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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. 2928

03/27/2025 Authored by Acomb and Pursell
The bill was read for the first time and referred to the Committee on Energy Finance and Policy

1.1 A bill for an act
1.2 relating to energy; requiring preapplication filings for large water appropriation
1.3 projects; adding information to permit applications for large water appropriation
1.4 projects; specifying the level of environmental review for data centers; removing
1.5 data centers' energy consumption from the calculation of a utility's energy savings
1.6 goal; exempting data centers from making financial contributions to an energy
1.7 conservation and optimization plan; depositing fee revenues in an account to be
1.8 used for energy conservation; modifying the definition of large energy facility;
1.9 establishing energy requirements for data centers; imposing a fee on data centers;
1.10 requiring the Public Utilities Commission to establish a new tariff for data centers;
1.11 amending Minnesota Statutes 2024, sections 103G.265, by adding a subdivision;
1.12 103G.271, by adding a subdivision; 116D.04, by adding a subdivision; 216B.2402,
1.13 subdivision 10; 216B.241, subdivisions 1a, 2a; 216B.2421, subdivision 2; proposing
1.14 coding for new law in Minnesota Statutes, chapter 216B.

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

1.16 Section 1. Minnesota Statutes 2024, section 103G.265, is amended by adding a subdivision
1.17 to read:

1.18 Subd. 5. Preapplication evaluation of large water appropriation projects. (a) This
1.19 subdivision applies to a project whose proposed consumptive use exceeds 100 million
1.20 gallons per year or 250,000 gallons per day, whether under an existing permit, as the result
1.21 of a permit amendment, or under a new individual permit.

1.22 (b) To ensure that a project is compatible with the needs of other current and future
1.23 water users, to help maintain the water allocation priorities established under section
1.24 103G.261, to ensure adequate water supply in areas of the state with limited water
1.25 availability, and to promote a more efficient and timely permitting process, potential
1.26 applicants or persons working on behalf of potential applicants are encouraged to discuss
1.27 the project with the department as early in the project development process as possible,

2.1 preferably before a final project site has been selected, project design has been finalized,
2.2 or land has been acquired.

2.3 (c) A city or county employee that has been contacted by a person regarding a project
2.4 that is likely to be subject to this subdivision must, even if no final decision has been made
2.5 on the project's location, notify the department in writing within ten business days of the
2.6 contact, providing the name of and contact information for the person, and potential project
2.7 locations.

2.8 (d) In response to a contact from a potential applicant, the department may request
2.9 preapplication information that is helpful in assisting the department to assess the factors
2.10 affecting the ability of a water source to meet a project's water use needs at proposed
2.11 locations, including:

2.12 (1) a project description, including all potential locations;

2.13 (2) the project's estimated maximum daily, seasonal, and annual water use rates and
2.14 volumes;

2.15 (3) the anticipated source of water; and

2.16 (4) water quality or temperature requirements.

2.17 The department may request any additional information necessary to assist it to assess the
2.18 ability of a water source to meet a project's water use needs.

2.19 (e) The commissioner shall evaluate the information supplied by a potential applicant
2.20 under this subdivision and shall respond in writing, which may be electronically transmitted,
2.21 describing potential water availability constraints at each proposed project site.

2.22 (f) In determining the impact of a potential project on water quality and quantity, the
2.23 commissioner may consult with the commissioners of health, agriculture, the Pollution
2.24 Control Agency, and other state agencies.

2.25 (g) Any communication made or information exchanged under this subdivision between
2.26 a potential applicant and a government agency, or between government agencies, is nonpublic
2.27 data, as defined in section 13.02, until the project is either abandoned or the applicant files
2.28 an application for a water use permit under section 103G.285 or 103G.287, after which the
2.29 data is public.

2.30 (h) None of the discussions, filings, or evaluations made under this subdivision preclude
2.31 or supplant environmental review, preliminary well-construction approval, appropriation
2.32 permit review, or any other requirements under federal, state, or local law.

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

3.2 Sec. 2. Minnesota Statutes 2024, section 103G.271, is amended by adding a subdivision
3.3 to read:

3.4 Subd. 5b. **Large water appropriation projects; permit conditions.** In issuing water
3.5 use permits to applicants that meet the criteria of section 103G.265, subdivision 5, the
3.6 department shall ensure that:

3.7 (1) water resources of the state are utilized in the public interest and that public health,
3.8 safety, and welfare are adequately protected;

3.9 (2) technologies that promote water conservation and the efficient use of water are fully
3.10 considered; and

3.11 (3) water use conflicts are addressed as prescribed in Minnesota Rules, part 6115.0740.

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

3.13 Sec. 3. Minnesota Statutes 2024, section 116D.04, is amended by adding a subdivision to
3.14 read:

3.15 Subd. 18. **Data centers; environmental review.** (a) Notwithstanding any law to the
3.16 contrary, the proposed construction of a data center, as defined in section 216B.71, or the
3.17 expansion of the average hourly load of an existing data center by 100 megawatts or more,
3.18 requires preparation of an environmental impact statement according to the provisions of
3.19 subdivision 2a. The responsible governmental unit for the environmental impact statement
3.20 is the Public Utilities Commission.

3.21 (b) For the purposes of this subdivision, "average hourly load" means the amount of
3.22 electricity consumed by a facility each hour, averaged over an entire year.

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

3.24 Sec. 4. Minnesota Statutes 2024, section 216B.2402, subdivision 10, is amended to read:

3.25 **Subd. 10. Gross annual retail energy sales.** "Gross annual retail energy sales" means
3.26 a utility's annual electric sales to all Minnesota retail customers, or natural gas throughput
3.27 to all retail customers, including natural gas transportation customers, on a utility's
3.28 distribution system in Minnesota. Gross annual retail energy sales does not include:

3.29 (1) gas sales to:

3.30 (i) a large energy facility;

4.1 (ii) a large customer facility whose natural gas utility has been exempted by the
 4.2 commissioner under section 216B.241, subdivision 1a, paragraph (a), with respect to natural
 4.3 gas sales made to the large customer facility; and

4.4 (iii) a commercial gas customer facility whose natural gas utility has been exempted by
 4.5 the commissioner under section 216B.241, subdivision 1a, paragraph (b), with respect to
 4.6 natural gas sales made to the commercial gas customer facility;

4.7 (2) electric sales to:

4.8 (i) a large customer facility whose electric utility has been exempted by the commissioner
 4.9 under section 216B.241, subdivision 1a, paragraph (a), with respect to electric sales made
 4.10 to the large customer facility; ~~and~~

4.11 (ii) a data mining facility, if the facility:

4.12 (A) has provided a signed letter to the utility verifying the facility meets the definition
 4.13 of a data mining facility; and

4.14 (B) imposes a peak electrical demand on a consumer-owned utility's system equal to or
 4.15 greater than 40 percent of the peak electrical demand of the system, measured in the same
 4.16 manner as the utility that serves the customer facility measures electric demand for billing
 4.17 purposes; ~~or~~ and

4.18 (iii) a data center, as defined in section 216B.71; or

4.19 (3) the amount of electric sales prior to December 31, 2032, that are associated with a
 4.20 utility's program, rate, or tariff for electric vehicle charging based on a methodology and
 4.21 assumptions developed by the department in consultation with interested stakeholders no
 4.22 later than December 31, 2021. After December 31, 2032, incremental sales to electric
 4.23 vehicles must be included in calculating a public utility's gross annual retail sales.

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

4.25 Sec. 5. Minnesota Statutes 2024, section 216B.241, subdivision 1a, is amended to read:

4.26 Subd. 1a. **Large customer facility.** (a) The owner of a large customer facility may
 4.27 petition the commissioner to exempt both electric and gas utilities serving the large customer
 4.28 facility from contributing to investments and expenditures made under an energy and
 4.29 conservation optimization plan filed under subdivision 2 or section 216B.2403, subdivision
 4.30 3, with respect to retail revenues attributable to the large customer facility. The filing must
 4.31 include a discussion of the competitive or economic pressures facing the owner of the facility
 4.32 and the efforts taken by the owner to identify, evaluate, and implement energy conservation

5.1 and efficiency improvements. A filing submitted on or before October 1 of any year must
5.2 be approved within 90 days and become effective January 1 of the year following the filing,
5.3 unless the commissioner finds that the owner of the large customer facility has failed to
5.4 take reasonable measures to identify, evaluate, and implement energy conservation and
5.5 efficiency improvements. If a facility qualifies as a large customer facility solely due to its
5.6 peak electrical demand or annual natural gas usage, the exemption may be limited to the
5.7 qualifying utility if the commissioner finds that the owner of the large customer facility has
5.8 failed to take reasonable measures to identify, evaluate, and implement energy conservation
5.9 and efficiency improvements with respect to the nonqualifying utility. Once an exemption
5.10 is approved, the commissioner may request the owner of a large customer facility to submit,
5.11 not more often than once every five years, a report demonstrating the large customer facility's
5.12 ongoing commitment to energy conservation and efficiency improvement after the exemption
5.13 filing. The commissioner may request such reports for up to ten years after the effective
5.14 date of the exemption, unless the majority ownership of the large customer facility changes,
5.15 in which case the commissioner may request additional reports for up to ten years after the
5.16 change in ownership occurs. The commissioner may, within 180 days of receiving a report
5.17 submitted under this paragraph, rescind any exemption granted under this paragraph upon
5.18 a determination that the large customer facility is not continuing to make reasonable efforts
5.19 to identify, evaluate, and implement energy conservation improvements. A large customer
5.20 facility that is, under an order from the commissioner, exempt from the investment and
5.21 expenditure requirements of paragraph (a) as of December 31, 2010, is not required to
5.22 submit a report to retain its exempt status, except as otherwise provided in this paragraph
5.23 with respect to ownership changes. No exempt large customer facility may participate in a
5.24 utility conservation improvement program unless the owner of the facility submits a filing
5.25 with the commissioner to withdraw its exemption. A data center that pays the required fee
5.26 under section 216B.72 is exempt from the requirement to contribute to investments and
5.27 expenditures made under an energy conservation optimization plan filed under subdivision
5.28 2 or section 216B.2403, subdivision 3, and is not required to comply with the provisions
5.29 of this paragraph.

5.30 (b) A commercial gas customer that is not a large customer facility and that purchases
5.31 or acquires natural gas from a public utility having fewer than 600,000 natural gas customers
5.32 in Minnesota may petition the commissioner to exempt gas utilities serving the commercial
5.33 gas customer from contributing to investments and expenditures made under an energy and
5.34 conservation optimization plan filed under subdivision 2 or section 216B.2403, subdivision
5.35 3, with respect to retail revenues attributable to the commercial gas customer. The petition
5.36 must be supported by evidence demonstrating that the commercial gas customer has acquired

6.1 or can reasonably acquire the capability to bypass use of the utility's gas distribution system
 6.2 by obtaining natural gas directly from a supplier not regulated by the commission. The
 6.3 commissioner shall grant the exemption if the commissioner finds that the petitioner has
 6.4 made the demonstration required by this paragraph.

6.5 (c) A public utility, consumer-owned utility, or owner of a large customer facility may
 6.6 appeal a decision of the commissioner under paragraph (a) or (b) to the commission under
 6.7 subdivision 2. In reviewing a decision of the commissioner under paragraph (a) or (b), the
 6.8 commission shall rescind the decision if it finds the decision is not in the public interest.

6.9 (d) Notwithstanding paragraph (a), a large customer facility or commercial gas customer
 6.10 that is exempt from the investment and expenditure requirements of this section pursuant
 6.11 to an order from the commissioner as of December 31, 2020, is not required to submit
 6.12 additional documentation to maintain the exemption and must not be assessed any costs
 6.13 related to any energy conservation and optimization plan filed under this section or section
 6.14 216B.2403, including but not limited to costs, incentives, or rates of return associated with
 6.15 investments in programs for efficient fuel-switching improvements.

6.16 (e) A public utility is prohibited from spending for or investing in energy conservation
 6.17 improvements that directly benefit a large energy facility or a large electric customer facility
 6.18 the commissioner has issued an exemption to under this section.

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

6.20 Sec. 6. Minnesota Statutes 2024, section 216B.241, subdivision 2a, is amended to read:

6.21 Subd. 2a. **Energy and conservation account.** (a) The energy and conservation account
 6.22 is established in the special revenue fund in the state treasury.

6.23 (b) The commissioner must deposit money assessed or contributed under subdivisions
 6.24 1d, 1e, 1f, and 7 in the state treasury and credit it to the energy and conservation account
 6.25 in the special revenue fund. Money in the account assessed or contributed under subdivisions
 6.26 1d, 1e, and 1f is appropriated to the commissioner for the purposes of subdivisions 1d, 1e,
 6.27 1f, and 7.

6.28 (c) The commissioner must deposit money transferred from the fee on data centers
 6.29 established in section 216B.72 in the state treasury and credit it to the account. Money
 6.30 transferred from the fee on data centers is appropriated to the commissioner to conduct
 6.31 energy conservation, weatherization, and associated activities allowed under sections
 6.32 216B.2403 and 216B.241, and the rules applicable to those sections. The commissioner
 6.33 may spend money appropriated under this paragraph anywhere in the state, but only:

- 7.1 (1) on low-income programs; and
- 7.2 (2) as the result of a request for proposals process administered by the department.
- 7.3 (d) Interest on money in the account accrues to the account.
- 7.4 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.5 Sec. 7. Minnesota Statutes 2024, section 216B.2421, subdivision 2, is amended to read:

7.6 Subd. 2. **Large energy facility.** "Large energy facility" means:

7.7 (1) any electric power generating plant or combination of plants at a single site with a
7.8 combined capacity of 50,000 kilowatts or more and transmission lines directly associated
7.9 with the plant that are necessary to interconnect the plant to the transmission system. Large
7.10 energy facility includes backup generators designed to provide electricity to a data center,
7.11 as defined in section 216B.71, with a combined capacity of 50,000 kilowatts or more;

7.12 (2) any high-voltage transmission line with a capacity of 300 kilovolts or more and
7.13 greater than one mile in length in Minnesota;

7.14 (3) any high-voltage transmission line with a capacity of 100 kilovolts or more with
7.15 more than ten miles of its length in Minnesota;

7.16 (4) any pipeline greater than six inches in diameter and having more than 50 miles of
7.17 its length in Minnesota used for the transportation of coal, crude petroleum or petroleum
7.18 fuels or oil, or their derivatives;

7.19 (5) any pipeline for transporting natural or synthetic gas at pressures in excess of 200
7.20 pounds per square inch with more than 50 miles of its length in Minnesota;

7.21 (6) any facility designed for or capable of storing on a single site more than 100,000
7.22 gallons of liquefied natural gas or synthetic gas;

7.23 (7) any underground gas storage facility requiring a permit pursuant to section 103I.681;

7.24 (8) any nuclear fuel processing or nuclear waste storage or disposal facility; and

7.25 (9) any facility intended to convert any material into any other combustible fuel and
7.26 having the capacity to process in excess of 75 tons of the material per hour.

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

8.1 Sec. 8. 216B.71 DATA CENTERS; ENERGY REQUIREMENTS.

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

8.4 (b) "Carbon-free" has the meaning given in section 216B.1691, subdivision 1.

8.5 (c) "Data center" means a facility whose primary purpose is the storage, management,
8.6 and processing of digital data via the interconnection and operation of information technology
8.7 and network telecommunications equipment, including all related facilities and infrastructure
8.8 for power distribution, environmental control, cooling, and security, and whose average
8.9 hourly electrical load is 100 megawatts or greater.

8.10 (d) "Political subdivision" means a county, statutory or home rule charter city, town, the
8.11 Metropolitan Council, a port authority, economic development authority, redevelopment
8.12 agency established under chapter 469, or regional development commission.

8.13 Subd. 2. Carbon-free energy. (a) A data center must, prior to December 31, 2030,
8.14 arrange to generate or procure carbon-free energy equal to at least 65 percent of its electricity
8.15 consumption, measured on an hourly basis.

8.16 (b) After December 31, 2030, a data center must generate or purchase carbon-free energy
8.17 equal to 100 percent of its electricity requirements, measured on an hourly basis.

8.18 (c) Tracking and verification of compliance with this subdivision shall be determined
8.19 by the Minnesota Renewable Energy Tracking System or another qualified entity approved
8.20 by the commission.

8.21 (d) Each data center shall, before beginning operations in this state, submit a plan to the
8.22 commission describing the actions it intends to take to comply with the requirement of
8.23 paragraph (b), and shall make additional filings as required by the commission.

8.24 (e) The commission may delay or modify a data center's compliance with the requirements
8.25 of paragraph (a) or (b) if it determines that technical constraints impair the ability to
8.26 accurately track and verify carbon-free energy transactions at an hourly level so as to enable
8.27 compliance with those requirements.

8.28 Subd. 3. State energy targets; modification. If a utility determines that providing
8.29 electric service to a data center may, in whole or in part, contribute to the utility's inability
8.30 to achieve a standard mandated under section 216B.1691, the utility must, no later than two
8.31 years before the standard is required to be met, submit a filing to the commission containing
8.32 a plan describing actions the utility intends to implement in order to achieve the standard
8.33 in a timely manner. The commission shall review and may accept, reject, or modify the plan

9.1 and may issue an order requiring implementation of an approved plan. The commission
9.2 shall require a utility whose plan was approved under this subdivision to file reports with
9.3 the commission describing actions taken and progress made in achieving the standard, on
9.4 a schedule determined by the commission.

9.5 Subd. 4. **Prevailing wage.** A contractor or subcontractor that constructs any portion of
9.6 a data center:

9.7 (1) must pay no less than the prevailing wage rate, as defined in section 177.42; and

9.8 (2) is subject to the requirements and enforcement provisions under sections 177.27,
9.9 177.30, 177.32, 177.41 to 177.435, and 177.45.

9.10 Subd. 5. **Reporting.** (a) Within one year of being placed in service, and annually
9.11 thereafter on a schedule determined by the commissioner, a data center owner must report
9.12 the following information to the commissioner on a form and on a schedule prescribed by
9.13 the commissioner of commerce:

9.14 (1) energy consumption during the most recently completed year and during each of the
9.15 past five years, if applicable, and projections of energy consumption for the coming year;

9.16 (2) efforts made to reduce energy consumption;

9.17 (3) efforts made to reduce waste heat and to utilize it as thermal energy or electricity;

9.18 and

9.19 (4) the amount, type, and country of origin of metals used to construct the data center,
9.20 and the percentage of metals used that were recycled.

9.21 (b) Within one year of being placed in service, and annually thereafter on a schedule
9.22 determined by the commissioner of natural resources, a data center owner must report the
9.23 following information to the commissioner of natural resources, on a form and on a schedule
9.24 prescribed by the commissioner of natural resources:

9.25 (1) the amount of water withdrawn under the data center's water use permit;

9.26 (2) the amount of water discharged by the data center to groundwater or surface waters;

9.27 and

9.28 (3) the amount of water evaporated when used for cooling data center equipment.

9.29 Subd. 6. **Noncompliance; ineligibility for financial assistance.** Notwithstanding any
9.30 other law, a data center that fails to comply with any of the requirements of this section is
9.31 ineligible to receive any financial incentives provided by this state for which it is otherwise
9.32 eligible, including tax incentives, until it has submitted documentation of compliance to the

10.1 commissioner of commerce and has received written notice from the commissioner of
10.2 commerce that it is in compliance with all the provisions of this section.

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

10.4 **Sec. 9. [216B.72] DATA CENTER FEE.**

10.5 (a) A fee of \$..... is imposed on a data center, as defined in section 216B.71, for each
10.6 megawatt of the data center's peak demand. The fee must be collected monthly by the utility
10.7 providing electric service to the data center and deposited in the energy and conservation
10.8 account established in section 216B.241, subdivision 2a.

10.9 (b) For the purposes of this section, "peak demand" means the largest demand a data
10.10 center imposes on an electric utility's system, expressed in megawatts, during a 30-minute
10.11 period within the most recent month.

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

10.13 **Sec. 10. CLEAN ENERGY TARIFF.**

10.14 (a) No later than January 1, 2026, the Public Utilities Commission shall develop and
10.15 establish a clean energy tariff and terms and conditions for energy supply agreements under
10.16 which a separate customer class composed solely of all data centers receiving electric service
10.17 from a public utility located in this state must operate. The tariff and energy supply agreement
10.18 must be designed to insulate the utility's other customers from the energy costs attributable
10.19 to data centers and to ensure that arrangements made to provide electric service to a data
10.20 center will:

10.21 (1) not interfere with or jeopardize a utility's achieving the mandated renewable energy
10.22 and carbon-free standards established under Minnesota Statutes, sections 216B.1691 and
10.23 216B.71, subdivision 2;

10.24 (2) not impair a utility's system reliability or its ability to provide electric service to its
10.25 other customers;

10.26 (3) require payment of the data center's full portion of the utility's cost to procure
10.27 electricity, and for the full transmission and distribution costs necessary to deliver that
10.28 electricity to the data center, including any construction or upgrading of transmission,
10.29 distribution, or other utility infrastructure; and

10.30 (4) ensure that ratepayers are fully protected from bearing any portion of the cost resulting
10.31 from:

- 11.1 (i) a data center's failure to meet its projected level of electricity demand;
- 11.2 (ii) a data center's termination of its operations in this state earlier than agreed to in an
- 11.3 energy supply agreement;
- 11.4 (iii) an electricity supplier's failure to fully meet the terms of its supply contract with
- 11.5 the utility; or
- 11.6 (iv) early termination of an energy supply agreement.
- 11.7 (b) The Public Utilities Commission may require a data center to post a bond of sufficient
- 11.8 magnitude to guarantee performance under the tariff and energy supply agreement.
- 11.9 (c) For purposes of this section, the following terms have the meanings given:
- 11.10 (1) "data center" has the meaning given in Minnesota Statutes, section 216B.71,
- 11.11 subdivision 1; and
- 11.12 (2) "energy supply agreement" means an agreement between a data center and a utility
- 11.13 providing electric service to a data center governing the transfer of electricity from a generator
- 11.14 to the data center under a clean energy tariff.
- 11.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.