

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3290

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DATE	D-PG	OFFICIAL STATUS
03/14/2018	6483	Introduction and first reading Referred to Energy and Utilities Finance and Policy
03/19/2018	6539a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/21/2018	6841a	Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections
03/26/2018	6945a	Comm report: To pass as amended and re-refer to Finance
04/19/2018	7746a	Comm report: To pass as amended
	7749	Second reading
05/18/2018		Special Order: Amended Third reading Passed

1.1 A bill for an act

1.2 relating to energy; establishing a process to compensate businesses for loss of

1.3 business opportunity resulting from sale and closure of a biomass energy plant;

1.4 proposing coding for new law in Minnesota Statutes, chapter 116C.

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

1.6 Section 1. **[116C.7793] BIOMASS BUSINESS COMPENSATION.**

1.7 Subdivision 1. **Office of Administrative Hearings; claims process.** The chief

1.8 administrative law judge of the Office of Administrative Hearings must name an

1.9 administrative law judge to administer a claims award process to compensate businesses

1.10 negatively affected by the sale and closure of the biomass plant identified under section

1.11 116C.779, subdivision 1, paragraph (f). The administrative law judge may create a process,

1.12 including creation of forms, to consider claims for affected businesses and issue awards to

1.13 eligible businesses. A form developed for the process must, at a minimum, require the name

1.14 of the business, the business address and telephone number, and the name of a contact

1.15 person.

1.16 Subd. 2. **Eligibility.** To be eligible for compensation, an affected business must verify

1.17 that as of May 1, 2017, it was operating under the terms of a valid contract or provide other

1.18 documentation demonstrating an ongoing business relationship of preparing, supplying, or

1.19 transporting products, fuel, or by-products to or from either the company operating the

1.20 biomass plant identified under section 116C.779, subdivision 1, paragraph (f), or a fertilizer

1.21 plant integrated with the biomass plant identified under section 116C.779, subdivision 1,

1.22 paragraph (f).

2.1 Subd. 3. Calculation of award. (a) An eligible business shall make any claim for
2.2 compensation with the administrative law judge in accordance with this section.

2.3 (b) A claim for compensation by an eligible business shall:

2.4 (1) demonstrate the extent of its lost business opportunity by providing copies of any
2.5 contracts or other documentation under subdivision 2, including financial statements showing
2.6 company financial performance over the past five years for supplying or managing material
2.7 for, or receiving material from, the biomass plant identified under section 116C.779,
2.8 subdivision 1, paragraph (f);

2.9 (2) report any payment received from business interruption insurance policies or other
2.10 payments, settlements, or awards received as a result of termination of an agreement resulting
2.11 from the closure of the biomass plant identified under section 116C.779, subdivision 1,
2.12 paragraph (f), the payment of which would offset compensation provided under this section.

2.13 A business seeking compensation must also provide a valuation of the sales, salvage, or
2.14 scrap value of real or personal property associated with the business if there is no alternative
2.15 use available for the company's real and personal property;

2.16 (3) provide information documenting its stranded investment in personal property
2.17 essential to the business operation but for which there is no valuable alternative use in the
2.18 marketplace. Such stranded investment may be included in the calculation of compensable
2.19 loss for purposes of seeking compensation under this section; and

2.20 (4) provide any other documentation it deems appropriate, or as required by the
2.21 administrative law judge, to support its claim for compensation, including a narrative
2.22 regarding the facts of the business claim which gives rise to the request for compensation.

2.23 (c) Section 13.591 applies to data submitted by a business requesting compensation
2.24 under this section.

2.25 Subd. 4. Priority. The administrative law judge may give priority to claims by eligible
2.26 businesses that demonstrate a significant effort to:

2.27 (1) mitigate losses resulting from the closure of the biomass plant identified under section
2.28 116C.779, subdivision 1, paragraph (f); or

2.29 (2) repurpose the business for another use through retasking and retooling.

2.30 Whether the business is requesting compensation for a total business loss without mitigation
2.31 efforts shall also be a factor in determining awards.

3.1 Subd. 5. **Amount of claim.** Any claim is limited by and proportional to the amount
 3.2 provided for compensation in the biomass business compensation fund established under
 3.3 section 116C.7794, and the number of claimants. A request for compensation must not
 3.4 exceed the average of the annual net revenue generated from a contract or business
 3.5 relationship with the biomass plant identified under section 116C.779, subdivision 1,
 3.6 paragraph (f), or a fertilizer plant integrated with the biomass plant identified under section
 3.7 116C.779, subdivision 1, paragraph (f), for the past five years times ten or times the number
 3.8 of years remaining on the biomass plant's original power purchase agreement, whichever
 3.9 is less.

3.10 Subd. 6. **Deadlines.** The administrative law judge shall make an application process for
 3.11 compensation available by August 1, 2018. A business seeking to submit a request for
 3.12 compensation under this section must file claims with the administrative law judge within
 3.13 60 days following closure of the biomass plant. The administrative law judge shall issue
 3.14 orders on award determinations within 180 days after the deadline for filing claims.

3.15 Subd. 7. **Appeals.** Orders issued by the administrative law judge under this section are
 3.16 final. An order denying compensation claimed under this section is subject to the contested
 3.17 case review procedures under chapter 14.

3.18 **Sec. 2. [116C.7794] BIOMASS BUSINESS COMPENSATION ACCOUNT.**

3.19 Subdivision 1. **Account established.** A biomass business compensation account is
 3.20 established as a separate account in the special revenue fund in the state treasury.
 3.21 Appropriations and transfers to the account must be credited to the account. Earnings, such
 3.22 as interest, and any other earnings arising from the assets of the account are credited to the
 3.23 account. Funds remaining in the account as of December 31, 2020, must be transferred to
 3.24 the renewable development account established under section 116C.779.

3.25 Subd. 2. **Funding for the special account.** On July 1, 2018, \$40,000,000 must be
 3.26 transferred from the renewable development account under section 116C.779 to the biomass
 3.27 business compensation account established under subdivision 1. The transferred funds are
 3.28 appropriated for payment of eligible obligations under the biomass business compensation
 3.29 program established in section 116C.7793.

3.30 Subd. 3. **Repayment of funds transferred from the renewable development account.**
 3.31 The public utility subject to section 116C.779 shall petition the commission to approve a
 3.32 rate schedule that provides for the automatic adjustment of charges to recover payments
 3.33 awarded under a process provided for in section 116C.7793. The commission shall approve
 3.34 the rate schedule upon a showing that the recovery of investments, expenses and costs, and

4.1 earnings on the investments continues to be less than the costs that would have been
4.2 recovered from customers had the utility continued to purchase energy under the power
4.3 purchase agreement under section 116C.2424, in effect before May 1, 2017. Beginning July
4.4 1, 2019, and continuing annually thereafter, the public utility subject to section 116C.779
4.5 shall deposit an amount, not to exceed \$10,000,000 annually, into the renewable development
4.6 account under section 116C.779, until total contributions equal the total compensation
4.7 amount identified in subdivision 2.

4.8 Subd. 4. **Payment of expenses.** The chief administrative law judge shall certify to the
4.9 commissioner of management and budget the total costs incurred for administering the
4.10 biomass business compensation claims process during each fiscal year, in an amount less
4.11 than or equal to \$200,000. The commissioner of management and budget shall transfer the
4.12 amount of certified costs incurred for these activities from the renewable development
4.13 account under section 116C.779 and deposit it to the administrative hearings account under
4.14 section 14.54. Transfers may occur quarterly, based on quarterly cost and revenue reports,
4.15 throughout the fiscal year, with final certification and reconciliation after each fiscal year.

4.16 Subd. 5. **Expiration.** This section expires the day following the final deposit to the
4.17 renewable development account under section 116C.779, as required in subdivision 3.