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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3753

02/24/2020 Authored by Her, Hornstein, Hassan, Gomez, Lee and others
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
03/05/2020 Adoption of Report: Re-referred to the Environment and Natural Resources Finance Division

1.1 A bill for an act
1.2 relating to environment; requiring analysis of certain demographic factors in permits
1.3 and environmental review documents; amending Minnesota Statutes 2018, sections
1.4 116.07, subdivision 4a, by adding a subdivision; 116D.04, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2018, section 116.07, subdivision 4a, is amended to read:

1.7 Subd. 4a. Permits. (a) The Pollution Control Agency may issue, continue in effect or
1.8 deny permits, under such conditions as it may prescribe for the prevention of pollution, for
1.9 the emission of air contaminants, or for the installation or operation of any emission facility,
1.10 air contaminant treatment facility, treatment facility, potential air contaminant storage
1.11 facility, or storage facility, or any part thereof, or for the sources or emissions of noise
1.12 pollution.

1.13 The Pollution Control Agency may also issue, continue in effect or deny permits, under
1.14 such conditions as it may prescribe for the prevention of pollution, for the storage, collection,
1.15 transportation, processing, or disposal of waste, or for the installation or operation of any
1.16 system or facility, or any part thereof, related to the storage, collection, transportation,
1.17 processing, or disposal of waste.

1.18 ~~The agency may not issue a permit to a facility without analyzing and considering the~~
1.19 ~~cumulative levels and effects of past and current environmental pollution from all sources~~
1.20 ~~on the environment and residents of the geographic area within which the facility's emissions~~
1.21 ~~are likely to be deposited, provided that the facility is located in a community in a city of~~
1.22 ~~the first class in Hennepin County that meets all of the following conditions:~~

2.1 ~~(1) is within a half mile of a site designated by the federal government as an EPA~~
 2.2 ~~superfund site due to residential arsenic contamination;~~

2.3 ~~(2) a majority of the population are low-income persons of color and American Indians;~~

2.4 ~~(3) a disproportionate percent of the children have childhood lead poisoning, asthma,~~
 2.5 ~~or other environmentally related health problems;~~

2.6 ~~(4) is located in a city that has experienced numerous air quality alert days of dangerous~~
 2.7 ~~air quality for sensitive populations between February 2007 and February 2008; and~~

2.8 ~~(5) is located near the junctions of several heavily trafficked state and county highways~~
 2.9 ~~and two one-way streets which carry both truck and auto traffic.~~

2.10 The Pollution Control Agency may revoke or modify any permit issued under this
 2.11 subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to
 2.12 prevent or abate pollution.

2.13 (b) The Pollution Control Agency has the authority for approval over the siting,
 2.14 expansion, or operation of a solid waste facility with regard to environmental issues.
 2.15 However, the agency's issuance of a permit does not release the permittee from any liability,
 2.16 penalty, or duty imposed by any applicable county ordinances. Nothing in this chapter
 2.17 precludes, or shall be construed to preclude, a county from enforcing land use controls,
 2.18 regulations, and ordinances existing at the time of the permit application and adopted
 2.19 pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard
 2.20 to the siting, expansion, or operation of a solid waste facility.

2.21 (c) Except as prohibited by federal law, a person may commence construction,
 2.22 reconstruction, replacement, or modification of any facility prior to the issuance of a
 2.23 construction permit by the agency.

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

2.25 Sec. 2. Minnesota Statutes 2018, section 116.07, is amended by adding a subdivision to
 2.26 read:

2.27 **Subd. 41. Demographic analysis.** The agency may not issue, renew, or approve a major
 2.28 amendment to a permit without analyzing the demographic, social, and economic
 2.29 characteristics of the population that will likely be exposed to the permitted facility's
 2.30 estimated emissions or discharges or to other environmental and health risks posed by the
 2.31 permitted facility. The analysis must include information that may indicate the exposed
 2.32 population's heightened sensitivity to exposure to the incremental pollution emitted from

- 3.1 the facility seeking the permit or permit amendment and the exposed population's ability to
3.2 withstand, respond to, or recover from exposure to additional pollution. This information
3.3 must include, but is not limited to:
- 3.4 (1) racial and ethnic characteristics;
3.5 (2) income and poverty levels;
3.6 (3) the age distribution;
3.7 (4) the birth rate;
3.8 (5) education levels;
3.9 (6) the incidence of and hospital admission rates for respiratory disease, pulmonary
3.10 disease, cancer, diabetes, asthma, high levels of blood lead concentrations, compromised
3.11 immune systems, and other conditions that may be exacerbated by exposure to pollution;
3.12 (7) the incidence of substandard housing conditions;
3.13 (8) the proportion of the population without access to health insurance and medical care;
3.14 (9) the proportion of the population receiving public assistance and medical assistance;
3.15 (10) the incidence of poor nutrition;
3.16 (11) biomonitoring data indicating body burdens of environmental pollutants;
3.17 (12) the presence of subpopulations that may be particularly sensitive to exposure to
3.18 additional pollutants, including workers exposed to toxic chemicals in the workplace and
3.19 subsistence fishers and hunters;
3.20 (13) microclimate or topographical factors of the area that affect exposure levels;
3.21 (14) other environmental stressors, including but not limited to noise, that impact the
3.22 area population;
3.23 (15) cumulative levels and effects of past and current environmental pollution from all
3.24 sources, including mobile sources and toxic chemicals contaminating soils, on the
3.25 environment and population of the area; and
3.26 (16) how the factors examined under this paragraph may interact to increase the likelihood
3.27 of portions of the population sustaining an adverse effect from exposure to the incremental
3.28 pollution.

4.1 **EFFECTIVE DATE.** This section is effective the day following final enactment and
4.2 applies to any permit issued, renewed, or for which a major amendment is approved on or
4.3 after that date.

4.4 Sec. 3. Minnesota Statutes 2018, section 116D.04, is amended by adding a subdivision to
4.5 read:

4.6 Subd. 2c. **Demographic analysis.** An environmental assessment worksheet and
4.7 environmental impact statement must contain demographic analysis of the population
4.8 exposed to the proposed project's impacts as required under section 116.07, subdivision 4l.

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment and
4.10 applies to an environmental assessment worksheet that has been determined by a responsible
4.11 governmental unit to be complete on or after that date and to an environmental impact
4.12 statement determined by a responsible governmental unit to be adequate on or after that
4.13 date.