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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3729**

March 3, 2008

Authored by Hilty, Hornstein, Magnus, Wagenius, Ruud and others  
The bill was read for the first time and referred to the Energy Finance and Policy Division

March 11, 2008

Committee Recommendation and Adoption of Report:  
To Pass as Amended and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 17, 2008

Committee Recommendation and Adoption of Report: To Pass and re-referred to the Committee on Finance

April 7, 2008

Committee Recommendation and Adoption of Report:  
To Pass as Amended and re-referred to the Committee on Ways and Means

April 23, 2008

Committee Recommendation and Adoption of Report:  
To Pass as Amended  
Read Second Time

1.1 A bill for an act  
1.2 relating to energy; establishing Legislative Energy Commission; abolishing  
1.3 Legislative Electric Energy Task Force; making conforming correction;  
1.4 appropriating money; amending Minnesota Statutes 2006, section 216B.2424,  
1.5 subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 3;  
1.6 repealing Minnesota Statutes 2006, section 216C.051, subdivisions 3, 4a, 6, 7, 8;  
1.7 Minnesota Statutes 2007 Supplement, section 216C.051, subdivisions 2, 8a, 9.

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

1.9 Section 1. **[3.8851] LEGISLATIVE ENERGY COMMISSION.**

1.10 Subdivision 1. **Establishment.** The Legislative Energy Commission is established.

1.11 Subd. 2. **Membership.** The Legislative Energy Commission is composed of six  
1.12 senators of the majority party appointed by the president of the senate and four senators  
1.13 of the second largest political party in the senate appointed by the leader of that party in  
1.14 the senate, and six representatives of the majority party appointed by the speaker of the  
1.15 house and four representatives of the second largest political party in the house appointed  
1.16 by the minority leader of that party in the house of representatives. Appointees from  
1.17 both the house of representatives and senate must include the chair of the committee  
1.18 with primary jurisdiction over energy policy; the chair or another member of each of the  
1.19 committees with primary jurisdiction over environmental policy, agricultural policy, and  
1.20 transportation policy; and a legislator who is a member of the NextGen Energy Board.  
1.21 Vacancies must be filled in the same manner. The commission shall elect cochair, one  
1.22 member of the house of representatives and one member of the senate from among the  
1.23 committee chairs named to the commission. The commission members from the house  
1.24 of representatives shall elect the house cochair, and the commission members from the  
1.25 senate shall elect the senate cochair.

2.1 Subd. 3. **Subcommittees.** The commission may establish subcommittees as  
2.2 necessary to perform its duties.

2.3 Subd. 4. **Staff.** The commission may employ full-time and part-time staff and  
2.4 contract with consultants as necessary to enable it to perform its duties. Any state  
2.5 employee subject to the civil service laws who is assigned to the commission retains civil  
2.6 service status without interruption or loss of status or privilege.

2.7 Subd. 5. **General duties.** The commission shall continuously evaluate the energy  
2.8 policies of this state and the degree to which they promote an environmentally and  
2.9 economically sustainable energy future. The commission shall monitor the state's  
2.10 progress in achieving its goals to develop renewable sources of electric energy under  
2.11 section 216B.1691, subdivision 2a, and the progress of energy-related sectors in reducing  
2.12 greenhouse gas emissions under the state's greenhouse gas emissions-reductions goals  
2.13 established in section 216H.02, subdivision 1. The commission may review proposed  
2.14 energy legislation and may recommend legislation. The commission shall when feasible  
2.15 solicit and consider public testimony regarding the economic, environmental, and social  
2.16 implications of state energy plans and policies.

2.17 Subd. 6. **Hearings.** The commission shall hold hearings on the following plans  
2.18 and reports when they become available:

2.19 (1) the resource plan filed under section 216B.2422 by the utility owning a nuclear  
2.20 power plant at Prairie Island, and the resource plan of any other utility the commission  
2.21 deems necessary to review;

2.22 (2) the transmission projects report filed under section 216B.2425;

2.23 (3) the state energy policy and conservation policy report prepared by the  
2.24 commissioner of commerce under section 216C.18; and

2.25 (4) any other report or study that the commission deems necessary to review.

2.26 Subd. 7. **Data from state agencies.** A state agency shall reply promptly to a request  
2.27 for data from the commission, subject to the requirements of chapter 13 and section 15.17.

2.28 Subd. 8. **Subpoena power.** The commission may issue a subpoena under section  
2.29 3.153 to any person for production of information held by that person that is relevant  
2.30 to the work of the commission.

2.31 Subd. 9. **Assessment; appropriation.** Upon request by the cochairs of the  
2.32 commission, the commissioner of commerce shall assess the amount requested for the  
2.33 operation of the commission, not to exceed \$250,000 in a fiscal year, from the following  
2.34 sources:

3.1 (1) all public utilities, municipal utilities, electric cooperative associations,  
3.2 generation and transmission cooperative electric associations, and municipal power  
3.3 agencies providing electric or natural gas services in Minnesota; and

3.4 (2) all bulk terminals located in this state from which petroleum products and liquid  
3.5 petroleum gas are dispensed for sale in this state.

3.6 The commissioner of commerce shall apportion the assessment amount requested  
3.7 among the entities in clauses (1) and (2) in proportion to the respective share of energy  
3.8 sold within the state by those entities, measured in BTU's, during the most recent calendar  
3.9 year, while ensuring that wholesale and retail sales are not double counted.

3.10 The entities in clauses (1) and (2) must provide information to the commissioner  
3.11 of commerce to allow for calculation of the assessment.

3.12 The assessments under this subdivision are in addition to assessments made under  
3.13 section 216B.62. The amount assessed under this section is appropriated to the director of  
3.14 the Legislative Coordinating Commission for the purposes of this section, and is available  
3.15 until expended. Utilities selling gas and electric service at retail must be assessed and  
3.16 billed in accordance with the procedures provided in section 216B.62, to the extent that  
3.17 these procedures do not conflict with this subdivision.

3.18 Subd. 10. **Funds transfer.** Any funds appropriated to the Legislative Coordinating  
3.19 Commission for use by the Legislative Electric Energy Task Force under section  
3.20 216C.051, subdivision 6, that are unexpended as of June 30, 2008, are available to the  
3.21 commission for the purposes of this section.

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

3.23 Sec. 2. Minnesota Statutes 2006, section 216B.2424, subdivision 1, is amended to read:

3.24 Subdivision 1. **Farm-grown closed-loop biomass.** (a) For the purposes of this  
3.25 section, "farm-grown closed-loop biomass" means ~~biomass, as defined in section~~  
3.26 ~~216C.051, subdivision 7~~ herbaceous crops, trees, agricultural waste, and aquatic plant  
3.27 matter that is used to generate electricity, but does not include mixed municipal solid  
3.28 waste, as defined in section 115A.03, and that:

3.29 (1) is intentionally cultivated, harvested, and prepared for use, in whole or in part,  
3.30 as a fuel for the generation of electricity;

3.31 (2) when combusted, releases an amount of carbon dioxide that is less than or  
3.32 approximately equal to the carbon dioxide absorbed by the biomass fuel during its  
3.33 growing cycle; and

3.34 (3) is fired in a new or substantially retrofitted electric generating facility that is:

3.35 (i) located within 400 miles of the site of the biomass production; and

4.1 (ii) designed to use biomass to meet at least 75 percent of its fuel requirements.

4.2 (b) The legislature finds that the negative environmental impacts within 400 miles  
4.3 of the facility resulting from transporting and combusting the biomass are offset in that  
4.4 region by the environmental benefits to air, soil, and water of the biomass production.

4.5 (c) Among the biomass fuel sources that meet the requirements of paragraph (a),  
4.6 clauses (1) and (2), are poplar, aspen, willow, switch grass, sorghum, alfalfa, cultivated  
4.7 prairie grass, and sustainably managed woody biomass.

4.8 (d) For the purpose of this section, "sustainably managed woody biomass" means:

4.9 (1) brush, trees, and other biomass harvested from within designated utility, railroad,  
4.10 and road rights-of-way;

4.11 (2) upland and lowland brush harvested from lands incorporated into brushland  
4.12 habitat management activities of the Minnesota Department of Natural Resources;

4.13 (3) upland and lowland brush harvested from lands managed in accordance with  
4.14 Minnesota Department of Natural Resources "Best Management Practices for Managing  
4.15 Brushlands";

4.16 (4) logging slash or waste wood that is created by harvest, by precommercial  
4.17 timber stand improvement to meet silvicultural objectives, or by fire, disease, or insect  
4.18 control treatments, and that is managed in compliance with the Minnesota Forest  
4.19 Resources Council's "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest  
4.20 Management Guidelines for Landowners, Loggers and Resource Managers" as modified  
4.21 by the requirement of this subdivision; and

4.22 (5) trees or parts of trees that do not meet the utilization standards for pulpwood,  
4.23 posts, bolts, or sawtimber as described in the Minnesota Department of Natural Resources  
4.24 Division of Forestry Timber Sales Manual, 1998, as amended as of May 1, 2005, and the  
4.25 Minnesota Department of Natural Resources Timber Scaling Manual, 1981, as amended  
4.26 as of May 1, 2005, except as provided in paragraph (a), clause (1), and this paragraph,  
4.27 clauses (1) to (3).

4.28 **Sec. 3. REPEALER.**

4.29 Minnesota Statutes 2006, section 216C.051, subdivisions 3, 4a, 6, 7, and 8, and  
4.30 Minnesota Statutes 2007 Supplement, section 216C.051, subdivisions 2, 8a, and 9, are  
4.31 repealed.

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

**216C.051 LEGISLATIVE ELECTRIC ENERGY TASK FORCE.**

Subd. 2. **Establishment.** (a) There is established a Legislative Electric Energy Task Force to study future electric energy sources and costs and to make recommendations for legislation for an environmentally and economically sustainable and advantageous electric energy supply.

(b) The task force consists of:

(1) ten members of the house of representatives including the chairs of the Environment and Natural Resources Committee and the Energy Finance and Policy Division and eight members to be appointed by the speaker of the house, four of whom must be from the minority caucus; and

(2) ten members of the senate including the chairs of the Environment, Energy and Natural Resources Budget Division and Energy, Utilities, Technology and Communications committees and eight members to be appointed by the Subcommittee on Committees, four of whom must be from the minority caucus.

(c) The task force may employ staff, contract for consulting services, and may reimburse the expenses of persons requested to assist it in its duties other than state employees or employees of electric utilities. The director of the Legislative Coordinating Commission shall assist the task force in administrative matters. The task force shall elect cochairs, one member of the house and one member of the senate from among the committee and subcommittee chairs named to the committee. The task force members from the house shall elect the house cochair, and the task force members from the senate shall elect the senate cochair.

Subd. 3. **Technical and economic considerations, analyses, and recommendations.** (a) In light of the electric energy guidelines established in subdivision 7 and utility resource plans and competitive bidding dockets before the commission, the task force shall gather information and make recommendations to the legislature regarding potential electric energy resources. The task force may contract with one or more energy policy experts and energy economists to assist it in its analysis. The task force may not contract for service nor employ any person who was involved in any capacity in any portion of any proceeding before the Public Utilities Commission, the administrative law judge, the state Court of Appeals, or the United States Nuclear Regulatory Commission related to the dry cask storage proposal on Prairie Island. The task force must gather information on at least the following electric energy resources, but may expand its inquiry as warranted by the information collected:

- (1) wind energy;
- (2) hydrogen as a fuel carrier produced from renewable and fossil fuel resources;
- (3) biomass;
- (4) decomposition gases produced by solid waste management facilities;
- (5) solid waste as a direct fuel or refuse-derived fuel; and
- (6) clean coal technology.

(b) In evaluating these electric energy resources, the task force must consider at least the following:

(1) to the best of forecasting abilities, how much electric generation capacity and demand for electric energy is necessary to maintain a strong economy and a high quality of life in the state over the next 15 to 20 years; how is this demand level affected by achievement of the maximum reasonably feasible and cost-effective demand-side management and generation and distribution efficiencies;

(2) what alternative forms of energy can provide a stable supply of energy and are producible and sustainable in the state and at what cost;

(3) what are the costs to the state and ratepayers to ensure that new electric energy generation utilizes less environmentally damaging sources; how do those costs change as the time frame for development and implementation of new generation sources is compressed;

(4) what are the implications for delivery systems for energy produced in areas of the state that do not now have high-volume transmission capability; are new transmission technologies being developed that can address some of the concerns with transmission; can a more dispersed electric generation system lessen the need for long-distance transmission;

(5) what are the actual costs and benefits of purchasing electricity and fuel to generate electricity from outside the state; what are the present costs to the state's economy of exporting a large percentage of the state's energy dollars and what is the future economic impact of continuing to do so;

(6) are there benefits to be had from a large immediate investment in quickly implementing alternative electric energy sources in terms of developing an exportable technology and/or commodity; is it feasible to turn around the flow of dollars for energy so that the state imports

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dollars and exports energy and energy technology; what is a reasonable time frame for the shift if it is possible;

(7) are there taxation or regulatory barriers to developing more sustainable and less problematic electric energy generation; what are they specifically and how can they be specifically addressed;

(8) can an approach be developed that moves quickly to development and implementation of alternative energy sources that can be forgiving of interim failures but that is also sufficiently deliberate to ensure ultimate success on a large scale; and

(9) in what specific ways can the state assist regional energy suppliers to accelerate phasing out energy production processes that produce wastes or emissions that must necessarily be carefully controlled and monitored to minimize adverse effects on the environment and human health and to assist in developing and implementing base load energy production that both prevents or minimizes by its nature adverse environmental and human health effects and utilizes resources that are available or producible in the state.

(c) The task force must study issues related to the transportation of spent nuclear fuel from this state to interim or permanent repositories outside this state. The task force must also gather information on at least the following factors, but may expand its inquiry as warranted by the information collected:

(1) Minnesota's actual and projected electricity demand;

(2) electricity export potential;

(3) inventory of energy resources currently used to generate all electricity sold in Minnesota and an analysis of the social, economic, and environmental benefits and burdens associated with each energy resource;

(4) electricity demand savings from greater efficiency; and

(5) job growth and economic development potential.

(d) The public utility that owns the Prairie Island and Monticello nuclear generation facilities shall update the reports required under section 116C.772, subdivisions 3 to 5, and shall submit those updates periodically to the Public Utilities Commission with the utility's resource plan filing under section 216B.2422 and to the task force.

**Subd. 4a. Report and recommendations.** By January 15, 2005, and every two years thereafter, the task force shall submit a report to the chairs of the committees in the house of representatives and the senate that have responsibility for energy and for environmental and natural resources issues that contains an overview of information gathered and analyses that have been prepared, and specific recommendations, if any, for legislative action that will ensure development and implementation of electric energy policy that will provide the state with adequate, renewable, and economic electric power for the long term. The report shall also identify issues that must be addressed to provide Minnesotans with adequate electricity from in-state renewable energy sources for the long term and export to adjacent states.

**Subd. 6. Assessment; appropriation.** On request by the cochairs of the Legislative Task Force and after approval of the Legislative Coordinating Commission, the commissioner of commerce shall assess from all public utilities, generation and transmission cooperative electric associations, and municipal power agencies providing electric or natural gas services in Minnesota, in addition to assessments made under section 216B.62, the amount requested for the operation of the task force not to exceed \$250,000 in a fiscal year. The amount assessed under this section is appropriated to the director of the Legislative Coordinating Commission for those purposes, and is available until expended. The department shall apportion those costs among all energy utilities in proportion to their respective gross operating revenues from the sale of gas or electric service within the state during the last calendar year. For the purposes of administrative efficiency, the department shall assess energy utilities and issue bills in accordance with the billing and assessment procedures provided in section 216B.62, to the extent that these procedures do not conflict with this subdivision.

**Subd. 7. Guidelines; preferred electric generation sources; definitions.** (a) The Legislative Task Force on Electric Energy shall undertake its responsibilities in light of the guidelines specified in this subdivision.

(b) The highest priority in electric energy production and consumption is conservation of electric energy and management of demand by all segments of the community.

(c) The following energy sources for generating electric power distributed in the state, listed in their descending order of preference, based on minimizing long-term negative environmental, social, and economic burdens imposed by the specific energy sources, are:

(1) wind and solar;

(2) biomass and low-head or refurbished hydropower;

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(3) decomposition gases produced by solid waste management facilities, natural gas-fired cogeneration, and waste materials or byproducts combined with natural gas;

(4) natural gas, hydropower that is not low-head or refurbished hydropower, and solid waste as a direct fuel or refuse-derived fuel; and

(5) coal and nuclear power.

(d) For the purposes of paragraph (c) within each clause, the more efficient an energy source is in generating electricity or the more efficient a technology is that utilizes an energy source, the more preferred it is for use in generating electricity for distribution and consumption in the state.

(e) For the purposes of paragraph (c), clauses (3) and (4), the use of waste materials and byproducts for generating electric power must be limited to those waste materials and byproducts that are necessarily generated or produced by efficient processes and systems. Preventing and minimizing waste and byproducts are preferred in every situation to relying on the continued generation or production of waste materials and byproducts.

(f) For the purposes of this section, "preferred" or "renewable" energy sources are those described in paragraph (c), clauses (1) to (3), and "subordinate" or "traditional" energy sources are those described in paragraph (c), clauses (4) and (5).

(g) For the purposes of this section:

(1) "biomass" means herbaceous crops, trees, agricultural waste, and aquatic plant matter, excluding mixed municipal solid waste, as defined in section 115A.03, used to generate electricity; and

(2) "low-head hydropower" means a hydropower facility that has a head of less than 66 feet.

Subd. 8. **Subpoena power.** The task force may issue a subpoena under section 3.153 to any person for production of information held by that person that is relevant to the work of the task force.

Subd. 8a. **Manitoba Hydro information.** (a) By January 1, 2008, and each year thereafter, the task force shall request the Manitoba Hydro-Electric Board to provide the following information for each community that is a signatory to the Northern Flood Agreement, including South Indian Lake:

(1) median household income and number of residents employed full time and part time;

(2) the number of outstanding claims filed against Manitoba Hydro by individuals and communities and the number of claims settled by Manitoba Hydro; and

(3) the amount of shoreline damaged by flooding and erosion and the amount of shoreline restored and cleaned.

(b) Nothing in this section shall be construed as a directive to the government of Canada or the province of Manitoba.

(c) For the purposes of this subdivision, "Northern Flood Agreement" means the agreement entered into by the Northern Flood Committee, Incorporated, the Manitoba Hydro-Electric Board, the province of Manitoba, and the government of Canada on December 16, 1977.

Subd. 9. **Expiration.** This section is repealed June 30, 2010.