

## Background

Hennepin County currently contains eleven separate watershed organizations (“WMO”) that include four watershed districts and seven watershed management organizations. Watershed districts have managers appointed by the county commissioners and taxing authority, whereas WMO’s have no direct taxing authority, are joint-powers organizations of the municipalities within the boundaries of the district and have managers who are appointed by the respective city councils. Under the current configuration, four cities in the county are included in four separate watershed organizations, four have three, seventeen have two, and the remainder are fully contained within one.

Over the past decade, watershed organizations within Hennepin County have budgeted expenditures totaling over \$230 million, with an average annual increase exceeding 5%. These investments, combined with cities’ focus on storm water management, building standards and developer requirements and initiatives, have contributed to reducing the number of lakes with declining water quality. The most recent lake quality trends indicate that water quality in Hennepin lakes has stabilized in the past ten years, with the majority of county lakes showing no significant upward or downward trend. The average lake grade in the county over the past decade is a “C”, regardless of watershed organization.

As evidenced by these water quality statistics, we now expect metropolitan watershed organizations to improve water quality at the same time that they act on traditional watershed concerns such as flood control. Hennepin County watershed organizations in the current structure appear to be too fragmented and, in many cases, have insufficient resources to meet current or future expectations. We can design an improved system.

This proposal is a variation of a study and report on county water management completed for Hennepin County by the Center for Science, Technology and Public Policy at the University of Minnesota. The report recommended, among other things, consolidation of watershed districts and watershed management organizations in Hennepin County, each with taxing authority.

## Goals

The overall intent of this proposal is to improve water quality, align existing resources and focus investments on measurable outcomes by specifically focusing on the following five goals:

1. Support a comprehensive approach to resource management by promoting the coordination of surface water, ground water, land-use and natural resource management
2. Promote water management in collaboration with local government
3. Increase accountability for water management and improved water quality
4. Allow the locally-controlled creation of water management structures to provide long-term protection of water resources and improve water quality
5. Ensure that adequate fiscal capacity exists in each management unit and that local elected officials engage in shared water governance responsibilities

## Proposal Summary

**Reorganization:** Four watershed districts and seven watershed management organizations are reorganized into three watershed management organizations. The new watershed management organizations have taxing authority and are governed by and subject to the laws and requirements of both watershed management organizations and watershed districts. For watersheds that are not wholly contained within Hennepin County, the new watersheds are afforded the ability to either provide for representative managers based upon population and tax capacity or provide for a boundary that is coterminous with the county boundary. The new watershed management organization managers must be elected officials from municipalities wholly or partially within the organization boundaries and their appointment must be established in the new organizations' adopted bylaws.

**Transition:** Each municipality will appoint an elected official to serve on a transition plan committee. These committees are charged with aligning comprehensive water management plans, bylaws, rules and developing a method for selection of managers to the watershed management organizations ("WMO's"). The rules, bylaws and comprehensive plans must be submitted to the cities within the watershed and be approved by a two-thirds majority of each city council before submission to the Board of Water and Soil Resources ("BWSR"). The current governing structure of watershed districts and WMO's will continue until these new sets of plans, bylaws and rules have been filed with BWSR. Hennepin County will administratively support and fund the transition planning committees and will be reimbursed from funds of the new WMO's.

**Coordinating Board:** Hennepin County may establish a coordinating board that includes members from: County Board, Watershed Organizations, park districts and the Hennepin Conservation District. This coordinating board has no prescribed approval authority but may be established to identify priority concerns, coordinate activities and establish countywide initiatives. The coordinating board may work broadly with others to identify, acquire and focus additional resources to improve water resources.

**MS4:** The WMO's shall be designated as municipal separate storm sewer system operators responsible to identify watershed-wide total maximum daily load and, in cooperation with cities, to determine a strategy for meeting a total maximum daily load allocation.

## Desired Benefits

- Establishing more uniform local policies and standards for water management
- Creating economy-of-scale savings that increase available resources for water quality improvement projects
- Simplify the myriad of regulatory complexities resulting from numerous districts through consolidation and by promoting collaborative governance with cities.
- Establishing a watershed-wide TMDL with shared responsibility between municipalities and watershed management organizations
- Reducing the disparity in fiscal resources for water quality improvement projects within the county
- Attracting additional financial resources (such as Legacy Amendment funds) for water quality projects by increasing the capacity and reach of each organization
- Providing additional transparency and accountability to water management by providing taxing authority to each WMO and requiring membership be limited to elected officials

1.1 A bill for an act

1.2 relating to water; reorganizing watershed management organizations wholly  
1.3 or partially located in Hennepin County into three watershed management  
1.4 organizations; proposing coding for new law in Minnesota Statutes, chapter  
1.5 103B.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[103B.254] WATERSHED MANAGEMENT IN HENNEPIN COUNTY.**

1.8 **Subdivision 1. Three watershed management organizations established. (a)**

1.9 Notwithstanding any other law to the contrary, the territory of the watershed management  
1.10 organizations wholly or partially located in Hennepin County are reorganized into three  
1.11 watershed management organizations as follows:

1.12 (1) North Hennepin Watershed Management Organization includes all territory in  
1.13 the Elm Creek, Shingle Creek, Bassett Creek, West Mississippi, and Middle Mississippi  
1.14 joint powers watershed management organizations;

1.15 (2) Central Hennepin Watershed Management Organization includes all territory  
1.16 in the Pioneer-Sarah Creek joint powers watershed management organization and the  
1.17 Minnehaha Creek Watershed District; and

1.18 (3) South Hennepin Watershed Management Organization includes all territory  
1.19 in the Riley-Purgatory-Bluff Creek, Nine Mile Creek, and Lower Minnesota River  
1.20 Watershed Districts, and the Richfield-Bloomington joint powers watershed management  
1.21 organization.

1.22 (b) If a watershed management organization listed in paragraph (a) that is  
1.23 reorganized into one of the three new watershed management organizations includes a  
1.24 subwatershed in territory outside of Hennepin County, the new watershed management  
1.25 organization established in paragraph (a) may include the subwatershed area if the new

2.1 watershed management organization provides for appointment of managers based on  
2.2 the population and tax capacity of the areas of the respective counties served by the  
2.3 new watershed management organization. Absent representation of the areas outside of  
2.4 Hennepin County, the new watershed management organization boundary is coterminous  
2.5 with the county boundary.

2.6 Subd. 2. **Applicable law; exceptions.** Except as otherwise provided in this section,  
2.7 the three watershed management organizations established in subdivision 1 are governed  
2.8 by and subject to the requirements of chapter 103B, 103D, and other laws governing  
2.9 watershed districts.

2.10 Subd. 3. **Governance, plans continued during transition.** Until the managers  
2.11 of a watershed management organization established in subdivision 1 are appointed  
2.12 as provided in the new watershed management organization's rules and bylaws, the  
2.13 governing body of each watershed management organization consolidated into one of the  
2.14 new watershed management organizations shall continue to govern the area it governed  
2.15 before the new watershed management organization was established. Until a watershed  
2.16 management plan is adopted for a new watershed management organization, the plans of  
2.17 the watershed management organizations that were consolidated into the new watershed  
2.18 management organization remain in effect.

2.19 Subd. 4. **Transition plan committees.** (a) Within 30 days after the effective date  
2.20 of this section, each home rule charter or statutory city wholly or partially within the  
2.21 jurisdiction of a new watershed management organization established in subdivision 1,  
2.22 shall appoint a council member or the mayor to be its nominee to the transition plan  
2.23 committee. For any city that does not make an appointment within 30 days of the effective  
2.24 date of this section, the mayor or a city council member designated by the mayor shall  
2.25 represent the city.

2.26 (b) Within 30 days after the effective date of this section, each watershed  
2.27 management organization that is consolidated into a watershed management organization  
2.28 established in subdivision 1, shall appoint a manager to the transition plan committee to  
2.29 serve as a non-voting member of the committee.

2.30 (c) Within 60 days of the effective date of this section, the Board of Water and Soil  
2.31 Resources shall convene the first meeting of each watershed management organization's  
2.32 transition plan committee as soon as practicable after appointment of the members of  
2.33 the committee. At the first meeting, the committee members shall elect from among  
2.34 themselves a member to serve as chair, a member to serve as vice chair, and at least five  
2.35 but not more than 13 additional voting members to develop the watershed management  
2.36 organization rules and bylaws, as provided in subdivision 5. The transition plan committee

3.1 shall continue for the longer of one year or until the appointment of managers has been  
3.2 made following the operating procedures in the rules and bylaws adopted by the new  
3.3 watershed management organization and filed with the Board of Water and Soil Resources.

3.4 (d) Hennepin County shall provide to each transition plan committee administrative  
3.5 support, including meeting space if necessary, and funding for the transition plan  
3.6 committee's organizational activities. Unless otherwise agreed to by the county, within  
3.7 one year of filing with the Board of Water and Soil Resources the rules and bylaws of the  
3.8 watershed management organization, the watershed management organization must repay  
3.9 to the county the organizational expenses incurred by the county for the work of the  
3.10 transition plan committee, as provided in section 103D.905.

3.11 Subd. 5. **Rules, bylaws, and comprehensive plans.** The new watershed  
3.12 management organization's rules and bylaws must provide that only elected municipal  
3.13 officials may serve as managers of the watershed management organization, must include  
3.14 a formula for weighting the vote of each city wholly or partially within the management  
3.15 organization, taking into account the city's population and tax capacity relative to all other  
3.16 cities in the watershed management organization's territory, and must include the method  
3.17 for selecting managers of the watershed management organization. In addition, the rules  
3.18 and bylaws must provide for a revised comprehensive watershed management plan for the  
3.19 watershed management organization. The watershed management organization may file  
3.20 the rules, bylaws, and revised comprehensive watershed management plan with the Board  
3.21 of Water and Soil Resources only after at least two-thirds of the cities wholly or partially  
3.22 within the watershed management organization have approved them.

3.23 Subd. 6. **Hennepin Watershed Management Organizations Coordinating**  
3.24 **Board.** Hennepin County may by resolution establish the Hennepin County Watershed  
3.25 Management Organizations Coordinating Board to promote coordination and cooperation  
3.26 among local water management entities, as defined in section 103B.102, work with  
3.27 other public agencies and citizen volunteers to identify and restore impaired waters, and  
3.28 establish countywide priorities. The coordinating board shall consist of:

3.29 (1) one watershed management organization manager appointed by each watershed  
3.30 management organization established in subdivision 1;

3.31 (2) one county board member appointed by the Hennepin County board, who shall  
3.32 also serve as chair of the coordinating board;

3.33 (3) one park district board member appointed by each park district board of a park  
3.34 district wholly or partially within the county; and

4.1 (4) one member of the soil and water conservation district, appointed by the soil  
4.2 and water conservation district board. If no soil and water conservation district exists in  
4.3 Hennepin County, the county board shall appoint a member who is a resident of the county.

4.4 The county shall provide to the coordinating board administrative support, including  
4.5 meeting space if necessary.

4.6 Subd. 7. **Hennepin watershed districts as MS4s.** Notwithstanding the petition  
4.7 procedure in Minnesota Rules 7090.1010, subpart 4, the commissioner of the Pollution  
4.8 Control Agency shall designate each watershed management organization established in  
4.9 this section as a municipal separate storm sewer system operator responsible for:

4.10 (1) identifying a watershed-wide total maximum daily load;

4.11 (2) aligning stormwater pollution prevention programs in the watershed with each  
4.12 other;

4.13 (3) developing total maximum daily load implementation plans; and

4.14 (4) determining a general strategy, tracking system, and schedule for meeting a total  
4.15 maximum daily load allocation, in cooperation with municipalities within the watershed  
4.16 management organization's territory.

4.17 Subd. 8. **Taxing authority.** A watershed management organization established in  
4.18 this section may levy a tax authorized in section 103B.241, not to exceed ... percent of the  
4.19 total taxable market value of the territory of the watershed management organization.

4.20 Subd. 9. **Transfer of personnel, assets, and liabilities; former WMOs abolished.**

4.21 The personnel, assets, and liabilities of the watershed management organizations that  
4.22 are reorganized and consolidated into a new watershed management organization are  
4.23 transferred to the new watershed management organization established in subdivision 1,  
4.24 effective upon the appointment of managers as provided in the rules and bylaws for the  
4.25 new watershed management organization. Upon completing transfer of all personnel,  
4.26 assets, and liabilities of a watershed management organization to the new watershed  
4.27 management organization, the watershed management organization is abolished.

4.28 Subd. 10. **Failure to organize a watershed management organization.** If the  
4.29 Board of Water and Soil Resources determines that a watershed management organization  
4.30 established in subdivision 1 has not filed its rules, bylaws, and revised comprehensive  
4.31 watershed management plan within one year of the effective date of this section:

4.32 (1) the political subdivisions located wholly or partially within the watershed  
4.33 management organization are not eligible for state funding for water projects or programs;

4.34 (2) state agencies may withhold from political subdivisions in the territory of  
4.35 the watershed management organization delegation of state water resource regulatory  
4.36 authority; and

- 5.1 (3) state agencies may suspend issuance of water-related permits within the territory
- 5.2 of the watershed management organization.
- 5.3 **EFFECTIVE DATE.** This section is effective .....?