

1.1 A bill for an act

1.2 relating to local government; providing for notice, hearing, and reverse
1.3 referendum on whether a municipality may use public utility license, permit,
1.4 rights, or franchise fees to raise revenue; amending Minnesota Statutes 2014,
1.5 section 216B.36.

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

1.7 Section 1. Minnesota Statutes 2014, section 216B.36, is amended to read:

1.8 **216B.36 MUNICIPAL REGULATORY AND TAXING POWERS.**

1.9 Subdivision 1. Municipal authority to regulate public utilities. Any public
1.10 utility furnishing the utility services enumerated in section 216B.02 or occupying streets,
1.11 highways, or other public property within a municipality may be required to obtain a
1.12 license, permit, right, or franchise in accordance with the terms, conditions, and limitations
1.13 of regulatory acts of the municipality, including the placing of distribution lines and
1.14 facilities underground. Under the license, permit, right, or franchise, the utility may be
1.15 obligated by any municipality to pay to the municipality fees to raise revenue or defray
1.16 increased municipal costs accruing as a result of utility operations, or both. A fee that
1.17 raises revenue is subject to the requirements of subdivision 2. The fee may include but is
1.18 not limited to a sum of money based upon gross operating revenues or gross earnings from
1.19 its operations in the municipality so long as the public utility shall continue to operate
1.20 in the municipality, unless upon request of the public utility it is expressly released
1.21 from the obligation at any time by such municipality. Notwithstanding the definition of
1.22 "public utility" in section 216B.02, subdivision 4, a municipality may require payment
1.23 of a fee under this section by a cooperative electric association organized under chapter
1.24 308A that furnishes utility services within the municipality. All existing licenses, permits,

2.1 franchises, and other rights acquired by any public utility or municipality prior to April 11,
2.2 1974, including the payment of existing franchise fees, shall not be impaired or affected
2.3 in any respect by the passage of this chapter, except with respect to matters of rate and
2.4 service regulation, service area assignments, securities, and indebtedness that are vested in
2.5 the jurisdiction of the commission by this chapter. However, in the event that a court of
2.6 competent jurisdiction determines, or the parties by mutual agreement determine, that an
2.7 existing license, permit, franchise, or other right has been abrogated or impaired by this
2.8 chapter, or its execution, the municipality affected shall impose and the public utility shall
2.9 collect an excise tax on the utility charges which from year to year yields an amount which
2.10 is reasonably equivalent to that amount of revenue which then would be due as a fee,
2.11 charges or other thing or service of value to the municipality under the franchise, license,
2.12 or permit. The authorization shall be over and above taxing limitations including, but not
2.13 limited to, those of section 477A.016. Franchises granted pursuant to this section shall be
2.14 exempt from the provisions of chapter 80C. For purposes of this section, a public utility
2.15 shall include a cooperative electric association.

2.16 Subd. 2. Reverse referendum on fees to raise revenues. (a) Before a municipality
2.17 imposes a fee under subdivision 1, that raises revenue beyond what is needed to defray
2.18 increased municipal costs due to utility operations, the municipality must publish a
2.19 notice that explains the fee, including at a minimum that the fee raises revenue for the
2.20 municipality, that the public utility is likely to pass the fee on to customers and how much
2.21 that may increase customers' utility bills, that alternatives to the fee are to raise the revenue
2.22 from another source available to the municipality or forego planned uses of the revenue,
2.23 and what revenue raised from another source will cost those paying it. The notice must be
2.24 published at least once each week for two consecutive weeks in the official publication
2.25 of the municipality and remain posted on the municipality's Web site throughout the
2.26 notice period. The notice must also be sent to all affected rate payers by first class mail.
2.27 Following publication and prior to imposing the fee, the municipality shall provide an
2.28 opportunity at its next regular meeting for public comment relating to the issue. No sooner
2.29 than 30 days after the public comment opportunity, the municipality may proceed with
2.30 imposing the fee, unless a petition is filed as provided in paragraph (b).

2.31 (b) Within 30 days after the meeting held by the municipality at which public
2.32 comment was accepted, a petition requesting a referendum may be filed with the chief
2.33 clerical officer of the municipality. The petition must be signed by at least five percent of
2.34 the registered voters in the municipality. The petition must meet the requirements of the
2.35 secretary of state, as provided in section 204B.071, and any rules adopted to implement
2.36 that section. If the petition is sufficient, the question of whether the municipality may

3.1 impose a fee that raises revenue as provided in subdivision 1, must be placed on the ballot
3.2 at the next general election. If a majority of the voters voting on the question votes in favor
3.3 of using the fee to raise revenue, the municipality may proceed with imposing the fee.

3.4 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.5 and applies to fees due for licenses, permits, rights, or franchises issued or renewed under
3.6 this section on or after July 1, 2016.