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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2218

03/07/2019 Authored by Richardson, Long, Halverson, Cantrell, Mariani and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to energy; requiring certain grantees to submit an annual diversity report;
1.3 requiring utilities to submit an annual diversity report; amending Minnesota Statutes
1.4 2018, sections 116C.779, subdivision 1; 216B.1641; proposing coding for new
1.5 law in Minnesota Statutes, chapter 216C.

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

1.7 Section 1. Minnesota Statutes 2018, section 116C.779, subdivision 1, is amended to read:

1.8 Subdivision 1. Renewable development account. (a) The renewable development
1.9 account is established as a separate account in the special revenue fund in the state treasury.
1.10 Appropriations and transfers to the account shall be credited to the account. Earnings, such
1.11 as interest, dividends, and any other earnings arising from assets of the account, shall be
1.12 credited to the account. Funds remaining in the account at the end of a fiscal year are not
1.13 canceled to the general fund but remain in the account until expended. The account shall
1.14 be administered by the commissioner of management and budget as provided under this
1.15 section.

1.16 (b) On July 1, 2017, the public utility that owns the Prairie Island nuclear generating
1.17 plant must transfer all funds in the renewable development account previously established
1.18 under this subdivision and managed by the public utility to the renewable development
1.19 account established in paragraph (a). Funds awarded to grantees in previous grant cycles
1.20 that have not yet been expended and unencumbered funds required to be paid in calendar
1.21 year 2017 under paragraphs (f) and (g), and sections 116C.7792 and 216C.41, are not subject
1.22 to transfer under this paragraph.

2.1 (c) Except as provided in subdivision 1a, beginning January 15, 2018, and continuing
2.2 each January 15 thereafter, the public utility that owns the Prairie Island nuclear generating
2.3 plant must transfer to the renewable development account \$500,000 each year for each dry
2.4 cask containing spent fuel that is located at the Prairie Island power plant for each year the
2.5 plant is in operation, and \$7,500,000 each year the plant is not in operation if ordered by
2.6 the commission pursuant to paragraph (i). The fund transfer must be made if nuclear waste
2.7 is stored in a dry cask at the independent spent-fuel storage facility at Prairie Island for any
2.8 part of a year.

2.9 (d) Except as provided in subdivision 1a, beginning January 15, 2018, and continuing
2.10 each January 15 thereafter, the public utility that owns the Monticello nuclear generating
2.11 plant must transfer to the renewable development account \$350,000 each year for each dry
2.12 cask containing spent fuel that is located at the Monticello nuclear power plant for each
2.13 year the plant is in operation, and \$5,250,000 each year the plant is not in operation if ordered
2.14 by the commission pursuant to paragraph (i). The fund transfer must be made if nuclear
2.15 waste is stored in a dry cask at the independent spent-fuel storage facility at Monticello for
2.16 any part of a year.

2.17 (e) Each year, the public utility shall withhold from the funds transferred to the renewable
2.18 development account under paragraphs (c) and (d) the amount necessary to pay its obligations
2.19 under paragraphs (f) and (g), and sections 116C.7792 and 216C.41, for that calendar year.

2.20 (f) If the commission approves a new or amended power purchase agreement, the
2.21 termination of a power purchase agreement, or the purchase and closure of a facility under
2.22 section 216B.2424, subdivision 9, with an entity that uses poultry litter to generate electricity,
2.23 the public utility subject to this section shall enter into a contract with the city in which the
2.24 poultry litter plant is located to provide grants to the city for the purposes of economic
2.25 development on the following schedule: \$4,000,000 in fiscal year 2018; \$6,500,000 each
2.26 fiscal year in 2019 and 2020; and \$3,000,000 in fiscal year 2021. The grants shall be paid
2.27 by the public utility from funds withheld from the transfer to the renewable development
2.28 account, as provided in paragraphs (b) and (e).

2.29 (g) If the commission approves a new or amended power purchase agreement, or the
2.30 termination of a power purchase agreement under section 216B.2424, subdivision 9, with
2.31 an entity owned or controlled, directly or indirectly, by two municipal utilities located north
2.32 of Constitutional Route No. 8, that was previously used to meet the biomass mandate in
2.33 section 216B.2424, the public utility that owns a nuclear generating plant shall enter into a
2.34 grant contract with such entity to provide \$6,800,000 per year for five years, commencing
2.35 30 days after the commission approves the new or amended power purchase agreement, or

3.1 the termination of the power purchase agreement, and on each June 1 thereafter through
3.2 2021, to assist the transition required by the new, amended, or terminated power purchase
3.3 agreement. The grant shall be paid by the public utility from funds withheld from the transfer
3.4 to the renewable development account as provided in paragraphs (b) and (e).

3.5 (h) The collective amount paid under the grant contracts awarded under paragraphs (f)
3.6 and (g) is limited to the amount deposited into the renewable development account, and its
3.7 predecessor, the renewable development account, established under this section, that was
3.8 not required to be deposited into the account under Laws 1994, chapter 641, article 1, section
3.9 10.

3.10 (i) After discontinuation of operation of the Prairie Island nuclear plant or the Monticello
3.11 nuclear plant and each year spent nuclear fuel is stored in dry cask at the discontinued
3.12 facility, the commission shall require the public utility to pay \$7,500,000 for the discontinued
3.13 Prairie Island facility and \$5,250,000 for the discontinued Monticello facility for any year
3.14 in which the commission finds, by the preponderance of the evidence, that the public utility
3.15 did not make a good faith effort to remove the spent nuclear fuel stored at the facility to a
3.16 permanent or interim storage site out of the state. This determination shall be made at least
3.17 every two years.

3.18 (j) Funds in the account may be expended only for any of the following purposes:

3.19 (1) to stimulate research and development of renewable electric energy technologies;

3.20 (2) to encourage grid modernization, including, but not limited to, projects that implement
3.21 electricity storage, load control, and smart meter technology; and

3.22 (3) to stimulate other innovative energy projects that reduce demand and increase system
3.23 efficiency and flexibility.

3.24 Expenditures from the fund must benefit Minnesota ratepayers receiving electric service
3.25 from the utility that owns a nuclear-powered electric generating plant in this state or the
3.26 Prairie Island Indian community or its members.

3.27 The utility that owns a nuclear generating plant is eligible to apply for grants under this
3.28 subdivision.

3.29 (k) For the purposes of paragraph (j), the following terms have the meanings given:

3.30 (1) "renewable" has the meaning given in section 216B.2422, subdivision 1, paragraph
3.31 (c), clauses (1), (2), (4), and (5); and

3.32 (2) "grid modernization" means:

4.1 (i) enhancing the reliability of the electrical grid;

4.2 (ii) improving the security of the electrical grid against cyberthreats and physical threats;

4.3 and

4.4 (iii) increasing energy conservation opportunities by facilitating communication between
4.5 the utility and its customers through the use of two-way meters, control technologies, energy
4.6 storage and microgrids, technologies to enable demand response, and other innovative
4.7 technologies.

4.8 (l) A renewable development account advisory group that includes, among others,
4.9 representatives of the public utility and its ratepayers, and includes at least one representative
4.10 of the Prairie Island Indian community appointed by that community's tribal council, shall
4.11 develop recommendations on account expenditures. The advisory group must design a
4.12 request for proposal and evaluate projects submitted in response to a request for proposals.
4.13 The advisory group must utilize an independent third-party expert to evaluate proposals
4.14 submitted in response to a request for proposal, including all proposals made by the public
4.15 utility. A request for proposal for research and development under paragraph (j), clause (1),
4.16 may be limited to or include a request to higher education institutions located in Minnesota
4.17 for multiple projects authorized under paragraph (j), clause (1). The request for multiple
4.18 projects may include a provision that exempts the projects from the third-party expert review
4.19 and instead provides for project evaluation and selection by a merit peer review grant system.
4.20 In the process of determining request for proposal scope and subject and in evaluating
4.21 responses to request for proposals, the advisory group must strongly consider, where
4.22 reasonable;

4.23 (1) potential benefit to Minnesota citizens and businesses and the utility's ratepayers;

4.24 and

4.25 (2) the proposer's commitment to increasing the diversity of the proposer's workforce
4.26 and vendors.

4.27 (m) The advisory group shall submit funding recommendations to the public utility,
4.28 which has full and sole authority to determine which expenditures shall be submitted by
4.29 the advisory group to the legislature. The commission may approve proposed expenditures,
4.30 may disapprove proposed expenditures that it finds not to be in compliance with this
4.31 subdivision or otherwise not in the public interest, and may, if agreed to by the public utility,
4.32 modify proposed expenditures. The commission shall, by order, submit its funding
4.33 recommendations to the legislature as provided under paragraph (n).

5.1 (n) The commission shall present its recommended appropriations from the account to
5.2 the senate and house of representatives committees with jurisdiction over energy policy and
5.3 finance annually by February 15. Expenditures from the account must be appropriated by
5.4 law. In enacting appropriations from the account, the legislature:

5.5 (1) may approve or disapprove, but may not modify, the amount of an appropriation for
5.6 a project recommended by the commission; and

5.7 (2) may not appropriate money for a project the commission has not recommended
5.8 funding.

5.9 (o) A request for proposal for renewable energy generation projects must, when feasible
5.10 and reasonable, give preference to projects that are most cost-effective for a particular energy
5.11 source.

5.12 (p) The advisory group must annually, by February 15, report to the chairs and ranking
5.13 minority members of the legislative committees with jurisdiction over energy policy on
5.14 projects funded by the account for the prior year and all previous years. The report must,
5.15 to the extent possible and reasonable, itemize the actual and projected financial benefit to
5.16 the public utility's ratepayers of each project.

5.17 (q) By February 1, 2018, and each February 1 thereafter, the commissioner of
5.18 management and budget shall submit a written report regarding the availability of funds in
5.19 and obligations of the account to the chairs and ranking minority members of the senate
5.20 and house committees with jurisdiction over energy policy and finance, the public utility,
5.21 and the advisory group.

5.22 (r) A project receiving funds from the account must produce a written final report that
5.23 includes sufficient detail for technical readers and a clearly written summary for nontechnical
5.24 readers. The report must include an evaluation of the project's financial, environmental, and
5.25 other benefits to the state and the public utility's ratepayers. A project receiving funds from
5.26 the account must submit a report that meets the requirements of section 216C.51, subdivisions
5.27 3 and 4, each year the project funded by the account is in progress.

5.28 (s) Final reports, any mid-project status reports, and renewable development account
5.29 financial reports must be posted online on a public website designated by the commissioner
5.30 of commerce.

5.31 (t) All final reports must acknowledge that the project was made possible in whole or
5.32 part by the Minnesota renewable development account, noting that the account is financed
5.33 by the public utility's ratepayers.

6.1 (u) Of the amount in the renewable development account, priority must be given to
6.2 making the payments required under section 216C.417.

6.3 Sec. 2. Minnesota Statutes 2018, section 216B.1641, is amended to read:

6.4 **216B.1641 COMMUNITY SOLAR GARDEN.**

6.5 (a) The public utility subject to section 116C.779 shall file by September 30, 2013, a
6.6 plan with the commission to operate a community solar garden program which shall begin
6.7 operations within 90 days after commission approval of the plan. Other public utilities may
6.8 file an application at their election. The community solar garden program must be designed
6.9 to offset the energy use of not less than five subscribers in each community solar garden
6.10 facility of which no single subscriber has more than a 40 percent interest. The owner of the
6.11 community solar garden may be a public utility or any other entity or organization that
6.12 contracts to sell the output from the community solar garden to the utility under section
6.13 216B.164. There shall be no limitation on the number or cumulative generating capacity of
6.14 community solar garden facilities other than the limitations imposed under section 216B.164,
6.15 subdivision 4c, or other limitations provided in law or regulations.

6.16 (b) A solar garden is a facility that generates electricity by means of a ground-mounted
6.17 or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the
6.18 electricity generated in proportion to the size of their subscription. The solar garden must
6.19 have a nameplate capacity of no more than one megawatt. Each subscription shall be sized
6.20 to represent at least 200 watts of the community solar garden's generating capacity and to
6.21 supply, when combined with other distributed generation resources serving the premises,
6.22 no more than 120 percent of the average annual consumption of electricity by each subscriber
6.23 at the premises to which the subscription is attributed.

6.24 (c) The solar generation facility must be located in the service territory of the public
6.25 utility filing the plan. Subscribers must be retail customers of the public utility located in
6.26 the same county or a county contiguous to where the facility is located.

6.27 (d) The public utility must purchase from the community solar garden all energy generated
6.28 by the solar garden. The purchase shall be at the rate calculated under section 216B.164,
6.29 subdivision 10, or, until that rate for the public utility has been approved by the commission,
6.30 the applicable retail rate. A solar garden is eligible for any incentive programs offered under
6.31 either section 116C.7792 or section 216C.415. A subscriber's portion of the purchase shall
6.32 be provided by a credit on the subscriber's bill.

7.1 (e) The commission may approve, disapprove, or modify a community solar garden
7.2 program. Any plan approved by the commission must:

7.3 (1) reasonably allow for the creation, financing, and accessibility of community solar
7.4 gardens;

7.5 (2) establish uniform standards, fees, and processes for the interconnection of community
7.6 solar garden facilities that allow the utility to recover reasonable interconnection costs for
7.7 each community solar garden;

7.8 (3) not apply different requirements to utility and nonutility community solar garden
7.9 facilities;

7.10 (4) be consistent with the public interest;

7.11 (5) identify the information that must be provided to potential subscribers to ensure fair
7.12 disclosure of future costs and benefits of subscriptions;

7.13 (6) include a program implementation schedule;

7.14 (7) identify all proposed rules, fees, and charges; ~~and~~

7.15 (8) identify the means by which the program will be promoted; and

7.16 (9) require an owner of a solar garden to submit a report that meets the requirements of
7.17 section 216C.51, subdivisions 3 and 4, each year the solar garden is in operation.

7.18 (f) Notwithstanding any other law, neither the manager of nor the subscribers to a
7.19 community solar garden facility shall be considered a utility solely as a result of their
7.20 participation in the community solar garden facility.

7.21 (g) Within 180 days of commission approval of a plan under this section, a utility shall
7.22 begin crediting subscriber accounts for each community solar garden facility in its service
7.23 territory, and shall file with the commissioner of commerce a description of its crediting
7.24 system.

7.25 (h) For the purposes of this section, the following terms have the meanings given:

7.26 (1) "subscriber" means a retail customer of a utility who owns one or more subscriptions
7.27 of a community solar garden facility interconnected with that utility; and

7.28 (2) "subscription" means a contract between a subscriber and the owner of a solar garden.

8.1 Sec. 3. **[216C.51] UTILITY DIVERSITY REPORTING.**

8.2 Subdivision 1. **Public policy.** It is the public policy of this state to encourage each utility
8.3 that serves Minnesota residents to focus on and improve the diversity of the utility's
8.4 workforce and suppliers.

8.5 Subd. 2. **Definition.** As used in this section, "utility" has the meaning given in section
8.6 216C.06, subdivision 18.

8.7 Subd. 3. **Annual report.** (a) Beginning March 15, 2020, and each March 15 thereafter,
8.8 each utility authorized to do business in Minnesota must file an annual diversity report to
8.9 the commissioner on:

8.10 (1) the utility's goals and efforts to increase diversity in the workplace, including current
8.11 workforce representation numbers and percentages; and

8.12 (2) all procurement goals and actual spending for female-owned, minority-owned,
8.13 veteran-owned, and small business enterprises during the previous calendar year.

8.14 (b) The goals under paragraph (a), clause (2), must be expressed as a percentage of the
8.15 total work performed by the utility submitting the report. The actual spending for
8.16 female-owned, minority-owned, veteran-owned, and small business enterprises must also
8.17 be expressed as a percentage of the total work performed by the utility submitting the report.

8.18 Subd. 4. **Report elements.** Each utility required to report under this section must include
8.19 the following in the annual report to the department:

8.20 (1) an explanation of the plan to increase diversity in the utility's workforce and suppliers
8.21 during the next year;

8.22 (2) an explanation of the plan to increase the goals;

8.23 (3) an explanation of the challenges faced to increase workforce and supplier diversity,
8.24 including suggestions regarding actions the department could take to help identify potential
8.25 employees and vendors;

8.26 (4) a list of the certifications the company recognizes;

8.27 (5) a point of contact for a potential employee or vendor that wishes to work for or do
8.28 business with the utility; and

8.29 (6) a list of successful actions taken to increase workforce and supplier diversity, to
8.30 encourage other companies to emulate best practices.

9.1 Subd. 5. **State data.** Each annual report must include as much state-specific data as
9.2 possible. If the submitting utility does not submit state-specific data, the utility must include
9.3 any relevant national data it possesses, explain why it could not submit state-specific data,
9.4 and detail how it intends to include state-specific data in future reports, if possible.

9.5 Subd. 6. **Publication; retention.** The department must publish an annual report on its
9.6 website and must maintain each annual report for at least five years.