

CHAPTER 116C

ENVIRONMENTAL QUALITY BOARD

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| <p>116C.03 Creation of the environmental quality board; membership: chair; staff.</p> <p>116C.40 Coordination of water resource management and planning; definitions.</p> <p>116C.41 Duties of board.</p> <p>116C.57 Designation of sites and routes; procedures; considerations; emergency certification; exemption.</p> <p>116C.63 Eminent domain powers; right of condemnation.</p> | <p>116C.69 Biennial report; application fees; appropriation; funding.</p> <p>116C.712 Powers and duties.</p> <p>116C.832 Definitions.</p> <p>116C.834 Assessment of generators.</p> <p>116C.842 Contingent provisions.</p> <p>116C.845 Siting determination.</p> <p>116C.846 Siting board.</p> <p>116C.847 Siting criteria.</p> <p>116C.848 Nonvolunteer siting process.</p> |
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116C.03 CREATION OF THE ENVIRONMENTAL QUALITY BOARD; MEMBERSHIP; CHAIR; STAFF.

[For text of subd 1, see M.S.1986]

Subd. 2. The members of the board are the director of the state planning agency, the director of public service, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the chair of the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state.

[For text of subds 2a to 6, see M.S.1986]

History: 1987 c 312 art 1 s 6; 1987 c 358 s 105

116C.40 COORDINATION OF WATER RESOURCE MANAGEMENT AND PLANNING; DEFINITIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. [Repealed, 1987 c 358 s 132]

116C.41 DUTIES OF BOARD.

[For text of subd 1, see M.S.1986]

Subd. 2. [Repealed, 1987 c 358 s 132]

[For text of subd 3, see M.S.1986]

116C.57 DESIGNATION OF SITES AND ROUTES; PROCEDURES; CONSIDERATIONS; EMERGENCY CERTIFICATION; EXEMPTION.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Emergency certification.** Any utility whose electric power system requires the immediate construction of a large electric power generating plant or high voltage transmission line may make application to the board for an emergency certificate of site compatibility or permit for the construction of high voltage transmission lines, which certificate or permit shall be issued in a timely manner no later than 195 days after the board's acceptance of the application and upon a finding by the board that a demonstrable emergency exists which requires immediate construction, and that adherence to the procedures and time schedules specified in section 116C.54 and this section would jeopardize the utility's electric power system or would jeopardize the utility's ability

to meet the electric needs of its customers in an orderly and timely manner. A public hearing to determine if an emergency exists shall be held within 90 days of the application. The board shall, after notice and hearing, promulgate rules specifying the criteria for emergency certification.

[For text of subs 4 to 6, see M.S.1986]

History: 1987 c 384 art 2 s 21

116C.63 EMINENT DOMAIN POWERS; RIGHT OF CONDEMNATION.

[For text of subs 1 to 3, see M.S.1986]

Subd. 4. When private real property that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 is proposed to be acquired for the construction of a site or route by eminent domain proceedings, the fee owner, or when applicable, the fee owner with the written consent of the contract for deed vendee, or the contract for deed vendee with the written consent of the fee owner, shall have the option to require the utility to condemn a fee interest in any amount of contiguous, commercially viable land which the owner or vendee wholly owns or has contracted to own in undivided fee and elects in writing to transfer to the utility within 60 days after receipt of the notice of the objects of the petition filed pursuant to section 117.055. Commercial viability shall be determined without regard to the presence of the utility route or site. The owner or, when applicable, the contract vendee shall have only one such option and may not expand or otherwise modify an election without the consent of the utility. The required acquisition of land pursuant to this subdivision shall be considered an acquisition for a public purpose and for use in the utility's business, for purposes of chapter 117 and section 500.24, respectively; provided that a utility shall divest itself completely of all such lands used for farming or capable of being used for farming not later than the time it can receive the market value paid at the time of acquisition of lands less any diminution in value by reason of the presence of the utility route or site. Upon the owner's election made under this subdivision, the easement interest over and adjacent to the lands designated by the owner to be acquired in fee, sought in the condemnation petition for a high voltage transmission line right-of-way shall automatically be converted into a fee taking.

[For text of subd 5, see M.S.1986]

History: 1987 c 268 art 6 s 1

NOTE: Except where provided otherwise, subdivision 4, as amended by Laws 1987, chapter 268, article 6, section 1, is effective for taxes levied in 1988, payable in 1989, and thereafter. See Laws 1987, chapter 268, article 6, section 54.

116C.69 BIENNIAL REPORT; APPLICATION FEES; APPROPRIATION; FUNDING.

[For text of subs 1 to 2a, see M.S.1986]

Subd. 3. **Funding; assessment.** The board shall finance its base line studies, general environmental studies, development of criteria, inventory preparation, monitoring of conditions placed on site certificates and construction permits, and all other work, other than specific site and route designation, from an assessment made quarterly, at least 30 days before the start of each quarter, by the board against all utilities with annual retail kilowatt-hour sales greater than 4,000,000 kilowatt-hours in the previous calendar year.

Until June 30, 1992, the assessment shall also include an amount sufficient to cover 60 percent of the costs to the pollution control agency of achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, reprinting informational booklets on acid rain, and costs for

additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The director of the pollution control agency must prepare a work plan and budget and submit them annually by June 30 to the pollution control agency board. The agency board must take public testimony on the budget and work plan. After the agency board approves the work plan and budget they must be submitted annually to the legislative commission on Minnesota resources for review and recommendation before an assessment is levied. Each share shall be determined as follows: (1) the ratio that the annual retail kilowatt-hour sales in the state of each utility bears to the annual total retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.667, plus (2) the ratio that the annual gross revenue from retail kilowatt-hour sales in the state of each utility bears to the annual total gross revenues from retail kilowatt-hour sales in the state of all these utilities, multiplied by 0.333, as determined by the board. The assessment shall be credited to the special revenue fund and shall be paid to the state treasury within 30 days after receipt of the bill, which shall constitute notice of said assessment and demand of payment thereof. The total amount which may be assessed to the several utilities under authority of this subdivision shall not exceed the sum of the annual budget of the board for carrying out the purposes of this subdivision plus 60 percent of the annual budget of the pollution control agency for achieving, maintaining, and monitoring compliance with the acid deposition control standard adopted under sections 116.42 to 116.45, for reprinting informational booklets on acid rain, and for costs for additional research on the impacts of acid deposition on sensitive areas published under section 116.44, subdivision 1. The assessment for the second quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the board and the pollution control agency for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

History: 1987 c 304 s 1

116C.712 POWERS AND DUTIES.

[For text of subs 1 to 4, see M.S.1986]

Subd. 5. **Assessment.** (a) A person, firm, corporation, or association in the business of owning or operating a nuclear fission electrical generating plant in this state shall pay an assessment to cover the cost of:

(1) monitoring the federal high-level radioactive waste program under the Nuclear Waste Policy Act, United States Code, title 42, sections 10101 to 10226;

(2) advising the governor and the legislature on policy issues relating to the federal high-level radioactive waste disposal program; and

(3) other general studies necessary to carry out the purposes of this subdivision.

The assessment must not be more than the appropriation to the state planning agency for these purposes.

(b) The state planning agency shall bill the owner or operator of the plant for the assessment at least 30 days before the start of each quarter. The assessment for the second quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the state planning agency for the preceding year were more or less than the estimated expenditures previously assessed. The billing may be made as an addition to the assessments made under section 116C.69. The owner or operator of the plant must pay the assessment within 30 days after receipt of the bill. The assessment must be deposited in the state treasury and credited to the special revenue fund.

(c) The authority for this assessment terminates when the department of energy eliminates Minnesota from further siting consideration for high-level radioactive waste. The assessment required for any quarter must be reduced by the amount of federal grant money received by the state planning agency for the purposes listed in this section.

History: 1987 c 404 s 147

NOTE: Subdivision 5, as added by Laws 1987, chapter 404, section 147, is effective June 1, 1988. See Laws 1987, chapter 404, section 192, subdivision 4.

116C.832 DEFINITIONS.

Subdivision 1. **Terms defined in compact.** The terms defined in article II of the Midwest Interstate Low-Level Radioactive Waste Compact have the meanings given them for the purposes of sections 116C.833 to 116C.848.

[For text of subds 2 to 6, see M.S.1986]

Subd. 7. **Site.** "Site" means a site for construction and operation of a low-level radioactive waste facility.

Subd. 8. **Siting board.** "Siting board" means the low-level radioactive waste facility siting board established under section 116C.846, subdivision 1.

History: 1987 c 311 s 1-3

116C.834 ASSESSMENT OF GENERATORS.

Subdivision 1. **Costs.** All costs incurred by the state to carry out its responsibilities under the compact and under sections 116C.833 to 116C.843 shall be paid by generators of low-level radioactive waste in this state through fees assessed by the pollution control agency. The agency shall assess the fees in the manner provided in section 16A.128. Fees may be reasonably assessed on the basis of volume or degree of hazard of the waste produced by a generator. Costs for which fees may be assessed include, but are not limited to:

(a) the state contribution required to join the compact;

(b) the expenses of the Commission member and costs incurred to support the work of the interstate commission;

(c) regulatory costs, including but not limited to costs of adopting and enforcing regulations if the state enters into a limited agreement with the United States Nuclear Regulatory Commission to assume state regulation of transportation and packaging, or disposal, of low-level radioactive wastes;

(d) siting costs of a low-level radioactive waste facility under section 116C.842 and sections 116C.845 to 116C.848 to the extent that the costs are reasonably attributable to waste generated in this state; and

(e) any liability the state may incur as a party state to the compact.

Subd. 2. **Collection and deposit.** Fees assessed under subdivision 1 shall be collected by the commissioner of revenue. All money received pursuant to this subdivision shall be deposited in the special revenue fund.

History: 1987 c 311 s 4

116C.842 CONTINGENT PROVISIONS.

[For text of subds 1 and 2, see M.S.1986]

Subd. 3. **Development of a siting process.** In the event that Minnesota is to be a host state for a regional low-level radioactive waste facility, the low-level waste facility siting board established under section 116C.846, subdivision 1, shall develop a siting process and report to the governor, the advisory committee, and the legislature. The siting board shall prepare recommendations for legislation including siting criteria, procedures for public participation, licensing, regulation, and bonding requirements. The recommendations shall include bonding requirements sufficient to cover any costs of monitoring the facility and providing for its safety and security in the event that the licensee discontinues operation, management, or supervision of the facility for so long as the materials stored or treated at the facility pose a threat to the public health.

[For text of subd 4, see M.S.1986]

History: 1987 c 311 s 5

LOW-LEVEL RADIOACTIVE WASTE FACILITY SITE**116C.845 SITING DETERMINATION.**

If the governor determines that a low-level radioactive waste facility should be sited in the state, the governor shall issue an executive order and notify the chair of the environmental quality board, the director, and the chair of the advisory committee. The governor must determine whether a low-level radioactive waste facility should be sited in the state by ten days after:

(1) Minnesota is designated as a host state by the interstate commission under the compact;

(2) Minnesota volunteers as a host state for a regional facility under the compact;

or

(3) Minnesota withdraws from the compact.

History: 1987 c 311 s 6

116C.846 SITING BOARD.

Subdivision 1. Establishment. The low-level radioactive waste facility siting board is established to select a facility site when the governor issues an executive order that a facility should be sited.

Subd. 2. Membership. (a) The siting board has 11 members consisting of the commissioner of natural resources, commissioner of transportation, chair of the environmental quality board, and eight citizen members representing each of the eight congressional districts.

(b) The governor must appoint the eight citizen members of the siting board by 30 days after the executive order for siting a facility is issued.

(c) The chair of the environmental quality board is the chair of the siting board.

Subd. 3. Staffing and administration. The environmental quality board shall provide staffing and administrative assistance for the siting board.

Subd. 4. Compensation. The citizen members of the siting board shall be compensated as provided in section 15.0575.

Subd. 5. Termination. The siting board is terminated when the siting process is finished.

History: 1987 c 311 s 7

116C.847 SITING CRITERIA.

Subdivision 1. Health, safety, and environmental considerations. The siting board must maintain health, safety, and environmental considerations above all other siting criteria.

Subd. 2. Volunteer site preferred. The siting board shall attempt to select a site from an area proposed in the volunteer siting process.

Subd. 3. Siting board to seek agreements and resolutions of interest. The chair shall actively solicit, encourage, and assist counties, together with developers, landowners, the local business community, and other interested parties, in developing resolutions of interest to enter an agreement to investigate the feasibility of siting a low-level radioactive waste facility.

Subd. 4. County resolution of interest. A county may begin to negotiate an agreement to evaluate siting a low-level radioactive facility after the county board files with the siting board a resolution of interest adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of one or more study areas in the county for consideration as a location of a facility.

Subd. 5. Economic development impact. The commissioner of energy and economic development must analyze the effects on businesses and the local economy and anticipated effects on local communities by a low-level radioactive waste facility.

History: 1987 c 311 s 8

116C.848 NONVOLUNTEER SITING PROCESS.

If a site is not selected from the volunteer siting process, the site selection shall proceed from the process developed under section 116C.842.

History: *1987 c 311 s 9*