

CHAPTER 39—S.F.No. 1252

An act relating to water; providing for the consumptive use of groundwater.

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

Section 1. CONSUMPTIVE USE OF GROUNDWATER.

Pursuant to Minnesota Statutes, section 103G.265, subdivision 3, the legislature approves the consumptive use of groundwater under a permit of more than 2,000,000 gallons per day average in a 30-day period in the St. Paul Regional Water Services service area in connection with a municipal water supply system operated by the St. Paul Board of Water Commissioners, subject to a determination by the commissioner of natural resources that the water remaining in the basin of origin will be adequate to meet the basin's need for water and subject to subsequent approval by the commissioner.

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

Presented to the governor May 2, 2005

Signed by the governor May 5, 2005, 3:25 p.m.

CHAPTER 40—H.F.No. 218

An act relating to energy; extending eligibility to receive the renewable energy production incentive under certain circumstances; amending Minnesota Statutes 2004, section 216C.41, subdivision 3.

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

Section 1. Minnesota Statutes 2004, section 216C.41, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY WINDOW.** Payments may be made under this section only for electricity generated:

(1) from a qualified hydroelectric facility that is operational and generating electricity before December 31, 2005 2007;

(2) from a qualified wind energy conversion facility that is operational and generating electricity before January 1, 2007; or

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(3) from a qualified on-farm biogas recovery facility from July 1, 2001, through December 31, 2017.

Sec. 2. RENEWABLE DEVELOPMENT FUND; RENEWABLE ENERGY PRODUCTION INCENTIVE EXTENSION.

Subdivision 1. SCOPE. This section applies to renewable energy production incentives funded by the renewable development account under Minnesota Statutes, section 116C.779. Minnesota Statutes, section 216C.41, governs the approval for and terms of the incentives except as modified by this section.

Subd. 2. DEFINITION. For the purpose of this section, "lapse period" means the period from January 1, 2004, to October 22, 2004.

Subd. 3. PREVIOUSLY APPROVED APPLICANT. An applicant who received a letter of approval from the commissioner of commerce under Minnesota Statutes, section 216C.41, subdivision 7, may, if any part of the lapse period occurred within 18 months after receipt of the approval, seek to extend the 18-month eligibility period by submitting to the commissioner the following:

(1) evidence that all required interconnection and delivery studies for the qualifying project have been completed and an interconnection agreement signed by all the parties has been executed. If the interconnection agreement requires improvements to be made to the transmission system, the applicant must provide evidence that equity and debt financing sufficient to pay the cost of those improvements is secured and that construction of the improvements can be expected to be completed by the date the proposed extension will expire; and

(2) documents demonstrating that the project has secured equity and debt financing sufficient to complete the project by the date the proposed extension will expire.

If the commissioner determines that the applicant has complied with clauses (1) and (2), the commissioner shall, within 30 days of receiving the submission, notify the applicant that the 18-month period is extended by the length of time of the lapse period occurring within the 18-month period, notwithstanding any provision making the credit retroactive. If the federal production credit has lapsed when the commissioner determines whether the applicant has made the submission required by clauses (1) and (2), the commissioner shall extend the 18-month eligibility period for 12 months.

If the commissioner determines that an applicant has failed to comply with the requirement for obtaining an extension, the commissioner shall notify the applicant that an extension of the 18-month eligibility period is denied.

Subd. 4. PREVIOUSLY UNAPPROVED PROJECTS. An applicant who filed an application prior to January 1, 2005, but who has not received a letter of approval may qualify to receive the incentive by making the submissions described in subdivision 3, clauses (1) and (2), to the commissioner by December 31, 2005. If the commissioner determines that an applicant has complied with subdivision 3, clauses (1) and (2), the commissioner shall, within 30 days of receiving the submission, notify

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the applicant that the project qualifies to receive the incentive and shall provide the applicant with a letter of approval.

An applicant receiving a letter of approval dated January 1, 2005, or later, must first offer for sale to the public utility the electricity generated by the project and associated renewable energy credits. The parties shall negotiate a price within 120 days. The public utility shall provide its last best price offer to the applicant in writing, which is binding for no less than 120 days. The applicant may negotiate with any other utility and may accept a price higher than the binding price offered by the public utility. If another utility offers a price equal to or lower than the binding price offered by the public utility, the applicant must contract with the public utility at the binding price. For the purpose of this subdivision, "public utility" means any utility operating a nuclear power plant in this state.

Subd. 5. INCENTIVE AMOUNT. The incentive for a facility receiving an extension or a letter of approval under this section is one cent per kilowatt hour.

Subd. 6. ADDITIONAL FUNDING. If funds in the renewable development account, allocated under Minnesota Statutes, section 116C.779, subdivision 2, for wind energy incentives are insufficient to fully fund incentives under this section, other funds in the renewable development account must be allocated to make up the insufficiency.

Subd. 7. NOTICE. The commissioner must, within 30 days of the effective date of this act, notify persons eligible to apply for an extension or a letter of approval under this section of the provisions of this act.

Subd. 8. ADDITIONAL INCENTIVE PAYMENT. This subdivision governs the allocation of the \$4,500,000 allocated annually to fund incentives for up to 100 megawatts of wind power under Minnesota Statutes, section 116C.779, subdivision 2. If the commissioner of commerce determines that the wind incentive payments at 1.5 cents per kilowatt hour for some projects and at one cent per kilowatt hour for applicants either extended or receiving a letter of approval under this section does not fully spend the \$4,500,000 due to any reason, then the commissioner shall make the incentive payment adjustment provided for in this subdivision unless the commissioner finds that to do so would be contrary to the public interest to encourage wind development.

The incentive adjustment is payable only for those wind projects that received an extension under subdivision 3 and for projects receiving a letter of approval under subdivision 4.

The commissioner shall determine the unspent balance and distribute it as incentive payments on the basis of the percentage of a project's kilowatt-hours energy generation of the total kilowatt-hours energy generation of all projects receiving an extension under subdivision 3 or a letter of approval under subdivision 4.

A project may not receive a total of incentive payments that exceeds 1.5 cents per kilowatt hour.

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The commissioner may recalculate incentive payments more than once under this subdivision.

Sec. 3. EFFECTIVE DATE.

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

Presented to the governor May 5, 2005

Signed by the governor May 5, 2005, 2:35 p.m.

CHAPTER 41—H.F.No. 915

An act relating to transportation; modifying provisions relating to aeronautics; making clarifying changes; amending Minnesota Statutes 2004, sections 360.305, subdivision 4; 360.55, subdivisions 2, 3, 4, 4a; 360.58; 360.59, subdivisions 2, 5, 7, 8; 360.63, subdivision 2; 360.67, subdivision 4; 394.22, subdivision 12; 394.361, subdivisions 1, 3; 462.352, subdivision 10; 462.355, subdivision 4; 462.359, subdivisions 1, 3; repealing Minnesota Statutes 2004, section 360.59, subdivisions 4, 9.

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

Section 1. Minnesota Statutes 2004, section 360.305, subdivision 4, is amended to read:

Subd. 4. COSTS ALLOCATED; LOCAL CONTRIBUTION; HANGAR CONSTRUCTION ACCOUNT. (a) Except as otherwise provided in this subdivision, the commissioner of transportation shall require as a condition of assistance by the state that the political subdivision, municipality, or public corporation make a substantial contribution to the cost of the construction, improvement, maintenance, or operation of the airport, in connection with which the assistance of the state is sought. These costs are referred to as project costs.

(b) For any airport, whether key, intermediate, or landing strip, where only state and local funds are to be used, the contribution shall be not less than one-fifth of the sum of:

(1) the project costs;

(2) acquisition costs of the land and clear zones, which are referred to as acquisition costs.

(c) For any airport where federal, state, and local funds are to be used, the contribution shall not be less than five percent of the sum of the project costs and acquisition costs.

(d) The commissioner may pay the total cost of radio and navigational aids.

(e) Notwithstanding paragraph (b) or (c), the commissioner may pay all of the project costs of a new landing strip, but not an intermediate airport or key airport, or

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