

## SF4784 - 3E - Minnesota Energy Infrastructure Permitting Act

Chief Author: **Nick Frentz**  
 Committee: **Finance**  
 Date Completed: **4/8/2024 4:12:15 PM**  
 Lead Agency: **Commerce Dept**  
 Other Agencies:  
     Administrative Hearings      Natural Resources Dept  
     Pollution Control Agency      Public Utilities Commission

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.  
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
<b>Administrative Hearings</b>	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
<b>Commerce Dept</b>	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
<b>Natural Resources Dept</b>	-	-	-	-	-
General Fund	-	-	-	-	-
<b>Pollution Control Agency</b>	-	-	-	-	-
General Fund	-	-	-	-	-
Environmental	-	-	-	-	-
<b>Public Utilities Commission</b>	-	-	-	-	-
General Fund	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
<b>State Total</b>					
Administrative Hearings	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
General Fund	-	-	-	-	-
Environmental	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
Administrative Hearings	-	-	-	-	-
Commerce Dept	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	(6.38)	(12.75)	(12.75)

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Natural Resources Dept	-	-	-	-	-
General Fund	-	-	.02	.02	.02
Pollution Control Agency	-	-	-	-	-
General Fund	-	-	.07	-	-
Environmental	-	-	.05	-	-
Public Utilities Commission	-	-	-	-	-
General Fund	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	6.38	12.75	12.75
<b>Total</b>	-	-	<b>.14</b>	<b>.02</b>	<b>.02</b>

**Lead LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Karl Palm      **Date:** 4/8/2024 4:12:15 PM  
**Phone:** 651-296-6055      **Email:** karl.palm@lbo.mn.gov

**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
<b>Dollars in Thousands</b>		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	-	-	-
Commerce Dept		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
Natural Resources Dept		-	-	-	-	-
General Fund		-	-	-	-	-
Pollution Control Agency		-	-	-	-	-
General Fund		-	-	-	-	-
Environmental		-	-	-	-	-
Public Utilities Commission		-	-	-	-	-
General Fund		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
<b>Total</b>		-	-	-	-	-
<b>Biennial Total</b>				-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	3	-	-
Commerce Dept		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	(1,237)	(2,473)	(2,473)
Natural Resources Dept		-	-	-	-	-
General Fund						
Expenditures		-	-	3	3	3
Absorbed Costs		-	-	(3)	(3)	(3)
Pollution Control Agency		-	-	-	-	-
General Fund						
Expenditures		-	-	15	-	-
Absorbed Costs		-	-	(15)	-	-
Environmental						
Expenditures		-	-	8	-	-
Absorbed Costs		-	-	(8)	-	-
Public Utilities Commission		-	-	-	-	-
General Fund		-	-	5	-	-
Restrict Misc. Special Revenue		-	-	1,237	2,473	2,473
<b>Total</b>		-	-	8	-	-
<b>Biennial Total</b>				8		-
<b>2 - Revenues, Transfers In*</b>						
Administrative Hearings		-	-	-	-	-
Administrative Hearings		-	-	3	-	-
Commerce Dept		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	(1,237)	(2,473)	(2,473)
Natural Resources Dept		-	-	-	-	-
General Fund		-	-	-	-	-

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
<b>Dollars in Thousands</b>		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
Pollution Control Agency		-	-	-	-	-
General Fund		-	-	-	-	-
Environmental		-	-	-	-	-
Public Utilities Commission		-	-	-	-	-
General Fund		-	-	5	-	-
Restrict Misc. Special Revenue		-	-	1,237	2,473	2,473
	<b>Total</b>	-	-	<b>8</b>	-	-
	<b>Biennial Total</b>			<b>8</b>		-

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 Date Completed: **4/8/2024 4:12:15 PM**  
 Agency: **Commerce Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.  
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	(6.38)	(12.75)	(12.75)
<b>Total</b>	-	-	<b>(6.38)</b>	<b>(12.75)</b>	<b>(12.75)</b>

## LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Karl Palm      **Date:** 4/8/2024 4:11:22 PM  
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### State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>
Dollars in Thousands		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
					<b>FY2027</b>
Restrict Misc. Special Revenue	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>				-	-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>					
Restrict Misc. Special Revenue	-	-	(1,237)	(2,473)	(2,473)
<b>Total</b>	-	-	<b>(1,237)</b>	<b>(2,473)</b>	<b>(2,473)</b>
<b>Biennial Total</b>			<b>(1,237)</b>		<b>(4,946)</b>
<b>2 - Revenues, Transfers In*</b>					
Restrict Misc. Special Revenue	-	-	(1,237)	(2,473)	(2,473)
<b>Total</b>	-	-	<b>(1,237)</b>	<b>(2,473)</b>	<b>(2,473)</b>
<b>Biennial Total</b>			<b>(1,237)</b>		<b>(4,946)</b>

### Bill Description

SF4784-3E, titled the “Minnesota Energy Infrastructure Permitting Act,” creates Minnesota Chapter 216I. The bill proposes new permitting processes, Public Utilities Commission (PUC) deadlines, and applicant requirements for energy generation and transmission infrastructure that exceed a specified voltage size. Additionally, the bill repeals numerous existing sections within Minnesota Statutes chapters 216E and 216F, and Minnesota Rules chapters 7854 and 7850.

Article 1, Section 1 establishes the citation for the bill as the “Minnesota Energy Infrastructure Permitting Act.”

Section 2 establishes definitions, some of which are similar to existing language in Minnesota Rules and some of which are new or amended.

Section 3 grants authority to the PUC to provide siting and route selection for large energy infrastructure facilities.

Section 4 determines whether a proposal meets the definition of large energy infrastructure facility and is subject to the commission's siting or routing jurisdiction under this chapter; or (2) which review process is applicable at the time of the initial application.

For any solar, wind, or energy storage system, the alternating current nameplate capacity of such a system must be combined with the alternating current nameplate capacity of any of other solar, wind, or energy storage system that is (1) constructed within the same 12-month period; and (2) exhibits characteristics of being a single development.

For transmission lines, the applicant must describe the applicability question and provide facts to support the PUC's determination.

The PUC must provide forms and assistance to help applicants make a request for an applicability determination. Upon written request from an applicant, the Commission must provide a written determination of applicability under this section within thirty days of the request date or within thirty days of the date information is received by the PUC, whichever is later.

Section 5 establishes requirements and procedures for designating sites and routes.

A person seeking to construct a large energy infrastructure facility must have a site permit approved by the PUC. If a HVTL proposal is directly associated with a proposal for a wind, solar, or energy storage system as defined under this section, then the PUC must incorporate both proposals into one proceeding.

This section lists the items the applicant must include in the site or route permit application and in the environmental review for each proposed site or route.

Before filing a site or route permit application, the applicant must notify each affected local unit of government, Minnesota Tribal governments, and the state technical resource agencies. The notice must describe the proposed project and provide entities an opportunity for preapplication coordination or feedback.

Before submitting a final application to the PUC under this chapter, the applicant must provide a draft application to PUC staff to review for completeness and any necessary clarifications.

The PUC must determine whether an application is complete within ten days of receiving the application. An application may be deemed complete, even if it does not include required information, if that information may be obtained from the applicant prior to the initial public meeting and is not essential to provide adequate notice.

After the PUC's completeness determination, the PUC must provide notice as described in subdivision 8. After the Commission determines the application is complete, the PUC must hold at least one public meeting in a location near the project's proposal location to explain the permitting process, present major issues, and respond to question. The PUC must accept public comments at the public meeting and following the public meeting.

After the public comment period closes, the PUC must prepare a draft site or route permit and identify any issues or alternatives the Department of Commerce must evaluate in the Environmental Impact Statement (EIS).

This section lists various factors for the PUC to consider in making site and route permit determinations, including research and investigations, environmental evaluation, minimizing adverse environmental effects, beneficial uses of waste energy, economic impacts, alternatives, future infrastructure needs, benefits to energy reliability, socioeconomic issues, and other considerations.

The PUC must issue a public notice of a final decision on site or route permits in the Environmental Quality Board Monitor after date of the PUC's decision.

The PUC must consult with other state agencies for activities and proceedings under this chapter.

Section 6 establishes a "major review" procedure for certain applications. This is the review procedure to be used if an applicant does not request "standard review" under section 7.

Under this procedure, the PUC must prepare an EIS. The Commission is prohibited from considering whether the project is needed, and no other state environmental review documents are required. The PUC must study and evaluate any site or route included in a draft permit under section 5, subdivision 10. This section lists various findings that must be made on various types of projects.

The PUC must publish a draft EIS after the PUC votes on the draft permit. Public comments must be accepted on the draft EIS and the PUC must publish a final EIS in response to timely public comments including various required factors and considerations.

After publication of the draft EIS, the PUC must hold a public hearing on the site or route permit application. A hearing held to designate a site or route must be conducted by a OAH ALJ using the contested case process and must include notice and public comment periods as described in subdivision 2. The ALJ must issue a report no later than 30 days after the public comment period closes.

The PUC must make a final decision on an application within 60 days of receiving the ALJ's report. This must also be within 1 year of the completeness determination under section 5. The PUC may extend this time limit for up to three months for just cause or upon agreement with the applicant.

Section 7 establishes a "standard review" procedure for certain applications. The applicant must inform the Commission at the time the application is submitted if they elect to follow the standard review process.

This section lists the projects eligible for the standard review process, including:

1. Large electric power generating plans with a capacity of less than 80 MW;
2. Large electric power generating plants that are fueled by natural gas;
3. High-voltage transmission lines with a capacity between 100 and 300 kilovolts;
4. High-voltage transmission lines with a capacity in excess of 300 kilovolts and less than 30 miles in length in Minnesota;
5. High-voltage transmission lines with a capacity in excess of 300 kilovolts, if at least 80 percent of the distance of the line in Minnesota, as proposed by the applicant, is located along existing high-voltage transmission line right-of-way;
6. Solar energy systems with a combined nameplate capacity of 50,000 kilowatts alternating current or more;
7. Energy storage systems; and
8. Large wind energy conversion systems.

For projects using the standard review process, the applicant must prepare and submit an environmental assessment (EA) with the application and as part of the preapplication process. If, after the public meeting, the PUC identifies other sites or routes or potential impacts for review, the PUC must prepare an addendum to the environmental

assessment that evaluates (1) the human and environmental impacts of the alternative site or route, and (2) any additional mitigating measures related to the identified impacts.

No later than 40 days after the date the PUC issues a draft permit, the Commission must hold a public hearing in the area where the facility is proposed, and must accept public comments up to 20 days after the public hearing. The PUC must make a final decision on a site or route permit application within 60 days of the closing of the public comment period. This must also be within six months of the completeness determination under section 5. The PUC may extend this time limit for up to three months for just cause or upon agreement with the applicant.

Section 8 provides that applicants may elect to receive project approval from the local units of government that have jurisdiction over the site or route, for certain types of projects. If an applicant elects to seek local review, the applicant must notify the PUC within 10 days of submitting the application to the local unit of government.

If local approval is granted, a site or route permit is not required from the Commission. A local government may seek to transfer jurisdiction to the PUC by filing a request within 60 days of the application filing date.

Projects which may seek local review include:

1. Large electric power generating plans and solar energy system with a capacity of less than 80 megawatts;
2. Large electric power generating plants of any size that burns natural gas and are intended to be peaking plants;
3. High-voltage transmission lines with a capacity between 100 and 200 kilovolts;
4. Substations with a voltage designed for and capable of operation at a nominal voltage of 100 kilovolts or more;
5. High-voltage transmission line service extension to a single customer between 200 and 300 kilovolts and less than ten miles;
6. High voltage transmission line rerouting to serve the demand of a single customer if at least 80 percent of the rerouted line is located on property owned or controlled by the customer or the owner of the transmission line;
7. Energy storage systems; and
8. Large wind energy conversion systems with a capacity less than 25 megawatts.

If a local unit of government maintains jurisdiction over a project, the local unit of government must prepare an EA, provide opportunities for public review and participation, and publish notice, among other requirements.

Section 9 establishes procedures for “minor alterations” and permit amendments.

Projects eligible for this process include:

1. Upgrades or rebuilds an existing electric line and associated facilities to a voltage capable of operating between 100 kilovolts and 300 kilovolts, provided not more than one mile of the upgrade or rebuilding is located more than 50 feet from either side of the centerline of the existing electric line;
2. Reroutes a high-voltage transmission line to serve the demand of a single customer, if at least 80 percent of the rerouted line is located on property owned or controlled by the customer or the owner of the transmission line;
3. Repowers or refurbishes a large electric power generating plan, a large wind energy conversion system, solar system, or energy storage system that increases the efficiency of the system, provided the project does not increase the developed area within the permitted site or increase the nameplate capacity of the facility's most recent interconnection agreement.
4. Requested by the owner of the large energy infrastructure facility to modify any provision or condition of a site or route permit issued by the Commission; and
5. Changes a large energy infrastructure facility in a manner that does not result in a significant change to the facility's human and environmental impact.

An application for a minor alteration must describe the alteration or permit amendment sought, and explain why the request meets the eligibility criteria. The PUC must provide at least a 10-day public comment period, with at least seven days for the applicant to reply to public comments. Within 20 days of the end of the public comment period, the PUC must decide whether to authorize the minor alteration or permit amendment, bring it to a public meeting for further consideration, or determine that it must follow a different permitting process under a different section of the chapter. The PUC may impose conditions on approval.

Section 10 lists certain projects that are exempt from PUC permitting requirements. Projects which do not require a Commission issued permit include:

1. A small wind energy conversion system;
2. A power plant or solar generating system with a capacity of less than 50 MW;
3. An energy storage system with a capacity of less than ten (10) MW;



4. A transmission line that (i) has a capacity of 110 kilovolts or more, and (ii) is less than 1,500 feet in length; and
5. A transmission line that has a capacity of less than 100 kilovolts.

Applicants must still obtain any other required local, state, or federal approval.

Section 11 lists additional projects that are not considered “large energy infrastructure facilities” and do not require a PUC permit:

1. Maintaining or repairing an existing large energy infrastructure facility within an existing site or right-of-way;
2. Adding equipment at an existing substation
3. Reconducting or reconstructing a high-voltage transmission line that does not result in a change to voltage or a change in right-of-way;
4. Relocating a high-voltage transmission line that is required by a local or state agency as part of road, street, or highway construction;
5. Converting the fuel source of a large electric power generating plant to natural gas, provided the plant is not expanded beyond the developed portion of the plant site; and
6. Starting up an existing large electric power generating plant that has been closed for any period of time at no more than the large electric power generating plant that has been closed for any period of time at no more than the large electric power generating plant’s previous capacity rating and in a manner that does not involve changing the fuel or expanding the developed portion of the plant site.

Section 12 directs the Revisor to renumber sections of Minnesota Statutes to conform with the changes in the bill.

Section 13 repeals existing Minnesota statutes and rules relating to permitting.

Section 14 states that this article is effective January 1, 2025. Article 2 modifies certificate of need requirements, including:

Modifying the definition of “large energy facility” in Minn. Stat. §216B.2421.

Exempting additional facilities from certificate of need requirements in Minn. Stat. §216B.243.

Article 3 makes conforming changes elsewhere in statute, including:

Modifying the ex parte communications prohibition in Minn. Stat. § 216A.037 to clarify that PUC staff and consultants providing technical expertise and carrying out environmental review and other activities identified in chapters 216G and 216I are not parties, participants, or decision-making personnel, as defined under Minnesota Rules, part 7845.7000.

Moving site and route permit application fees from the Department of Commerce to the PUC.

Directing the Department of Commerce and the Pollution Control Agency to adopt rules to conform with the changes in the bill.

### **Assumptions**

Commerce assumes that almost all administrative and operational components associated with the Energy Environmental Review and Analysis (EERA) Unit would transfer to the Public Utilities Commission (PUC). That would include one Supervisor and 11.75 Environmental Review Managers and Planners.

Commerce also assumes that rulemaking activities will be completed by the PUC and EQB. Commerce assumes that it would retain some RGU responsibilities for certain spent nuclear fuels until EQB rules are amended to direct the PUC to be RGU responsibilities. Commerce assumes that in accordance with 116B.04, the Environmental Quality Board would conduct any rulemaking necessary to this section, and therefore Commerce does not assume a fiscal impact for this activity.

Commerce has shown the net reduction in expenditures and revenue based on the most recent completed fiscal year (FY23) - \$2.473M.

Commerce has shown the transfer of EERA to take place January 1, 2025.

### **Expenditure and/or Revenue Formula**

Net loss from Commerce of 12.75 EERA positions. No net revenue change from the state's perspective as this is directly assessed to the utilities.

FY23 revenue/expenditure reduction used for estimate - \$2.473M; shown 1/2 FY25 based on January 1 2025 effective date, full estimate for FY26 forward.

### **Long-Term Fiscal Considerations**

### **Local Fiscal Impact**

### **References/Sources**

#### **Agency Contact:**

**Agency Fiscal Note Coordinator Signature:** Amy Trumper

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**Date:** 4/8/2024 2:40:08 PM

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## SF4784 - 3E - Minnesota Energy Infrastructure Permitting Act

Chief Author: **Nick Frentz**  
 Committee: **Finance**  
 Date Completed: **4/8/2024 4:12:15 PM**  
 Agency: **Administrative Hearings**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Administrative Hearings	-	-	-	-	-
<b>Total</b>	-	-	-	-	-

**LBO Analyst's Comment**

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Chloe Burns      **Date:** 4/4/2024 2:42:37 PM  
**Phone:** 651-297-1423      **Email:** chloe.burns@lbo.mn.gov

### State Cost (Savings) Calculation Details

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Dollars in Thousands		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
Administrative Hearings		-	-	-	-	-
<b>Total</b>		-	-	-	-	-
<b>Biennial Total</b>				-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
Administrative Hearings		-	-	3	-	-
<b>Total</b>		-	-	<b>3</b>	-	-
<b>Biennial Total</b>				<b>3</b>		-
<b>2 - Revenues, Transfers In*</b>						
Administrative Hearings		-	-	3	-	-
<b>Total</b>		-	-	<b>3</b>	-	-
<b>Biennial Total</b>				<b>3</b>		-

### Bill Description

SF4784-3E provides for the establishment of the Minnesota Energy Infrastructure Permitting Act (Act) which makes changes to the processes used by the Public Utilities Commission (PUC) to develop, approve and issue site permits and route permits. The bill repeals a number of statutes within chapters 216E and 216F and repeals a number of rules within MN Rules chapters 7854 and 7850, in turn creating a new MN Statute chapter 216I and requiring PUC and Environmental Quality Board (EQB) to adopt and amend rules to conform with the Act.

Article 1, Section 6 of the bill requires issuance of the administrative law judge's (ALJ) report and recommendations no later than 30 days after the date the public comment period closes. Article 3, Section 13 provides that the chief administrative law judge must adopt procedural rules for public hearings relating to the site and route permit process. The rules must attempt to maximize citizen participation in the processes that are outlined consistent with the time limits for commission decision established.

Article 3, Section 15 (a) authorizes PUC to adopt rules using the expedited rulemaking process that amend Minnesota Rules chapter 7850, to conform with changes made in the bill. Article 3, Sec 15 (b) authorizes the EQB to amend Minnesota Rules chapter 4410 to conform with the changes made in the bill. Article 3, Sec 15 (c) authorizes PUC to amend Minnesota Rules chapter 7850 to conform with the changes made in the Act.

### Assumptions

The Office of Administrative Hearings (OAH) in consultation with Minnesota Management and Budget (MMB) assesses agencies the cost of services rendered to them. All agencies shall include in their budgets provisions for such assessments.

OAH assumes that the current complement of ALJs employed by OAH is sufficient to preside over any reviews that result from SF4784-3E including major reviews as outlined in Art. 1, Sec. 6, and standard reviews as outlined in Art. 1, Sec 7. No additional funds would be needed for this work.

OAH assumes that MN Rules Chapter 1405 would not need to be adjusted following enactment of this bill, therefore OAH will not need to undertake new rulemaking to conform with Art. 3, Sec 13, Subd 2.

OAH has used Pollution Control Agency's assumption that EQB will need to undertake a procedural noncontroversial rulemaking in FY25 to meet the requirements of Art. 3, Sec. 15 (b). Based on past practices, OAH assumes that a procedural noncontroversial rulemaking under chapter 14 will require an estimated four hours of ALJ time for activity related to rulemaking procedures. Of the total rulemaking amount estimated by PCA/EQB, \$980 is for the four hours of ALJ time for a procedural noncontroversial rulemaking.

OAH has used PUC's assumption that they will need to undertake a small rulemaking in FY25 to meet the requirements of SF4784-3E. Based on past practices, OAH assumes that a small rulemaking under chapter 14 will require an estimated 10 hours of ALJ time for activity related to rulemaking procedures. Of the total rulemaking amount estimated by PUC, \$2,450 is for the 10 hours of ALJ time for a small rulemaking.

OAH currently bills ALJ time for rulemaking at the MMB-approved billable rate of \$245 per hour (see Minn. Stat. § 16A.126, subd. 1 (2022)).

#### **Expenditure and/or Revenue Formula**

Charged to EQB:

Estimated four hours of ALJ time for rulemaking activities related to implementing the requirements of Art. 3, Sec. 15 (b) = 4 hours x \$245/hr = \$980 charged to EQB in FY2025 pursuant to the requirements of Minn. Stat. § 14.53.

Charged to PUC:

Estimated 10 hours of ALJ time for rulemaking activities related to implementing the requirements of SF4784-3E = 10 hours x \$245/hr = \$2,450 charged to PUC in FY2025 pursuant to the requirements of Minn. Stat. § 14.53.

FY2025 Total Expenditures: \$980 + \$2,450 = \$3,430

#### **Long-Term Fiscal Considerations**

Costs associated with the rulemaking activities are a one-time occurrence.

#### **Local Fiscal Impact**

#### **References/Sources**

**Agency Contact:** Denise Collins

**Agency Fiscal Note Coordinator Signature:** Denise Collins

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## SF4784 - 3E - Minnesota Energy Infrastructure Permitting Act

Chief Author: **Nick Frentz**  
 Committee: **Finance**  
 Date Completed: **4/8/2024 4:12:15 PM**  
 Agency: **Natural Resources Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.  
 Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
General Fund	-	-	.02	.02	.02
Total	-	-	.02	.02	.02

## LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Jim Carlson      **Date:** 4/4/2024 2:16:23 PM  
**Phone:** 651-284-6540      **Email:** jim.carlson@lbo.mn.gov

**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>
<b>Dollars in Thousands</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>					
General Fund					
Expenditures	-	-	3	3	3
Absorbed Costs	-	-	(3)	(3)	(3)
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-
<b>2 - Revenues, Transfers In*</b>					
General Fund	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-

**Bill Description**

Article 4 Section 1 requires the DNR to develop coordinated project plans to ensure that any required environmental review and associated required state agency actions are completed efficiently by coordinating and establishing deadlines for all needed state actions. The coordinated project plans must be prepared for eligible projects (projects that require environmental review and any associated permits by the DNR, unless the project is sponsored by the DNR) within 60-days of being requested.

**Assumptions**

The DNR completes, on average, 8 environmental assessment worksheets and 1 environmental impact statement annually. Of those, about half are from non-DNR project proposers. It is expected that all would require coordinated project plans (assumed 5 per year).

It is assumed that environmental review staff, permit program staff and potentially communications staff would take approximately 10 hours per project to prepare a coordinated project plan.

**Expenditure and/or Revenue Formula**

5 coordinated project plans x 10 hours per plan \$64/hour = \$3,200 annually (0.02 FTE). These costs can be absorbed into existing funding.

**Long-Term Fiscal Considerations**

None are expected, unless the number of eligible projects seeking coordinated project plans were to increase, in which case, additional staff could be required.

**Local Fiscal Impact**

none

**References/Sources**

none

**Agency Contact:** Melissa Kuskie

**Agency Fiscal Note Coordinator Signature:** Tyler Teggatz

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**Date:** 4/4/2024 1:52:12 PM

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## SF4784 - 3E - Minnesota Energy Infrastructure Permitting Act

Chief Author: **Nick Frentz**  
 Committee: **Finance**  
 Date Completed: **4/8/2024 4:12:15 PM**  
 Agency: **Pollution Control Agency**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.  
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	-	-	-	-
Environmental		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	-	.07	-	-
Environmental		-	-	.05	-	-
Total		-	-	.12	-	-

## LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Jim Carlson      **Date:** 4/4/2024 2:16:16 PM  
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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>	
Dollars in Thousands		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>	<b>FY2027</b>
General Fund		-	-	-	-	-
Environmental		-	-	-	-	-
<b>Total</b>		-	-	-	-	-
<b>Biennial Total</b>				-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>						
General Fund						
Expenditures		-	-	15	-	-
Absorbed Costs		-	-	(15)	-	-
Environmental						
Expenditures		-	-	8	-	-
Absorbed Costs		-	-	(8)	-	-
<b>Total</b>		-	-	-	-	-
<b>Biennial Total</b>				-		-
<b>2 - Revenues, Transfers In*</b>						
General Fund						
		-	-	-	-	-
Environmental						
		-	-	-	-	-
<b>Total</b>		-	-	-	-	-
<b>Biennial Total</b>				-		-

**Bill Description**

The bill makes changes to the process of developing and issuing site and route permits for certain kinds of large energy infrastructure facilities, including environmental review (environmental assessments and environmental impact statements). The bill directs that there be changes to Minn. R. 4410 to conform with the changes made in the act. The bill grants expedited rulemaking authority under Minn. Stat. 14.389 to make these changes.

(The current draft of the bill directs that the changes be made by the Minnesota Pollution Control Agency; however, the responsibility and authority for Minn. R. 4410 lies with the Environmental Quality Board (EQB), and it is our understanding that an amendment will be made to the bill to make this change.)

Section effective the day following final enactment.

Article 4 Section 2 requires the MPCA to develop coordinate project plans within 60-days of it being requested. Eligible projects are those in which the MPCA is completing the environmental review and issuing permits.

**Assumptions**

It is assumed that the conforming changes will be minor and consist primarily of correcting references to existing statute and rule that will now be in the new statute. It is also assumed that EQB will be able to use the expedited rulemaking authority granted in the bill, resulting in the rulemaking being a short one to two page and non-controversial amendment. If this is the case, the EQB will be able to absorb the costs and will not need to use any additional operational support from the Minnesota Pollution Control Agency.

MPCA completes, on average, 15 environmental assessment worksheets and 2 environment impact statements annually. It is assumed half of the projects will request coordinated project plans (up to 10 per year).

It is assumed that it will take environmental review staff, permit program staff and community affairs staff a total of 10

hours per project to prepare a coordinated project plan.

It is assumed that the mso-fareast-font-family:Arial;mso-bidi-font-family:Arial;mso-ansi-language:EN-US;mso-fareast-language:EN-US;mso-bidi-language:AR-SA>changes to Minnesota Statutes 116.035 will become an integrated part of the Agency's existing work.

**Expenditure and/or Revenue Formula**

EQB Expenditures:

Based on the Minnesota rulemaking manual's cost appendix, it is estimated that this rulemaking would take approximately 150 hours of program staff time; 6 hours of legal review by the Attorney General's office; and 4 hours of services from the Office of Administration Hearings plus filing fees.

	Hours for Minor rule (ex. expedited process or short rule)	Cost
Program and Rules Staff (\$84.13/hour)	150	\$12,620
Legal Review (\$163/hour)	6	\$978
OAH Services (\$245/hour)	4	\$980
OAH Filing Fee		\$50
State Register (\$135/page)	3	\$405

Based on these costs, the total estimated costs for this rulemaking would be \$15,033. The EQB is able to absorb these costs.

MPCA Expenditures:

10 coordinated project plans x 10 hours per plan x \$84/hour = \$8,413 annually. MPCA is able to absorb these costs.

\*The annual cost of 1.0 FTE is \$175,000 in FY2023-2027. Annual costs for 1.0 FTE include salary, fringe, and non-specialized employee support costs (work space, computer and office supplies, office equipment, local travel, etc.)

**Long-Term Fiscal Considerations**

None

**Local Fiscal Impact**

None

**References/Sources**

Staff familiar with environmental review processes and procedures were consulted in the drafting of this note.

**Agency Contact:**

**Agency Fiscal Note Coordinator Signature:** John Allen

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## SF4784 - 3E - Minnesota Energy Infrastructure Permitting Act

Chief Author: **Nick Frentz**  
 Committee: **Finance**  
 Date Completed: **4/8/2024 4:12:15 PM**  
 Agency: **Public Utilities Commission**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.  
 Reductions shown in the parentheses.

State Cost (Savings)		Biennium			Biennium	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)		Biennium			Biennium	
		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	6.38	12.75	12.75
Total		-	-	6.38	12.75	12.75

## LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

**LBO Signature:** Karl Palm      **Date:** 4/3/2024 3:23:54 PM  
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**State Cost (Savings) Calculation Details**

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

\*Transfers In/Out and Absorbed Costs are only displayed when reported.

<b>State Cost (Savings) = 1-2</b>		<b>Biennium</b>			<b>Biennium</b>
<b>Dollars in Thousands</b>		<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>FY2026</b>
					<b>FY2027</b>
General Fund	-	-	-	-	-
Restrict Misc. Special Revenue	-	-	-	-	-
<b>Total</b>	-	-	-	-	-
<b>Biennial Total</b>			-		-
<b>1 - Expenditures, Absorbed Costs*, Transfers Out*</b>					
General Fund	-	-	5	-	-
Restrict Misc. Special Revenue	-	-	1,237	2,473	2,473
<b>Total</b>	-	-	<b>1,242</b>	<b>2,473</b>	<b>2,473</b>
<b>Biennial Total</b>			<b>1,242</b>		<b>4,946</b>
<b>2 - Revenues, Transfers In*</b>					
General Fund	-	-	5	-	-
Restrict Misc. Special Revenue	-	-	1,237	2,473	2,473
<b>Total</b>	-	-	<b>1,242</b>	<b>2,473</b>	<b>2,473</b>
<b>Biennial Total</b>			<b>1,242</b>		<b>4,946</b>

**Bill Description**

SF4784-3E, titled the "Minnesota Energy Infrastructure Permitting Act," creates Minnesota Chapter 216I. The bill proposes new permitting processes and requirements for large energy infrastructure facilities. Additionally, the bill repeals numerous existing sections within Minnesota Statutes chapters 216E and 216F, and Minnesota Rules chapters 7854 and 7850.

Article 1, Section 1 establishes the citation for the bill as the "Minnesota Energy Infrastructure Permitting Act."

Section 2 establishes definitions, some of which are similar to existing language in Minnesota Rules and some of which are new or amended.

Section 3 grants authority to the PUC to provide siting and route selection for large energy infrastructure facilities, defined within the bill as any:

- High-voltage transmission line capable of operating at a nominal voltage of 100 kilovolts or more, and greater than 1,500 feet in length.
- Electric power generating plant at a capacity of 50,000 kW or more.
- Energy storage system at a nameplate capacity of 10,000 kW or more.
- Wind energy conversion system or systems with a combined nameplate capacity of 5,000 kilowatts or more, which may include transmission lines operating at 100 kilovolts or less that interconnect a large wind energy conversion system with a high-voltage transmission line (HVTL).

Section 4 establishes the process for determining whether a proposed large energy infrastructure facility is subject to the Commission's jurisdiction and which review process applies.

Section 5 establishes requirements and procedures for designating sites and routes.

Section 6 establishes a "major review" procedure for certain applications.

Section 7 establishes a "standard review" procedure for certain applications. The applicant must inform the Commission at the time the application is submitted of which review process they are using.

Section 8 provides that applicants may elect to receive project approval from the local units of government that have jurisdiction over the site or route, for certain types of projects. If an applicant elects to seek local review, the applicant must notify the PUC within 10 days of submitting the application to the local unit of government.

If local approval is granted, a site or route permit is not required from the Commission. A local government may seek to transfer jurisdiction to the PUC by filing a request within 60 days of the application filing date.

Section 9 establishes procedures for permit amendments.

Section 10 lists certain projects that are exempt from PUC permitting requirements.

Section 11 lists additional projects that are not considered “construction of a large energy infrastructure facility” and do not require a PUC permit.

Section 12 directs the Revisor to renumber sections of Minnesota Statutes to conform with the changes in the bill.

Section 13 repeals existing Minnesota statutes and rules relating to permitting.

Section 14 states that this article is effective January 1, 2025.

Article 2 modifies certificate of need requirements, including:

- Modifying the definition of "large energy facility" in Minn. Stat. §216B.2421.
- Modifying certificate of need exemptions in Minn. Stat. §216B.243.

Article 3 makes additional changes elsewhere in statute, including:

- Adding the PUC to the list of agencies required to engage in tribal consultation in Minn. Stat. § 10.65.
- Modifying the ex parte communications prohibition in Minn. Stat. § 216A.037 to clarify that PUC staff and consultants carrying out environmental review and other activities identified in chapters 216G and 216I are not parties, participants, or decision-making personnel, as defined under Minnesota Rules, part 7845.7000.
- Modifying participation requirements for the Minnesota State Historic Preservation Office.
- Moving site and route permit application fees from the Department of Commerce to the PUC.
- Directing the PUC and the Environmental Quality Board to adopt rules to conform with the changes in the bill.
- Making conforming changes to language elsewhere in statutes.

Article 4 establishes environmental review and coordination requirements for the Department of Natural Resources and the Pollution Control Agency.

### **Assumptions**

SF4784-3E makes extensive changes to the existing permitting requirements for large energy infrastructure facilities. The majority of existing permitting statutes and rules are repealed and replaced with the new Minn. Stat. Ch. 216I. Some of the major changes from existing law include:

- Combining site and route permit requirements into a single chapter and clarifying procedural requirements.
- Transferring environmental review responsibility from the Department of Commerce Energy Environmental Review and Analysis Division to the PUC.

Some of the changes expand the PUC’s jurisdiction and would create additional work for staff; however, other changes streamline permitting processes, potentially reducing the overall amount of work required in each permitting docket. Additionally, article 3, section 13 would move site and route permit application fees from the Department of Commerce to the PUC; the PUC assumes that this would offset the fiscal impact of absorbing the environmental review responsibility that currently rests with the Department.

The PUC assumes that the 12.75 staff currently in the Department of Commerce’s Energy Environmental Review and Analysis Unit would transfer to the PUC beginning January 1, 2025, along with all associated administrative and operational functions. This is reflected in the fiscal assumptions but would have no net revenue change from the state’s

perspective as this is directly assessed to the utilities.

Article 3, section 1 adds the PUC to the list of agencies required to engage in consultation with Tribal nations. This language was proposed by the PUC in SF4428. The PUC already has a tribal consultation policy in place and anticipates that it could implement this bill with existing staff resources.

The bill directs the PUC to adopt rules using the expedited process to conform with the changes in this act. Consequently, the fiscal note includes \$5,075 in rulemaking administrative costs as estimated by OAH for a small rulemaking, which includes ALJ review time, State Register publication costs, and miscellaneous expenses such as mailing, copying, and transcripts. The PUC assumes that it could handle an expedited rulemaking using existing staff resources.

#### **Expenditure and/or Revenue Formula**

Commerce assumes that almost all administrative and operational components associated with the Energy Environmental Review and Analysis (EERA) Unit would transfer to the PUC. This would include one (1) supervisor and 11.75 Environmental Review Managers and Planners.

Commerce has shown the net reduction in expenditures and revenue based on the most recent completed fiscal year (FY23) - \$2.473M.

Commerce has shown the transfer of EERA to take place January 1, 2025.

Rulemaking administrative costs (in FY25 only):

- \$5,075 (includes ALJ review time, State Register publication costs, and miscellaneous expenses such as mailing, copying, and transcripts).
- The PUC assumes that it could handle an expedited rulemaking using existing staff resources.

#### **Long-Term Fiscal Considerations**

N/A

#### **Local Fiscal Impact**

N/A

#### **References/Sources**

N/A

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