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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3551

March 9, 2010

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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; modifying provisions relating to wind easements; amending
1.3 Minnesota Statutes 2008, section 500.30, subdivisions 2, 3; proposing coding for
1.4 new law in Minnesota Statutes, chapter 216F.

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

1.6 Section 1. **[216F.10] WIND EASEMENT AGREEMENT.**

1.7 (a) Beginning on the date the landowner signs the wind easement agreement, the
1.8 term of the easement is three years; providing that, the wind project developer may extend
1.9 the term for an additional five years on providing evidence that:

1.10 (1) the wind project developer has a signed interconnection agreement or has
1.11 submitted an interconnection application to the Midwest Independent System Operator
1.12 or other appropriate entity, and:

1.13 (i) the agreement has not been terminated; or

1.14 (ii) if an application, the application has not been terminated and is active in the
1.15 interconnection queue or interconnection process; and

1.16 (2) if the wind project developer is a utility that will develop and own the wind
1.17 project, the developer provides appropriate documentation that the output from the wind
1.18 project will be used to provide electricity service to its customers according to the
1.19 renewable energy standards in section 216B.1691.

1.20 (b) A wind project developer shall comply with this section throughout the entire
1.21 term of the extension; otherwise the extension period is terminated, subject to the
1.22 opportunity to cure provided in paragraph (e).

2.1 (c) Within 30 days of receiving a written request from the landowner, a wind project
 2.2 developer shall provide proof of continuing compliance with the requirements of this
 2.3 subdivision.

2.4 (d) A wind easement agreement must contain a cover letter containing the following
 2.5 language, with the correct term of years filled in the blank, in at least 12-point type:

2.6 "This is an important agreement our attorneys have drafted that MAY BIND YOU
 2.7 AND YOUR LAND FOR AS LONG AS EIGHT (8) YEARS BEFORE A WIND
 2.8 TURBINE IS OPERATING, AND WILL BIND YOU AND YOUR LAND FOR UP TO
 2.9 YEARS ONCE A TURBINE IS OPERATIONAL ON YOUR LAND. We will
 2.10 give you sufficient time to study and thoroughly understand it. We strongly encourage
 2.11 you to hire an attorney to explain this agreement to you. You may talk to your neighbors
 2.12 about the wind project and inquire if they also have received a proposed contract. You
 2.13 and your neighbors may choose to hire the same attorney to review the agreement and
 2.14 negotiate changes on your behalf. STARTING THREE (3) YEARS AFTER YOU
 2.15 SIGN THIS AGREEMENT, YOU MAY REQUEST, IN WRITING, PROOF THAT
 2.16 WE HAVE A SIGNED INTERCONNECTION AGREEMENT OR AN ACTIVE
 2.17 INTERCONNECTION APPLICATION AND, IF WE ARE A UTILITY WHO WILL
 2.18 OWN AND OPERATE THIS WIND PROJECT, PROOF THAT THE OUTPUT FROM
 2.19 THE PROJECT WILL BE USED TO PROVIDE ELECTRICITY SERVICE TO OUR
 2.20 CUSTOMERS. WE WILL PROVIDE WRITTEN EVIDENCE THAT WE HAVE MET
 2.21 THESE REQUIREMENTS WITHIN 30 DAYS, OTHERWISE WE MAY BE FOUND IN
 2.22 VIOLATION OF MINNESOTA STATUTES, SECTION 500.30.

2.23 We encourage you to ask questions and to express your thoughts about this project
 2.24 with us. We have included contact information for you and will provide, in writing, any
 2.25 changes to this contact information.

2.26 Name or Title:

2.27 Company:

2.28 Phone: (.....).....-.....

2.29 Address:

2.30 (e) On failing to satisfy the requirements of this subdivision, a wind project
 2.31 developer is entitled to 30 days from the date that written notice of the default is received
 2.32 to come into compliance. If the developer does not cure the default within that time, the
 2.33 wind easement agreement is terminated.

2.34 (f) If a wind project is not operational by the end of the eighth year from the date
 2.35 the landowner signed the wind energy land agreement, and the wind project developer
 2.36 provides proof of a current signed power purchase agreement, or other appropriate

3.1 documentation if the project is owned and operated by a utility, and has a valid building
 3.2 permit for the wind project, then the agreement may be extended for a period of time that
 3.3 is equal to the term of the current power purchase agreement or valid building permit,
 3.4 whichever term is shorter.

3.5 (g) For purposes of this paragraph, "utility" includes a public electric utility,
 3.6 municipal electric utility, or cooperative electric association.

3.7 Sec. 2. Minnesota Statutes 2008, section 500.30, subdivision 2, is amended to read:

3.8 Subd. 2. **Like any conveyance.** Any property owner may grant a solar or wind
 3.9 easement in the same manner and with the same effect as a conveyance of an interest in
 3.10 real property; provided that, a wind easement is also subject to any applicable provisions
 3.11 of chapter 216F. The easements shall be created in writing and shall be filed, duly
 3.12 recorded, and indexed in the office of the recorder of the county in which the easement is
 3.13 granted. No duly recorded easement shall be unenforceable on account of lack of privity of
 3.14 estate or privity of contract; such easements shall run with the land or lands benefited and
 3.15 burdened and shall constitute a perpetual easement, except that an easement may terminate
 3.16 upon the conditions stated therein or pursuant to the provisions of section 500.20.

3.17 Sec. 3. Minnesota Statutes 2008, section 500.30, subdivision 3, is amended to read:

3.18 Subd. 3. **Required contents.** (a)Any deed, will, or other instrument that creates a
 3.19 solar or wind easement shall include, but the contents are not limited to:

3.20 ~~(a)~~ (1) a description of the real property subject to the easement and a description of
 3.21 the real property benefiting from the solar or wind easement; and

3.22 ~~(b)~~ (2) for solar easements, a description of the vertical and horizontal angles,
 3.23 expressed in degrees and measured from the site of the solar energy system, at which
 3.24 the solar easement extends over the real property subject to the easement, or any other
 3.25 description which defines the three dimensional space, or the place and times of day in
 3.26 which an obstruction to direct sunlight is prohibited or limited;

3.27 ~~(c)~~ (3) a description of the vertical and horizontal angles, expressed in degrees, and
 3.28 distances from the site of the wind power system in which an obstruction to the winds
 3.29 is prohibited or limited;

3.30 ~~(d)~~ (4) any terms or conditions under which the easement is granted or may be
 3.31 terminated;

3.32 ~~(e)~~ (5) any provisions for compensation of the owner of the real property benefiting
 3.33 from the easement in the event of interference with the enjoyment of the easement, or

4.1 compensation of the owner of the real property subject to the easement for maintaining
4.2 the easement;

4.3 ~~(f)~~ (6) any other provisions necessary or desirable to execute the instrument,
4.4 including but not limited to, for a wind easement, the restrictions and requirements
4.5 of section 216F.10.

4.6 Sec. 4. **EFFECTIVE DATE.**

4.7 Sections 1 to 3 are effective June 1, 2010.