



2016 Legislative Update

July 2016 Snapshots

The 2016 Minnesota legislative session wrapped-up on Monday, May 23rd with some unresolved issues at its close. Chief among those was the lack of Bonding or Transportation bills. A tax bill was passed during the session and then expired when Governor Dayton chose not to sign it without the other bills in place. Key legislation that impacted BWSR and our local partners is highlighted below.

Supplemental Budget:

While BWSR did not have any administration-sponsored proposals in this bill, it did include funding for the Working Lands Watershed Restoration Program: \$479,000 appropriated to BWSR and \$115,000 to the MPCA. The program directs BWSR to conduct a feasibility study and then develop a program plan for voluntary, market-based incentives for perennial crops that improve water quality and habitat. The goal is to also boost the bottom line for both Minnesota's farm economy and environment. The legislature passed the supplemental budget bill and it was signed by Governor Dayton.

Outdoor Heritage Fund and Clean Water Fund:

Also passed by the legislature and signed by the Governor, the Legacy bill contained two main sections affecting our agency: 1) allocation of the Outdoor Heritage Funds (OHF) for Fiscal Year (FY) 2017 and 2) accounting for a deficit in Clean Water Funds (CWF).

Annually, the Lessard-Sams Outdoor Heritage Council provides OHF recommendations to the full legislature. BWSR will be allocated OHF dollars for the Reinvest in Minnesota (RIM) Reserve Program including:

- RIM Buffers for Wildlife and Water: Phase VI - \$6,708,000
- RIM Wetlands: Phase 7 - \$13,808,000
- Camp Ripley ACUB – Phase VI - \$1,500,000 (Morrison SWCD is the project manager)
- Mississippi Headwaters Habitat Corridor Partnership – Phase II - \$2,105,000 (Mississippi Headwaters Board is the project manager; BWSR was appropriated \$1,045,000 for RIM easements.)

The RIM Buffers and RIM Wetlands appropriations will be used for part of the State's contribution to the proposed Conservation Reserve Enhancement Program (CREP).

The bill also includes small decreases in Clean Water Funding to offset a deficit that became known with the February 2016 State financial forecast; and accomplish other priority spending (to Pollution Control Agency for WRAPS; and to Department of Agriculture for the Ag Water Quality Certification Program). They include:

- Decreasing BWSR's 2011 Session funding (year 2) from \$31,734,000 to \$30,662,000
- Decreasing BWSR's 2013 Session funding (year 2) from \$34,740,000 to \$34,647,000

These were mostly returned grants funds, subject to future cancellation.

LCCMR:

The Legislative-Citizen Commission on Minnesota Resources (LCCMR) recommends funding appropriations for the Environment and Natural Resources Trust Fund (ENRTF) to the full legislature. The House and Senate passed the ENRTF bill and Governor Dayton signed it into law. The BWSR allocation included the Minnesota Conservation Apprentice Academy at \$433,000. This program places college students with SWCDs for a summer program that includes mentorships and practical on-the-ground work.

Buffer Bill Amendments:

After strong passage in the House (105-24) and unanimously in the Senate (61-0), the Governor signed the Buffer bill into law on April 25. BWSR worked with both bodies and stakeholders to develop the clarification language from last year's bill:

- BWSR may use the **\$500 maximum penalty** Administrative Penalty Order authority for non-compliance and hear appeals for APOs issued by BWSR.
- DNR mapping to identify where buffers are required includes public ditches but does **NOT include private ditches**.
- **Drainage Authorities may retroactively compensate a landowner** on the buffer/alternative practice they install, using what was the fair market value of the land right before it was put into the buffer.
- The **definition of "public waters"** means those in the DNR Public Waters Inventory. This is to provide clarity to the mapping process.
- The **new definition "with jurisdiction"** adds clarity to the enforcement options of counties and watershed districts.
- **SWCDs are required to consult with the water planning authority** when developing their summary of additional water courses.
- While additional watercourses **MUST** be incorporated into water plans by July 1, 2018, it will **not require an amendment process**. Implementation measures for the SWCD recommendations must be considered in the next scheduled plan amendment.
- By March 1, 2017, Counties and Watershed Districts **must inform BWSR whether or not they plan to use their authority** to enforce the buffer requirement (via Rule or Ordinance and Administrative Penalty Order).

What's Next:

Discussions continue over the possibility of a Special Session to address remaining bonding, transportation, and tax needs. Should a Special Session be called, BWSR will look for ways to secure support for these much-needed programs.

Taxes:

If a special session is called, the Tax Bill has three items of interest for the agency:

1. Includes no penalty for early withdrawal from Sustainable Forest Incentive Act (SFIA), if the land is placed in a conservation easement.
2. Adds an optional special taxing district and line itemization for SWCDs onto county property tax proceedings.
3. Creates Riparian Protection Aid (for enforcement and implementation public water and public ditch buffers) that includes \$10M to counties based on a formula – with a pass-through to watershed districts and funds to BWSR if the county or watershed district does not assume local jurisdiction of the buffer law.

Bonding:

The bonding bill failed to pass at the close of the legislative session. The Governor's recommendations included **\$5M for the Local Roads Wetland Replacement program** and **\$30M for the multi-agency CREP/RIM clean water initiative** (of which on 1/3 was included in the final House

bill). If the Governor decides to call a special session, we will look for ways to continue to explain the benefits for Minnesota, including:

- The CREP proposal will bring significant federal dollars to Minnesota:

	State Contribution	Federal Leverage	TOTAL
Gov's Bonding Rec.:	\$30M	\$60-70M	\$90-100M

Minnesota will leave federal matching funds on the table without bonding at the Governor's recommendations.

- To meet the state commitment for CREP it will take all 3 identified state funding sources: Clean Water Fund, Outdoor Heritage Fund, and Bonding (which each do different things for the proposal). A \$30M initial bonding appropriation is an important part of the state strategy to match federal funds.
- The CREP will give landowners an important option in accomplishing buffer law requirements. It's a voluntary way for landowners to put in high quality natural grasses that provide water quality and habitat benefits. Having most of the state match in the first year is important so these funds are available to meet the buffer legislative deadlines.
- The Local Government Roads Wetland Replacement Program, a statutory requirement, requires regular and sufficient funding. The only current source of funding is bonding. BWSR has estimated that at current level of local road improvement projects is approximately \$5M (approx. 171 wetland credits) needed each year.
- Implications/Consequences of under-funding the local roads program: BWSR is currently out of wetland credits in 5 of the 9 bank service areas and has a projected deficit in 6 of the 9 bank service areas by the end of the year. Without sufficient and ongoing funding, local government road authorities (Counties, Cities, Townships) will be required to get individual permits and pay for and build wetland mitigation projects on their own, resulting in added costs and project delays.