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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 4114

- 03/21/2018 Authored by Miller, Baker and Lueck  
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy
- 03/28/2018 Adoption of Report: Re-referred to the Committee on State Government Finance  
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act

1.2 relating to economic development; providing for compensation to businesses for

1.3 loss of business opportunity from sale and closure of biomass energy plant; creating

1.4 an account; transferring money.

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

1.6 Section 1. **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 termination of the contract of the biomass plant identified under

1.11 Minnesota Statutes, section 116C.779, subdivision 1, paragraph (f). The administrative law

1.12 judge may develop a process and prescribe forms to consider claims by affected businesses

1.13 and issue awards to eligible businesses.

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

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

1.16 documentation demonstrating an ongoing business relationship with the company operating

1.17 the biomass plant identified under Minnesota Statutes, section 116C.779, subdivision 1,

1.18 paragraph (f).

1.19 Subd. 3. **Calculating award.** (a) An eligible business may make a claim for compensation

1.20 based on decreased net revenue and the loss of value of investments in real or personal

1.21 property essential to business operations with the biomass plant identified under Minnesota

1.22 Statutes, section 116C.779, subdivision 1, paragraph (f). All such losses must be attributable

2.1 to the termination of the contract under Minnesota Statutes, section 216B.2424, subdivision  
2.2 9.

2.3 (b) In filing a claim of decreased net revenue, an eligible business must demonstrate the  
2.4 extent of its decreased business by providing copies of any contracts or other documentation  
2.5 under subdivision 2, including financial statements showing the eligible business's financial  
2.6 performance over the past five years for supplying or managing material for, or receiving  
2.7 material from, the biomass plant identified under Minnesota Statutes, section 116C.779,  
2.8 subdivision 1, paragraph (f). The business must also present evidence of any alternative  
2.9 business opportunities it has pursued or could pursue to mitigate the loss of revenue from  
2.10 the termination of the contract, as the value of these alternative opportunities offsets  
2.11 compensation provided under this section.

2.12 (c) In filing a claim of loss of value of investments in real or personal property, an eligible  
2.13 business must provide:

2.14 (1) evidence that the property was essential to fulfilling the contract with the biomass  
2.15 plant identified under Minnesota Statutes, section 116C.779, subdivision 1, paragraph (f);

2.16 (2) evidence that the eligible business is unable to fully repurpose the property to another  
2.17 productive use after the termination of the contract under Minnesota Statutes, section  
2.18 216B.2424, subdivision 9; and

2.19 (3) documentation of the eligible business's investment in the property, minus any  
2.20 economic depreciation.

2.21 An eligible business must also provide a valuation of the use, sales, salvage, or scrap value  
2.22 of the property for which the loss is claimed, as this value offsets compensation provided  
2.23 under this section.

2.24 (d) A business seeking compensation under this section must report any payment received  
2.25 from business interruption insurance policies, settlements, or other forms of compensation  
2.26 related to the termination of the contract of the biomass plant identified under Minnesota  
2.27 Statutes, section 116C.779, subdivision 1, paragraph (f). All such payments offset  
2.28 compensation provided under this section.

2.29 (e) A business seeking compensation under this section must provide any other  
2.30 documentation it deems appropriate, or as required by the administrative law judge, to  
2.31 support its claim, including a narrative of the facts of the business claim that gives rise to  
2.32 the request for compensation.

3.1 (f) Regardless of actual losses, an award of compensation must not exceed the average  
 3.2 of the eligible business's annual net revenue generated from a contract or business relationship  
 3.3 with the biomass plant identified under Minnesota Statutes, section 116C.779, subdivision  
 3.4 1, paragraph (f), for the past five years, multiplied by two.

3.5 Subd. 4. **Paying claims; priority.** (a) The administrative law judge must give priority  
 3.6 to claims by eligible businesses that:

3.7 (1) demonstrate a significant effort to mitigate losses resulting from the termination of  
 3.8 the contract under Minnesota Statutes, section 216B.2424, subdivision 9;

3.9 (2) suffered a large loss as a percentage of its total business due to the termination of  
 3.10 the contract under Minnesota Statutes, section 216B.2424, subdivision 9; and

3.11 (3) can clearly show its losses were caused by reliance on the continued operation of  
 3.12 the biomass plant identified under Minnesota Statutes, section 116C.779, subdivision 1,  
 3.13 paragraph (f).

3.14 (b) If the amount provided for compensation in the biomass business compensation  
 3.15 account established under section 2 is insufficient to fully compensate all claims determined  
 3.16 to have priority, all awards for priority claims must be adjusted proportionally.

3.17 (c) After the payment of all priority claims, if the remaining amount provided for  
 3.18 compensation in the biomass business compensation account established under section 2 is  
 3.19 insufficient to fully compensate all claims determined not to have priority, all awards for  
 3.20 claims without priority must be adjusted proportionally.

3.21 Subd. 5. **Deadlines.** The administrative law judge must make an application process  
 3.22 for compensation available by August 1, 2018. A business seeking compensation under this  
 3.23 section must file all claims with the administrative law judge by October 1, 2018. Any offer  
 3.24 of settlement must be made by October 1, 2019. A business must accept the offer of  
 3.25 settlement within 40 days of the date it receives the offer.

3.26 Subd. 6. **Appeals.** A decision to deny compensation claimed under this section is subject  
 3.27 to the contested case review procedures under Minnesota Statutes, chapter 14.

3.28 Subd. 7. **Expiration.** This section expires June 30, 2021.

3.29 Sec. 2. **BIOMASS BUSINESS COMPENSATION ACCOUNT.**

3.30 Subdivision 1. **Account established.** A biomass business compensation account is  
 3.31 established as a separate account in the special revenue fund in the state treasury.

3.32 Appropriations and transfers to the account must be credited to the account. Interest and

4.1 any other earnings arising from the assets of the account are credited to the account. Funds  
4.2 in the account may be used to pay compensation under the biomass business compensation  
4.3 program established in section 1 or administrative expenses under subdivision 3. Funds  
4.4 remaining in the account on December 31, 2020, must be transferred to the renewable  
4.5 development account established under Minnesota Statutes, section 116C.779.

4.6 Subd. 2. **Transfer to special account.** On July 1, 2018, and July 1, 2019, \$20,000,000  
4.7 must be transferred from the renewable development account under Minnesota Statutes,  
4.8 section 116C.779, to the biomass business compensation account established under  
4.9 subdivision 1.

4.10 Subd. 3. **Paying expenses.** The chief administrative law judge must submit to the  
4.11 commissioner of management and budget documentation regarding salaries, expenses, and  
4.12 administrative costs incurred for staff or consultants to administer the biomass business  
4.13 compensation program. The commissioner of management and budget must reimburse the  
4.14 chief administrative law judge from the biomass business compensation account established  
4.15 under subdivision 1.

4.16 Subd. 4. **Expiration.** This section expires June 30, 2021.

4.17 Sec. 3. **EFFECTIVE DATE.**

4.18 Sections 1 and 2 are effective the day following final enactment.