

HOUSE RESEARCH

Bill Summary

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Subject: Powerplant carbon dioxide emissions

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House File 639 amends statutes passed in 2007 that were designed to prohibit carbon dioxide emissions from electric generating plants constructed in the state after August 1, 2009, or from plants outside the state whose electricity has been purchased by a utility under a long-term contract executed after that date for retail sale in Minnesota. The project or contract is prohibited unless the carbon dioxide emitted from those plants or contracts is:

- offset by a carbon dioxide reduction project;
- among a number of plants under construction or being planned at the time that were exempted under the statute; or
- determined by the Minnesota Public Utilities Commission to be essential to the reliability of Minnesota's electric system, to allow for service to meet increased industrial demand for electricity, or to avoid placing a substantial financial burden on Minnesota ratepayers.

Section 1 of House File 639 strikes language pertaining to imports of electricity from outside the state and electricity purchased through a power purchase agreement lasting five years or longer for 50 megawatts of capacity or more, leaving only the prohibition against powerplants constructed within Minnesota in place. Sections 2 and 3 contain conforming language.

The language stricken is the basis of a suit filed against Minnesota by the state of North Dakota. The suit alleges that Minnesota's statute prohibits utilities in North Dakota from selling coal-based power to Minnesota utilities, thereby violating the Commerce Clause of the U.S. Constitution, which reserves to Congress the authority to regulate commerce among the states. A U.S. District Court decision in April 2014 upheld North Dakota's position. Minnesota has appealed the decision.