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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3074

03/14/2016 Authored by Swedzinski and Garofalo

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to energy; regulating community solar gardens; amending Minnesota
1.3 Statutes 2014, section 216B.1641.

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

1.5 Section 1. Minnesota Statutes 2014, section 216B.1641, is amended to read:

1.6 **216B.1641 COMMUNITY SOLAR GARDEN.**

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

1.18 (b) A solar garden is a facility that generates electricity by means of a ground-mounted
1.19 or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for
1.20 the electricity generated in proportion to the size of their subscription. The solar garden
1.21 must have a nameplate capacity of no more than one megawatt. Each subscription shall be
1.22 sized to represent at least 200 watts of the community solar garden's generating capacity
1.23 and to supply, when combined with other distributed generation resources serving the

2.1 premises, no more than 120 percent of the average annual consumption of electricity by
 2.2 each subscriber at the premises to which the subscription is attributed.

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

2.6 (d) The public utility must purchase from the community solar garden all energy
 2.7 generated by the solar garden. The purchase shall be at the rate calculated under section
 2.8 216B.164, subdivision 10, or, until that rate for the public utility has been approved by
 2.9 the commission, the applicable retail rate. A solar garden is eligible for any incentive
 2.10 programs offered under either section 116C.7792 or section 216C.415. A subscriber's
 2.11 portion of the purchase shall be provided by a credit on the subscriber's bill.

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

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

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

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

2.21 (4) be consistent with the public interest;

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

2.24 (6) include a program implementation schedule;

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

2.26 (8) identify the means by which the program will be promoted; ~~;~~

2.27 (9) certify that the following information must be contained in any promotional
 2.28 materials developed by the owner of the solar garden or the utility purchasing the solar
 2.29 garden's generation and must be provided separately in writing to prospective subscribers
 2.30 at least 15 days prior to the date a contract is entered into by the subscriber and the owner
 2.31 of the community solar garden:

2.32 (i) an estimate of the annual generation of electricity by the community solar garden,
 2.33 calculated according to the formula developed by the commission under paragraph (i); and

2.34 (ii) an estimate of the length of time required to fully recover a subscriber's
 2.35 initial lump-sum payments made to the owner of the solar garden prior to the delivery

3.1 of electricity to the subscriber by the solar garden, calculated according to the formula
3.2 developed by the commission under paragraph (j);

3.3 (10) certify that the utility and the owner of a solar garden must submit copies of
3.4 all marketing and promotional material and sample contracts to the commission, and that
3.5 the materials will be updated periodically;

3.6 (11) certify that the owner of the solar garden has placed sufficient financial
3.7 resources into an escrow account that will be used to reimburse subscribers for any
3.8 financial losses incurred if the project fails to meet the provisions of the contract;

3.9 (12) provide a mechanism for subscribers to transfer subscriptions to other new or
3.10 current subscribers, or to cancel subscriptions for a full refund;

3.11 (13) require an owner of a solar garden and the utility purchasing electricity
3.12 generated by the solar garden to forward customer complaints regarding the operation of
3.13 the solar garden to the commission;

3.14 (14) require that the contract between a subscriber and the owner of a solar garden
3.15 contain a warranty for a minimum level of electricity to be delivered to the subscriber
3.16 from the community garden; and

3.17 (15) reflect the commission's determination that:

3.18 (i) the plan is financially viable; and

3.19 (ii) the contract between a subscriber and the owner of a solar garden is fair,
3.20 reasonable, and not discriminatory.

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

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

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

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

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

3.33 (i) By July 30, 2016, the commission must develop a formula to be used by all owners
3.34 of a solar garden to estimate the annual amount of electricity generated by the solar garden.

3.35 (j) By July 30, 2016, the commission must develop a formula used by all owners
3.36 of a solar garden to estimate the length of time required to fully recover a subscriber's

4.1 lump-sum payments made to the owner of the solar garden prior to the delivery of
4.2 electricity to the subscriber by the solar garden.

4.3 **EFFECTIVE DATE.** This section is effective the day following final enactment
4.4 and applies to any plan submitted to the commission for approval on or after that date.