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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1397

02/22/2021 Authored by Long
The bill was read for the first time and referred to the Committee on Climate and Energy Finance and Policy

1.1 A bill for an act
1.2 relating to community solar gardens; modifying the community solar garden
1.3 program; amending Minnesota Statutes 2020, section 216B.1641.

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

1.5 Section 1. Minnesota Statutes 2020, section 216B.1641, is amended to read:

1.6 216B.1641 COMMUNITY SOLAR GARDEN.

1.7 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Subscribed energy" means electricity generated by the community solar garden that
1.10 is attributable to a subscriber's subscription.

1.11 (c) "Subscriber" means a retail customer who owns one or more subscriptions of a
1.12 community solar garden interconnected with the retail customer's utility.

1.13 (d) "Subscription" means a contract between a subscriber and the owner of a solar garden.

1.14 Subd. 2. Solar garden; project requirements. (a) The public utility subject to section
1.15 116C.779 shall file by September 30, 2013, a plan with the commission to operate a
1.16 community solar garden program which shall begin operations within 90 days after
1.17 commission approval of the plan. Other public utilities may file an application at their
1.18 election. The community solar garden program must be designed to offset the energy use
1.19 of not less than five subscribers in each community solar garden facility of which no single
1.20 subscriber has more than a 40 percent interest. The owner of the community solar garden
1.21 may be a public utility or any other entity or organization that contracts to sell the output
1.22 from the community solar garden to the utility under section 216B.164. There shall be no

2.1 limitation on the number or cumulative generating capacity of community solar garden
 2.2 facilities other than the limitations imposed under section 216B.164, subdivision 4c, or
 2.3 other limitations provided in law or regulations.

2.4 (b) A solar garden is a facility that generates electricity by means of a ground-mounted
 2.5 or roof-mounted solar photovoltaic device whereby subscribers receive a bill credit for the
 2.6 electricity generated in proportion to the size of their subscription. The solar garden must
 2.7 have a nameplate capacity of no more than one megawatt. Each subscription shall be sized
 2.8 to represent at least 200 watts of the community solar garden's generating capacity and to
 2.9 supply, when combined with other distributed generation resources serving the premises,
 2.10 no more than 120 percent of the average annual consumption of electricity by each subscriber
 2.11 at the premises to which the subscription is attributed.

2.12 (c) The solar generation facility must be located in the service territory of the public
 2.13 utility filing the plan. Subscribers must be retail customers of the public utility located in
 2.14 the same county or a county contiguous to where the facility is located.

2.15 (d) The public utility must purchase from the community solar garden all energy generated
 2.16 by the solar garden. The purchase shall be at the rate calculated under section 216B.164,
 2.17 subdivision 10, or, until that rate for the public utility has been approved by the commission,
 2.18 the applicable retail rate. A solar garden is eligible for any incentive programs offered under
 2.19 section 116C.7792. A subscriber's portion of the purchase shall be provided by a credit on
 2.20 the subscriber's bill.

2.21 **Subd. 3. Solar garden plan; requirements; nonutility status.** ~~(e)~~ (a) The commission
 2.22 may approve, disapprove, or modify a community solar garden ~~program~~ plan. Any plan
 2.23 approved by the commission must:

2.24 (1) reasonably allow for the creation, financing, and accessibility of community solar
 2.25 gardens;

2.26 (2) establish uniform standards, fees, and processes for the interconnection of community
 2.27 solar garden facilities that allow the utility to recover reasonable interconnection costs for
 2.28 each community solar garden;

2.29 (3) not apply different requirements to utility and nonutility community solar garden
 2.30 facilities;

2.31 (4) be consistent with the public interest;

2.32 (5) identify the information that must be provided to potential subscribers to ensure fair
 2.33 disclosure of future costs and benefits of subscriptions;

- 3.1 (6) include a program implementation schedule;
- 3.2 (7) identify all proposed rules, fees, and charges; and
- 3.3 (8) identify the means by which the program will be promoted.

3.4 ~~(f)~~ (b) Notwithstanding any other law, neither the manager of nor the subscribers to a
 3.5 community solar garden facility shall be considered a utility solely as a result of their
 3.6 participation in the community solar garden facility.

3.7 ~~(g)~~ (c) Within 180 days of commission approval of a plan under this section, a utility
 3.8 shall begin crediting subscriber accounts for each community solar garden facility in its
 3.9 service territory, and shall file with the commissioner of commerce a description of its
 3.10 crediting system.

3.11 ~~(h)~~ For the purposes of this section, the following terms have the meanings given:

3.12 ~~(1)~~ "subscriber" means a retail customer of a utility who owns one or more subscriptions
 3.13 of a community solar garden facility intereconnected with that utility; and

3.14 ~~(2)~~ "subscription" means a contract between a subscriber and the owner of a solar garden.

3.15 **Subd. 4. Community access project; eligibility.** (a) An owner of a community solar
 3.16 garden may apply to the utility to be designated as a community access project at any time:

3.17 (1) before the owner makes an initial payment under an interconnection agreement
 3.18 entered into with a public utility; or

3.19 (2) if the owner made an initial payment under an interconnection agreement between
 3.20 January 1, 2021, and the effective date of this act, before commercial operation begins.

3.21 (b) The utility must designate a solar garden as a community access project if the owner
 3.22 of a solar garden commits in writing to meet the following conditions:

3.23 (1) at least 50 percent of the solar garden's generating capacity is subscribed by residential
 3.24 customers;

3.25 (2) the contract between the owner of the solar garden and the public utility that purchases
 3.26 the garden's electricity, and any agreement between the utility or owner of the solar garden
 3.27 and subscribers, states that the owner of the solar garden does not discriminate against or
 3.28 screen subscribers based on income or credit score and that any customer of a utility with
 3.29 a community solar garden plan approved by the commission under subdivision 3 is eligible
 3.30 to become a subscriber;

4.1 (3) the solar garden is operated by an entity that maintains a physical address in Minnesota
4.2 and has designated a contact person in Minnesota who responds to subscriber inquiries; and

4.3 (4) the agreement between the owner of the solar garden and subscribers states that the
4.4 owner must adequately publicize and convene at least one meeting annually to provide an
4.5 opportunity for subscribers to pose questions to the manager or owner.

4.6 Subd. 5. **Community access project; financial arrangements.** (a) If a solar garden is
4.7 approved by the utility as a community access project:

4.8 (1) the public utility purchasing the electricity generated by the community access project
4.9 may charge the owner of the community access project no more than one cent per watt
4.10 alternating current based on the solar garden's generating capacity for any refundable deposit
4.11 the utility requires of a solar garden during the application process;

4.12 (2) notwithstanding subdivision 2, paragraph (d), the public utility must purchase all
4.13 energy generated by the community access project at the retail rate; and

4.14 (3) all renewable energy credits generated by the community access project belong to
4.15 subscribers unless the operator:

4.16 (i) contracts to:

4.17 (A) sell the credits to a third party; or

4.18 (B) sell or transfer the credits to the utility; and

4.19 (ii) discloses a sale or transfer to subscribers at the time the subscribers enter into a
4.20 subscription.

4.21 (b) If at any time after commercial operation begins a solar garden approved by the
4.22 utility as a community access project fails to meet the conditions under subdivision 4, the
4.23 solar garden is no longer subject to the provisions of this subdivision and subdivision 6,
4.24 and must operate under the program rules established by the commission for a solar garden
4.25 that does not qualify as a community access project.

4.26 (c) An owner of a solar garden whose designation as a community access project is
4.27 revoked under this subdivision may reapply to the commission at any time to have the
4.28 designation as a community access project reinstated under subdivision 4.

4.29 Subd. 6. **Community access project; reporting.** The owner of a community access
4.30 project must include the following information in an annual report to the community access
4.31 project subscribers and the utility:

5.1 (1) a description of the process by which subscribers can provide input to solar garden
5.2 policy and decision making;

5.3 (2) the amount of revenues received by the solar garden in the previous year that were
5.4 allocated to categories that include but are not limited to operating costs, debt service, profits
5.5 distributed to subscribers, and profits distributed to others; and

5.6 (3) an estimate of the proportion of low- and moderate-income subscribers, and a
5.7 description of one or more of the following methods used to make the estimate:

5.8 (i) evidence provided by a subscriber that the subscriber or a member of the subscriber's
5.9 household receives assistance from any of the following sources:

5.10 (A) the federal Low-Income Home Energy Assistance Program;

5.11 (B) federal Section 8 housing assistance;

5.12 (C) medical assistance;

5.13 (D) the federal Supplemental Nutrition Assistance Program; or

5.14 (E) the federal National School Lunch Program;

5.15 (ii) characterization of the census tract where the subscriber resides as low- or
5.16 moderate-income by the Federal Financial Institutions Examination Council; or

5.17 (iii) other methods approved by the commission.

5.18 Subd. 7. **Commission order.** Within 180 days of the effective date of this act, the
5.19 commission must issue an order addressing the requirements of this act.

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