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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1852

05/18/2013 Authored by Mahoney
The bill was read for the first time and referred to the Committee on Energy Policy

1.1 A bill for an act
1.2 relating to energy; expanding class of facilities eligible for the renewable energy
1.3 production incentive to include recovered energy generation facilities; amending
1.4 Minnesota Statutes 2012, sections 116C.779, subdivision 2; 216B.1691,
1.5 subdivision 1; 216C.41, subdivisions 1, 2, 3, 4.

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

1.7 Section 1. Minnesota Statutes 2012, section 116C.779, subdivision 2, is amended to
1.8 read:

1.9 Subd. 2. **Renewable energy production incentive.** (a) Until January 1, 2021,
1.10 \$10,900,000 annually must be allocated from available funds in the account to fund
1.11 renewable energy production incentives. \$9,400,000 of this annual amount is for
1.12 incentives for electricity generated by wind energy conversion systems that are eligible for
1.13 the incentives under section 216C.41 or Laws 2005, chapter 40.

1.14 (b) The balance of this amount, up to \$1,500,000 annually, may be used for production
1.15 incentives for on-farm biogas recovery facilities ~~and~~ hydroelectric facilities, and recovered
1.16 energy generation facilities that are eligible for the incentive under section 216C.41 or for
1.17 production incentives for other renewables, to be provided in the same manner as under
1.18 section 216C.41. Notwithstanding paragraph (a), up to \$1,500,000 annually must be
1.19 allocated from available funds in the account from January 1, 2021, until December 31,
1.20 2027, to fund incentives for recovered energy generation facilities under section 216C.41.

1.21 (c) Any portion of the \$10,900,000 not expended in any calendar year for the
1.22 incentive is available for other spending purposes under subdivision 1. This subdivision
1.23 does not create an obligation to contribute funds to the account.

1.24 (d) The Department of Commerce shall determine eligibility of projects under
1.25 section 216C.41 for the purposes of this subdivision. At least quarterly, the Department of

2.1 Commerce shall notify the public utility of the name and address of each eligible project
2.2 owner and the amount due to each project under section 216C.41. The public utility shall
2.3 make payments within 15 working days after receipt of notification of payments due.

2.4 Sec. 2. Minnesota Statutes 2012, section 216B.1691, subdivision 1, is amended to read:

2.5 Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy
2.6 technology" means an energy technology that generates electricity from the following
2.7 renewable energy sources:

2.8 (1) solar;

2.9 (2) wind;

2.10 (3) hydroelectric with a capacity of less than 100 megawatts;

2.11 (4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated
2.12 from the resources listed in this paragraph; ~~or~~

2.13 (5) recovered energy generation, which means electricity generated by either: (i)
2.14 converting exhaust heat from engines or from manufacturing, industrial, commercial,
2.15 or institutional sites whose primary purpose is not the generation of electricity; or (ii)
2.16 reducing pressure in gas pipelines before gas is distributed through the pipeline, provided
2.17 the conversion of energy to electricity is achieved without using additional fossil fuels; or

2.18 ~~(5)~~ (6) biomass, which includes, without limitation, landfill gas; an anaerobic
2.19 digester system; the predominantly organic components of wastewater effluent, sludge, or
2.20 related by-products from publicly owned treatment works, but not including incineration
2.21 of wastewater sludge to produce electricity; and an energy recovery facility used to
2.22 capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed
2.23 municipal solid waste as a primary fuel.

2.24 (b) "Electric utility" means a public utility providing electric service, a generation
2.25 and transmission cooperative electric association, a municipal power agency, or a power
2.26 district.

2.27 (c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year
2.28 by an electric utility to retail customers of the electric utility or to a distribution utility
2.29 for distribution to the retail customers of the distribution utility. "Total retail electric
2.30 sales" does not include the sale of hydroelectricity supplied by a federal power marketing
2.31 administration or other federal agency, regardless of whether the sales are directly to a
2.32 distribution utility or are made to a generation and transmission utility and pooled for
2.33 further allocation to a distribution utility.

2.34 Sec. 3. Minnesota Statutes 2012, section 216C.41, subdivision 1, is amended to read:

3.1 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
3.2 section.

3.3 (b) "Qualified hydroelectric facility" means a hydroelectric generating facility in
3.4 this state that:

3.5 (1) is located at the site of a dam, if the dam was in existence as of March 31, 1994; and

3.6 (2) begins generating electricity after July 1, 1994, or generates electricity after
3.7 substantial refurbishing of a facility that begins after July 1, 2001.

3.8 (c) "Qualified wind energy conversion facility" means a wind energy conversion
3.9 system in this state that:

3.10 (1) produces two megawatts or less of electricity as measured by nameplate rating
3.11 and begins generating electricity after December 31, 1996, and before July 1, 1999;

3.12 (2) begins generating electricity after June 30, 1999, produces two megawatts or
3.13 less of electricity as measured by nameplate rating, and is:

3.14 (i) owned by a resident of Minnesota or an entity that is organized under the laws
3.15 of this state, is not prohibited from owning agricultural land under section 500.24, and
3.16 owns the land where the facility is sited;

3.17 (ii) owned by a Minnesota small business as defined in section 645.445;

3.18 (iii) owned by a Minnesota nonprofit organization;

3.19 (iv) owned by a tribal council if the facility is located within the boundaries of
3.20 the reservation;

3.21 (v) owned by a Minnesota municipal utility or a Minnesota cooperative electric
3.22 association; or

3.23 (vi) owned by a Minnesota political subdivision or local government, including,
3.24 but not limited to, a county, statutory or home rule charter city, town, school district, or
3.25 any other local or regional governmental organization such as a board, commission, or
3.26 association; or

3.27 (3) begins generating electricity after June 30, 1999, produces seven megawatts or
3.28 less of electricity as measured by nameplate rating, and:

3.29 (i) is owned by a cooperative organized under chapter 308A other than a Minnesota
3.30 cooperative electric association; and

3.31 (ii) all shares and membership in the cooperative are held by an entity that is not
3.32 prohibited from owning agricultural land under section 500.24.

3.33 (d) "Qualified on-farm biogas recovery facility" means an anaerobic digester system
3.34 that:

3.35 (1) is located at the site of an agricultural operation; and

4.1 (2) is owned by an entity that is not prohibited from owning agricultural land under
4.2 section 500.24 and that owns or rents the land where the facility is located.

4.3 (e) "Anaerobic digester system" means a system of components that processes
4.4 animal waste based on the absence of oxygen and produces gas used to generate electricity.

4.5 (f) "Qualified recovered energy generation" means a facility that either:

4.6 (1) generates electricity by converting energy from exhaust heat generated by
4.7 engines or by manufacturing, industrial, commercial, or institutional sites whose primary
4.8 purpose is not the generation of electricity; or

4.9 (2) reduces the pressure in gas pipelines before gas is distributed through the
4.10 pipeline, provided the conversion of energy to electricity is achieved without using
4.11 additional fossil fuels and the facility:

4.12 (i) is located at the site of a compressor station of a natural gas pipeline regulated by
4.13 the Federal Energy Regulatory Commission;

4.14 (ii) begins generating electricity before January 1, 2017; and

4.15 (iii) produces seven megawatts or less electricity, as measured by the nameplate
4.16 rating.

4.17 Sec. 4. Minnesota Statutes 2012, section 216C.41, subdivision 2, is amended to read:

4.18 Subd. 2. **Incentive payment; appropriation.** (a) Incentive payments must be
4.19 made according to this section to (1) a qualified on-farm biogas recovery facility, (2) the
4.20 owner or operator of a recovered energy generation system, (3) the owner or operator of
4.21 a qualified hydropower facility or qualified wind energy conversion facility for electric
4.22 energy generated and sold by the facility, ~~(3)~~ (4) a publicly owned hydropower facility for
4.23 electric energy that is generated by the facility and used by the owner of the facility outside
4.24 the facility, or ~~(4)~~ (5) the owner of a publicly owned dam that is in need of substantial
4.25 repair, for electric energy that is generated by a hydropower facility at the dam and the
4.26 annual incentive payments will be used to fund the structural repairs and replacement of
4.27 structural components of the dam, or to retire debt incurred to fund those repairs.

4.28 (b) Payment may only be made upon receipt by the commissioner of commerce of
4.29 an incentive payment application that establishes that the applicant is eligible to receive an
4.30 incentive payment and that satisfies other requirements the commissioner deems necessary.
4.31 The application must be in a form and submitted at a time the commissioner establishes.

4.32 (c) There is annually appropriated from the renewable development account
4.33 under section 116C.779 to the commissioner of commerce sums sufficient to make the
4.34 payments required under this section, in addition to the amounts funded by the renewable
4.35 development account as specified in subdivision 5a.

5.1 Sec. 5. Minnesota Statutes 2012, section 216C.41, subdivision 3, is amended to read:

5.2 Subd. 3. **Eligibility window.** Payments may be made under this section only for:

5.3 (a) electricity generated from:

5.4 (1) a qualified hydroelectric facility that is operational and generating electricity
5.5 before December 31, 2011;

5.6 (2) a qualified wind energy conversion facility that is operational and generating
5.7 electricity before January 1, 2008; or

5.8 (3) a qualified on-farm biogas recovery facility from July 1, 2001, through December
5.9 31, 2017; ~~and~~ or

5.10 (4) a qualified recovery energy generation facility that is operational and generating
5.11 electricity before January 1, 2017; and

5.12 (b) gas generated from a qualified on-farm biogas recovery facility from July 1,
5.13 2007, through December 31, 2017.

5.14 Sec. 6. Minnesota Statutes 2012, section 216C.41, subdivision 4, is amended to read:

5.15 Subd. 4. **Payment period.** (a) A facility may receive payments under this section for
5.16 a ten-year period. No payment under this section may be made for electricity generated:

5.17 (1) by a qualified hydroelectric facility after December 31, 2021;

5.18 (2) by a qualified wind energy conversion facility after December 31, 2018; ~~or~~

5.19 (3) by a qualified on-farm biogas recovery facility after December 31, 2015; or

5.20 (4) by a qualified recovered energy generation facility after December 31, 2027.

5.21 (b) The payment period begins and runs consecutively from the date the facility
5.22 begins generating electricity or, in the case of refurbishment of a hydropower facility, after
5.23 substantial repairs to the hydropower facility dam funded by the incentive payments are
5.24 initiated.