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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1745

03/11/2015 Authored by Swedzinski

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act
1.2 relating to siting solar generating systems; setting setback standards; requiring
1.3 local project approval for site permit; amending Minnesota Statutes 2014,
1.4 sections 216E.03, subdivisions 5, 7; 216E.04, subdivision 5; proposing coding
1.5 for new law in Minnesota Statutes, chapter 216E.

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

1.7 Section 1. **[216E.022] SETBACK FOR SOLAR ENERGY GENERATING**
1.8 **SYSTEMS.**

1.9 Solar panels that are part of a solar energy generating system that has been issued a
1.10 site permit under this chapter must be set back at least 400 feet from any dwelling unless:

1.11 (1) a local ordinance or regulation requires a greater setback; or

1.12 (2) the property owner of the adjacent property and the owner of the solar energy
1.13 generating system have reached a mutual agreement in writing allowing for a smaller
1.14 setback.

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

1.16 Sec. 2. Minnesota Statutes 2014, section 216E.03, subdivision 5, is amended to read:

1.17 Subd. 5. **Environmental review.** (a) The commissioner of the Department of
1.18 Commerce shall prepare for the commission an environmental impact statement on each
1.19 proposed large electric generating plant or high-voltage transmission line for which a
1.20 complete application has been submitted. The commissioner shall not consider whether
1.21 or not the project is needed. No other state environmental review documents shall be
1.22 required. The commissioner shall study and evaluate any site or route proposed by an
1.23 applicant and any other site or route the commission deems necessary that was proposed in

2.1 a manner consistent with rules concerning the form, content, and timeliness of proposals
2.2 for alternate sites or routes.

2.3 (b) If the proposed large electric generating plant or high-voltage transmission
2.4 line is to be constructed on agricultural land, the environmental impact statement must
2.5 include an analysis of the impact of construction on any agricultural drainage system
2.6 under the surface of the construction site, including the impact on other agricultural land
2.7 that is part of the same drainage system.

2.8 (c) For the purpose of this subdivision, "agricultural drainage system" means a
2.9 publicly or privately owned drainage system that is installed or modified to improve the
2.10 productivity of agricultural land. Agricultural drainage system includes all tile, pipe, or
2.11 tubing of any material beneath the surface, and any associated inlets and outlets.

2.12 (d) If the proposed large electric generating plant is a solar energy generating
2.13 system, the environmental impact statement must include the results of an analysis of
2.14 reflected solar irradiance from the solar panels and its impact at specific observation
2.15 points, including but not limited to nearby airports, air traffic, highways, and residences.
2.16 The analysis must measure the incidence and duration of solar glare at these observation
2.17 points during various seasons of the year and times of day, and discuss how such impacts
2.18 can be mitigated by relocating solar panels or changing the angles at which they are set.

2.19 Sec. 3. Minnesota Statutes 2014, section 216E.03, subdivision 7, is amended to read:

2.20 Subd. 7. **Considerations in designating sites and routes.** (a) The commission's
2.21 site and route permit determinations must be guided by the state's goals to conserve
2.22 resources, minimize environmental impacts, minimize human settlement and other land
2.23 use conflicts, and ensure the state's electric energy security through efficient, cost-effective
2.24 power supply and electric transmission infrastructure.

2.25 (b) To facilitate the study, research, evaluation, and designation of sites and routes,
2.26 the commission shall be guided by, but not limited to, the following considerations:

2.27 (1) evaluation of research and investigations relating to the effects on land, water
2.28 and air resources of large electric power generating plants and high-voltage transmission
2.29 lines and the effects of water and air discharges and electric and magnetic fields resulting
2.30 from such facilities on public health and welfare, vegetation, animals, materials and
2.31 aesthetic values, including baseline studies, predictive modeling, and evaluation of new or
2.32 improved methods for minimizing adverse impacts of water and air discharges and other
2.33 matters pertaining to the effects of power plants on the water and air environment;

2.34 (2) environmental evaluation of sites and routes proposed for future development and
2.35 expansion and their relationship to the land, water, air and human resources of the state;

3.1 (3) evaluation of the effects of new electric power generation and transmission
 3.2 technologies and systems related to power plants designed to minimize adverse
 3.3 environmental effects;

3.4 (4) evaluation of the potential for beneficial uses of waste energy from proposed
 3.5 large electric power generating plants;

3.6 (5) analysis of the direct and indirect economic impact of proposed sites and routes
 3.7 including, but not limited to, productive agricultural land lost or impaired;

3.8 (6) evaluation of adverse direct and indirect environmental effects that cannot be
 3.9 avoided should the proposed site and route be accepted;

3.10 (7) evaluation of alternatives to the applicant's proposed site or route proposed
 3.11 pursuant to subdivisions 1 and 2;

3.12 (8) evaluation of potential routes that would use or parallel existing railroad and
 3.13 highway rights-of-way;

3.14 (9) evaluation of governmental survey lines and other natural division lines of
 3.15 agricultural land so as to minimize interference with agricultural operations;

3.16 (10) evaluation of the future needs for additional high-voltage transmission lines
 3.17 in the same general area as any proposed route, and the advisability of ordering the
 3.18 construction of structures capable of expansion in transmission capacity through multiple
 3.19 circuiting or design modifications;

3.20 (11) evaluation of irreversible and irretrievable commitments of resources should the
 3.21 proposed site or route be approved; ~~and~~

3.22 (12) ~~when appropriate, consideration~~ evaluation of problems raised by other state
 3.23 and federal agencies and local entities; and

3.24 (13) evaluation of the impact on local land use, including the extent to which the
 3.25 proposed site or route conflicts with county or local comprehensive plans, or official
 3.26 controls governing future development.

3.27 (c) If the commission's rules are substantially similar to existing regulations of a
 3.28 federal agency to which the utility in the state is subject, the federal regulations must
 3.29 be applied by the commission.

3.30 (d) No site or route shall be designated which violates state agency rules.

3.31 (e) The commission must make specific findings that it has considered locating a
 3.32 route for a high-voltage transmission line on an existing high-voltage transmission route
 3.33 and the use of parallel existing highway right-of-way and, to the extent those are not used
 3.34 for the route, the commission must state the reasons.

3.35 Sec. 4. Minnesota Statutes 2014, section 216E.04, subdivision 5, is amended to read:

4.1 Subd. 5. **Environmental review.** (a) For the projects identified in subdivision
4.2 2 and following these procedures, the commissioner of the Department of Commerce
4.3 shall prepare for the commission an environmental assessment. The environmental
4.4 assessment shall contain information on the human and environmental impacts of the
4.5 proposed project and other sites or routes identified by the commission and shall address
4.6 mitigating measures for all of the sites or routes considered. If the proposed project is to be
4.7 constructed on agricultural land, the environmental assessment must include an analysis
4.8 of the construction's impact on any agricultural drainage system under the surface of the
4.9 construction site, including the impact on other agricultural land that is part of the same
4.10 drainage system. The environmental assessment shall be the only state environmental
4.11 review document required to be prepared on the project.

4.12 (b) For the purpose of this subdivision, "agricultural drainage system" means a
4.13 publicly or privately owned drainage system that is installed or modified to improve the
4.14 productivity of agricultural land. Agricultural drainage system includes all tile, pipe, or
4.15 tubing of any material beneath the surface, and any associated inlets and outlets.

4.16 (c) If the proposed large electric generating plant is a solar energy generating system,
4.17 the environmental assessment must include the results of an analysis of reflected solar
4.18 irradiance from the solar panels and its impact at specific observation points, including
4.19 but not limited to nearby airports, air traffic, highways, and residences. The analysis
4.20 must measure the incidence and duration of solar glare at these observation points during
4.21 various seasons of the year and times of day, and discuss how such impacts can be
4.22 mitigated by relocating solar panels or changing the angles at which they are set.

4.23 Sec. 5. **[216E.19] REQUIREMENT FOR LOCAL APPROVAL.**

4.24 Notwithstanding the provisions of this chapter, the commission may not issue a
4.25 site permit for a solar energy generating system until all required local permits have
4.26 been granted and a resolution approving construction of the project is adopted by the
4.27 local governing body in which the proposed project site is located, provided that the
4.28 local governing body:

4.29 (1) has intervened as a formal party to the public hearing conducted under section
4.30 216E.03, subdivision 6, or 216E.04, subdivision 6; and

4.31 (2) has participated fully in the public hearing and has made its concerns regarding
4.32 the project part of the record established at the public hearing.

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