

1.1 A bill for an act
1.2 relating to environment; providing reimbursement to owners of private drinking
1.3 water wells for mitigation of agricultural chemicals from the account; modifying
1.4 the membership of the Agricultural Chemical Response Compensation Board;
1.5 appropriating money for private well mitigation; amending Minnesota Statutes
1.6 2018, sections 18E.02, subdivision 5; 18E.05, subdivision 1; proposing coding for
1.7 new law in Minnesota Statutes, chapter 18E.

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

1.9 Section 1. Minnesota Statutes 2018, section 18E.02, subdivision 5, is amended to read:

1.10 Subd. 5. **Eligible person.** "Eligible person" means:

1.11 (1) a responsible party or an owner of real property, but does not include the state, a
1.12 state agency, or a political subdivision of the state, except as provided in clause (2); common
1.13 carriers, as defined by section 218.011, subdivision 10; motor carriers as defined by section
1.14 221.012, subdivision 25, while transporting agricultural chemicals except as provided in
1.15 clause (3); or the federal government or an agency of the federal government;

1.16 (2) the owners of municipal airports in Minnesota where a licensed aerial pesticide
1.17 applicator has caused an incident through storage, handling, or distribution operations for
1.18 agricultural chemicals if (i) the commissioner has determined that corrective action is
1.19 necessary and (ii) the commissioner determines, and the Agricultural Chemical Response
1.20 Compensation Board concurs, that based on an affirmative showing made by the owner, a
1.21 responsible party cannot be identified or the identified responsible party is unable to comply
1.22 with an order for corrective action; ~~or~~

2.1 (3) a person involved in a transaction relating to real property who is not a responsible
2.2 party or owner of the real property and who voluntarily takes corrective action on the
2.3 property in response to a request or order for corrective action from the commissioner; or

2.4 (4) owners of private wells used for drinking water contaminated with agricultural
2.5 chemicals and the contamination was not the result of an incident.

2.6 Sec. 2. **[18E.045] REIMBURSEMENT OR PAYMENT OF COSTS FOR PRIVATE**
2.7 **DRINKING WATER WELLS.**

2.8 Subdivision 1. Reimbursement of response costs. The commissioner shall reimburse
2.9 an eligible person from the agricultural chemical response and reimbursement account for
2.10 the reasonable and necessary costs incurred by a person to mitigate private wells used for
2.11 drinking water contaminated with agricultural chemicals above the health risk limits adopted
2.12 by the commissioner of health and the contamination was not the result of an incident.

2.13 Subd. 2. Payment of mitigation costs. (a) On request by an eligible person, the board
2.14 may pay the eligible person for the reasonable and necessary cash disbursements for
2.15 mitigation costs incurred by the eligible person as provided under subdivision 4 if the board
2.16 determines:

2.17 (1) the eligible person pays the first \$1,000 of the mitigation costs;

2.18 (2) the eligible person provides the board with a sworn affidavit and other convincing
2.19 evidence that the eligible person is unable to pay additional mitigation costs;

2.20 (3) the eligible person continues to assume responsibility for carrying out the requirements
2.21 of mitigation orders issued to the eligible person or that are in effect; and

2.22 (4) the eligible person submits an application for payment or reimbursement to the
2.23 department, along with associated invoices, within three years of: (i) performance of the
2.24 eligible work; or (ii) approval of the related mitigation design or plan for that work, whichever
2.25 is later.

2.26 (b) An eligible person is not eligible for payment or reimbursement and must refund
2.27 amounts paid or reimbursed by the board if false statements or misrepresentations are made
2.28 in the affidavit or other evidence submitted to the commissioner to show an inability to pay
2.29 mitigation costs.

2.30 (c) The board may pay the eligible person and one or more designees by multiparty
2.31 check.

3.1 Subd. 3. **Ineligibility for reimbursement or payment.** Pesticides that are sanitizers
3.2 and disinfectants and are exempt from surcharges are ineligible for reimbursement or
3.3 payment under this section.

3.4 Subd. 4. **Reimbursement payments.** (a) The board shall pay a person that is eligible
3.5 for reimbursement or payment under subdivisions 1 and 2 from the agricultural chemical
3.6 response and reimbursement account for 80 percent of the total reasonable and necessary
3.7 mitigation costs greater than \$1,000 and less than or equal to \$20,000.

3.8 (b) A reimbursement or payment may not be made until the board has determined that
3.9 the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

3.10 (c) The board may make periodic payments or reimbursements as mitigation costs are
3.11 incurred upon receipt of invoices for the mitigation costs.

3.12 (d) Money in the agricultural chemical response and reimbursement account is
3.13 appropriated to the commissioner to make payments and reimbursements directed by the
3.14 board under this subdivision.

3.15 Subd. 5. **Reimbursement or payment decisions.** (a) The board may issue a letter of
3.16 intent on whether a person is eligible for payment or reimbursement. The letter is not binding
3.17 on the board.

3.18 (b) The board must issue an order granting or denying a request within 30 days following
3.19 the board meeting at which the board votes to grant or deny a request for reimbursement or
3.20 for payment under subdivision 1 or 2.

3.21 (c) After an initial request is made for reimbursement, notwithstanding subdivisions 1
3.22 to 4, the board may deny additional requests for reimbursement.

3.23 (d) Within 30 days of the receipt of a request for hearing under paragraph (d), the eligible
3.24 person must be notified either as to the date of the hearing for determination or of the denial
3.25 of the request for a hearing. A hearing must be scheduled immediately following the next
3.26 regularly scheduled board meeting as determined by the notification letter.

3.27 (e) If a dispute related to the disapproval of a reimbursement is not resolved after a
3.28 hearing under paragraph (d) or if a request is denied, the eligible person may appeal the
3.29 decision as a contested case hearing under chapter 14. A request for a contested case hearing
3.30 must be submitted in writing to the board within 30 days of the date of the hearing or within
3.31 30 days of the receipt of notification of denial of the hearing request under paragraph (d).

4.1 Sec. 3. Minnesota Statutes 2018, section 18E.05, subdivision 1, is amended to read:

4.2 Subdivision 1. **Membership.** (a) The Agricultural Chemical Response Compensation
4.3 Board is created to consist of the commissioner of agriculture, the commissioner of
4.4 commerce, the commissioner of health, and three private industry members consisting of:
4.5 one representative of agricultural chemical manufacturers and wholesalers; one representative
4.6 of farmers; and one representative of dealers who sell the agricultural chemicals at retail.
4.7 The governor shall appoint the private industry members. Appointment, vacancies, removal,
4.8 terms, and payment of compensation and expenses of members, but not expiration of the
4.9 board itself, are governed by section 15.0575.

4.10 (b) The commissioner of agriculture shall provide staff to support the activities of the
4.11 board.

4.12 (c) The board shall adopt rules regarding its practices and procedures, the application
4.13 form and procedures for determining eligibility for and the amount of reimbursement, and
4.14 procedures for investigation of claims.

4.15 Sec. 4. **APPROPRIATION.**

4.16 \$900,000 in fiscal year 2020 is appropriated from the clean water fund to the
4.17 commissioner of health for private well mitigation and fixing substandard wells that are
4.18 contaminated from contaminants that are not agricultural chemicals.