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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 902

02/07/2019 Authored by Bahr, Drazkowski, Munson, Miller and Lucero
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to energy; terminating ongoing payment obligations connected to continued
1.3 nuclear waste storage and restricting future account expenditures to previous
1.4 legislative mandates; amending Minnesota Statutes 2018, sections 116C.779,
1.5 subdivisions 1, 2; 116C.7792.

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

1.7 Section 1. Minnesota Statutes 2018, section 116C.779, subdivision 1, is amended to read:

1.8 Subdivision 1. Renewable development account. (a) The renewable development
1.9 account is established as a separate account in the special revenue fund in the state treasury.
1.10 Appropriations and transfers to the account shall be credited to the account. Earnings, such
1.11 as interest, dividends, and any other earnings arising from assets of the account, shall be
1.12 credited to the account. Funds remaining in the account at the end of a fiscal year are not
1.13 canceled to the general fund but remain in the account until expended. The account shall
1.14 be administered by the commissioner of management and budget as provided under this
1.15 section.

1.16 (b) On July 1, 2017, the public utility that owns the Prairie Island nuclear generating
1.17 plant must transfer all funds in the renewable development account previously established
1.18 under this subdivision and managed by the public utility to the renewable development
1.19 account established in paragraph (a). Funds awarded to grantees in previous grant cycles
1.20 that have not yet been expended and unencumbered funds required to be paid in calendar
1.21 year 2017 under paragraphs ~~(f)~~(d) and ~~(g)~~(e), and sections 116C.7792 and 216C.41, are
1.22 not subject to transfer under this paragraph.

2.1 (c) ~~Except as provided in subdivision 1a, Beginning January 15, 2018~~ 2020, and
2.2 continuing each January 15 thereafter through 2022, the public utility that owns the Prairie
2.3 Island nuclear generating plant must transfer to the renewable development account \$500,000
2.4 each year for each dry cask containing spent fuel that is located at the Prairie Island power
2.5 plant for each year the plant is in operation, and \$7,500,000 each year the plant is not in
2.6 operation if ordered by the commission pursuant to paragraph (i). The fund transfer must
2.7 be made if nuclear waste is stored in a dry cask at the independent spent-fuel storage facility
2.8 at Prairie Island for any part of a year.

2.9 (d) ~~Except as provided in subdivision 1a, beginning January 15, 2018, and continuing~~
2.10 ~~each January 15 thereafter, the public utility that owns the Monticello nuclear generating~~
2.11 ~~plant must transfer to the renewable development account \$350,000 each year for each dry~~
2.12 ~~cask containing spent fuel that is located at the Monticello nuclear power plant for each~~
2.13 ~~year the plant is in operation, and \$5,250,000 each year the plant is not in operation if ordered~~
2.14 ~~by the commission pursuant to paragraph (i). The fund transfer must be made if nuclear~~
2.15 ~~waste is stored in a dry cask at the independent spent-fuel storage facility at Monticello for~~
2.16 ~~any part of a year.~~

2.17 (e) ~~Each year, the public utility shall withhold from the funds transferred to the renewable~~
2.18 ~~development account under paragraphs (c) and (d) the amount necessary to pay its obligations~~
2.19 ~~under paragraphs (f) (d) and (g) (e), and sections 116C.7792 and 216C.41, for that calendar~~
2.20 ~~year.~~

2.21 (f) (d) If the commission approves a new or amended power purchase agreement, the
2.22 termination of a power purchase agreement, or the purchase and closure of a facility under
2.23 section 216B.2424, subdivision 9, with an entity that uses poultry litter to generate electricity,
2.24 the public utility subject to this section shall enter into a contract with the city in which the
2.25 poultry litter plant is located to provide grants to the city for the purposes of economic
2.26 development on the following schedule: \$4,000,000 in fiscal year 2018; \$6,500,000 each
2.27 fiscal year in 2019 and 2020; and \$3,000,000 in fiscal year 2021. The grants shall be paid
2.28 by the public utility from funds ~~withheld from the transfer~~ transferred to the renewable
2.29 development account, as provided in ~~paragraphs (b) and (e)~~ paragraph (c).

2.30 (g) (e) If the commission approves a new or amended power purchase agreement, or the
2.31 termination of a power purchase agreement under section 216B.2424, subdivision 9, with
2.32 an entity owned or controlled, directly or indirectly, by two municipal utilities located north
2.33 of Constitutional Route No. 8, that was previously used to meet the biomass mandate in
2.34 section 216B.2424, the public utility that owns a nuclear generating plant shall enter into a
2.35 grant contract with such entity to provide \$6,800,000 per year for five years, commencing

3.1 30 days after the commission approves the new or amended power purchase agreement, or
 3.2 the termination of the power purchase agreement, and on each June 1 thereafter through
 3.3 2021, to assist the transition required by the new, amended, or terminated power purchase
 3.4 agreement. The grant shall be paid by the public utility from funds ~~withheld from the transfer~~
 3.5 transferred to the renewable development account as provided in ~~paragraphs (b) and (e)~~
 3.6 paragraph (c).

3.7 ~~(h)(f)~~ The collective amount paid under the grant contracts awarded under paragraphs
 3.8 ~~(f)(d) and (g)(e)~~ is limited to the amount deposited into the renewable development account,
 3.9 and its predecessor, the renewable development account, established under this section, that
 3.10 was not required to be deposited into the account under Laws 1994, chapter 641, article 1,
 3.11 section 10.

3.12 ~~(i) After discontinuation of operation of the Prairie Island nuclear plant or the Monticello~~
 3.13 ~~nuclear plant and each year spent nuclear fuel is stored in dry cask at the discontinued~~
 3.14 ~~facility, the commission shall require the public utility to pay \$7,500,000 for the discontinued~~
 3.15 ~~Prairie Island facility and \$5,250,000 for the discontinued Monticello facility for any year~~
 3.16 ~~in which the commission finds, by the preponderance of the evidence, that the public utility~~
 3.17 ~~did not make a good faith effort to remove the spent nuclear fuel stored at the facility to a~~
 3.18 ~~permanent or interim storage site out of the state. This determination shall be made at least~~
 3.19 ~~every two years.~~

3.20 ~~(j) Funds in the account may be expended only for any of the following purposes:~~

3.21 ~~(1) to stimulate research and development of renewable electric energy technologies;~~

3.22 ~~(2) to encourage grid modernization, including, but not limited to, projects that implement~~
 3.23 ~~electricity storage, load control, and smart meter technology; and~~

3.24 ~~(3) to stimulate other innovative energy projects that reduce demand and increase system~~
 3.25 ~~efficiency and flexibility.~~

3.26 ~~Expenditures from the fund must benefit Minnesota ratepayers receiving electric service~~
 3.27 ~~from the utility that owns a nuclear-powered electric generating plant in this state or the~~
 3.28 ~~Prairie Island Indian community or its members.~~

3.29 ~~The utility that owns a nuclear generating plant is eligible to apply for grants under this~~
 3.30 ~~subdivision.~~

3.31 ~~(k) For the purposes of paragraph (j), the following terms have the meanings given:~~

3.32 ~~(1) "renewable" has the meaning given in section 216B.2422, subdivision 1, paragraph~~
 3.33 ~~(e), clauses (1), (2), (4), and (5); and~~

4.1 ~~(2) "grid modernization" means:~~

4.2 ~~(i) enhancing the reliability of the electrical grid;~~

4.3 ~~(ii) improving the security of the electrical grid against cyberthreats and physical threats;~~

4.4 ~~and~~

4.5 ~~(iii) increasing energy conservation opportunities by facilitating communication between~~
4.6 ~~the utility and its customers through the use of two-way meters, control technologies, energy~~
4.7 ~~storage and microgrids, technologies to enable demand response, and other innovative~~
4.8 ~~technologies.~~

4.9 ~~(l) A renewable development account advisory group that includes, among others,~~
4.10 ~~representatives of the public utility and its ratepayers, and includes at least one representative~~
4.11 ~~of the Prairie Island Indian community appointed by that community's tribal council, shall~~
4.12 ~~develop recommendations on account expenditures. The advisory group must design a~~
4.13 ~~request for proposal and evaluate projects submitted in response to a request for proposals.~~
4.14 ~~The advisory group must utilize an independent third-party expert to evaluate proposals~~
4.15 ~~submitted in response to a request for proposal, including all proposals made by the public~~
4.16 ~~utility. A request for proposal for research and development under paragraph (j), clause (1),~~
4.17 ~~may be limited to or include a request to higher education institutions located in Minnesota~~
4.18 ~~for multiple projects authorized under paragraph (j), clause (1). The request for multiple~~
4.19 ~~projects may include a provision that exempts the projects from the third-party expert review~~
4.20 ~~and instead provides for project evaluation and selection by a merit peer review grant system.~~
4.21 ~~In the process of determining request for proposal scope and subject and in evaluating~~
4.22 ~~responses to request for proposals, the advisory group must strongly consider, where~~
4.23 ~~reasonable, potential benefit to Minnesota citizens and businesses and the utility's ratepayers.~~

4.24 ~~(m) The advisory group shall submit funding recommendations to the public utility,~~
4.25 ~~which has full and sole authority to determine which expenditures shall be submitted by~~
4.26 ~~the advisory group to the legislature. The commission may approve proposed expenditures,~~
4.27 ~~may disapprove proposed expenditures that it finds not to be in compliance with this~~
4.28 ~~subdivision or otherwise not in the public interest, and may, if agreed to by the public utility,~~
4.29 ~~modify proposed expenditures. The commission shall, by order, submit its funding~~
4.30 ~~recommendations to the legislature as provided under paragraph (n).~~

4.31 ~~(n) The commission shall present its recommended appropriations from the account to~~
4.32 ~~the senate and house of representatives committees with jurisdiction over energy policy and~~
4.33 ~~finance annually by February 15. Expenditures from the account must be appropriated by~~
4.34 ~~law. In enacting appropriations from the account, the legislature:~~

5.1 ~~(1) may approve or disapprove, but may not modify, the amount of an appropriation for~~
5.2 ~~a project recommended by the commission; and~~

5.3 ~~(2) may not appropriate money for a project the commission has not recommended~~
5.4 ~~funding.~~

5.5 ~~(o) A request for proposal for renewable energy generation projects must, when feasible~~
5.6 ~~and reasonable, give preference to projects that are most cost-effective for a particular energy~~
5.7 ~~source.~~

5.8 ~~(p) The advisory group must annually, by February 15, report to the chairs and ranking~~
5.9 ~~minority members of the legislative committees with jurisdiction over energy policy on~~
5.10 ~~projects funded by the account for the prior year and all previous years. The report must,~~
5.11 ~~to the extent possible and reasonable, itemize the actual and projected financial benefit to~~
5.12 ~~the public utility's ratepayers of each project.~~

5.13 ~~(q) By February 1, 2018, and each February 1 thereafter, the commissioner of~~
5.14 ~~management and budget shall submit a written report regarding the availability of funds in~~
5.15 ~~and obligations of the account to the chairs and ranking minority members of the senate~~
5.16 ~~and house committees with jurisdiction over energy policy and finance, the public utility,~~
5.17 ~~and the advisory group.~~

5.18 ~~(r) A project receiving funds from the account must produce a written final report that~~
5.19 ~~includes sufficient detail for technical readers and a clearly written summary for nontechnical~~
5.20 ~~readers. The report must include an evaluation of the project's financial, environmental, and~~
5.21 ~~other benefits to the state and the public utility's ratepayers.~~

5.22 ~~(s) Final reports, any mid-project status reports, and renewable development account~~
5.23 ~~financial reports must be posted online on a public website designated by the commissioner~~
5.24 ~~of commerce.~~

5.25 ~~(t) All final reports must acknowledge that the project was made possible in whole or~~
5.26 ~~part by the Minnesota renewable development account, noting that the account is financed~~
5.27 ~~by the public utility's ratepayers.~~

5.28 ~~(u) Of the amount in the renewable development account, priority must be given to~~
5.29 ~~making the payments required under section 216C.417.~~

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

6.1 Sec. 2. Minnesota Statutes 2018, section 116C.779, subdivision 2, is amended to read:

6.2 Subd. 2. **Renewable energy production incentive.** (a) Until January 1, 2021, up to
 6.3 \$10,900,000 annually must be allocated from available funds in the account established in
 6.4 subdivision 1 to fund renewable energy production incentives. Up to \$9,400,000 of this
 6.5 annual amount is for incentives for electricity generated by wind energy conversion systems
 6.6 that are eligible for the incentives under section 216C.41 or Laws 2005, chapter 40.

6.7 (b) The balance of this amount, up to \$1,500,000 annually, may be used for production
 6.8 incentives for on-farm biogas recovery facilities and hydroelectric facilities that are eligible
 6.9 for the incentive under section 216C.41 or for production incentives for other renewables,
 6.10 to be provided in the same manner as under section 216C.41.

6.11 (c) Any portion of the ~~\$10,900,000~~ funds allocated but not expended under this
 6.12 subdivision in any calendar year for the incentive is available for other spending purposes
 6.13 under subdivision 1. This subdivision does not create an obligation to contribute funds to
 6.14 the account.

6.15 (d) The Department of Commerce shall determine eligibility of projects under section
 6.16 216C.41 for the purposes of this subdivision. At least quarterly, the Department of Commerce
 6.17 shall notify the public utility of the name and address of each eligible project owner and
 6.18 the amount due to each project under section 216C.41. The public utility shall make payments
 6.19 within 15 working days after receipt of notification of payments due.

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

6.21 Sec. 3. Minnesota Statutes 2018, section 116C.7792, is amended to read:

6.22 **116C.7792 SOLAR ENERGY INCENTIVE PROGRAM.**

6.23 The utility subject to section 116C.779 shall operate a program to provide solar energy
 6.24 production incentives for solar energy systems of no more than a total aggregate nameplate
 6.25 capacity of 40 kilowatts direct current per premise. The owner of a solar energy system
 6.26 installed before June 1, 2018, is eligible to receive a production incentive under this section
 6.27 for any additional solar energy systems constructed at the same customer location, provided
 6.28 that the aggregate capacity of all systems at the customer location does not exceed 40
 6.29 kilowatts. The program shall be operated for eight consecutive calendar years commencing
 6.30 in 2014. \$5,000,000 shall be allocated in each of the first four years, \$15,000,000 in the
 6.31 fifth year, \$10,000,000 in each of the sixth and seventh years, and \$5,000,000 in the eighth
 6.32 year from funds ~~withheld from transfer~~ transferred to the renewable development account
 6.33 under section 116C.779, subdivision 1, ~~paragraphs (b) and (e)~~ paragraph (c), and placed in

7.1 a separate account for the purpose of the solar production incentive program operated by
7.2 the utility and not for any other program or purpose. Any unspent amount allocated in the
7.3 fifth year is available until December 31 of the sixth year. Any unspent amount remaining
7.4 at the end of any other allocation year must be transferred to the renewable development
7.5 account. The solar system must be sized to less than 120 percent of the customer's on-site
7.6 annual energy consumption when combined with other distributed generation resources and
7.7 subscriptions provided under section 216B.1641 associated with the premise. The production
7.8 incentive must be paid for ten years commencing with the commissioning of the system.
7.9 The utility must file a plan to operate the program with the commissioner of commerce.
7.10 The utility may not operate the program until it is approved by the commissioner. A change
7.11 to the program to include projects up to a nameplate capacity of 40 kilowatts or less does
7.12 not require the utility to file a plan with the commissioner. Any plan approved by the
7.13 commissioner of commerce must not provide an increased incentive scale over prior years
7.14 unless the commissioner demonstrates that changes in the market for solar energy facilities
7.15 require an increase.

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