



Request for City Council Committee Action from the Department of Intergovernmental Relations

Date: February 27, 2009

To: Chair Betsy Hodges and Intergovernmental Relations Committee Members

Subject: State Legislation

Recommendation: Amend the City of Minneapolis 2009 legislative agenda to Oppose SF 840. The Municipal Governance Section would be amended to add the following language as the last bullet under the Priorities Section:

- The City of Minneapolis opposes limitations on local authority as proposed in Senate File 840.

Prepared by: IGR Staff

Approved by: Gene Ranieri

A handwritten signature in cursive script, reading "Gene Ranieri", written over a horizontal line.

Presenters in Committee: IGR Staff

Supporting Information

SF 840 (copy attached) amends legislation regulating certain hydropower facilities. The bill amends subdivision 4 of Minnesota Statutes 2008 section 103G.535 by adding a provision for hydropower facilities that have:

- a capacity of less than 100 megawatts; and
- been granted a license, or amended license under part I of the Federal Power Act by the Federal Energy Regulatory Commission for a facility located on land owned by a municipal board or political subdivision.

If a facility meets the above criteria the municipal board or local subdivision shall, within 180 days of the effective date of the bill or the date the federal license was granted provide for a lease for the development and operation of the facility. In addition municipality approval is not required for facilities described in the bill.

The bill exempts a facility from local approval as defined in clause (a) of the bill and directs that a lease be negotiated within a specific time frame. Subdivision 2 of the statute (copy attached) authorizes a political subdivision to enter into a lease.



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 KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

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S.F. No. 840, as introduced - 86th Legislative Session (2009-2010) Posted on Feb 18, 2009

- 1.1 A bill for an act
- 1.2 relating to energy; regulating certain hydropower facilities; amending Minnesota
- 1.3 Statutes 2008, section 103G.535, subdivision 4.
- 1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.5 Section 1. Minnesota Statutes 2008, section 103G.535, subdivision 4, is amended to
- 1.6 read:
- 1.7 Subd. 4. **Municipality or town approval.** (a) If the dam, dam site, or power
- 1.8 generation plant is located in or contiguous to a municipality or town, other than the lessor
- 1.9 political subdivision, the lease or agreement is not effective unless it is approved by the
- 1.10 governing body of the municipality or town.
- 1.11 (b) If a hydroelectric facility has a capacity of less than 100 megawatts and has
- 1.12 been granted a license, or amended license under part 1 of the Federal Power Act, by
- 1.13 the Federal Energy Regulatory Commission for a facility located on land owned by a
- 1.14 municipal board or political subdivision of the state, the municipal board or political
- 1.15 subdivision shall, within 180 days from the later of the effective date of this paragraph
- 1.16 or the date the federal license was granted, provide for a lease for development and
- 1.17 operation of the facility. Municipality approval under paragraph (a) is not required for
- 1.18 facilities described in this paragraph.
- 1.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

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last updated: 02/26/2009

2008 Minnesota Statutes

103G.535 HYDROPOWER GENERATION.

Subdivision 1. **Public purpose.** The legislature finds that:

(1) the public health, safety, and welfare of the state is also promoted by the use of state water hydromechanical power in a manner consistent with laws relating to dam construction, reconstruction,

(2) the leasing of existing dams and potential dam sites primarily for power generation is a valid

Subd. 2. **Authority for lease of sites.** A political subdivision, or the commissioner with the approval of the state-owned dams, may provide by a lease or development agreement for the development and operation of hydromechanical power generation plants by an individual, a corporation, an organization, or other political subdivision 5.

Subd. 3. **Installations less than 15,000 kilowatts unused on January 1, 1984.** If an installation and reservoir was unused on January 1, 1984, in connection with the production of hydroelectric power, a development agreement negotiated by the political subdivision and the developer constitutes full payment of real or personal property taxes that might otherwise be due to a political subdivision.

Subd. 4. **Municipality or town approval.** If the dam, dam site, or power generation plant is located in a municipality or town, other than the lessor political subdivision, the lease or agreement is not effective unless it is approved by the municipality or town.

Subd. 5. **Contents of development agreement.** (a) An agreement for the development or reconstruction of a dam or dam site must contain provisions to assure the maximum financial return to the political subdivision or the commissioner.

(b) An agreement may contain:

(1) the period of the development agreement up to 99 years, subject to negotiations between the political subdivision and the developer, modification, or termination;

(2) provisions for a performance bond on the developer or certification that the equipment and structures are maintained as long as the lease; and

(3) provisions to assure adequate maintenance and safety in impoundment structures and access to the dam.

History: 1990 c 391 art 7 s 50; 1994 c 643 s 52