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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 894

02/07/2019 Authored by Drazkowski and Bahr
The bill was read for the first time and referred to the Energy and Climate Finance and Policy Division

1.1 A bill for an act
1.2 relating to energy; creating a process to address certain noise complaints resulting
1.3 from wind energy siting; amending Minnesota Statutes 2018, sections 216F.01,
1.4 by adding subdivisions; 216F.02; proposing coding for new law in Minnesota
1.5 Statutes, chapter 216F.

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

1.7 Section 1. Minnesota Statutes 2018, section 216F.01, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 1a. Commission. "Commission" means the Public Utilities Commission.

1.10 EFFECTIVE DATE. This section is effective the day following final enactment.

1.11 Sec. 2. Minnesota Statutes 2018, section 216F.01, is amended by adding a subdivision to
1.12 read:

1.13 Subd. 1b. Department. "Department" means the Department of Health.

1.14 EFFECTIVE DATE. This section is effective the day following final enactment.

1.15 Sec. 3. Minnesota Statutes 2018, section 216F.02, is amended to read:

1.16 216F.02 EXEMPTIONS.

1.17 (a) The requirements of chapter 216E do not apply to the siting of LWECs, except for
1.18 sections 216E.01; 216E.03, subdivision 7; 216E.08; 216E.11; 216E.12; 216E.14; 216E.15;
1.19 216E.17; and 216E.18, subdivision 3, which do apply.

2.1 (b) Any person may construct an SWECS without complying with chapter 216E ~~or this~~
 2.2 ~~chapter.~~

2.3 (c) Except as provided in section 216F.10, nothing in this chapter shall preclude ~~precludes~~
 2.4 a local governmental unit from establishing requirements for the siting and construction of
 2.5 SWECS.

2.6 Sec. 4. **[216F.10] SETBACKS; WIND ENERGY CONVERSION SYSTEMS.**

2.7 (a) Notwithstanding any other law, rule, or order of the commission, a site permit for a
 2.8 wind energy conversion system (WECS) issued by the commission or by a county that has
 2.9 assumed that authority under section 216F.08 must comply with the requirements of this
 2.10 section.

2.11 (b) A site permit must not be issued for a WECS with a minimum distance to the residence
 2.12 in closest proximity to the WECS that is less than ten times the height of the WECS.

2.13 (c) A site permit must not be issued for a WECS with a minimum distance from the
 2.14 property line of any parcel adjacent to the parcel on which the WECS is constructed that is
 2.15 less than 1.5 times the height of the WECS, except that the minimum distance for a WECS
 2.16 whose height is 350 feet or greater is 1,640 feet.

2.17 (d) For the purposes of this section:

2.18 (1) distance must be measured from the tip of the WECS blade at its closest point to the
 2.19 nearest residence or property line of an adjacent parcel, as applicable; and

2.20 (2) height must be measured from the ground to the tip of a blade in the center upright
 2.21 position.

2.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.23 Sec. 5. **[216F.11] NOISE COMPLAINTS; EVALUATION.**

2.24 Subdivision 1. **Complaints; forwarding.** By October 1, 2019, the Department of
 2.25 Commerce, Pollution Control Agency, the commission, and any political subdivision of the
 2.26 state must forward to the department a copy of each complaint received before August 1,
 2.27 2019, alleging noise pollution from a large wind energy conversion system (LWECS), as
 2.28 defined in section 216F.01, subdivision 2, that was filed with those agencies by a person
 2.29 whose primary residence is located within one mile of a LWECS. The agencies and political
 2.30 subdivisions must forward subsequent noise pollution complaints received regarding LWECS
 2.31 to the department on a monthly basis.

3.1 Subd. 2. **Complaints; evaluation; investigation.** The department must review and
3.2 evaluate (1) complaints forwarded to it under subdivision 1, and (2) complaints alleging
3.3 noise pollution from a LW ECS that are filed with the department. The department must
3.4 contact the complainant to ascertain whether the situation alleged in the complaint is still
3.5 ongoing, and may conduct a site investigation for ongoing complaints. Pollution Control
3.6 Agency staff may accompany commission staff to a site investigation and measure the level
3.7 of noise, including low-frequency noise, at the residence.

3.8 Subd. 3. **Commission action.** (a) If the department determines that there is a likelihood
3.9 of an association between the health conditions alleged in a complaint and the operation of
3.10 a LW ECS, the department must forward that determination and any supporting documentation
3.11 and materials to the commission. The commission must evaluate the information and
3.12 determine under the applicable rules whether there is good cause to (1) modify the permit
3.13 of the LW ECS owner or operator, or (2) revoke the permit.

3.14 (b) Within 30 days of a commission decision to modify or revoke a permit under
3.15 paragraph (a), the owner or operator of the LW ECS subject to the modification or revocation
3.16 and the landowner whose complaint resulted in the decision may jointly notify the
3.17 commission that they have jointly elected to proceed under the provisions of subdivision
3.18 4. If a joint election is made under this paragraph, the modification or revocation is stayed
3.19 as provided in subdivision 4.

3.20 Subd. 4. **Buyout.** (a) A LW ECS that is subject to a commission decision under
3.21 subdivision 3 to modify or revoke a permit must, at the election of the landowner whose
3.22 complaint resulted in the modification or revocation, purchase at fair market value all
3.23 contiguous land owned in fee by the landowner that the landowner wishes to sell. Upon the
3.24 landowner's election under this subdivision, the easement interest over and adjacent to the
3.25 lands designated by the landowner to be acquired in fee automatically converts into a fee
3.26 taking.

3.27 (b) The commission's decision to modify or revoke a LW ECS permit under subdivision
3.28 3 is stayed for 120 days from receipt of the notice provided under subdivision 3, paragraph
3.29 (b). If the owner or operator of the LW ECS has not made an acceptable written offer to
3.30 acquire the land designated by the landowner within the 120-day period, as evidenced by
3.31 written notice from the landowner to the commission to that effect, the commission must
3.32 proceed with the modification or revocation of the permit.

3.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.