

36 officials shall collect a deficiency assessment, commencing in the year  
 37 following the assessment, in the manner provided for the collection of  
 38 other special assessments. Upon collection, the county auditor shall  
 39 make the appropriate credit entries in the "Special Assessment Defi-  
 40 ciencies" book, and shall credit the amounts collected as provided for  
 41 other special assessments on the same public improvement, or to the  
 42 city, to the extent that the deficiency has been previously paid from  
 43 other city funds.

Approved June 13, 1973.

## CHAPTER 238

### JOINTLY OWNED MUNICIPAL UTILITIES

H. F. 609

AN ACT to amend title fifteen (XV) of the Code to provide authority for municipally-owned utilities to participate with other utilities and electric cooperatives in the acquiring and financing of jointly-owned facilities for the generation, acquisition or transmission of electric energy.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Title fifteen (XV), Code 1973, is amended by adding  
 2 sections two (2) through seven (7) of this Act as a new chapter.

1 SEC. 2. NEW SECTION. As used in this Act, unless the context  
 2 otherwise requires:

3 1. "City" means a municipal corporation including a town, but not  
 4 including a county, township, school district or special purpose district  
 5 or authority.

6 2. "City utility" has the same meaning provided in section two (2),  
 7 subsection twenty-two (22), of the City Code of Iowa, contained in  
 8 Acts of the Sixty-fourth General Assembly, 1972 Session, chapter  
 9 one thousand eighty-eight (1088), and includes a "combined utility  
 10 system", as defined in section one hundred sixty-one (161) of the City  
 11 Code of Iowa, which operates facilities for the generation or transmis-  
 12 sion of electric energy.

13 3. "Joint facility" means all property necessary or useful for gen-  
 14 erating, purchasing, obtaining by exchange or otherwise acquiring, or  
 15 transmitting electric power and energy, which is owned and operated  
 16 pursuant to a joint agreement.

17 4. "Joint agreement" means an agreement of participants pursuant  
 18 to the provisions of this Act. A joint agreement may be one or more  
 19 documents, and may be entitled joint agreement, agreement, contract  
 20 or otherwise.

21 5. "Electric cooperative" means a cooperative association which  
 22 owns and operates property for generating, purchasing, obtaining  
 23 by exchange or otherwise acquiring, or transmitting electric power  
 24 and energy.

25 6. "Participant" means a city utility, electric cooperative or pri-  
 26 vately-owned utility company which is a party to a joint agreement.

27 7. "Governing body" means the public body which by law is charged  
 28 with the management and control of a city utility.

29 8. "Or" includes the conjunctive "and" and "and" includes the dis-  
30 junctive "or", unless the context clearly indicates otherwise.

31 9. "Acquisition" of a joint facility includes the purchase, lease,  
32 construction, reconstruction, extension, remodeling, improvement, re-  
33 pair, and equipping of the joint facility.

1 SEC. 3. NEW SECTION. In addition to other powers conferred by  
2 the constitution and laws of this state, any city utility which operates  
3 an existing electric generating facility or distribution system may en-  
4 ter into and carry out joint agreements with other participants for the  
5 acquisition of ownership of an undivided interest in a joint facility  
6 and for the planning, financing, operation and maintenance of the  
7 joint facility.

1 SEC. 4. NEW SECTION. Before a city utility may enter into or  
2 amend a joint agreement, its governing body shall adopt a proposed  
3 form of agreement and give notice and conduct a public hearing on  
4 the agreement in the manner provided by sections twenty-three point  
5 one (23.1) through twenty-three point eleven (23.11) of the Code,  
6 which action shall be subject to appeal as provided in chapter twenty-  
7 three (23) of the Code.

8 However, in the performance of a joint agreement, the governing  
9 body shall not be subject to statutes generally applicable to public  
10 contracts, including hearings on plans, specifications, form of con-  
11 tracts, costs, notice and competitive bidding required under chapters  
12 twenty-three (23) or three hundred ninety-seven (397) of the Code  
13 or part six (6) of division seven (VII) of the City Code of Iowa, un-  
14 less all parties to the joint agreement are city utilities located within  
15 the state of Iowa.

1 SEC. 5. NEW SECTION. A joint agreement shall:

2 1. Provide that each participant shall own an undivided interest in  
3 the joint facility, the interest being equal to the percentage of the  
4 money furnished, value of property furnished, or services rendered by  
5 each participant toward the total cost of the joint facility, and that  
6 each participant shall own and control a like percentage of the output  
7 of the joint facility.

8 2. Provide that each participant shall undertake to finance its por-  
9 tion of the cost of planning, acquisition, operation, and maintenance  
10 of the joint facility.

11 3. Provide that each participant in the ownership of the joint facil-  
12 ity shall bear all taxes, if any, chargeable to its ownership of the joint  
13 facility under statutes now or hereafter in effect.

14 4. Provide for the planning, financing, acquisition, operation and  
15 maintenance of the joint facility, or for any one or more of said pur-  
16 poses, including the cost to be contributed by each participant.

17 5. Provide for a uniform method of determining and allocating  
18 operation and maintenance expenses of the joint facility.

19 6. Provide that a participant shall be liable only for its own acts  
20 with regard to the joint facility and shall not be jointly or severally  
21 liable for the acts, omissions or obligations of other participants.

22 7. Provide that the undivided interest of a participant in the joint  
23 facility may not be charged directly or indirectly with a debt or obli-  
24 gation of another participant or be subject to any lien as a result  
25 thereof.

26 8. Provide for the management and operation of the affairs of the  
27 joint facility, which may include a provision that the joint facility  
28 shall be managed and operated by one or more of the participants.

29 9. Provide that no participant may withdraw from the joint agree-  
30 ment so long as obligations payable in whole or in part from revenues  
31 derived from the operation of the joint facility, and issued by a city  
32 utility, are outstanding, unless prior consent is first granted by each  
33 of the other participants.

34 10. Provide for the method to be employed in accomplishing the  
35 partial or complete termination of the agreement and for dispos-  
36 ing of property and assets upon partial or complete termination. The  
37 provisions of the joint agreement for disposition of the joint facili-  
38 ties shall not be subject to the statutes limiting or prescribing proce-  
39 dure for the sale of city-owned properties.

40 11. Provide for the duration of the agreement. An agreement  
41 authorized by this Act shall not be limited as to period of existence,  
42 except as may be limited by the terms of the agreement itself.

43 12. Include other provisions as the parties may deem necessary  
44 or appropriate with respect to the conduct of the participants, the op-  
45 eration or ownership of the joint facility, or the settlement of dis-  
46 putes.

1 SEC. 6. NEW SECTION. A city utility may finance its share of the  
2 cost of a joint facility by the use of any method of financing available  
3 to city utilities under the statutes of this state, for the financing of  
4 electric generation or transmission facilities to be owned by a city  
5 utility in their entirety, including but not limited to the provisions of  
6 chapters three hundred ninety-seven (397) and four hundred seven  
7 (407) of the Code, and parts three (3) and five (5) of division seven  
8 (VII) of the City Code of Iowa as applicable. Revenues derived by  
9 a city utility from its share of ownership or operation of a joint facil-  
10 ity shall be deemed to be revenues of the city utility for all purposes  
11 including the issuance and payment of bonds secured by or payable  
12 from the revenues of a city utility.

1 SEC. 7. NEW SECTION. This Act being necessary for the public  
2 health, public safety and general welfare, shall be liberally construed  
3 to effectuate its purposes. This Act shall be construed as providing  
4 a separate and independent method for accomplishing its purposes,  
5 and except as provided or necessarily implied shall not be construed  
6 as subject to or an amendment of any other law. In particular, with-  
7 out limiting the generality of the foregoing, no restrictions or re-  
8 quirements contained in this Act shall be construed as applying to  
9 bonds issued pursuant to the provisions of chapter four hundred nine-  
10 teen (419) of the Code. Nothing contained in this Act shall be con-  
11 strued to limit the powers and authority of privately-owned utility  
12 companies or electric cooperatives under any other law.

Approved June 29, 1973.