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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **951**

February 19, 2009

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

March 16, 2009

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

1.1 A bill for an act
1.2 relating to energy; authorizing two or more existing municipal power agencies
1.3 to form a new municipal power agency; amending Minnesota Statutes 2008,
1.4 sections 453.52, subdivisions 2, 7, 8; 453.53, subdivisions 1, 2, 3, 4, 8, 9; 453.55,
1.5 subdivision 13.

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

1.7 Section 1. Minnesota Statutes 2008, section 453.52, subdivision 2, is amended to read:

1.8 Subd. 2. **Agency agreement.** "Agency agreement" means the written agreement
1.9 between or among two or more cities or existing municipal power agencies establishing a
1.10 municipal power agency.

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

1.12 Sec. 2. Minnesota Statutes 2008, section 453.52, subdivision 7, is amended to read:

1.13 Subd. 7. **Governing body.** (a) "Governing body," with respect to a city, means the
1.14 city council or, if another board, commission, or body is empowered by law or its charter
1.15 or by resolution of the city council to establish and regulate rates and charges for the
1.16 distribution of electric energy within the city, such board, commission, or body shall
1.17 be deemed to be the "governing body"; provided, however, that when the levy of a tax
1.18 or the incurring of an obligation payable from taxes or any other action of such board,
1.19 commission, or body requires the concurrence, approval, or independent action of the
1.20 city council or another body under the city's charter or any other law, such action shall
1.21 not be exercised under sections 453.51 to 453.62 until such concurrence or approval is
1.22 received or such independent action is taken; and provided further, that the concurrence
1.23 of the city council or other elected body charged with the general management of a city

shall be required, prior to the adoption by the city of any resolution approving an agency agreement or any amendment thereto.

(b) With respect to an existing municipal power agency, "governing body" means the agency's board of directors.

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

Sec. 3. Minnesota Statutes 2008, section 453.52, subdivision 8, is amended to read:

Subd. 8. **Municipal power agency.** "Municipal power agency" means a separate political subdivision and municipal corporation created by agreement between or among two or more cities or existing municipal power agencies pursuant to section 453.53 to exercise any of the powers of acquisition, construction, reconstruction, operation, repair, extension, or improvement of electric generation or transmission facilities or the acquisition of any interest therein or any right to part or all of the capacity thereof.

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

Sec. 4. Minnesota Statutes 2008, section 453.53, subdivision 1, is amended to read:

Subdivision 1. **Two or more cities; or existing municipal power agencies;**
resolution. (a) Any two or more cities or existing municipal power agencies may form a municipal power agency by the execution of an agency agreement authorized by a resolution of the governing body of each city or municipal power agency.

(b) The agency agreement shall state:

(1) that the municipal power agency is created and incorporated under the provisions of sections 453.51 to 453.62 as a municipal corporation and a political subdivision of the state, to exercise thereunder a part of the sovereign powers of the state;

(2) the name of the agency, which shall include the words "municipal power agency";

(3) the names of the cities or municipal power agencies which have approved the agency agreement and are the initial members of the municipal power agency;

(4) the names and addresses of the persons initially appointed by the resolutions approving the agreement to act as the representatives of the ~~cities~~ members, respectively, in the exercise of their powers as members;

(5) limitations, if any, upon the terms of representatives of the respective ~~member cities~~ members, provided that such representatives shall always be selected and vacancies in their offices declared and filled by resolutions of the governing bodies of the respective ~~cities~~ members;

(6) the names of the initial board of directors of the municipal power agency, who shall be not less than five persons who are representatives of the respective ~~member cities~~ members, selected by the vote of a majority of such representatives; or the agreement may provide that the representatives of the ~~member cities~~ members from time to time shall be and constitute the board of directors;

(7) the location by city, town, or other community in the state, of the registered office of the municipal power agency;

(8) that the cities or municipal power agencies which are members of the municipal power agency are not liable for its obligations; and

(9) any other provision for regulating the business of the municipal power agency or the conduct of its affairs which may be agreed by the ~~member cities~~ members, consistent with sections 453.51 to 453.62.

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

Sec. 5. Minnesota Statutes 2008, section 453.53, subdivision 2, is amended to read:

Subd. 2. **Filing agreement, resolution; incorporation certificate.** The agency agreement and a certified copy of the resolution of the governing body of each ~~city~~ member shall be filed for record with the secretary of state. If the agency agreement conforms to the requirements of this section, the secretary of state shall record it and issue and record a certificate of incorporation. The certificate shall state the name of the municipal power agency and the fact and date of incorporation. Upon the issuance of the certificate of incorporation, the existence of the municipal power agency as a political subdivision of the state and a municipal corporation shall begin. The certificate of incorporation shall be conclusive evidence of the fact of incorporation.

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

Sec. 6. Minnesota Statutes 2008, section 453.53, subdivision 3, is amended to read:

Subd. 3. **First board.** The initial board of directors of the municipal power agency, unless otherwise provided by the agency agreement, shall be elected prior to the filing of the agreement by a majority vote of the persons acting as representatives of the ~~member cities~~ members, from among their members. After commencement of existence, the first meeting of the board of directors shall be held at the call of the directors, after notice, for the purpose of adopting the initial bylaws, electing officers, and for any other business that comes before the meeting.

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

4.1 Sec. 7. Minnesota Statutes 2008, section 453.53, subdivision 4, is amended to read:

4.2 Subd. 4. **Bylaws.** (a) The bylaws of the municipal power agency, and any
4.3 amendments thereto, shall be proposed by the board of directors and shall be adopted by
4.4 a majority vote of the representatives of the ~~member cities~~ members, unless the agency
4.5 agreement requires a greater vote, at a meeting held after notice.

4.6 (b) Subject to the provisions of the agency agreement, the bylaws shall state:

4.7 (1) the qualifications of ~~member cities~~ members, and limitations, if any, upon their
4.8 number;

4.9 (2) conditions of membership, if any;

4.10 (3) manner and time of calling regular meetings of representatives of ~~member cities~~
4.11 members;

4.12 (4) manner and conditions of termination of membership; and

4.13 (5) such other provisions for regulating the affairs of the municipal power agency as
4.14 the representatives of the ~~member cities~~ members shall determine to be necessary.

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

4.16 Sec. 8. Minnesota Statutes 2008, section 453.53, subdivision 8, is amended to read:

4.17 Subd. 8. **City Member representatives.** Except as otherwise provided in the
4.18 agency agreement or the bylaws, the duly authorized representatives of each member ~~city~~
4.19 shall act as, and vote on behalf of, such ~~city~~ member. Except where the agency agreement
4.20 or bylaws provide otherwise, representatives of the ~~member cities~~ member shall hold at
4.21 least one meeting each year for the election of directors and for the transaction of any
4.22 other business. Except where the agency agreement or bylaws prescribe otherwise, special
4.23 meetings of the representatives may be called for any purpose upon written request to the
4.24 president or secretary to call the meeting. Such officer shall give notice of the meeting to
4.25 be held between 10 and 60 days after receipt of such request. Unless the agency agreement
4.26 or bylaws provide for a different percentage, a quorum for a meeting of the representatives
4.27 of the ~~member cities~~ members is a majority of the total members and a quorum for
4.28 meetings of the board of directors is a majority of the membership of such board.

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

4.30 Sec. 9. Minnesota Statutes 2008, section 453.53, subdivision 9, is amended to read:

4.31 Subd. 9. **Amendments to agency agreement.** The agency agreement may be
4.32 amended as proposed at any meeting of the representatives of the members for which
4.33 notice, stating the purpose, shall be given to each representative and, unless the agency

5.1 agreement or bylaws require otherwise, shall become effective when ratified by resolutions
5.2 of a majority of the governing bodies of the ~~member cities~~ members. Each amendment
5.3 and the resolutions approving it shall be filed for record with the secretary of state.

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

5.5 Sec. 10. Minnesota Statutes 2008, section 453.55, subdivision 13, is amended to read:

5.6 Subd. 13. **Payable solely from pledged or available revenue.** The principal of and
5.7 interest upon any bonds or notes issued by a municipal power agency shall be payable
5.8 solely from the revenues or funds pledged or available for their payment as authorized in
5.9 sections 453.51 to 453.62. Each bond and note shall contain a statement that the principal
5.10 thereof or interest thereon is payable solely from revenues or funds of the municipal
5.11 power agency and that neither the state nor any political subdivision thereof, other than
5.12 the municipal power agency, nor any ~~city which is a~~ member of the municipal power
5.13 agency is obligated to pay the principal or interest and that neither the faith and credit nor
5.14 the taxing power of the state or any political subdivision thereof or of any ~~such~~ member
5.15 city is pledged to the payment of the principal of or the interest on the bonds or notes.
5.16 Nothing herein, however, precludes the use of tax or other revenue by a city for payment
5.17 of amounts due and performance of covenants under any contract of the city as provided
5.18 in section 453.58, subdivision 3.

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