

Finance 3/21/83 Amended per 3291 +
to Pass 3/22 (p. 891)

Reprinted 3/25/83

1 FILED MAR 9 1983

SENATE FILE 380

BY COMMITTEE ON ENERGY

(FORMERLY SSB 182)

Approved 5/9 (p. 698)

Passed Senate, Date 3-23-83 (p. 913) Passed House, Date 5-4-83 (p. 1787)

Vote: Ayes 44 Nays 2 Vote: Ayes 79 Nays 18

Approved June 6, 1983

A BILL FOR

- 1 An Act to provide industrial revenue bond financing for
- 2 hydroelectric development.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4

SENATE FILE 380--FISCAL NOTE

REQUESTED BY SENATOR CHARLES MILLER

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 380 pursuant to Joint Rule 17. Senate File 380 expands the purposes for which industrial revenue bonds may be issued to include financing for hydroelectric development.

The proposed legislation has no fiscal impact on state or local revenues.

FILED:
MARCH 23, 1983

(0420S, 83-430, ARS)
BY LEGISLATIVE FISCAL BUREAU
DENNIS C. PROUTY, DIRECTOR

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1 Section 1. Section 419.1, subsection 2, paragraph a, Code
2 1983, is amended to read as follows:

3 a. Any land, buildings or improvements, whether or not
4 in existence at the time of issuance of the bonds issued under
5 ~~authority of~~ this chapter, which are suitable for the use
6 of any voluntary nonprofit hospital, clinic or health care
7 facility as defined in section 135C.1, subsection 4, or of
8 one or more physicians for an office building to be used
9 exclusively by professional health care providers, including
10 appropriate ancillary facilities, or of any private college
11 or university, or any state institution governed under chapter
12 262 whether for the establishment or maintenance of the college
13 or university, or of any industry or industries for the
14 manufacturing, processing or assembling of any agricultural
15 or manufactured products, even though the processed products
16 may require further treatment before delivery to the ultimate
17 consumer, or of any commercial enterprise engaged in storing,
18 warehousing or distributing products of agriculture, mining
19 or industry including but not limited to barge facilities
20 and riverfront improvements useful and convenient for the
21 handling and storage of goods and products, or of a national,
22 regional or divisional headquarters facility of a company
23 that does multistate business, or of a telephone company,
24 or of a beginning businessperson for any purpose, or of any
25 commercial amusement or theme park, or of any housing unit
26 or complex for the elderly or handicapped, or of any fair
27 or exposition held in the state, other than the Iowa state
28 fair, which is a member of the association of Iowa fairs,
29 or of a hydroelectric generation facility, or

30 EXPLANATION

31 This bill provides for municipal use of industrial revenue
32 bonds to finance hydroelectric generating facilities. This
33 bill takes effect July 1 following enactment.

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S-3305

1 Amend the Committee on Finance amendment, S-3291,
2 to Senate File 380 as follows:

3 1. Page 1, by striking lines 2 through 8 and
4 inserting in lieu thereof the following:

5 "1. Page 1, by striking lines 3 through 29 and
6 inserting in lieu thereof the following:

7 "a. ~~Any-land~~ Land, buildings or improvements,
8 whether or not in existence at the time of issuance
9 of the bonds issued under ~~authority-of~~ this chapter,
10 which are suitable for the use of ~~any a~~ voluntary
11 nonprofit hospital, clinic or health care facility
12 as defined in section 135C.1, subsection 4, or of
13 one or more physicians for an office building to be
14 used exclusively by professional health care providers,
15 including appropriate ancillary facilities, or of
16 ~~any a~~ private college or university, or ~~any a~~ state
17 institution governed under chapter 262 whether for
18 the establishment or maintenance of the college or
19 university, or of ~~any an~~ industry or industries for
20 the manufacturing, processing or assembling of any
21 agricultural or manufactured products, even though
22 the processed products may require further treatment
23 before delivery to the ultimate consumer, or of any
24 a commercial enterprise engaged in storing, warehousing
25 or distributing products of agriculture, mining or
26 industry including but not limited to barge facilities
27 and riverfront improvements useful and convenient
28 for the handling and storage of goods and products,
29 or of a facility for the generation of electrical
30 energy through the use of a renewable energy source
31 including but not limited to hydroelectric and wind
32 generation facilities, or of a facility engaged in
33 research and development activities, or of a national,
34 regional or divisional headquarters facility of a
35 company that does multistate business, or of a
36 telephone company, or of a beginning businessperson
37 for any purpose, or of any a commercial amusement
38 or theme park, or of any a housing unit or complex
39 for the elderly or handicapped, or of any a fair or
40 exposition held in the state, other than the Iowa
41 state fair, which is a member of the association of
42 Iowa fairs, or"."

S-3305 FILED
MARCH 23, 1983
ADOPTED (p. 9/3)

BY NORMAN RODGERS

SENATE FILE 380

S-3291

1 Amend Senate File 380 as follows:

33052 1. Page 1, line 21, by inserting after the word
A 3 "products," the words "or of a facility for the
4 generation of electrical energy through the use of
5 a renewable energy source including but not limited
6 to hydroelectric and wind generation facilities,".

33057 2. Page 1, by striking line 29 and inserting in
8 lieu thereof the word "or".

B 9 3. Title page, by striking lines 1 and 2 and
10 inserting in lieu thereof the words "An Act relating
11 to projects for which industrial revenue bonds may
12 be issued by a city or county."

S-3291 FILED

BY COMMITTEE ON FINANCE

MARCH 22, 1983

NORMAN RODGERS, CHAIR

*Adopted as amended by 3305
3/23/83 (p. 913)*

BY COMMITTEE ON ENERGY

Substituted for H.F. 490 4/7/83

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1983)

Passed Senate, Date 5-11-83 (p. 1649) Passed House, Date 5-4-83 (p. 1787)

Vote: Ayes 41 Nays 5 Vote: Ayes 79 Nays 18

Approved June 6, 1983

motion recommended (p. 1650) Sept 5/14/83

A BILL FOR

1 An Act relating to projects for which industrial revenue bonds
2 may be issued by a city or county.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 380

H-3870

- 1 Amend amendment H-3860 to Senate File 380 as amended,
- 2 passed and reprinted by the Senate as follows:
- 3 1. Page 3, line 15 by inserting after the word
- 4 "facility" the words "or small hydro facility".
- 5 2. Page 3, by striking lines 19, 20 and 21.
- 6 3. Page 3, line 39 by inserting after the words
- 7 "production facility" the words "or small hydro facility".

H-3870 FILED APRIL 27, 1983

BY OSTERBERG of Linn

Adopted 5/2/83 (p. 1697)

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1 Section 1. Section 419.1, subsection 2, paragraph a, Code
2 1983, is amended to read as follows:

3 a. Any-land Land, buildings or improvements, whether or
4 not in existence at the time of issuance of the bonds issued
5 under authority-of this chapter, which are suitable for the
6 use of any a voluntary nonprofit hospital, clinic or health
7 care facility as defined in section 135C.1, subsection 4,
8 or of one or more physicians for an office building to be
9 used exclusively by professional health care providers,
10 including appropriate ancillary facilities, or of any a private
11 college or university, or any a state institution governed
12 under chapter 262 whether for the establishment or maintenance
13 of the college or university, or of any an industry or
14 industries for the manufacturing, processing or assembling
15 of any agricultural or manufactured products, even though
16 the processed products may require further treatment before
17 delivery to the ultimate consumer, or of any a commercial
18 enterprise engaged in storing, warehousing or distributing
19 products of agriculture, mining or industry including but
20 not limited to barge facilities and riverfront improvements
21 useful and convenient for the handling and storage of goods
22 and products, or of a facility for the generation of electrical
23 energy through the use of a renewable energy source including
24 but not limited to hydroelectric and wind generation
25 facilities, or of a facility engaged in research and
26 development activities, or of a national, regional or
27 divisional headquarters facility of a company that does
28 multistate business, or of a telephone company, or of a
29 beginning businessperson for any purpose, or of any a
30 commercial amusement or theme park, or of any a housing unit
31 or complex for the elderly or handicapped, or of any a fair
32 or exposition held in the state, other than the Iowa state
33 fair, which is a member of the association of Iowa fairs,
34 or
35

3560, 3761 >

H-3860

1 Amend Senate File 380 as amended, passed, and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting after line 34 the follow-
4 ing:

5 "Sec. ____ . NEW SECTION. 476.34 PURPOSE. It
6 is the policy of this state to encourage the
7 development of alternate energy production facilities
8 and small hydro facilities in order to conserve our
9 finite and expensive energy resources and to provide
10 for their most efficient use.

11 Sec. ____ . NEW SECTION. 476.35 DEFINITIONS.
12 As used in this division, unless the context otherwise
13 requires:

14 1. "Alternate energy production facility" means
15 any or all of the following:

16 a. A solar, wind turbine, waste management,
17 resource recovery, refuse-derived fuel, or wood burning
18 facility.

19 b. Land, systems, buildings, or improvements that
20 are located at the project site and are necessary
21 or convenient to the construction, completion, or
22 operation of the facility.

23 c. Transmission or distribution facilities
24 necessary to conduct the energy produced by the
25 facility to users located at or near the project site.

26 2. "Electric utility" means a public utility that
27 furnishes electricity to the public for compensation.

28 3. "Small hydro facility" means any or all of
29 the following:

30 a. A hydroelectric facility at a dam.

31 b. Land, systems, buildings, or improvements that
32 are located at the project site and are necessary
33 or convenient to the construction, completion, or
34 operation of the facility.

35 c. Transmission or distribution facilities
36 necessary to conduct the energy produced by the
37 facility to users located at or near the project site.

38 Sec. ____ . NEW SECTION. 476.36 RATES FOR ALTERNATE
39 ENERGY PRODUCTION FACILITIES.

40 1. Subject to section 476.37, the commission shall
41 require electric utilities to enter into long-term
42 contracts to do the following:

43 a. Purchase or wheel electricity from alternate
44 energy production facilities or small hydro facilities
45 located in the utility's service area under the terms
46 and conditions that the commission finds are just
47 and economically reasonable to the electric utilities'
48 ratepayers, are nondiscriminatory to alternate energy
49 producers and small hydro producers and will further
50 the policy stated in section 476.34.

H-3860

Page Two

1 b. Provide for the availability of supplemental
2 or backup power to alternate energy production
3 facilities or small hydro facilities on a
4 nondiscriminatory basis and at just and reasonable
5 rates.

6 2. Upon application by the owner or operator of
7 an alternate energy production facility or small hydro
8 facility or any interested party, the commission shall
9 establish for the affected public utility just and
10 economically reasonable rates for electricity purchased
11 under subsection 1, paragraph a. The rates shall
12 be established at levels sufficient to stimulate the
13 development of alternate energy production and small
14 hydro facilities in Iowa and to encourage the
15 continuation of existing capacity from those
16 facilities.

17 3. The commission shall base the rates for new
18 facilities or new capacity from existing facilities
19 on the following factors:

20 a. The estimated capital cost of the next
21 generating plant, including related transmission
22 facilities, to be placed in service by the electric
23 utility serving the area.

24 b. The term of the contract between the electric
25 utility and the seller.

26 c. A levelized annual carrying charge based upon
27 the term of the contract and determined in a manner
28 consistent with both the methods and the current
29 interest or return requirements associated with the
30 electric utility's new construction program.

31 d. The electric utility's annual energy costs,
32 including current fuel costs, related operation and
33 maintenance costs, and other energy-related costs
34 considered appropriate by the commission.

35 4. The commission shall consider the factors
36 listed in subsection 3 in setting rates for existing
37 facilities. However, the commission may consider
38 other factors and may establish a rate for existing
39 facilities that is less than the rate established
40 for new facilities if the commission determines that
41 a lower rate is sufficient to encourage small power
42 production.

43 5. In the case of a utility that purchases all
44 or substantially all of its electricity requirements,
45 the rates established under this section must be equal
46 to the current cost to the electric utility of similar
47 types and quantities of electrical service.

48 6. In lieu of the other procedures provided by
49 this section, an electric utility and an owner or
50 operator of an alternate energy production facility

H-3860

Page Three

or small hydro facility may enter into a long-term
2 contract in accordance with subsection 1 and may agree
3 to rates for purchase and sale transactions. A
4 contract entered into under this subsection must be
5 filed with the commission in the manner provided for
6 tariffs under section 476.4.

7 7. This section does not require an electric
8 utility to construct additional facilities unless
9 those facilities are paid for by the owner or operator
10 of the affected alternate energy production facility
11 or small hydro facility.

12 Sec. ____ . NEW SECTION. 476.37 EXCEPTIONS.

13 1. The commission shall not require an electric
14 utility to purchase or wheel electricity from an
15 alternate energy production facility unless the
16 facility meets all of the following conditions:

17 a. Has an electric generating capacity of not
18 more than eighty megawatts.

19 b. Produces electricity, gas, or useful thermal
20 energy for industrial, commercial, or residential
21 purposes.

22 c. Is owned or operated by an individual, firm,
23 copartnership, corporation, company, association,
joint stock association, city, town, or county that:

24 (1) Is not primarily engaged in the business of
25 producing or selling electricity, gas, or useful
26 thermal energy other than electricity, gas, or useful
27 thermal energy sold solely from alternate energy
28 production facilities or small hydro facilities.

29 (2) Does not sell electricity, gas, or useful
30 thermal energy to residential users other than the
31 tenants or the owner or operator of the facility.

32 2. The commission shall not require an electric
33 utility to purchase or wheel electricity from a small
34 hydro facility unless the facility has an electric
35 generating capacity of not more than eighty megawatts.

36 Sec. ____ . NEW SECTION. 476.38 EXEMPTION FROM
37 EXCESS CAPACITY. Capacity purchased from an alternate
38 energy production facility shall not be included in
39 a calculation of an electric utility's excess
40 generating capacity for ratemaking purposes.

41 Sec. ____ . Until July 1, 1986, the rate for a new
42 facility under section 476.36, subsection 2, shall
43 not exceed eight cents per kilowatt hour."

44 2. Amend the title, by striking lines 1 and 2
45 and inserting in lieu thereof the words "An Act to
46 encourage economic development by providing incentives
47 for certain energy producing facilities and research
48 and development activities."

H-3860 FILED APRIL 26, 1983 BY OSTERBERG of Linn

Adopted as amended by 3870 5/2/83 (J. 1698)

SENATE FILE 380

H-3573

1 Amend Senate File 380 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 1, line 25, by inserting after the words
4 "engaged in" the word "non-military".

BY LLOYD-JONES of Johnson
OSTERBERG of Linn
HAMMOND of Story
KREWSON of Polk
CARPENTER of Polk
HOLVECK of Polk

H-3573 FILED APRIL 7, 1983

H/D 5/4/83 (p. 1787)

SENATE FILE 380

H-3761

1 Amend Senate File 380, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting after line 34 the
4 following:
5 "Sec. 2. Section 419.1, Code 1983, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 15. "Prevailing wage" means the
8 rate of wages paid for work of a similar nature in
9 the locality in which the work under a contract
10 provided for in this chapter is being performed.
11 If a dispute arises as to what are the prevailing
12 rates of wages for work of a similar nature applicable
13 to the contracts which cannot be adjusted by the
14 contracting officer, the dispute shall be referred
15 to the labor commissioner, and the labor commissioner's
16 decision shall be conclusive on all parties to the
17 contract. The labor commissioner shall adopt rules
18 under chapter 17A to carry out this duty. The labor
19 commissioner may institute actions in the district
20 court for temporary or permanent injunctive relief
21 to prevent the letting of a public contract or to
22 void a public contract which is let or entered into
23 in violation of this chapter. An action shall be
24 instituted in the district court of the county of
25 location of the project. Notwithstanding the Iowa
26 rules of civil procedure, rule 326, if the district
27 court determines the granting of a temporary injunction
28 is appropriate, the court shall issue it without
29 notice and hearing. The prevailing rates of wages
30 shall be stated in the invitation for bids and shall
31 be included in proposals or bids for the work.

32 Sec. 3. Section 419.2, Code 1983, is amended by
33 adding the following new subsection:

34 NEW SUBSECTION. 9. To require that all projects
35 authorized under this chapter be bid at the prevailing
36 wage, as defined in section 419.1, subsection 15."

H-3761 FILED APRIL 14, 1983

BY RUNNING of Linn
VAN CAMP of Scott

*Revised not germane 5/2/83 (p. 1699)
Motion to suspend rules lost.*

House Amendment to Senate File 380

S-3809

1 Amend Senate File 380 as amended, passed, and
2 reprinted by the Senate as follows:
3 1. Page 1, by inserting after line 34 the follow-
4 ing:
5 "Sec. ____ . NEW SECTION. 476.34 PURPOSE. It
6 is the policy of this state to encourage the
7 development of alternate energy production facilities
8 and small hydro facilities in order to conserve our
9 finite and expensive energy resources and to provide
10 for their most efficient use.
11 Sec. ____ . NEW SECTION. 476.35 DEFINITIONS.
12 As used in this division, unless the context otherwise
13 requires:
14 1. "Alternate energy production facility" means
15 any or all of the following:
16 a. A solar, wind turbine, waste management,
17 resource recovery, refuse-derived fuel, or wood burning
18 facility.
19 b. Land, systems, buildings, or improvements that
20 are located at the project site and are necessary
21 or convenient to the construction, completion, or
22 operation of the facility.
23 c. Transmission or distribution facilities
24 necessary to conduct the energy produced by the
25 facility to users located at or near the project site.
26 2. "Electric utility" means a public utility that
27 furnishes electricity to the public for compensation.
28 3. "Small hydro facility" means any or all of
29 the following:
30 a. A hydroelectric facility at a dam.
31 b. Land, systems, buildings, or improvements that
32 are located at the project site and are necessary
33 or convenient to the construction, completion, or
34 operation of the facility.
35 c. Transmission or distribution facilities
36 necessary to conduct the energy produced by the
37 facility to users located at or near the project site.
38 Sec. ____ . NEW SECTION. 476.36 RATES FOR ALTERNATE
39 ENERGY PRODUCTION FACILITIES.
40 1. Subject to section 476.37, the commission shall
41 require electric utilities to enter into long-term
42 contracts to do the following:
43 a. Purchase or wheel electricity from alternate
44 energy production facilities or small hydro facilities
45 located in the utility's service area under the terms
46 and conditions that the commission finds are just
47 and economically reasonable to the electric utilities'
48 ratepayers, are nondiscriminatory to alternate energy
49 producers and small hydro producers and will further
50 the policy stated in section 476.34.

1 b. Provide for the availability of supplemental
2 or backup power to alternate energy production
3 facilities or small hydro facilities on a
4 nondiscriminatory basis and at just and reasonable
5 rates.

6 2. Upon application by the owner or operator of
7 an alternate energy production facility or small hydro
8 facility or any interested party, the commission shall
9 establish for the affected public utility just and
10 economically reasonable rates for electricity purchased
11 under subsection 1, paragraph a. The rates shall
12 be established at levels sufficient to stimulate the
13 development of alternate energy production and small
14 hydro facilities in Iowa and to encourage the
15 continuation of existing capacity from those
16 facilities.

17 3. The commission shall base the rates for new
18 facilities or new capacity from existing facilities
19 on the following factors:

20 a. The estimated capital cost of the next
21 generating plant, including related transmission
22 facilities, to be placed in service by the electric
23 utility serving the area.

24 b. The term of the contract between the electric
25 utility and the seller.

26 c. A levelized annual carrying charge based upon
27 the term of the contract and determined in a manner
28 consistent with both the methods and the current
29 interest or return requirements associated with the
30 electric utility's new construction program.

31 d. The electric utility's annual energy costs,
32 including current fuel costs, related operation and
33 maintenance costs, and other energy-related costs
34 considered appropriate by the commission.

35 4. The commission shall consider the factors
36 listed in subsection 3 in setting rates for existing
37 facilities. However, the commission may consider
38 other factors and may establish a rate for existing
39 facilities that is less than the rate established
40 for new facilities if the commission determines that
41 a lower rate is sufficient to encourage small power
42 production.

43 5. In the case of a utility that purchases all
44 or substantially all of its electricity requirements,
45 the rates established under this section must be equal
46 to the current cost to the electric utility of similar
47 types and quantities of electrical service.

48 6. In lieu of the other procedures provided by
49 this section, an electric utility and an owner or
50 operator of an alternate energy production facility

1 or small hydro facility may enter into a long-term
2 contract in accordance with subsection 1 and may agree
3 to rates for purchase and sale transactions. A
4 contract entered into under this subsection must be
5 filed with the commission in the manner provided for
6 tariffs under section 476.4.

7 7. This section does not require an electric
8 utility to construct additional facilities unless
9 those facilities are paid for by the owner or operator
10 of the affected alternate energy production facility
11 or small hydro facility.

12 Sec. ____ . NEW SECTION. 476.37 EXCEPTIONS.

13 1. The commission shall not require an electric
14 utility to purchase or wheel electricity from an
15 alternate energy production facility or small hydro
16 facility unless the facility meets all of the following
17 conditions:

18 a. Has an electric generating capacity of not
19 more than eighty megawatts.

20 b. Is owned or operated by an individual, firm,
21 copartnership, corporation, company, association,
22 joint stock association, city, town, or county that:

23 (1) Is not primarily engaged in the business of
24 producing or selling electricity, gas, or useful
25 thermal energy other than electricity, gas, or useful
26 thermal energy sold solely from alternate energy
27 production facilities or small hydro facilities.

28 (2) Does not sell electricity, gas, or useful
29 thermal energy to residential users other than the
30 tenants or the owner or operator of the facility.

31 2. The commission shall not require an electric
32 utility to purchase or wheel electricity from a small
33 hydro facility unless the facility has an electric
34 generating capacity of not more than eighty megawatts.

35 Sec. ____ . NEW SECTION. 476.38 EXEMPTION FROM
36 EXCESS CAPACITY. Capacity purchased from an alternate
37 energy production facility or small hydro facility
38 shall not be included in a calculation of an electric
39 utility's excess generating capacity for ratemaking
40 purposes.

41 Sec. ____ . Until July 1, 1986, the rate for a new
42 facility under section 476.36, subsection 2, shall
43 not exceed eight cents per kilowatt hour."

44 2. Amend the title, by striking lines 1 and 2
45 and inserting in lieu thereof the words "An Act to
46 encourage economic development by providing incentives
47 for certain energy producing facilities and research
48 and development activities."

SENATE FILE 380

S-3832

1 Amend the House amendment, S-3809 to Senate File
2 380, as amended, passed and reprinted by the Senate,
3 as follows:
4 1. Page 2, by striking lines 17 through 19 and
5 inserting in lieu thereof the following:
6 "3. In setting rates for new facilities or for
7 new capacity from existing facilities, the commission
8 shall consider the following factors:"
9 2. Page 2, by inserting after line 34 the
10 following:
11 "e. Actual cost of producing energy or capacity
12 from the facility, with amortization of capital costs,
13 including a reasonable return."

S-3832 FILED *1/10 5/11/83 (p. 1649)* BY CHARLES P. MILLER
MAY 9, 1983 JAMES GALLAGHER

SENATE FILE 380

S-3834

1 Amend the House amendment, S-3809, to Senate File
2 380 as amended, passed and reprinted by the Senate,
3 as follows:
4 1. Page 3, line 22, by striking the word "that:"
5 and inserting in lieu thereof the words "that is not
6 a public utility."
7 2. Page 3, by striking lines 23 through 30.

S-3834 FILED *1/10 5/11/83 (p. 1649)* BY CHARLES P. MILLER
MAY 9, 1983 JAMES GALLAGHER

SENATE FILE 380

S-3863

1 Amend the amendment S-3832 to the House amendment
2 S-3809 to Senate File 380 as amended, passed and re-
3 printed by the Senate as follows:
4 1. Page 1, line 11, by striking the word "Actual"
5 and inserting in lieu thereof the words "For a facility
6 of one hundred kilowatts or more, actual".

S-3863 FILED BY DALE TIEDEN
MAY 9, 1983

Out of order 5/11 (p. 1649)

SENATE FILE 380

AN ACT

TO ENCOURAGE ECONOMIC DEVELOPMENT BY PROVIDING INCENTIVES
FOR CERTAIN ENERGY PRODUCING FACILITIES AND RESEARCH AND
DEVELOPMENT ACTIVITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 419.1, subsection 2, paragraph a, Code 1983, is amended to read as follows:

a. ~~Any-land~~ Land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under ~~authority-of~~ this chapter, which are suitable for the use of any a voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of one or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, or of any a private college or university, or any a state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, or of any an industry or industries for the manufacturing, processing or assembling

of any agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, or of any a commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, or of a facility for the generation of electrical energy through the use of a renewable energy source including but not limited to hydroelectric and wind generation facilities, or of a facility engaged in research and development activities, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a telephone company, or of a beginning businessperson for any purpose, or of any a commercial amusement or theme park, or of any a housing unit or complex for the elderly or handicapped, or of any a fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or

Sec. 2. NEW SECTION. 476.34 PURPOSE. It is the policy of this state to encourage the development of alternate energy production facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient use.

Sec. 3. NEW SECTION. 476.35 DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Alternate energy production facility" means any or all of the following:
 - a. A solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or woodburning facility.
 - b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
 - c. Transmission or distribution facilities necessary to

conduct the energy produced by the facility to users located at or near the project site.

2. "Electric utility" means a public utility that furnishes electricity to the public for compensation.

3. "Small hydro facility" means any or all of the following:

- a. A hydroelectric facility at a dam.
- b. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility.
- c. Transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

Sec. 4. NEW SECTION. 476.36 RATES FOR ALTERNATE ENERGY PRODUCTION FACILITIES.

1. Subject to section 476.37, the commission shall require electric utilities to enter into long-term contracts to do the following:

a. Purchase or wheel electricity from alternate energy production facilities or small hydro facilities located in the utility's service area under the terms and conditions that the commission finds are just and economically reasonable to the electric utilities' ratepayers, are nondiscriminatory to alternate energy producers and small hydro producers and will further the policy stated in section 476.34.

b. Provide for the availability of supplemental or backup power to alternate energy production facilities or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

2. Upon application by the owner or operator of an alternate energy production facility or small hydro facility or any interested party, the commission shall establish for the affected public utility just and economically reasonable rates for electricity purchased under subsection 1, paragraph a. The rates shall be established at levels sufficient to

stimulate the development of alternate energy production and small hydro facilities in Iowa and to encourage the continuation of existing capacity from those facilities.

3. The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:

a. The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the electric utility serving the area.

b. The term of the contract between the electric utility and the seller.

c. A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the electric utility's new construction program.

d. The electric utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and other energy-related costs considered appropriate by the commission.

4. The commission shall consider the factors listed in subsection 3 in setting rates for existing facilities. However, the commission may consider other factors and may establish a rate for existing facilities that is less than the rate established for new facilities if the commission determines that a lower rate is sufficient to encourage small power production.

5. In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the electric utility of similar types and quantities of electrical service.

6. In lieu of the other procedures provided by this section, an electric utility and an owner or operator of an alternate energy production facility or small hydro facility

may enter into a long-term contract in accordance with subsection 1 and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided for tariffs under section 476.4.

7. This section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility or small hydro facility.

Sec. 5. NEW SECTION. 476.37 EXCEPTIONS.

1. The commission shall not require an electric utility to purchase or wheel electricity from an alternate energy production facility or small hydro facility unless the facility meets all of the following conditions:

a. Has an electric generating capacity of not more than eighty megawatts.

b. Is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:

(1) Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

(2) Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

2. The commission shall not require an electric utility to purchase or wheel electricity from a small hydro facility unless the facility has an electric generating capacity of not more than eighty megawatts.

Sec. 6. NEW SECTION. 476.39 EXEMPTION FROM EXCESS CAPACITY. Capacity purchased from an alternate energy production facility or small hydro facility shall not be included in a calculation of an electric utility's excess generating capacity for rate-making purposes.

Sec. 7. Until July 1, 1986, the rate for a new facility under section 476.36, subsection 2, shall not exceed eight cents per kilowatt hour.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 380, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved June 6, 1983

TERRY E. BRANSTAD
Governor