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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2732**

03/06/2014 Authored by Garofalo

The bill was read for the first time and referred to the Committee on Energy Policy

1.1 A bill for an act
1.2 relating to energy; allocating costs of meeting certain local energy goals;
1.3 amending Minnesota Statutes 2012, section 216B.36.
1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2012, section 216B.36, is amended to read:

1.6 **216B.36 MUNICIPAL REGULATORY AND TAXING POWERS.**

1.7 Subdivision 1. Fees authorized. Any public utility furnishing the utility services
1.8 enumerated in section 216B.02 or occupying streets, highways, or other public property
1.9 within a municipality may be required to obtain a license, permit, right, or franchise
1.10 in accordance with the terms, conditions, and limitations of regulatory acts of the
1.11 municipality, including the placing of distribution lines and facilities underground. Under
1.12 the license, permit, right, or franchise, the utility may be obligated by any municipality to
1.13 pay to the municipality fees to raise revenue or defray increased municipal costs accruing
1.14 as a result of utility operations, or both. The fee may include but is not limited to a sum
1.15 of money based upon gross operating revenues or gross earnings from its operations in
1.16 the municipality so long as the public utility shall continue to operate in the municipality,
1.17 unless upon request of the public utility it is expressly released from the obligation at any
1.18 time by such municipality. Notwithstanding the definition of "public utility" in section
1.19 216B.02, subdivision 4, a municipality may require payment of a fee under this section
1.20 by a cooperative electric association organized under chapter 308A that furnishes utility
1.21 services within the municipality. All existing licenses, permits, franchises, and other
1.22 rights acquired by any public utility or municipality prior to April 11, 1974, including the
1.23 payment of existing franchise fees, shall not be impaired or affected in any respect by the
1.24 passage of this chapter, except with respect to matters of rate and service regulation,

2.1 service area assignments, securities, and indebtedness that are vested in the jurisdiction
2.2 of the commission by this chapter. However, in the event that a court of competent
2.3 jurisdiction determines, or the parties by mutual agreement determine, that an existing
2.4 license, permit, franchise, or other right has been abrogated or impaired by this chapter, or
2.5 its execution, the municipality affected shall impose and the public utility shall collect
2.6 an excise tax on the utility charges which from year to year yields an amount which is
2.7 reasonably equivalent to that amount of revenue which then would be due as a fee, charges
2.8 or other thing or service of value to the municipality under the franchise, license, or
2.9 permit. The authorization shall be over and above taxing limitations including, but not
2.10 limited to, those of section 477A.016. Franchises granted pursuant to this section shall be
2.11 exempt from the provisions of chapter 80C. For purposes of this section, a public utility
2.12 shall include a cooperative electric association.

2.13 Subd. 2. City energy goals; cost allocation. (a) The incremental cost of any
2.14 activities undertaken by a public utility to meet public policy, energy, conservation, or
2.15 environmental goals that exceed or supplement comparable statewide goals and are
2.16 contained in a franchise agreement or other agreement between a city and a public utility
2.17 must be recovered entirely from the ratepayers of the city.

2.18 (b) For the purposes of this section, "city" means a city of the first class located in
2.19 a county with a population greater than 1,000,000 in which the Minnesota corporate
2.20 headquarters of the utility providing electric service to the city is located.