and federal law.
- No funds to address groundwater contamination at demolition and construction landfills.
- No funds to conduct a study of the Pineland Sands area, which could better prepare the state and businesses for activities in this area.

In addition to the objectionable budget cuts and shifts, this bill is full of controversial policy provisions, despite my repeated statements in opposition to policy being included in the budget bills. This bill violates the single-subject rule as directed by the State Constitution.

My concerns with these myriad policy provisions, in no particular order, are:

- Numerous polices that effectively gut the Buffer Law and delay it.
- Restricting the Environmental Quality Board jurisdiction, and adding unreasonable criteria for all citizen applicants to participate.
- Transferring final decisions on contested case hearings from an agency Commissioner to the Office of Administrative Hearings.
- Transferring final decisions on science underlying all water-related decisions by the MPCA Commissioner to the Office of Administrative Hearings.
- Allowing contested case hearings on draft impaired waters list.
- Putting Minnesota tax payers on the hook for cleaning up the Freeway Landfill without providing a path forward to condemn the landfill or give the state access to clean up the site.
- Slowing down permitting, banning guidance and other forms of assistance to permittees, and creating new "hoops" that make the expedited permitting process more complicated and restrictive.

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- Requiring legislative appropriation of the VW Settlement funds (estimated to be \$47 million for Minnesota), which may risk our state's eligibility to receive the funds.
- Preempting local government decisions on solid waste management, specifically preventing plastic bag bans.
- Removing protection of calcareous fens.
- Eroding DNR's ability to manage groundwater supplies by automatically transferring water permits.
- Allowing the importation of golden shiner minnows, presenting a serious risk of introductions of environmentally devastating invasive species.
- A lead shot rulemaking prohibition that limits the DNR's authority to provide wildlife health protections on state land.
- Delaying permitting and create significant fiscal burden by determining that guidance documents are unpromulgated rules.
- Prescribing Sand Dunes State Forest Management Plan.
- Allowing two line fishing.

With less than two weeks remaining in this legislative session, I urge you to return to work to craft a bill that demonstrates to Minnesotans a shared commitment to our outdoor heritage, natural resource management, and preserving our environment for future generations.

Sincerely,



Mark Dayton  
Governor

cc: Senator Michelle L. Fischbach, President of the Senate  
Senator Paul E. Gazelka, Senate Majority Leader  
Senator Thomas M. Bakk, Senate Minority Leader  
Senator Bill Ingebrigtsen, Minnesota Senate  
Representative Melissa Hortman, House Minority Leader  
Representative Dan Fabian, House of Representatives  
The Honorable Steve Simon, Secretary of State  
Mr. Cal R. Ludeman, Secretary of the Senate  
Mr. Patrick Murphy, Chief Clerk of the House of Representatives  
Mr. Paul Marinac, Revisor of Statutes