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STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1681

(SENATE AUTHORS: RUUD)

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OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to solid waste; making compliance with the metropolitan long-range solid
1.3 waste policy plan optional; requiring rulemaking for the revision of certain solid
1.4 waste standards; amending Minnesota Statutes 2016, sections 473.149, subdivisions
1.5 1, 3; 473.516, subdivision 2; 473.803, subdivision 1c; 473.811, subdivisions 1,
1.6 4a; 473.823, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.7 chapter 115A.

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

1.9 Section 1. **[115A.413] SOLID WASTE FACILITIES AND SITES; RULEMAKING.**

1.10 Revisions to criteria and standards that govern siting, constructing, or operating solid
1.11 waste facilities or solid waste facility sites are subject to the rulemaking provisions of chapter
1.12 14.

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

1.14 Sec. 2. Minnesota Statutes 2016, section 473.149, subdivision 1, is amended to read:

1.15 Subdivision 1. **Policy plan; general requirements.** (a) The commissioner of the Pollution
1.16 Control Agency shall revise the metropolitan long range policy plan for solid waste
1.17 management adopted in 2011 by December 31, 2016, and every sixth year thereafter. The
1.18 plan shall ~~be followed in the metropolitan area~~ consider costs imposed on consumers and
1.19 businesses and potential negative impacts on the private solid waste industry. The plan shall
1.20 address the state policies and purposes expressed in section 115A.02. In revising the plan
1.21 the commissioner shall follow the procedures in subdivision 3. The plan shall include goals
1.22 and policies for solid waste management, including recycling consistent with section

2.1 115A.551, and household hazardous waste management consistent with section 115A.96,
 2.2 subdivision 6, in the metropolitan area.

2.3 (b) The plan shall include criteria and standards for solid waste facilities and solid waste
 2.4 facility sites respecting the following matters: general location; capacity; operation;
 2.5 processing techniques; environmental impact; effect on existing, planned, or proposed
 2.6 collection services and waste facilities; and economic viability. The plan shall, to the extent
 2.7 practicable and consistent with the achievement of other public policies and purposes,
 2.8 encourage ownership and operation of solid waste facilities by private industry. For solid
 2.9 waste facilities owned or operated by public agencies or supported primarily by public funds
 2.10 or obligations issued by a public agency, the plan shall include additional criteria and
 2.11 standards to protect comparable private and public facilities already existing in the area
 2.12 from displacement unless the displacement is required in order to achieve the waste
 2.13 management objectives identified in the plan. In revising the plan, the commissioner shall
 2.14 consider the orderly and economic development, public and private, of the metropolitan
 2.15 area; the preservation and best and most economical use of land and water resources in the
 2.16 metropolitan area; the protection and enhancement of environmental quality; the conservation
 2.17 and reuse of resources and energy; the preservation and promotion of conditions conducive
 2.18 to efficient, competitive, and adaptable systems of waste management; and the orderly
 2.19 resolution of questions concerning changes in systems of waste management. Criteria and
 2.20 standards for solid waste facilities shall be consistent with rules adopted by the Pollution
 2.21 Control Agency pursuant to chapter 116 and shall be at least as stringent as the guidelines,
 2.22 regulations, and standards of the federal Environmental Protection Agency.

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

2.24 Sec. 3. Minnesota Statutes 2016, section 473.149, subdivision 3, is amended to read:

2.25 Subd. 3. **Preparation; adoption; and revision.** (a) The solid waste policy plan shall be
 2.26 prepared, adopted, and revised as necessary in accordance with paragraphs ~~(e) to (e)~~ (b) to
 2.27 (d), after consultation with the metropolitan counties.

2.28 ~~(b) Revisions to the policy plan are exempt from the rulemaking provisions of chapter~~
 2.29 ~~14.~~

2.30 ~~(e)~~ Before beginning preparation of revisions to the policy plan, the commissioner shall
 2.31 publish a predrafting notice in the State Register that includes a statement of the subjects
 2.32 expected to be covered by the revisions, including a summary of the important problems
 2.33 and issues. The notice must solicit comments from the public and state that the comments

3.1 must be received by the commissioner within 45 days of publication of the notice. The
3.2 commissioner shall consider the comments in preparing the revisions.

3.3 ~~(d)~~ (c) After publication of the predrafting notice and before adopting revisions to the
3.4 policy plan, the commissioner shall publish a notice in the State Register that:

3.5 (1) contains a summary of the proposed revisions;

3.6 (2) invites public comment;

3.7 (3) lists locations where the proposed revised policy plan can be reviewed and states
3.8 that copies of the proposed revised policy plan can also be obtained from the Pollution
3.9 Control Agency;

3.10 (4) states a location for a public meeting on the revisions at a time no earlier than 30
3.11 days from the date of publication; and

3.12 (5) advises the public that they have 30 days from the date of the public meeting in
3.13 clause (4) to submit comments on the revisions to the commissioner.

3.14 ~~(e)~~ (d) At the meeting described in paragraph ~~(d)~~ (c), clause (4), the public shall be given
3.15 an opportunity to present their views on the policy plan revisions. The commissioner shall
3.16 incorporate any amendments to the proposed revisions that, in the commissioner's view,
3.17 will help to carry out the requirements of subdivisions 1, 2d, and 2e. At or before the time
3.18 that policy plan revisions are finally adopted, the commissioner shall issue a report that
3.19 addresses issues raised in the public comments. The report shall be made available to the
3.20 public and mailed to interested persons who have submitted their names and addresses to
3.21 the commissioner.

3.22 ~~(f)~~ (e) The criteria and standards adopted in the policy plan for review of solid waste
3.23 facility permits pursuant to section 473.823, subdivision 3; for issuance of certificates of
3.24 need pursuant to section 473.823, subdivision 6; and for review of solid waste contracts
3.25 pursuant to section 473.813 may be appealed to the Court of Appeals within 30 days after
3.26 final adoption of the policy plan. The court may declare the challenged portion of the policy
3.27 plan invalid if it violates constitutional provisions, is in excess of statutory authority of the
3.28 commissioner, or was adopted without compliance with the procedures in this subdivision.
3.29 The review shall be on the record created during the adoption of the policy plan, except that
3.30 additional evidence may be included in the record if the court finds that the additional
3.31 evidence is material and there were good reasons for failure to present it in the proceedings
3.32 described in paragraphs ~~(e) to (e)~~ (b) to (d).

4.1 ~~(g)~~ (f) The Metropolitan Council or a metropolitan county, local government unit,
 4.2 commission, or person shall not acquire, construct, improve or operate any solid waste
 4.3 facility in the metropolitan area except in accordance with ~~the plan and~~ section 473.823,
 4.4 provided that no solid waste facility in use when a plan is adopted shall be discontinued
 4.5 solely because it is not located in an area designated in the plan as acceptable for the location
 4.6 of such facilities.

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

4.8 Sec. 4. Minnesota Statutes 2016, section 473.516, subdivision 2, is amended to read:

4.9 Subd. 2. **General requirements.** With respect to its activities under this section, the
 4.10 council shall be subject to and comply with the applicable provisions of this chapter. Property
 4.11 acquired by the council under this section shall be subject to the provisions of section
 4.12 473.545. ~~Any site or facility owned or operated for or by the council shall conform to the~~
 4.13 ~~policy plan adopted under section 473.149.~~ The council shall contract with private persons
 4.14 for the construction, maintenance, and operation of waste facilities, subject to the bidding
 4.15 requirements of section 473.523, where the facilities are adequate and available for use and
 4.16 competitive with other means of providing the same service.

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

4.18 Sec. 5. Minnesota Statutes 2016, section 473.803, subdivision 1c, is amended to read:

4.19 Subd. 1c. **County abatement plan.** Each county shall revise its master plan to include
 4.20 a land disposal abatement element ~~to implement the metropolitan land disposal abatement~~
 4.21 ~~plan adopted under section 473.149, subdivision 2d,~~ and shall submit the revised master
 4.22 plan to the commissioner for review under subdivision 2 within nine months after the
 4.23 adoption of the metropolitan abatement plan. The county plan must implement the local
 4.24 abatement objectives for the county and cities within the county as stated in the metropolitan
 4.25 abatement plan. The county abatement plan must include specific and quantifiable county
 4.26 objectives, ~~based on the objectives in the metropolitan abatement plan,~~ for abating to the
 4.27 greatest feasible and prudent extent the need for and practice of land disposal of mixed
 4.28 municipal solid waste and of specific components of the solid waste stream generated in
 4.29 the county, stated in six-year increments for a period of at least 20 years from the date of
 4.30 metropolitan policy plan revisions. The plan must include measurable performance standards
 4.31 for local abatement of solid waste through resource recovery and waste reduction and
 4.32 separation programs and activities for the county as a whole and for statutory or home rule
 4.33 charter cities of the first, second, and third class, respectively, in the county, stated in six-year

5.1 increments for a period of at least 20 years from the date of metropolitan policy plan
 5.2 revisions. The performance standards must implement the ~~metropolitan and~~ county abatement
 5.3 objectives. The plan must include standards and procedures to be used by the county in
 5.4 determining annually under subdivision 3 whether a city within the county has implemented
 5.5 the plan and has satisfied the performance standards for local abatement. The master plan
 5.6 revision required by this subdivision must be prepared in consultation with the advisory
 5.7 committee established pursuant to subdivision 4.

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

5.9 Sec. 6. Minnesota Statutes 2016, section 473.811, subdivision 1, is amended to read:

5.10 Subdivision 1. **County acquisition of facilities.** To accomplish the purpose specified
 5.11 in section 473.803, each metropolitan county may acquire by purchase, lease, gift, or
 5.12 condemnation as provided by law, upon such terms and conditions as it shall determine,
 5.13 including contracts for deed and conditional sales contracts, solid waste facilities or properties
 5.14 or easements for solid waste facilities ~~which~~ that are in accordance with rules adopted by
 5.15 the agency, ~~the policy plan~~ and the approved county master plan; and may improve or
 5.16 construct improvements on any property or facility so acquired. No metropolitan city, county
 5.17 or town shall own or operate a hazardous waste facility, except a facility to manage household
 5.18 hazardous waste. Each metropolitan county is authorized to levy a tax in anticipation of
 5.19 need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is
 5.20 levied in anticipation of need, the purpose must be specified in a resolution of the county
 5.21 directing that the levy and the proceeds of the tax may be used only for that purpose. Until
 5.22 so used, the proceeds shall be retained in a separate fund or invested in the same manner as
 5.23 surplus in a sinking fund may be invested under section 118A.04. The right of condemnation
 5.24 shall be exercised in accordance with chapter 117.

5.25 For the purposes of this section "solid waste facility" includes a facility to manage
 5.26 household hazardous waste.

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

5.28 Sec. 7. Minnesota Statutes 2016, section 473.811, subdivision 4a, is amended to read:

5.29 Subd. 4a. **Ordinances; general conditions; restrictions; application.** Ordinances of
 5.30 counties and local government units related to or affecting waste management shall embody
 5.31 ~~plans, policies,~~ rules, standards, and requirements adopted by any state agency authorized
 5.32 to ~~manage or plan for or~~ regulate the management of waste ~~and the waste management plans~~
 5.33 ~~adopted under section 473.149~~ and shall be consistent with approved county master plans.

6.1 Except as provided in this subdivision, a county may establish and operate or contract for
6.2 the establishment or operation of a solid waste disposal facility without complying with
6.3 local ordinances if the commissioner certifies need under section 473.823, subdivision 6.
6.4 With the approval of the commissioner, local government units may impose and enforce
6.5 reasonable conditions respecting the construction, operation, inspection, monitoring, and
6.6 maintenance of the disposal facilities. No local government unit shall prevent the
6.7 establishment or operation of any solid waste facility in accordance with the commissioner's
6.8 decision under section 473.823, subdivision 5, except that, with the approval of the
6.9 commissioner, the local government unit may impose reasonable conditions respecting the
6.10 construction, inspection, monitoring, and maintenance of a facility.

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

6.12 Sec. 8. Minnesota Statutes 2016, section 473.823, subdivision 3, is amended to read:

6.13 Subd. 3. **Solid waste facilities; review procedures.** (a) The agency shall request
6.14 applicants for solid waste facility permits to submit all information deemed relevant by the
6.15 commissioner for review, including without limitation information relating to the geographic
6.16 areas and population served, the need, the effect on existing facilities and services, the
6.17 effectiveness of proposed buffer areas to ensure, at a minimum, protection of surrounding
6.18 land uses from adverse or incompatible impacts due to landfill operation and related activities,
6.19 the anticipated public cost and benefit, the anticipated rates and charges, the manner of
6.20 financing, the effect on metropolitan plans and development programs, the supply of waste,
6.21 anticipated markets for any product, and alternative means of disposal or energy production.

6.22 (b) ~~A permit may not be issued for the operation of a solid waste facility in the~~
6.23 ~~metropolitan area which is not in accordance with the metropolitan policy plan. The~~
6.24 ~~commissioner shall determine whether a permit is in accordance with the policy plan. In~~
6.25 ~~making this determination~~ evaluating a permit application, the commissioner shall consider
6.26 the areawide need and benefit of the applicant facility and the effectiveness of proposed
6.27 buffer areas to adequately protect surrounding land uses ~~in accordance with the policy plan~~,
6.28 and may consider, without limitation, the effect of the applicant facility on existing and
6.29 planned solid waste facilities.

6.30 (c) ~~If the commissioner determines that a permit is in accordance with the policy plan,~~
6.31 ~~the commissioner shall approve the permit. If the commissioner determines that a permit~~
6.32 ~~is not in accordance with the policy plan, the commissioner shall disapprove the permit.~~
6.33 Approval of permits may be subject to conditions the commissioner determines are necessary
6.34 to satisfy criteria and standards in the policy plan, including conditions respecting the type,

7.1 character, and quantities of waste to be processed at a solid waste facility used primarily
7.2 for resource recovery and the geographic territory from which a resource recovery facility
7.3 or transfer station serving such a facility may draw its waste.

7.4 (d) A permit may not be issued in the metropolitan area for a solid waste facility used
7.5 primarily for resource recovery or a transfer station serving the facility, if the facility or
7.6 station is owned or operated by a public agency or if the acquisition or betterment of the
7.7 facility or station is secured by public funds or obligations issued by a public agency, unless
7.8 the commissioner finds and determines that adequate markets exist for the products recovered
7.9 and that establishment of the facility is consistent with the criteria and standards in the
7.10 metropolitan and county plans respecting the protection of existing resource recovery
7.11 facilities and transfer stations serving such facilities.

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