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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2316**

March 22, 2007

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The bill was read for the first time and referred to the Energy Finance and Policy Division

1.1 A bill for an act
1.2 relating to energy; allowing certain counties and Metropolitan Council to form
1.3 a renewable energy agency with the powers of a municipal power agency;
1.4 including new agency as arm of state for handling of claims; amending
1.5 Minnesota Statutes 2006, section 3.732, subdivision 1; proposing coding for new
1.6 law in Minnesota Statutes, chapter 453.

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

1.8 Section 1. Minnesota Statutes 2006, section 3.732, subdivision 1, is amended to read:

1.9 Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms
1.10 defined in this section have the meanings given them.

1.11 (1) "State" includes each of the departments, boards, agencies, commissions, courts,
1.12 and officers in the executive, legislative, and judicial branches of the state of Minnesota
1.13 and includes but is not limited to the Housing Finance Agency, the Minnesota Office of
1.14 Higher Education, the Higher Education Facilities Authority, the Health Technology
1.15 Advisory Committee, the Armory Building Commission, the Zoological Board, the
1.16 Iron Range Resources and Rehabilitation Board, the State Agricultural Society, the
1.17 Renewable Energy Agency, the University of Minnesota, the Minnesota State Colleges
1.18 and Universities, state hospitals, and state penal institutions. It does not include a city,
1.19 town, county, school district, or other local governmental body corporate and politic.

1.20 (2) "Employee of the state" means all present or former officers, members, directors,
1.21 or employees of the state, members of the Minnesota National Guard, members of a
1.22 bomb disposal unit approved by the commissioner of public safety and employed by a
1.23 municipality defined in section 466.01 when engaged in the disposal or neutralization of
1.24 bombs or other similar hazardous explosives, as defined in section 299C.063, outside the
1.25 jurisdiction of the municipality but within the state, or persons acting on behalf of the

2.1 state in an official capacity, temporarily or permanently, with or without compensation.
 2.2 It does not include either an independent contractor or members of the Minnesota
 2.3 National Guard while engaged in training or duty under United States Code, title 10, or
 2.4 title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983.
 2.5 Notwithstanding sections 43A.02 and 611.263, for purposes of this section and section
 2.6 3.736 only, "employee of the state" includes a district public defender or assistant district
 2.7 public defender in the Second or Fourth Judicial District and a member of the Health
 2.8 Technology Advisory Committee.

2.9 (3) "Scope of office or employment" means that the employee was acting on behalf
 2.10 of the state in the performance of duties or tasks lawfully assigned by competent authority.

2.11 (4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

2.12 **Sec. 2. [453.615] RENEWABLE ENERGY AGENCY.**

2.13 Subdivision 1. Establishment. (a) Any county belonging to the Metropolitan
 2.14 Counties Energy Task Force or the Rural Minnesota Energy Board, or their successors,
 2.15 may form a Renewable Energy Agency by the execution of an agency agreement. The
 2.16 Metropolitan Council may also be a member of the Renewable Energy Agency.

2.17 (b) The agency agreement in paragraph (a) must state that:

2.18 (1) the name of the agency is the Renewable Energy Agency;

2.19 (2) the Renewable Energy Agency is created as an agency of the state to exercise a
 2.20 part of the sovereign powers of the state;

2.21 (3) the state of Minnesota, the Metropolitan Council, and the counties in the
 2.22 membership of the Renewable Energy Agency are not liable for the agency's obligations;

2.23 (4) the agency agreement has been approved by each member in the Renewable
 2.24 Energy Agency;

2.25 (5) the initial membership is not exclusive and that other counties may later join the
 2.26 Renewable Energy Agency as long as those counties are also members of the Metropolitan
 2.27 Counties Energy Task Force or the Rural Minnesota Energy Board; and

2.28 (6) the Renewable Energy Agency is a state agency for purposes of tort liability in
 2.29 accordance with sections 3.732 and 3.736.

2.30 (c) The agency agreement in paragraph (b) must list:

2.31 (1) the names of all counties that have approved the agency agreement and are the
 2.32 initial members of the Renewable Energy Agency;

2.33 (2) the names and addresses of the persons initially appointed by the resolutions
 2.34 approving the agreement to act as a representative of the members;

3.1 (3) the names of the five or more members of the initial board of directors who are
3.2 representatives of the respective counties or the Metropolitan Council and are selected by
3.3 majority vote;

3.4 (4) the limitations, if any, on the terms of the representative for each respective
3.5 county and the Metropolitan Council;

3.6 (5) the location of the registered office of the Renewable Energy Agency; and

3.7 (6) any other provision for the regulation of business of the Renewable Energy
3.8 Agency.

3.9 Subd. 2. **Powers.** The Renewable Energy Agency shall have the power to plan,
3.10 acquire, construct, operate, maintain, repair, extend, or improve a project, as defined in
3.11 section 453.52, subdivision 10; to issue bonds in accordance with section 453.55 and to
3.12 exercise all of the other powers and authorities set forth in sections 453.51 to 453.62 for
3.13 municipal power agencies, except that the authority of the Renewable Energy Agency to
3.14 generate energy shall be limited to renewable energy as defined in section 216B.1691,
3.15 subdivision 1, paragraph (a), clause (1).

3.16 Subd. 3. **Duties and obligations.** The Renewable Energy Agency and its individual
3.17 representatives and directors shall comply with all duties and obligations imposed by
3.18 sections 453.51 to 453.61 and pertaining to municipal power agencies.

3.19 Subd. 4. **Limitation of liability.** A governmental unit participating in the
3.20 Renewable Energy Agency is not liable for the acts or omissions of another governmental
3.21 unit participating in the Renewable Energy Agency unless the participating governmental
3.22 unit has agreed in writing to be responsible for the acts or omissions of another
3.23 participating governmental unit.