

Senator Hawj from the Committee on Environment, Climate, and Legacy, to which was re-referred

S.F. No. 4784: A bill for an act relating to energy; establishing the Minnesota Energy Infrastructure Permitting Act; modifying provisions governing certificates of need; making conforming and technical changes; authorizing administrative rulemaking; amending Minnesota Statutes 2022, sections 216A.037, subdivision 1; 216B.2421, subdivision 2; 216B.243, subdivisions 3, 3a, 4, 9; 216E.08, subdivision 2; 216E.11; 216E.13; 216E.14; 216E.15; 216E.16; 216E.18, subdivision 2a; Minnesota Statutes 2023 Supplement, sections 216B.243, subdivision 8; 216E.06; 216E.07; 216E.10, subdivisions 1, 2, 3; proposing coding for new law as Minnesota Statutes, chapter 216I; repealing Minnesota Statutes 2022, sections 216E.001; 216E.01, subdivisions 1, 2, 3, 4, 5, 7, 8, 9, 10; 216E.02; 216E.021; 216E.03, subdivisions 2, 3a, 3b, 4, 9; 216E.04, subdivisions 1, 3, 4, 5, 6, 7, 8, 9; 216E.05, subdivisions 1, 3; 216E.08, subdivisions 1, 4; 216E.18, subdivisions 1, 2; 216F.01; 216F.011; 216F.012; 216F.015; 216F.02; 216F.03; 216F.05; 216F.06; 216F.07; 216F.08; 216F.081; Minnesota Statutes 2023 Supplement, sections 216E.01, subdivisions 3a, 6, 9a; 216E.03, subdivisions 1, 3, 5, 6, 7, 10, 11; 216E.04, subdivision 2; 216E.05, subdivision 2; 216F.04; Minnesota Rules, parts 7850.1000; 7850.1100; 7850.1200; 7850.1300; 7850.1400; 7850.1500; 7850.1600; 7850.1700; 7850.1800; 7850.1900; 7850.2000; 7850.2100; 7850.2200; 7850.2300; 7850.2400; 7850.2500; 7850.2600; 7850.2700; 7850.2800; 7850.2900; 7850.3000; 7850.3100; 7850.3200; 7850.3300; 7850.3400; 7850.3500; 7850.3600; 7850.3700; 7850.3800; 7850.3900; 7850.4000; 7850.4100; 7850.4200; 7850.4500; 7850.4600; 7850.4700; 7850.4800; 7850.4900; 7850.5000; 7850.5100; 7850.5200; 7850.5300; 7850.5400; 7850.5500; 7850.5600; 7854.0100; 7854.0200; 7854.0300; 7854.0400; 7854.0500; 7854.0600; 7854.0700; 7854.0800; 7854.0900; 7854.1000; 7854.1100; 7854.1200; 7854.1300; 7854.1400; 7854.1500.

Reports the same back with the recommendation that the bill be amended as follows:

Page 27, after line 3, insert:

"Section 1. Minnesota Statutes 2023 Supplement, section 10.65, subdivision 2, is amended to read:

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given:

(1) "agency" means the Department of Administration; Department of Agriculture; Department of Children, Youth, and Families; Department of Commerce; Department of Corrections; Department of Education; Department of Employment and Economic Development; Department of Health; Office of Higher Education; Housing Finance Agency; Department of Human Rights; Department of Human Services; Department of Information Technology Services; Department of Iron Range Resources and Rehabilitation; Department of Labor and Industry; Minnesota Management and Budget; Bureau of Mediation Services; Department of Military Affairs; Metropolitan Council; Department of Natural Resources; Pollution Control Agency; Department of Public Safety; Department of Revenue; Department of Transportation; Department of Veterans Affairs; Gambling Control Board; Racing

2.1 Commission; the Minnesota Lottery; the Animal Health Board; the Public Utilities
2.2 Commission; and the Board of Water and Soil Resources;

2.3 (2) "consultation" means the direct and interactive involvement of the Minnesota Tribal
2.4 governments in the development of policy on matters that have Tribal implications.
2.5 Consultation is the proactive, affirmative process of identifying and seeking input from
2.6 appropriate Tribal governments and considering their interest as a necessary and integral
2.7 part of the decision-making process. This definition adds to statutorily mandated notification
2.8 procedures. During a consultation, the burden is on the agency to show that it has made a
2.9 good faith effort to elicit feedback. Consultation is a formal engagement between agency
2.10 officials and the governing body or bodies of an individual Minnesota Tribal government
2.11 that the agency or an individual Tribal government may initiate. Formal meetings or
2.12 communication between top agency officials and the governing body of a Minnesota Tribal
2.13 government is a necessary element of consultation;

2.14 (3) "matters that have Tribal implications" means rules, legislative proposals, policy
2.15 statements, or other actions that have substantial direct effects on one or more Minnesota
2.16 Tribal governments, or on the distribution of power and responsibilities between the state
2.17 and Minnesota Tribal governments;

2.18 (4) "Minnesota Tribal governments" means the federally recognized Indian Tribes located
2.19 in Minnesota including: Bois Forte Band; Fond Du Lac Band; Grand Portage Band; Leech
2.20 Lake Band; Mille Lacs Band; White Earth Band; Red Lake Nation; Lower Sioux Indian
2.21 Community; Prairie Island Indian Community; Shakopee Mdewakanton Sioux Community;
2.22 and Upper Sioux Community; and

2.23 (5) "timely and meaningful" means done or occurring at a favorable or useful time that
2.24 allows the result of consultation to be included in the agency's decision-making process for
2.25 a matter that has Tribal implications.

2.26 **EFFECTIVE DATE.** This section is effective August 1, 2024."

2.27 Page 32, after line 22, insert:

2.28 **"ARTICLE 4**

2.29 **ENVIRONMENTAL REVIEW AND PERMITTING**

2.30 Section 1. **[84.0265] ENVIRONMENTAL REVIEW AND PERMITTING;**
2.31 **COORDINATED PROJECT PLANS.**

2.32 **Subdivision 1. Definitions.** In this section, the following terms have the meanings given:

3.1 (1) "commissioner" means the commissioner of natural resources;

3.2 (2) "coordinated project plan" or "plan" means a plan to ensure that any required
3.3 environmental review and associated required state agency actions are completed efficiently
3.4 by coordinating and establishing deadlines for all necessary state agency actions;

3.5 (3) "eligible project" means a project that requires the commissioner to prepare an
3.6 environmental assessment worksheet or an environmental impact statement under chapter
3.7 116D and associated permits, unless the project is sponsored by the department of natural
3.8 resources; and

3.9 (4) "state agency" means the department or any other office, board, commission, authority,
3.10 department, or other agency of the executive branch of state government.

3.11 Subd. 2. **State policy.** It is the goal of the state to maximize the coordination,
3.12 effectiveness, transparency, and accountability of environmental review, associated
3.13 environmental permitting, and other regulatory actions for facilities in Minnesota.

3.14 Subd. 3. **Early communication; identifying issues.** (a) To the extent practicable, the
3.15 commissioner must establish and provide an expeditious process for a person that requests
3.16 to confer with the department and other state agencies about an eligible project. The
3.17 department must provide information about any identified challenging issues regarding the
3.18 potential environmental impacts related to an eligible project, including any issues that
3.19 could substantially delay a state agency from completing agency decisions; and issues that
3.20 must be addressed before an environmental assessment worksheet, environmental impact
3.21 statement, final scoping decision, permit action, or other required action by a state agency
3.22 can be started.

3.23 Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an
3.24 application for an eligible project to the commissioner may request that the commissioner
3.25 prepare a coordinated project plan to complete any required environmental review and
3.26 associated agency actions for the eligible project.

3.27 (b) Within 60 days of receiving a request under paragraph (a), the commissioner must
3.28 prepare a coordinated project plan in consultation with the requestor and other state agencies
3.29 identified under paragraph (c). If an eligible project requires or otherwise includes the
3.30 preparation of an environmental impact statement, the commissioner is required to prepare
3.31 a coordinated project plan that first covers the period through a final scoping decision.
3.32 Within 60 days of completion of the final scoping decision, the commissioner must update
3.33 the coordinated project plan to include the remainder of the environmental review process

as well as applicable state permits and other state regulatory decisions. The coordinated project plan is subject to modification in accordance with subdivision 7.

(c) Any state agency that must make permitting or other regulatory decisions over the eligible project must participate in developing a coordinated project plan.

(d) If an eligible project requires environmental review and the Department of Natural Resources is the responsible governmental unit, then it is the lead agency responsible for preparation of a coordinated project plan under this section. If an eligible project requires environmental review and the Pollution Control Agency is the responsible governmental unit, then it is the lead agency responsible for preparation of a coordinated project under section 116.035.

Subd. 5. Plan contents; synchronization; updates. (a) A coordinated project plan must include:

(1) a list of all state agencies known to have environmental review, permitting, or other regulatory authority over the eligible project and an explanation of each agency's specific role and responsibilities for actions under the coordinated project plan;

(2) a schedule for any formal public meetings; and

(3) a comprehensive schedule of deadlines by which all environmental reviews, permits, and other state agency actions must be completed. The deadlines established under this clause must include intermediate and final completion deadlines for actions by each state agency and must be consistent with subdivision 6, subject to modification in accordance with subdivision 7.

(b) The commissioner must update a coordinated project plan quarterly.

Subd. 6. Required deadlines. (a) Deadlines established in a coordinated project plan must comply with this subdivision, unless an alternative time period is agreed upon by the commissioner and proposer.

(b) When an environmental assessment worksheet is prepared for an eligible project for which an environmental impact statement is not mandatory under Minnesota Rules, chapter 4410, the decision on the need for an environmental impact statement must be made as expeditiously as possible but no later than 18 months after the environmental assessment worksheet is deemed complete by the commissioner.

(c) When an environmental impact statement is prepared for an eligible project, the decision on the adequacy of the final environmental impact statement must be made as

5.1 expeditiously as possible but no later than four years after the data submitted for the
5.2 environmental assessment worksheet is deemed complete.

5.3 (d) If the commissioner includes plan deadlines that are inconsistent with paragraphs
5.4 (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the
5.5 chairs and ranking minority members of the legislative committees and divisions with
5.6 jurisdiction over natural resources policy to explain how deadlines were established and
5.7 why the deadlines under paragraphs (b) and (c) are not attainable.

5.8 Subd. 7. **Deadline compliance; modification.** (a) A state agency that participates in the
5.9 commissioner's development coordinated project plan must comply with deadlines established
5.10 in the plan. If a participating state agency fails to meet a deadline established in the
5.11 coordinated project plan or anticipates failing to meet a deadline, the state agency must
5.12 immediately notify the commissioner to explain the reason for the failure or anticipated
5.13 failure and to propose a date for a modified deadline.

5.14 (b) The commissioner may modify a deadline established in the coordinated project plan
5.15 if the project proposer fails to meet a deadline established in the coordinated project plan
5.16 or provides inadequate information to meet that deadline; or if:

5.17 (1) the commissioner provides the person that requested the plan with a written
5.18 justification for the modification; and

5.19 (2) the commissioner and the state agency, after consultation with the person that
5.20 requested the plan, mutually agree on a different deadline.

5.21 (c) If the combined modifications to one or more deadlines established in a coordinated
5.22 project plan extend the initially anticipated final decision date for an eligible project
5.23 application by more than 20 percent, the commissioner must report to the chairs and ranking
5.24 minority members of the legislative committees and divisions with jurisdiction over natural
5.25 resources policy within 30 days to explain the reason the modifications are necessary. The
5.26 commissioner must also notify the chairs and ranking minority members within 30 days of
5.27 any subsequent extensions to the final decision date. The notification must include the reason
5.28 for the extension and the history of any prior extensions. For purposes of calculating the
5.29 percentage of time that modifications have extended the anticipated final decision date,
5.30 modifications made necessary by reasons wholly outside the control of state agencies must
5.31 not be considered.

5.32 Subd. 8. **Annual report.** As part of the annual permitting efficiency report required
5.33 under section 84.027, The commissioner must report on progress toward required actions
5.34 described in this section.

6.1 Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an
6.2 act that conflicts with applicable state or federal law. Nothing in this section affects the
6.3 specific statutory obligations of a state agency to comply with criteria or standards of
6.4 environmental quality.

6.5 Sec. 2. **[116.035] ENVIRONMENTAL REVIEW AND PERMITTING;**
6.6 **COORDINATED PROJECT PLANS.**

6.7 Subdivision 1. **Definitions.** In this section, the following terms have the meanings given:

6.8 (1) "commissioner" means the commissioner of the Pollution Control Agency;

6.9 (2) "coordinated project plan" or "plan" means a plan to ensure that any required
6.10 environmental review and associated required state agency actions are completed efficiently
6.11 by coordinating and establishing deadlines for all necessary state agency actions;

6.12 (3) "eligible project" means a project that requires the commissioner to prepare an
6.13 environmental assessment worksheet or an environmental impact statement under chapter
6.14 116D and associated permits; and

6.15 (4) "state agency" means the agency or any other office, board, commission, authority,
6.16 department, or other agency of the executive branch of state government.

6.17 Subd. 2. **State policy.** It is the goal of the state to maximize the coordination,
6.18 effectiveness, transparency, and accountability of environmental review, associated
6.19 environmental permitting, and other regulatory actions for facilities in Minnesota.

6.20 Subd. 3. **Early communication; identifying issues.** (a) To the extent practicable, the
6.21 commissioner must establish and provide an expeditious process for a person that requests
6.22 to confer with the agency and other state agencies about an eligible project. The agency
6.23 must provide information about any identified challenging issues regarding the potential
6.24 environmental impacts related to an eligible project, including any issues that could
6.25 substantially delay a state agency from completing agency decisions and issues that must
6.26 be addressed before an environmental assessment worksheet, environmental impact statement,
6.27 final scoping decision, permit action, or other required action by a state agency can be
6.28 started.

6.29 Subd. 4. **Plan preparation; participating agencies.** (a) A person who submits an
6.30 application for an eligible project to the commissioner may request that the commissioner
6.31 prepare a coordinated project plan to complete any required environmental review and
6.32 associated agency actions for the eligible project.

(b) Within 60 days of receiving a request under paragraph (a), the commissioner must prepare a coordinated project plan in consultation with the requestor and other state agencies identified under paragraph (c). If an eligible project requires or otherwise includes the preparation of an environmental impact statement, the commissioner is required to prepare a coordinated project plan that first covers the period through a final scoping decision. Within 60 days of completion of the final scoping decision, the commissioner must update the coordinated project plan to include the remainder of the environmental review process as well as applicable state permits and other state regulatory decisions. The coordinated project plan is subject to modification in accordance with subdivision 7.

(c) Any state agency that must make permitting or other regulatory decisions over the eligible project must participate in developing a coordinated project plan.

(d) If an eligible project requires environmental review and the Department of Natural Resources is the responsible governmental unit, then it is the lead agency responsible for preparation of a coordinated project plan under section 84.0265. If an eligible project requires environmental review and the Pollution Control Agency is the responsible governmental unit, then it is the lead agency responsible for preparation of a coordinated project under this section.

Subd. 5. Plan contents; synchronization; updates. (a) A coordinated project plan must include:

(1) a list of all state agencies known to have environmental review, permitting, or other regulatory authority over the eligible project and an explanation of each agency's specific role and responsibilities for actions under the coordinated project plan;

(2) a schedule for any formal public meetings; and

(3) a comprehensive schedule of deadlines by which all environmental reviews, permits, and other state agency actions must be completed. The deadlines established under this clause must include intermediate and final completion deadlines for actions by each state agency and must be consistent with subdivision 6, subject to modification in accordance with subdivision 7.

(b) The commissioner must update a coordinated project plan quarterly.

Subd. 6. Required deadlines. (a) Deadlines established in a coordinated project plan must comply with this subdivision unless an alternative time period is agreed upon by the commissioner and proposer.

(b) When an environmental assessment worksheet is prepared for an eligible project for which an environmental impact statement is not mandatory under Minnesota Rules, chapter 4410, the decision on the need for an environmental impact statement must be made as expeditiously as possible but no later than 18 months after the environmental assessment worksheet is deemed complete by the commissioner.

(c) When an environmental impact statement is prepared for an eligible project, the decision on the adequacy of the final environmental impact statement must be made as expeditiously as possible but no later than four years after the submitted data for the environmental assessment worksheet is deemed complete.

(d) If the commissioner includes plan deadlines that are inconsistent with paragraphs (b) and (c), then within 30 days of finalizing the plan, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy to explain how deadlines were established and why the deadlines under paragraphs (b) and (c) are not attainable.

Subd. 7. Deadline compliance; modification. (a) A state agency that participates in the commissioner's development coordinated project plan must comply with deadlines established in the plan. If a participating state agency fails to meet a deadline established in the coordinated project plan or anticipates failing to meet a deadline, the state agency must immediately notify the commissioner to explain the reason for the failure or anticipated failure and to propose a date for a modified deadline.

(b) The commissioner may modify a deadline established in the coordinated project plan if the project proposer fails to meet a deadline established in the coordinated project plan or provides inadequate information to meet that deadline; or if:

(1) the commissioner provides the person that requested the plan with a written justification for the modification; and

(2) the commissioner and the state agency, after consultation with the person that requested the plan, mutually agree on a different deadline.

(c) If the combined modifications to one or more deadlines established in a coordinated project plan extend the initially anticipated final decision date for an eligible project application by more than 20 percent, the commissioner must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over natural resources policy within 30 days to explain the reason the modifications are necessary. The commissioner must also notify the chairs and ranking minority members within 30 days of any subsequent extensions to the final decision date. The notification must include the reason

9.1 for the extension and the history of any prior extensions. For purposes of calculating the
9.2 percentage of time that modifications have extended the anticipated final decision date,
9.3 modifications made necessary by reasons wholly outside the control of state agencies must
9.4 not be considered.

9.5 Subd. 8. **Annual report.** As part of the annual permitting efficiency report required
9.6 under section 116.03, the commissioner must report on progress toward required actions
9.7 described in this section.


9.8 Subd. 9. **Relation to other law.** Nothing in this section is to be construed to require an
9.9 act that conflicts with applicable state or federal law. Nothing in this section affects the
9.10 specific statutory obligations of a state agency to comply with criteria or standards of
9.11 environmental quality."

9.12 Renumber the sections in sequence

9.13 Page 1, line 4, after the second semicolon, insert "providing for coordinated plans to
9.14 complete environmental review and other state agency actions; requiring reports;"

9.15 Amend the title numbers accordingly

9.16 And when so amended the bill do pass and be re-referred to the Committee on Finance.
9.17 Amendments adopted. Report adopted.

9.18 
9.19 (Committee Chair)

9.20 March 21, 2024.....
9.21 (Date of Committee recommendation)