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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2625

03/20/2019 Authored by Long and Morrison 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 solar energy; amending operational aspects of community solar gardens;
1.3 creating a new category of community solar gardens; requiring a report;
1.4 appropriating money; amending Minnesota Statutes 2018, sections 216B.1641;
1.5 216B.2422, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.6 chapter 216B.

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

1.8 Section 1. Minnesota Statutes 2018, section 216B.1641, is amended to read:

1.9 216B.1641 COMMUNITY SOLAR GARDEN.

1.10 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.11 the meanings given.

1.12 (b) "Subscriber" means a retail customer who owns one or more subscriptions of a
1.13 community solar garden interconnected with the retail customer's utility.

1.14 (c) "Subscription" means a contract between a subscriber and the owner of a solar garden.

1.15 Subd. 2. Solar garden project requirements. (a) The public utility subject to section
1.16 116C.779 shall file by September 30, 2013, a plan with the commission to operate a
1.17 community solar garden program which shall begin operations within 90 days after
1.18 commission approval of the plan. Other public utilities may file an application at their
1.19 election. The community solar garden program must be designed to offset the energy use
1.20 of not less than five subscribers in each community solar garden facility of which no single
1.21 subscriber has more than a 40 percent interest. The owner of the community solar garden
1.22 may be a public utility or any other entity or organization that contracts to sell the output
1.23 from the community solar garden to the utility under section 216B.164. There shall be no

2.1 limitation on the number or cumulative generating capacity of community solar garden
 2.2 facilities other than the limitations imposed under section 216B.164, subdivision 4c, or
 2.3 other limitations provided in law or regulations.

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

2.12 (c) The solar generation facility must be located in the service territory of the public
 2.13 utility filing the plan. Subscribers must be retail customers of the public utility. Subscribers
 2.14 must be located in the same county as the solar garden or in a contiguous county ~~contiguous~~
 2.15 ~~to where the facility is located.~~, unless:

2.16 (1) the solar garden has a minimum setback of 100 feet from the nearest residential
 2.17 property; and

2.18 (2) the owner or operator of the solar garden provides written certification to the
 2.19 commission that at least ten percent of the solar garden's electric generating capacity is
 2.20 reserved for residential subscribers.

2.21 (d) The public utility must purchase from the community solar garden all energy generated
 2.22 by the solar garden. Except as provided under subdivision 7, the purchase shall be at the
 2.23 most recent three-year average of the rate calculated annually under section 216B.164,
 2.24 subdivision 10, or, until that rate for the public utility has been approved by the commission,
 2.25 the applicable retail rate. A solar garden is eligible for any incentive programs offered under
 2.26 either section 116C.7792 or section 216C.415. A subscriber's portion of the purchase shall
 2.27 be provided by a credit on the subscriber's bill.

2.28 **Subd. 3. Solar garden plan; requirements; nonutility status.** ~~(e)~~ (a) The commission
 2.29 may approve, disapprove, or modify a community solar garden ~~program~~ plan. Any plan
 2.30 approved by the commission must:

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

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

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

3.6 (4) be consistent with the public interest;

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

3.9 (6) include a program implementation schedule;

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

3.11 (8) identify the means by which the program will be promoted.

3.12 ~~(f)~~ (b) Notwithstanding any other law, neither the manager of nor the subscribers to a
 3.13 community solar garden facility shall be considered a utility solely as a result of their
 3.14 participation in the community solar garden facility.

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

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

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

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

3.23 Subd. 4. Program administration; enforcement. (a) The Department of Commerce
 3.24 must administer the solar community garden program and is responsible for implementing
 3.25 all elements of the program. The department's duties under this section include:

3.26 (1) processing community solar garden applications;

3.27 (2) establishing and accepting program fees from applicants and solar garden managers;

3.28 (3) calculating the rate paid to subscribers and submitting the rate to the commission for
 3.29 approval;

3.30 (4) ensuring that community solar garden program documents and protocols are available
 3.31 to subscribers;

4.1 (5) ensuring solar garden managers provide adequate notice to subscribers of changes
4.2 in solar garden operations, including but not limited to adjustments in subscriber bill credit
4.3 rates;

4.4 (6) ensuring a utility conducts the interconnection process in a timely fashion;

4.5 (7) ensuring the actions of solar garden owners, operators, and subscribers comply with
4.6 this section and orders of the commission; and

4.7 (8) other administrative tasks as determined by the commissioner.

4.8 (b) The commissioner may use the authority granted under section 45.027 to enforce
4.9 any violations related to the duties and responsibilities entrusted to the commissioner under
4.10 this subdivision.

4.11 Subd. 5. **Account established.** A solar garden administrative account is established in
4.12 the special revenue fund. Fees collected under this section must be deposited in and credited
4.13 to the account. Money in the account, including interest, is appropriated to the commissioner
4.14 to administer this section.

4.15 Subd. 6. **Community access project; eligibility.** A community solar garden established
4.16 under a plan approved by the commission may petition the commission to be designated as
4.17 a community access project. The commission must designate a solar garden as a community
4.18 access project if the solar garden meets the following conditions:

4.19 (1) at least 50 percent of the solar garden's generating capacity is subscribed by residential
4.20 customers;

4.21 (2) the contract between an owner of the solar garden and the public utility that purchases
4.22 the garden's electricity, and any agreement between the utility or owner of the solar garden
4.23 and subscribers, states that the owner of the solar garden does not discriminate against or
4.24 screen subscribers based on income or credit score and that any customer of a utility whose
4.25 community solar garden plan has been approved by the commission under subdivision 3 is
4.26 eligible to become a subscriber;

4.27 (3) the solar garden is operated by an entity that maintains a physical address in Minnesota
4.28 and has designated a contact person in Minnesota who responds to subscriber inquiries; and

4.29 (4) the agreement between the owner of the solar garden and subscribers states that the
4.30 owner must adequately publicize and convene at least one meeting annually to provide an
4.31 opportunity for subscribers to address questions to the manager or owner.

5.1 Subd. 7. Community access project; financial arrangements. (a) If a solar garden is
5.2 approved by the commission as a community access project:

5.3 (1) the public utility purchasing the electricity generated by the community access project
5.4 may charge the owner of the community access project no more than one cent per watt
5.5 alternating current, based on the solar garden's generating capacity for any refundable deposit
5.6 the utility requires of a solar garden during the application process;

5.7 (2) notwithstanding subdivision 2, paragraph (d), the public utility must purchase all
5.8 energy generated by the community access project at the retail rate;

5.9 (3) a subscriber's portion of the energy purchased from a community access project by
5.10 a public utility must be credited to the subscriber's bill; and

5.11 (4) all renewable energy credits generated by the community access project belong to
5.12 subscribers unless the operator:

5.13 (i) contracts to sell the renewable energy credits to a third party, or sell or transfer the
5.14 renewable energy credits to the utility; and

5.15 (ii) discloses the sale or transfer to a subscriber at the time the subscriber enters into a
5.16 subscription.

5.17 (b) If at any time a solar garden approved by the commission as a community access
5.18 project fails to meet the conditions under subdivision 4, the solar garden is no longer subject
5.19 to subdivisions 5 and 6 and must operate under the program rules established by the
5.20 commission for a solar garden that does not qualify as a community access project.

5.21 (c) A solar garden owner whose designation as a community access project is revoked
5.22 under this subdivision may reapply to the commission at any time to have its designation
5.23 as a community access project reinstated under subdivision 4.

5.24 Subd. 8. Community access project; reporting. (a) A community access project owner
5.25 must include the following information in an annual report to the community access project's
5.26 subscribers and the utility:

5.27 (1) a description of the process by which subscribers can provide input to solar garden
5.28 policy and decision-making;

5.29 (2) the amount of revenue received by the solar garden in the previous year that was
5.30 allocated to categories that include but are not limited to operating costs, debt service, profits
5.31 distributed to subscribers, and profits distributed to others; and

6.1 (3) an analysis of the proportion of subscribers that are low- and moderate-income and
 6.2 a description of one or more of the following methods used to calculate the proportion:

6.3 (i) income verification by subscribers;

6.4 (ii) subscriber evidence that the subscriber or a member of the subscriber's household
 6.5 receives assistance from any of the following sources:

6.6 (A) the Low-Income Home Energy Assistance Program;

6.7 (B) Section 8 housing assistance;

6.8 (C) medical assistance;

6.9 (D) the Supplemental Nutrition Assistance Program; or

6.10 (E) the National School Lunch Program;

6.11 (iii) characterization of the census tract where the subscriber resides as low- or
 6.12 moderate-income by the Federal Financial Institutions Examination Council; or

6.13 (iv) other methods approved by the commission.

6.14 Subd. 9. **Commission order.** Within 180 days of the effective date of this section, the
 6.15 commission must issue an order incorporating the provisions of this section.

6.16 **EFFECTIVE DATE.** Subdivisions 4 and 5 are effective January 1, 2020. Subdivisions
 6.17 1 to 3 and 6 to 9 are effective the day following final enactment.

6.18 Sec. 2. **[216B.1643] LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM**
 6.19 **COMMUNITY SOLAR GARDEN GRANT PROGRAM.**

6.20 Subdivision 1. **Establishment; purpose.** A Low-Income Home Energy Assistance
 6.21 Program (LIHEAP) community solar garden grant program is established in the Department
 6.22 of Commerce to award grants that promote the development of community solar gardens
 6.23 in partnership with community action agencies for eligible residential subscribers.

6.24 Subd. 2. **Eligibility.** (a) A community solar garden owner that meets all of the following
 6.25 conditions is eligible to receive a grant under this section:

6.26 (1) the solar garden capacity is no greater than 500 kilowatts;

6.27 (2) all subscribers to the solar garden are residential subscribers who received LIHEAP
 6.28 assistance during the year immediately preceding enrollment as a subscriber of the community
 6.29 solar garden; and

7.1 (3) the solar garden is operated and managed by: (i) a community action agency, as
 7.2 defined in section 256E.31, or by a third-party performing the duties under a contract with
 7.3 a community action agency; or (ii) an organization, including but not limited to an Indian
 7.4 tribe or tribal organization, that is under contract with the department to disburse LIHEAP
 7.5 grants to eligible recipients, or a third-party performing disbursement duties under contract
 7.6 with the organization.

7.7 (b) A community action agency responsible for managing an accessible solar garden
 7.8 must annually certify to the commissioner that the LIHEAP solar garden complies with
 7.9 paragraph (a).

7.10 Subd. 3. **Application process.** An eligible applicant must submit an application to the
 7.11 commissioner on a form designed by the commissioner. The commissioner must develop
 7.12 administrative procedures governing the application and grant award process.

7.13 Subd. 4. **Application content.** An application for a grant under this section must include
 7.14 (1) evidence that the community solar garden meets the eligibility requirements under
 7.15 subdivision 2, and (2) any other information requested by the commissioner.

7.16 Subd. 5. **Limitations.** A grant awarded under this section must not exceed 95 percent
 7.17 of the total costs to develop the community solar garden.

7.18 Subd. 6. **Eligible expenditures.** Grants awarded under this section may be expended to
 7.19 finance, purchase, and install facilities necessary to operate a community solar garden.

7.20 Sec. 3. Minnesota Statutes 2018, section 216B.2422, subdivision 3, is amended to read:

7.21 Subd. 3. **Environmental costs.** (a) The commission shall, to the extent practicable,
 7.22 quantify and establish a range of environmental costs associated with each method of
 7.23 electricity generation. A utility shall use the values established by the commission in
 7.24 conjunction with other external factors, including socioeconomic costs, when evaluating
 7.25 and selecting resource options in all proceedings before the commission, including power
 7.26 purchase agreement, resource plan, and certificate of need proceedings. When evaluating
 7.27 resource options, the commission must include and consider the environmental cost values
 7.28 adopted under this subdivision.

7.29 ~~(b) The commission shall establish interim environmental cost values associated with~~
 7.30 ~~each method of electricity generation by March 1, 1994. These values expire on the date~~
 7.31 ~~the commission establishes environmental cost values under paragraph (a).~~

8.1 Sec. 4. **GREENHOUSE GAS EMISSIONS REDUCTION STRATEGY; REPORT.**

8.2 (a) The commissioner of commerce must develop benchmarks and strategies designed
8.3 to significantly accelerate the reduction in greenhouse gas emissions in the state by 2030.

8.4 The benchmarks and strategies must include strategies to:

8.5 (1) increase energy efficiency in all buildings, including residential;

8.6 (2) provide consumers with tools to manage personal energy use automatically, remotely,
8.7 and electronically;

8.8 (3) present consumers with financial incentives to shift energy use to periods when
8.9 systemwide demand and the cost of generation are low;

8.10 (4) electrify all sectors of the economy currently powered by fossil fuels;

8.11 (5) increase carbon sequestration in Minnesota lands and wetlands;

8.12 (6) incentivize the adoption of energy storage systems to accelerate the use of wind and
8.13 solar resources; and

8.14 (7) modernize the electric grid and promote the use of distributed energy resources.

8.15 (b) By November 30, 2019, the commissioner must submit a report containing the
8.16 benchmarks and strategies to the chairs and ranking minority members of the senate and
8.17 house of representatives committees with primary jurisdiction over energy policy.

8.18 Sec. 5. **APPROPRIATION.**

8.19 (a) Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j),
8.20 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the renewable
8.21 development account established in Minnesota Statutes, section 116C.779, subdivision 1,
8.22 to the commissioner of commerce to fund the Department of Commerce's administrative
8.23 and enforcement activities under Minnesota Statutes, section 216B.1641, subdivision 4.

8.24 (b) Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph
8.25 (j), \$1,000,000 in fiscal year 2020 and \$1,000,000 in fiscal year 2021 are appropriated from
8.26 the renewable development account established in Minnesota Statutes, section 116C.779,
8.27 subdivision 1, to the commissioner of commerce for grants to owners of Low-Income Home
8.28 Energy Assistance Program community solar gardens under Minnesota Statutes, section
8.29 216B.1643. The base for this program in fiscal year 2030 is zero.

- 9.1 (c) Up to three percent of the appropriation made in paragraph (b) is available to the
9.2 commissioner of commerce to pay the reasonable costs to administer the grant program
9.3 under Minnesota Statutes, section 216B.1643.