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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1845

03/01/2017 Authored by Newberger
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; amending the prohibition on new sources of fossil-fuel generated
1.3 electricity to include only those sources constructed in Minnesota; amending
1.4 Minnesota Statutes 2016, section 216H.03, subdivisions 3, 4, 7.

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

1.6 Section 1. Minnesota Statutes 2016, section 216H.03, subdivision 3, is amended to read:

1.7 Subd. 3. Long-term increased emissions from power plants prohibited. Unless
1.8 preempted by federal law, until a comprehensive and enforceable state law or rule pertaining
1.9 to greenhouse gases that directly limits and substantially reduces, over time, statewide power
1.10 sector carbon dioxide emissions is enacted and in effect, and except as allowed in
1.11 subdivisions 4 to 7, on and after August 1, 2009, no person shall:

1.12 (1) construct within the state a new large energy facility that would contribute to statewide
1.13 power sector carbon dioxide emissions;

1.14 (2) import or commit to import from outside the state power from a new large energy
1.15 facility that would contribute to statewide power sector carbon dioxide emissions; or

1.16 (3) enter into a new long-term power purchase agreement that would increase statewide
1.17 power sector carbon dioxide emissions. For purposes of this section, a long-term power
1.18 purchase agreement means an agreement to purchase 50 megawatts of capacity or more for
1.19 a term exceeding five years.

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

2.1 Sec. 2. Minnesota Statutes 2016, section 216H.03, subdivision 4, is amended to read:

2.2 Subd. 4. **Exception for facilities that offset emissions.** (a) ~~The prohibitions in prohibition~~
2.3 under subdivision 3 ~~do~~ does not apply if the project proponent demonstrates to the Public
2.4 Utilities Commission's satisfaction that it will offset the new contribution to statewide power
2.5 sector carbon dioxide emissions with a carbon dioxide reduction project identified in
2.6 paragraph (b) and in compliance with paragraph (c).

2.7 (b) A project proponent may offset in an amount equal to or greater than the proposed
2.8 new contribution to statewide power sector carbon dioxide emissions in either, or a
2.9 combination of both, of the following ways:

2.10 (1) by reducing an existing facility's contribution to statewide power sector carbon
2.11 dioxide emissions; or

2.12 (2) by purchasing carbon dioxide allowances from a state or group of states that has a
2.13 carbon dioxide cap and trade system in place that produces verifiable emissions reductions.

2.14 (c) The Public Utilities Commission shall not find that a proposed carbon dioxide
2.15 reduction project identified in paragraph (b) acceptably offsets a new contribution to statewide
2.16 power sector carbon dioxide emissions unless the proposed offsets are permanent,
2.17 quantifiable, verifiable, enforceable, and would not have otherwise occurred. This section
2.18 does not exempt emissions that have been offset under this subdivision and emissions
2.19 exempted under subdivisions 5 to 7 from a cap and trade system if adopted by the state.

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

2.21 Sec. 3. Minnesota Statutes 2016, section 216H.03, subdivision 7, is amended to read:

2.22 Subd. 7. **Other exemptions.** ~~The prohibitions in prohibition under~~ subdivision 3 ~~do~~ does
2.23 not apply to:

2.24 (1) a new large energy facility under consideration by the Public Utilities Commission
2.25 pursuant to proposals or applications filed with the Public Utilities Commission before April
2.26 1, 2007, or to any power purchase agreement related to a facility described in this clause.
2.27 The exclusion of pending proposals and applications from the prohibitions in subdivision
2.28 3 does not limit the applicability of any other law and is not an expression of legislative
2.29 intent regarding whether any pending proposal or application should be approved or denied;

2.30 (2) a contract not subject to commission approval that was entered into prior to April 1,
2.31 2007, to purchase power from a new large energy facility that was approved by a comparable

3.1 authority in another state prior to that date, for which municipal or public power district
3.2 bonds have been issued, and on which construction has begun;

3.3 (3) a new large energy facility ~~or a power purchase agreement between a Minnesota~~
3.4 ~~utility and a new large energy facility~~ located ~~outside~~ within Minnesota that the Public
3.5 Utilities Commission has determined is essential to ensure the long-term reliability of
3.6 Minnesota's electric system, to allow electric service for increased industrial demand, or to
3.7 avoid placing a substantial financial burden on Minnesota ratepayers. An order of the
3.8 commission granting an exemption under this clause is stayed until the June 1 following
3.9 the next regular or annual session of the legislature that begins after the date of the
3.10 commission's final order; or

3.11 (4) a new large energy facility with a combined electric generating capacity of less than
3.12 100 megawatts, which did not require a Minnesota certificate of need, which received an
3.13 air pollution control permit to construct from an adjoining state before January 1, 2008, and
3.14 on which construction began before July 1, 2008, or to any power purchase agreement
3.15 related to a facility described in this clause.

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