

3-15-93 House Local Gov.
4-1-93 Amend/Do Pass w/H3630

FILED MAR 8 1993

House 5/2/93 Referred back to Local Gov.
House (6) 1-14-94 Do Pass/With

SENATE FILE 216 H 3630

BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 93)

Passed Senate, ^(P. 597) Date 3-11-93

Passed House, ^{P. 1025} Date 3/31/94

Vote: Ayes 40 Nays 5

Vote: Ayes 98 Nays 0

Approved April 12, 1994

A BILL FOR

1 An Act relating to rates and charges for city utility and
2 enterprise services by authorizing their collection as
3 combined service accounts, authorizing the discontinuance of
4 services in the event of nonpayment, and providing uniform
5 notice procedures prior to discontinuance of service and prior
6 to certification of lien for nonpayment.

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

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SF216

1 Section 1. Section 384.80, Code 1993, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 2A. "Combined service account" means a
4 customer service account for the provision of two or more
5 utility or enterprise services, regardless of whether those
6 services are being provided by a single city, or by any
7 combination of city utilities, combined utility systems, city
8 enterprises, or combined city enterprises of one or more
9 cities.

10 NEW SUBSECTION. 5A. "Landlord" means the owner of record
11 of a rental property, or a real estate manager or management
12 company appointed by the owner to administer rental property.

13 NEW SUBSECTION. 7A. "Owner" means the owner of record as
14 reflected in the records of the county treasurer.

15 Sec. 2. Section 384.84, Code 1993, is amended by striking
16 the section and inserting in lieu thereof the following:

17 384.84 RATES AND CHARGES -- BILLING AND COLLECTION --
18 CONTRACTS.

19 1. The governing body of a city utility, combined utility
20 system, city enterprise, or combined city enterprise may
21 establish, impose, adjust, and provide for the collection of
22 rates and charges to produce gross revenues at least
23 sufficient to pay the expenses of operation and maintenance of
24 the city utility, combined utility system, city enterprise, or
25 combined city enterprise. When revenue bonds or pledge orders
26 are issued and outstanding pursuant to this division, the
27 governing body shall establish, impose, adjust, and provide
28 for the collection of rates to produce gross revenues at least
29 sufficient to pay the expenses of operation and maintenance of
30 the city utility, combined utility system, city enterprise, or
31 combined city enterprise, and to leave a balance of net
32 revenues sufficient to pay the principal of and interest on
33 the revenue bonds and pledge orders as they become due and to
34 maintain a reasonable reserve for the payment of principal and
35 interest, and a sufficient portion of net revenues must be

1 pledged for that purpose. Rates must be established by
2 ordinance of the council or by resolution of the trustees,
3 published in the same manner as an ordinance.

4 2. a. A city utility or enterprise service to a property
5 or premises, including services of sewer systems, storm water
6 drainage systems, sewage treatment, solid waste collection,
7 water, solid waste disposal, or any of these services, may be
8 discontinued if the account for the service becomes
9 delinquent. Gas or electric service provided by a city
10 utility or enterprise shall be discontinued only as provided
11 by section 476.20, and discontinuance of those services are
12 subject to rules adopted by the utilities board of the
13 department of commerce.

14 b. If more than one city utility or enterprise service is
15 billed to a property or premises as a combined service
16 account, all of the services may be discontinued if the
17 account becomes delinquent.

18 c. A city utility or enterprise service to a property or
19 premises shall not be discontinued unless prior written notice
20 is sent to the account holder by ordinary mail, informing the
21 account holder of the nature of the delinquency and affording
22 the account holder the opportunity for a hearing prior to
23 discontinuance of service. If the account holder is a tenant,
24 and if the owner or landlord of the property has made a
25 written request for notice, the notice shall also be given to
26 the owner or landlord.

27 3. a. All rates or charges for the services of sewer
28 systems, storm water drainage systems, sewage treatment, solid
29 waste collection, water, solid waste disposal, or any of these
30 services, if not paid as provided by ordinance of the council
31 or resolution of the trustees, are a lien upon the property or
32 premises served by any of these services upon certification to
33 the county treasurer that the rates or charges are due.

34 b. This lien may be imposed upon a property or premises
35 even if a city utility or enterprise service to the property

1 or premises have been or may be discontinued as provided in
2 this section.

3 c. A lien for a city utility or enterprise service shall
4 not be certified to the county treasurer for collection unless
5 prior written notice of intent to certify a lien is given to
6 the account holder of the delinquent account. If the account
7 holder is a tenant, and if the owner or landlord of the
8 property has made a written request for notice, the notice
9 shall also be given to the owner or landlord. The notice
10 shall be sent to the appropriate persons by ordinary mail not
11 less than ten days prior to certification of the lien to the
12 county treasurer.

13 d. For a residential rental property where a charge for
14 water service is separately metered and paid directly by the
15 tenant, the rental property is exempt from a lien for those
16 delinquent charges incurred after the landlord gives written
17 notice to the city utility or enterprise that the tenant is
18 liable for the charges and a deposit not exceeding the usual
19 cost of ninety days of water service is paid to the utility or
20 enterprise. Upon receipt, the utility or enterprise shall
21 acknowledge the notice and deposit. A written notice shall
22 contain the name of the tenant responsible for charges,
23 address of the property that the tenant is to occupy, and the
24 date that the occupancy begins. A change in tenant shall
25 require a new written notice and deposit. When the tenant
26 moves from the rental property, the city utility or enterprise
27 shall return the deposit if the water service charges are paid
28 in full and the lien exemption shall be lifted from the rental
29 property. The lien exemption for rental property does not
30 apply to charges for repairs to a water service if the repair
31 charges become delinquent.

32 4. A lien shall not be imposed pursuant to this section
33 for a delinquent charge of less than five dollars. The
34 governing body of the city utility or enterprise may charge up
35 to five dollars, and the county treasurer may charge up to two

1 dollars, as an administrative expense of certifying and filing
2 this lien, which amounts shall be added to the amount of the
3 lien to be collected at the time of payment of the assessment
4 from the payor. Administrative expenses collected by the
5 county treasurer on behalf of the city utility or enterprise
6 shall be paid to the governing body of the city utility or
7 enterprise, and those collected by the county treasurer on
8 behalf of the county shall be credited to the county general
9 fund. The lien has equal precedence with ordinary taxes, may
10 be certified to the county treasurer and collected in the same
11 manner as taxes, and is not divested by a judicial sale.

12 5. A governing body may declare all or a certain portion
13 of a city as a storm water drainage system district for the
14 purpose of establishing, imposing, adjusting, and providing
15 for the collection of rates as provided in this section. The
16 ordinance provisions for collection of rates of a storm water
17 drainage system may prescribe a formula for determination of
18 the rates which may include criteria and standards by which
19 benefits have been previously determined for special
20 assessments for storm water public improvement projects under
21 this chapter.

22 6. a. The governing body of a city utility, combined
23 utility system, city enterprise, or combined city enterprise
24 may:

25 (1) By ordinance of the council or by resolution of the
26 trustees published in the same manner as an ordinance, estab-
27 lish, impose, adjust, and provide for the collection of
28 charges for connection to a city utility or combined utility
29 system.

30 (2) Contract for the use of or services provided by a city
31 utility, combined utility system, city enterprise, or combined
32 city enterprise with persons whose type or quantity of use or
33 service is unusual.

34 (3) Lease for a period not to exceed fifteen years all or
35 part of a city enterprise or combined city enterprise, if the

1 lease will not reduce the net revenues to be produced by the
2 city enterprise or combined city enterprise.

3 (4) Contract for a period not to exceed forty years with
4 other governmental bodies for the use of or the services pro-
5 vided by the city utility, combined utility system, city
6 enterprise, or combined city enterprise on a wholesale basis.

7 (5) Contract for a period not to exceed forty years with
8 persons and other governmental bodies for the purpose or sale
9 of water, gas, or electric power and energy on a wholesale
10 basis.

11 b. Two or more city utilities, combined utility systems,
12 city enterprises, or combined city enterprises, including city
13 utilities established pursuant to chapter 388, may contract
14 pursuant to chapter 28E for joint billing or collection, or
15 both, of combined service accounts for utility or enterprise
16 services, or both. The contracts may provide for the
17 discontinuance of one or more of the city utility or
18 enterprise services if a delinquency occurs in the payment of
19 any charges billed under a combined service account.

20 7. The portion of cost attributable to the agreement or
21 arbitration awarded under section 357A.21 may be apportioned
22 in whole or in part among water customers within an annexed
23 area.

24 EXPLANATION

25 This bill provides for the collection of multiple city
26 utility and enterprise service fees and charges, such as those
27 for city water, sewer, and garbage collection services, under
28 a single combined service account. It also authorizes the
29 discontinuance of one or more services in the event of de-
30 linquency in the payment of fees and charges for those
31 services. A uniform notice and hearing requirement is imposed
32 upon all city utilities and enterprises, requiring that notice
33 and an opportunity for a hearing be given to account holders
34 prior to discontinuance. If the account holder is a tenant,
35 notice would also have to be given to the owner or landlord of

1 the property requesting the notice in advance. Notice would
2 also have to be given to an account holder, and to an owner or
3 landlord, if requested, prior to the imposition of a lien upon
4 the property for nonpayment of fees and charges. Cities and
5 independent city utilities are also authorized to enter into
6 chapter 28E agreements to provide for the joint billing and
7 collection of combined service accounts.

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SENATE FILE 216

H-3630

1 Amend Senate File 216, as passed by the Senate, as
2 follows:

3 1. Page 5, by inserting after line 23, the
4 following:

5 "Sec. 100. NEW SECTION. 476.1E PRIVATE WATER
6 UTILITY.

7 1. As used in this section, water utility means a
8 public water supply system which is organized as a
9 for-profit corporation organized under chapter 490, a
10 nonprofit corporation organized under chapter 504A, or
11 any other type of business entity, which has more than
12 twenty-five but fewer than two thousand residential
13 service connections.

14 2. The water distributed by a water utility shall
15 meet the drinking water standards required by the
16 environmental protection commission pursuant to
17 section 455B.173. If a water utility does not meet
18 the drinking water standards, the department of
19 natural resources shall impose a schedule of
20 compliance for the drinking water distributed by the
21 water utility. The cost of compliance shall not be
22 charged directly to the water utility customers, but
23 may be amortized over not less than twenty years
24 through reasonable rate adjustments. A lesser period
25 of time may be established if approved by two-thirds
26 of the water utility customers.

27 3. A fine imposed on a water utility shall not be
28 directly or indirectly assessed to the water utility
29 customers and shall not be incorporated in any manner
30 in charges to customers unless the customers operate
31 or manage the water utility.

32 4. If a water utility fails to meet the applicable
33 drinking water standards as required under section
34 455B.173 as required by the department of natural
35 resources and is located within two miles of a city,
36 the water utility may be condemned and purchased by
37 the city or a city utility of that city. Condemnation
38 proceedings shall be according to chapter 6B.

39 5. If a petition signed by at least twenty-five
40 percent of the customers of a water utility is filed
41 with the utility board alleging that a rate increase
42 imposed by the water utility on or after January 1,
43 1993, is unreasonable, the utility board shall
44 investigate the complaint. During the investigation,
45 the amount of the rate increase shall be held in an
46 escrow account unless the utility board determines
47 that the rate increase is needed to maintain essential
48 services. If the utility board finds that the rate is
49 unreasonable, the utility board shall mediate an
50 agreement between the petitioners and the water

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1 utility. If an agreement is not reached within one
2 year, the utility board shall determine the water
3 rate.

4 6. An unreasonable rate increase means a rate that
5 will produce excessive revenue during a fiscal period
6 for the water utility; that provides a water rate
7 which is substantially higher than other water rates
8 in the area considering the size of the facility, and
9 operating and maintenance costs; that does not
10 amortize the costs of improvements to meet appropriate
11 drinking water standards as provided in this section;
12 or that transfer any fines or monetary penalty
13 assessed against the water utility directly to the
14 customers except as provided in subsection 3.

15 7. A customer of a water utility or the consumer
16 advocate may inspect and copy the books and records of
17 the water utility which relate to all costs and
18 expenses which are included in determining the charges
19 or rates to customers.

20 8. A nonprofit water utility shall annually
21 disclose to all customers the names, addresses, and
22 salaries of all officers of the nonprofit corporation
23 and the person in charge of the daily operation of the
24 water utility.

25 9. Notwithstanding section 476.1, this section
26 applies to certain waterworks having less than two
27 thousand customers, but this section does not apply to
28 municipally owned waterworks, joint water utilities
29 established pursuant to chapter 389, rural water
30 districts incorporated and organized pursuant to
31 chapters 357A and 504A, or cooperative water
32 associations incorporated and organized pursuant to
33 chapter 499.

34 Sec. 101. EFFECTIVE DATE. This Act, being deemed
35 of immediate importance, takes effect upon enactment."

36 2. Title page, line 2, by inserting after the
37 word "services" the following: "or certain private
38 water utilities, by providing for the regulation of
39 certain private water utilities,".

40 3. Title page, line 6, by inserting after the
41 word "nonpayment" the following: ", and providing for
42 retroactive applicability and an effective date".

43 4. By renumbering sections as necessary.

By COMMITTEE ON LOCAL GOVERNMENT
IVERSON of Wright, Chairperson

H-3630 FILED APRIL 1, 1993

Withdrawn
3/31/94

**SENATE FILE 216
FISCAL NOTE**

A fiscal note for Senate File 216, as amended by H-3630, is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 216, as amended by H-3630, provides for collection of multiple city utility and other fees under a single combined service account and adds private water utilities to the regulatory authority of the Utilities Division of the Department of Commerce.

ASSUMPTIONS:

1. The Utilities Board would regulate rates of all private water companies which serve more than 25 customers.
2. A total of 25 water companies will be regulated.
3. Two rate cases would be heard annually requiring addition of 2.50 FTE positions.
4. The Consumer Advocate's Office would require the addition of 1.50 FTE positions.
5. The water companies would be assessed the cost of regulation and reimburse the General Fund.

FISCAL IMPACT:

The Bill, as amended, would increase General Fund expenditures by \$195,432 in FY 1995 and \$177,925 in FY 1996. General Fund receipts would increase by \$195,432 in FY 1995 and \$177,925 in FY 1996. There is no net impact to the General Fund.

Sources: Utilities Division, Department of Commerce
Consumer Advocate, Department of Justice
Department of Natural Resources

(LSB 1922sv, MAS)

FILED FEBRUARY 14, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

H3804

SENATE FILE 216

04

Amend Senate File 216, as passed by the Senate, as follows:

1. Page 5, by inserting after line 23, the following:

"Sec. ____ . NEW SECTION. 476.1E PRIVATE WATER UTILITY.

1. As used in this section, water utility means a public water supply system which is organized as a for-profit corporation organized under chapter 490, a nonprofit corporation organized under chapter 504A, or any other type of business entity, which has more than twenty-five but fewer than two thousand residential service connections.

2. The water distributed by a water utility shall meet the drinking water standards required by the environmental protection commission pursuant to section 455B.173. If a water utility does not meet the drinking water standards, the department of natural resources shall impose a schedule of compliance for the drinking water distributed by the water utility. If the cost of compliance is recovered in rates or charges to customers, it shall not be recovered over less than twenty years. A lesser period of time may be established if approved by two-thirds of the water utility customers.

3. A water utility is prohibited from including directly or indirectly in its charges or rates to customers any fines or monetary penalties assessed against the water utility unless the customers operate or manage the water utility.

4. If a water utility fails to meet the applicable drinking water standards as required under section 455B.173 within a reasonable period of time as established by the department of natural resources and is located within two miles of a city, the city may acquire or may grant a city utility the right to acquire the water utility by purchase or condemnation. Condemnation proceedings shall be according to chapter 6B.

5. If a complaint signed by at least twenty-five percent of the customers of a water utility is filed with the utility board alleging that a rate increase imposed by the water utility on or after January 1, 1993, is unreasonable, the utility board shall investigate the complaint. An unreasonable rate increase means a rate that will produce excessive revenue during a fiscal period for the water utility. During the investigation, the water utility may continue to collect the increased amount if the water utility files a bond or undertaking approved by the

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1 board conditioned upon the refund in a manner
2 prescribed by the board of amounts collected after the
3 date of filing of the complaint in excess of rates or
4 charges finally determined by the board to be lawful.
5 If upon hearing the board finds that the utility's
6 rates and charges are unlawful, the board shall
7 mediate an agreement between the petitioners and the
8 water utility. If an agreement is not reached within
9 one hundred twenty days, the board shall determine
10 just, reasonable, and nondiscriminatory rates and
11 charges. The water utility shall pay the board's and
12 the consumer advocate's expenses reasonably
13 attributable to the investigation of the complaint and
14 any mediation which expenses may be recovered in the
15 utility's rates and charges over a reasonable period
16 of time. The board shall apply established regulatory
17 principles in any investigation of the reasonableness
18 of rates and charges or the determination of rates and
19 charges for a water utility.

20 6. a. A water utility may make effective a new or
21 changed rate, charge, schedule, or regulation after
22 giving written notice of the proposed new or changed
23 rate, charge, schedule, or regulation to all affected
24 customers served by the water utility. The notice
25 shall inform the customers of their right to petition
26 for a review of the proposal to the utilities board
27 within sixty days after notice is served if the
28 petition contains the signatures of at least twenty-
29 five percent of the water utility's customers. The
30 notice shall state the address of the utilities board.
31 The new or changed rate, charge, schedule, or
32 regulation takes effect sixty days after a valid
33 notice is served unless a petition for review of the
34 new or changed rate, charge, schedule, or regulation
35 signed by at least twenty-five percent of the water
36 utility's customers is filed with the board prior to
37 the expiration of the sixty-day period.

38 If a valid petition is filed with the board within
39 the sixty-day period, any new or changed rate, charge,
40 schedule, or regulation shall take effect, under bond
41 or corporate undertaking, subject to refund of all
42 amounts collected in excess of those amounts which
43 would have been collected under the rates or charges
44 finally approved by the board. The board shall within
45 five months of the date of filing make a determination
46 of just and reasonable rates based on a review of the
47 proposal, applying established regulatory principles.
48 The board may require the water utility and its
49 customers to furnish factual evidence in support of or
50 opposition to the new or changed rate, charge,

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1 schedule, or regulation. If the water utility
2 disputes the finding, the utility may within twenty
3 days file for further review, and the board shall
4 docket the case as a formal proceeding under section
5 476.6, subsection 7, and set the case for hearing.

6 The water utility shall submit factual evidence and
7 written argument in support of the filing.

8 b. A water utility shall not make effective a new
9 or changed rate, charge, schedule, or regulation which
10 relates to services for which a rate change is pending
11 within twelve months following the date the petition
12 to review the prior proposed rate, charge, schedule,
13 or regulation was filed with the board or until the
14 board has made its determination of just and
15 reasonable rates, whichever date is earlier, unless
16 the utility applies to the board for authority and
17 receives authority to make a subsequent rate change at
18 an earlier date.

19 c. A water utility shall not make or grant any
20 unreasonable preferences or advantages as to rates or
21 services to any person or subject any person to any
22 unreasonable prejudice or disadvantage.

23 7. The consumer advocate or the board may inspect
24 and copy the books and records of the water utility
25 which relate to the costs and expenses which are
26 included in determining the charges and rates to
27 customers.

28 8. Notwithstanding section 476.1, this section
29 applies to certain waterworks having less than two
30 thousand customers, but this section does not apply to
31 municipally owned waterworks, joint water utilities
32 established pursuant to chapter 389, rural water
33 districts incorporated and organized pursuant to
34 chapters 357A and 504A, benefited water districts
35 organized pursuant to chapter 357, cooperative water
36 associations incorporated and organized pursuant to
37 chapter 499 or to any business entity providing a
38 water supply system in conjunction with the provision
39 of residential housing.

40 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
41 of immediate importance, takes effect upon enactment."

42 2. Title page, line 2, by inserting after the
43 word "services" the following: "or certain private
44 water utilities, by providing for the regulation of
45 certain private water utilities,".

46 3. Title page, line 6, by inserting after the
47 word "nonpayment" the following: ", and providing for
48 retroactive applicability and an effective date".

49 4. By renumbering sections as necessary.

By HAVERLAND of Polk

H-3804 FILED APRIL 7, 1993

Withdrawn 3/31/94

SENATE FILE 216

H-3819

1 Amend the amendment, H-3630, to Senate File 216, as
2 passed by the Senate, as follows:

3 1. By striking page 1, line 5 through page 2,
4 line 35 and inserting the following:

5 "Sec. ____ . NEW SECTION. 476.1E PRIVATE WATER
6 UTILITY.

7 1. As used in this section, water utility means a
8 public water supply system which is organized as a
9 for-profit corporation organized under chapter 490, a
10 nonprofit corporation organized under chapter 504A, or
11 any other type of business entity, which has more than
12 twenty-five but fewer than two thousand residential
13 service connections.

14 2. The water distributed by a water utility shall
15 meet the drinking water standards required by the
16 environmental protection commission pursuant to
17 section 455B.173. If a water utility does not meet
18 the drinking water standards, the department of
19 natural resources shall impose a schedule of
20 compliance for the drinking water distributed by the
21 water utility. If the cost of compliance is recovered
22 in rates or charges to customers, it shall not be
23 recovered over less than twenty years. A lesser
24 period of time may be established if approved by two-
25 thirds of the water utility customers.

26 3. A water utility is prohibited from including
27 directly or indirectly in its charges or rates to
28 customers any fines or monetary penalties assessed
29 against the water utility unless the customers operate
30 or manage the water utility.

31 4. If a water utility fails to meet the applicable
32 drinking water standards as required under section
33 455B.173 within a reasonable period of time as
34 established by the department of natural resources and
35 is located within two miles of a city, the city may
36 acquire or may grant a city utility the right to
37 acquire the water utility by purchase or condemnation.
38 Condemnation proceedings shall be according to chapter
39 6B.

40 5. If a complaint signed by at least twenty-five
41 percent of the customers of a water utility is filed
42 with the utility board alleging that a rate increase
43 imposed by the water utility on or after January 1,
44 1993, is unreasonable, the utility board shall
45 investigate the complaint. An unreasonable rate
46 increase means a rate that will produce excessive
47 revenue during a fiscal period for the water utility.
48 During the investigation, the water utility may
49 continue to collect the increased amount if the water
50 utility files a bond or undertaking approved by the

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1 board conditioned upon the refund in a manner
2 prescribed by the board of amounts collected after the
3 date of filing of the complaint in excess of rates or
4 charges finally determined by the board to be lawful.
5 If upon hearing the board finds that the utility's
6 rates and charges are unlawful, the board shall
7 mediate an agreement between the petitioners and the
8 water utility. If an agreement is not reached within
9 one hundred twenty days, the board shall determine
10 just, reasonable, and nondiscriminatory rates and
11 charges. The water utility shall pay the board's and
12 the consumer advocate's expenses reasonably
13 attributable to the investigation of the complaint and
14 any mediation which expenses may be recovered in the
15 utility's rates and charges over a reasonable period
16 of time. The board shall apply established regulatory
17 principles in any investigation of the reasonableness
18 of rates and charges or the determination of rates and
19 charges for a water utility.

20 6. a. A water utility may make effective a new or
21 changed rate, charge, schedule, or regulation after
22 giving written notice of the proposed new or changed
23 rate, charge, schedule, or regulation to all affected
24 customers served by the water utility. The notice
25 shall inform the customers of their right to petition
26 for a review of the proposal to the utilities board
27 within sixty days after notice is served if the
28 petition contains the signatures of at least twenty-
29 five percent of the water utility's customers. The
30 notice shall state the address of the utilities board.
31 The new or changed rate, charge, schedule, or
32 regulation takes effect sixty days after a valid
33 notice is served unless a petition for review of the
34 new or changed rate, charge, schedule, or regulation
35 signed by at least twenty-five percent of the water
36 utility's customers is filed with the board prior to
37 the expiration of the sixty-day period.

38 If a valid petition is filed with the board within
39 the sixty-day period, any new or changed rate, charge,
40 schedule, or regulation shall take effect, under bond
41 or corporate undertaking, subject to refund of all
42 amounts collected in excess of those amounts which
43 would have been collected under the rates or charges
44 finally approved by the board. The board shall within
45 five months of the date of filing make a determination
46 of just and reasonable rates based on a review of the
47 proposal, applying established regulatory principles.
48 The board may require the water utility and its
49 customers to furnish factual evidence in support of or
50 opposition to the new or changed rate, charge,

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1 schedule, or regulation. If the water utility
 2 disputes the finding, the utility may within twenty
 3 days file for further review, and the board shall
 4 docket the case as a formal proceeding under section
 5 476.6, subsection 7, and set the case for hearing.
 6 The water utility shall submit factual evidence and
 7 written argument in support of the filing.

8 b. A water utility shall not make effective a new
 9 or changed rate, charge, schedule, or regulation which
 10 relates to services for which a rate change is pending
 11 within twelve months following the date the petition
 12 to review the prior proposed rate, charge, schedule,
 13 or regulation was filed with the board or until the
 14 board has made its determination of just and
 15 reasonable rates, whichever date is earlier, unless
 16 the utility applies to the board for authority and
 17 receives authority to make a subsequent rate change at
 18 an earlier date.

19 c. A water utility shall not make or grant any
 20 unreasonable preferences or advantages as to rates or
 21 services to any person or subject any person to any
 22 unreasonable prejudice or disadvantage.

23 7. The consumer advocate or the board may inspect
 24 and copy the books and records of the water utility
 25 which relate to the costs and expenses which are
 26 included in determining the charges and rates to
 27 customers.

28 8. Notwithstanding section 476.1, this section
 29 applies to certain waterworks having less than two
 30 thousand customers, but this section does not apply to
 31 municipally owned waterworks, joint water utilities
 32 established pursuant to chapter 389, rural water
 33 districts incorporated and organized pursuant to
 34 chapters 357A and 504A, benefited water districts
 35 organized pursuant to chapter 357, cooperative water
 36 associations incorporated and organized pursuant to
 37 chapter 499 or to any business entity providing a
 38 water supply system in conjunction with the provision
 39 of residential housing.

40 Sec. ____ EFFECTIVE DATE. This Act, being deemed
 41 of immediate importance, takes effect upon enactment."
 By HAVERLAND of Polk

H-3819 FILED APRIL 8, 1993

out of order 3/31/94

SENATE FILE 216

H-3830

1 Amend the amendment, H-3804, to Senate File 216 as
 2 passed by the Senate, as follows:

3 1. Page 1, line 7, by inserting after the word
 4 "section" the following: "except as provided in
 5 subsection 8".

By VANDE HOEF of Osceola

H-3830 FILED APRIL 8, 1993

out of order 3/31/94

SENATE FILE 216

H-3900

1 Amend the amendment, H-3819, to Senate File 216, as
2 passed by the Senate, as follows:
3 1. Page 1, line 7, by inserting after the word
4 "section" the following: "except as provided in sub-
5 section 8".

By VANDE HOEF of Osceola

H-3900 FILED APRIL 13, 1993

out of order 3/21/94

SENATE FILE 216

043

Amend the amendment, H-3630, to Senate File 216, as passed by the Senate, as follows:

1. By striking page 1, line 5 through page 2, line 35, and inserting the following:

"Sec. ____ . NEW SECTION. 476.1E PRIVATE WATER UTILITY.

1. DEFINITION. As used in this section, "water utility" means a public water supply system which is organized as a for-profit corporation under chapter 490 or a nonprofit corporation organized under chapter 504A, which has more than twenty-five but fewer than two thousand residential service connections.

2. WATER STANDARDS. The water distributed by a water utility shall meet the drinking water standards required by the environmental protection commission pursuant to section 455B.173. If a water utility does not meet the drinking water standards, the department of natural resources shall impose a schedule of compliance for the drinking water distributed by the water utility. If the cost of compliance is recovered in rates or charges to customers, the cost shall not be recovered over less than twenty years. A lesser period of time may be established if approved by two-thirds of the water utility customers.

3. IMPERMISSIBLE CHARGES. A water utility shall not include either directly or indirectly in its charges or rates to customers any fines or monetary penalties assessed against the water utility unless the customers operate the water utility.

4. CONDEMNATION RIGHTS. If a water utility fails to meet the applicable drinking water standards as required under section 455B.173 within a reasonable period of time as established by the department of natural resources and is located within two miles of a city, the city, the city-owned waterworks, another city-owned waterworks, or a benefitted water district may acquire the water utility by purchase or condemnation in the manner provided in chapter 6B.

5. COMPLAINT PROCEDURE. If a complaint signed by at least twenty-five percent of the customers of a water utility is filed with the utilities board alleging that a rate increase imposed by the water utility is unreasonable, the written complaint shall be forwarded by the board to the water utility for a response within the time specified by the board. The board shall provide the consumer advocate with copies of the complaint and the water utility's response. If the board determines that there appears to be reasonable grounds for the allegation, the board shall mediate an agreement between the petitioners and the

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Page 2

1 water utility. If an agreement is not reached within
2 one hundred twenty days, the board shall set the case
3 for hearing to determine just, reasonable, and
4 nondiscriminatory rates and charges. An unreasonable
5 rate increase means a rate that will produce excessive
6 revenue during a fiscal period for the water utility.
7 During the investigation of the complaint, the
8 mediation, or the rate proceeding, the water utility
9 may continue to collect the increased amount if the
10 water utility files a bond or undertaking approved by
11 the board conditioned upon the refund in a manner
12 prescribed by the board of amounts collected after the
13 date of filing of the complaint in excess of rates or
14 charges finally determined by the board to be lawful.
15 The board shall apply established regulatory
16 principles in any investigation of the reasonableness
17 of rates and charges or the determination of rates and
18 charges for a water utility. This subsection applies
19 to rate increases imposed by a water utility on or
20 after January 1, 1993, and before the effective date
21 of this Act.

22 6. RATE INCREASES.

23 a. A water utility may make effective a new or
24 changed rate, charge, schedule, or regulation after
25 giving written notice of the proposed new or changed
26 rate, charge, schedule, or regulation to all affected
27 customers served by the water utility. The notice
28 shall inform the customers of their right to petition
29 for a review of the proposal to the utilities board
30 within sixty days after notice is served if the
31 petition contains the signatures of at least twenty-
32 five percent of the water utility's customers. The
33 notice shall state the address of the utilities board.
34 The new or changed rate, charge, schedule, or
35 regulation takes effect sixty days after a valid
36 notice is served unless a petition for review of the
37 new or changed rate, charge, schedule, or regulation
38 signed by at least twenty-five percent of the water
39 utility's customers is filed with the board prior to
40 the expiration of the sixty-day period.

41 b. If a valid petition is filed with the board
42 within the sixty-day period, any new or changed rate,
43 charge, schedule, or regulation shall take effect,
44 under bond or corporate undertaking, subject to refund
45 of all amounts collected in excess of those amounts
46 which would have been collected under the rates or
47 charges finally approved by the board. The board
48 shall within five months of the date of filing make a
49 determination of just and reasonable rates based on a
50 review of the proposal, applying established

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Page 3

1 regulatory principles. The board may require the
2 water utility and its customers to furnish factual
3 evidence in support of or opposition to the new or
4 changed rate, charge, schedule, or regulation. If the
5 water utility disputes the finding, the utility may
6 within twenty days file for further review, and the
7 board shall docket the case as a formal proceeding
8 under section 476.6, subsection 7, and set the case
9 for hearing. The water utility shall submit factual
10 evidence and written argument in support of the
11 filing.

12 c. A water utility shall not make effective a new
13 or changed rate, charge, schedule, or regulation which
14 relates to services for which a rate change is pending
15 within twelve months following the date the petition
16 to review the prior proposed rate, charge, schedule,
17 or regulation was filed with the board or until the
18 board has made its determination of just and
19 reasonable rates, whichever date is earlier, unless
20 the water utility applies to the board for and
21 receives authority to make a subsequent rate change at
22 an earlier date.

23 d. A water utility shall not make or grant any
24 unreasonable preferences or advantages as to rates or
25 services to any person or subject any person to any
26 unreasonable prejudice or disadvantage.

27 7. INSPECTION OF BOOKS AND RECORDS. The consumer
28 advocate or the board may inspect and copy the books
29 and records of the water utility which relate to the
30 costs and expenses which are included in determining
31 the charges and rates to customers.

32 8. SALARY DISCLOSURE. A nonprofit water utility
33 shall annually disclose to all customers the names,
34 addresses, and salaries of all officers of the
35 nonprofit corporation and the person in charge of the
36 daily operation of the water utility.

37 9. APPLICATION. Notwithstanding section 476.1,
38 this section applies to certain waterworks having
39 fewer than two thousand customers, but this section
40 does not apply to municipally owned waterworks, joint
41 water utilities established pursuant to chapter 389,
42 rural water districts incorporated and organized
43 pursuant to chapters 357A and 504A, or cooperative
44 water associations incorporated and organized pursuant
45 to chapter 499 except as otherwise specifically
46 provided in subsection 4.

47 10. EXPENSES. The water utility shall pay the
48 board's and the consumer advocate's expenses
49 reasonably attributable to any complaint
50 investigation, any mediation, or any rate

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Page 4

- 1 determination which expenses may be recovered in the
- 2 utility's rates and charges over a reasonable period
- 3 of time."

By HAVERLAND of Polk

H-5043 FILED FEBRUARY 10, 1994.

not a order

3/31/94

SENATE FILE 216

H-5067

1 Amend the amendment, H-3630, to Senate File 216, as
2 passed by the Senate, as follows:
3 1. By striking page 1, line 5 through page 2,
4 line 33, and inserting the following:
5 "Sec. ____ . NEW SECTION. 476.1E PRIVATE WATER
6 UTILITY.
7 1. DEFINITION. As used in this section, "water
8 utility" means a public water supply system which is
9 organized as a for-profit corporation under chapter
10 490 or a nonprofit corporation organized under chapter
11 504A, which has more than twenty-five but fewer than
12 two thousand residential service connections.
13 2. WATER STANDARDS. The water distributed by a
14 water utility shall meet the drinking water standards
15 required by the environmental protection commission
16 pursuant to section 455B.173. If a water utility does
17 not meet the drinking water standards, the department
18 of natural resources shall impose a schedule of
19 compliance for the drinking water distributed by the
20 water utility. If the cost of compliance is recovered
21 in rates or charges to customers, the cost shall not
22 be recovered over less than twenty years. A lesser
23 period of time may be established if approved by two-
24 thirds of the water utility customers.
25 3. IMPERMISSIBLE CHARGES. A water utility shall
26 not include either directly or indirectly in its
27 charges or rates to customers any fines or monetary
28 penalties assessed against the water utility unless
29 the customers operate the water utility.
30 4. CONDEMNATION RIGHTS. If a water utility fails
31 to meet the applicable drinking water standards as
32 required under section 455B.173 within a reasonable
33 period of time as established by the department of
34 natural resources and is located within two miles of a
35 city, the city, the city-owned waterworks, another
36 city-owned waterworks, or a benefitted water district
37 may acquire the water utility by purchase or
38 condemnation in the manner provided in chapter 6B.
39 5. COMPLAINT PROCEDURE. If a complaint signed by
40 at least twenty-five percent of the customers of a
41 water utility is filed with the utilities board
42 alleging that a rate increase imposed by the water
43 utility is unreasonable, the written complaint shall
44 be forwarded by the board to the water utility for a
45 response within the time specified by the board. The
46 board shall provide the consumer advocate with copies
47 of the complaint and the water utility's response. If
48 the board determines that there appears to be
49 reasonable grounds for the allegation, the board shall
50 mediate an agreement between the petitioners and the

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Page 2

1 water utility. If an agreement is not reached within
2 one hundred twenty days, the board shall set the case
3 for hearing to determine just, reasonable, and
4 nondiscriminatory rates and charges. An unreasonable
5 rate increase means a rate that will produce excessive
6 revenue during a fiscal period for the water utility.
7 During the investigation of the complaint, the
8 mediation, or the rate proceeding, the water utility
9 may continue to collect the increased amount if the
10 water utility files a bond or undertaking approved by
11 the board conditioned upon the refund in a manner
12 prescribed by the board of amounts collected after the
13 date of filing of the complaint in excess of rates or
14 charges finally determined by the board to be lawful.
15 The board shall apply established regulatory
16 principles in any investigation of the reasonableness
17 of rates and charges or the determination of rates and
18 charges for a water utility. This subsection applies
19 to rate increases imposed by a water utility on or
20 after January 1, 1993, and before the effective date
21 of this Act.

22 6. RATE INCREASES.

23 a. A water utility may make effective a new or
24 changed rate, charge, schedule, or regulation after
25 giving written notice of the proposed new or changed
26 rate, charge, schedule, or regulation to all affected
27 customers served by the water utility. The notice
28 shall inform the customers of their right to petition
29 for a review of the proposal to the utilities board
30 within sixty days after notice is served if the
31 petition contains the signatures of at least twenty-
32 five percent of the water utility's customers. The
33 notice shall state the address of the utilities board.
34 The new or changed rate, charge, schedule, or
35 regulation takes effect sixty days after a valid
36 notice is served unless a petition for review of the
37 new or changed rate, charge, schedule, or regulation
38 signed by at least twenty-five percent of the water
39 utility's customers is filed with the board prior to
40 the expiration of the sixty-day period.

41 b. If a valid petition is filed with the board
42 within the sixty-day period, any new or changed rate,
43 charge, schedule, or regulation shall take effect,
44 under bond or corporate undertaking, subject to refund
45 of all amounts collected in excess of those amounts
46 which would have been collected under the rates or
47 charges finally approved by the board. The board
48 shall within five months of the date of filing make a
49 determination of just and reasonable rates based on a
50 review of the proposal, applying established

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Page 3

1 regulatory principles. The board may require the
2 water utility and its customers to furnish factual
3 evidence in support of or opposition to the new or
4 changed rate, charge, schedule, or regulation. If the
5 water utility disputes the finding, the utility may
6 within twenty days file for further review, and the
7 board shall docket the case as a formal proceeding
8 under section 476.6, subsection 7, and set the case
9 for hearing. The water utility shall submit factual
10 evidence and written argument in support of the
11 filing.

12 c. A water utility shall not make effective a new
13 or changed rate, charge, schedule, or regulation which
14 relates to services for which a rate change is pending
15 within twelve months following the date the petition
16 to review the prior proposed rate, charge, schedule,
17 or regulation was filed with the board or until the
18 board has made its determination of just and
19 reasonable rates, whichever date is earlier, unless
20 the water utility applies to the board for and
21 receives authority to make a subsequent rate change at
22 an earlier date.

23 d. A water utility shall not make or grant any
24 unreasonable preferences or advantages as to rates or
25 services to any person or subject any person to any
26 unreasonable prejudice or disadvantage.

27 7. INSPECTION OF BOOKS AND RECORDS. The consumer
28 advocate or the board may inspect and copy the books
29 and records of the water utility which relate to the
30 costs and expenses which are included in determining
31 the charges and rates to customers.

32 8. SALARY DISCLOSURE. A nonprofit water utility
33 shall annually disclose to all customers the names,
34 addresses, and salaries of all officers of the
35 nonprofit corporation and the person in charge of the
36 daily operation of the water utility.

37 9. APPLICATION. Notwithstanding section 476.1,
38 this section applies to certain waterworks having
39 fewer than two thousand customers, but this section
40 does not apply to municipally owned waterworks, joint
41 water utilities established pursuant to chapter 389,
42 rural water districts incorporated and organized
43 pursuant to chapters 357A and 504A, cooperative water
44 associations incorporated and organized pursuant to
45 chapter 499, or to any business entity providing a
46 water supply system in conjunction with the provision
47 of residential housing, except as otherwise
48 specifically provided in subsection 4.

49 10. EXPENSES. The water utility shall pay the
50 board's and the consumer advocate's expenses

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- asonably attributable to any complaint
- 2 investigation, any mediation, or any rate.
- 3 determination which expenses may be recovered in the
- 4 utility's rates and charges over a reasonable period
- 5 of time."

By HAVERLAND of Polk

H-5067 FILED FEBRUARY 16, 1994

out 3 order
3/31/93

SENATE FILE 216

H-5899

1 Amend Senate File 216, as passed by the Senate, as
2 follows:

3 1. Page 3, by striking line 14 and inserting the
4 following: "any of the services referred to in
5 subsection 3 is separately metered or billed and paid
6 directly by the".

7 2. Page 3, line 19, by striking the word "water".

8 3. Page 3, line 27, by striking the word "water".

9 4. Page 3, line 30, by striking the word "water".

By HALVORSON of Webster

H-5899 FILED MARCH 30, 1994

Lost 3/31/93

SENATE FILE 216

H-5893

1 Amend Senate File 216, as passed by the Senate as
2 follows:

3 1. Page 5, by inserting after line 23 the
4 following:

5 "Sec. ____ . Section 476.26, Code 1993, is amended
6 to read as follows:

7 476.26 EFFECT OF INCORPORATION, ANNEXATION OR
8 CONSOLIDATION.

9 The inclusion by incorporation, consolidation, or
10 annexation of any facilities or service area of an
11 electric utility within the boundaries of any city
12 shall not by such inclusion impair or affect in any
13 respect the rights of the electric utility to continue
14 to provide electric utility service ~~and to extend~~
15 ~~service to prospective customers~~ in accordance with
16 the provisions of this division, except that in the
17 instance of annexation by a city into undeveloped
18 areas, it is presumed to be in the public interest for
19 the city, if the city operates an electric utility, to
20 provide electric utility service to the annexed area."

21 2. Title page, line 2, by inserting after the
22 word "services" the following: "and electric service
23 areas".

By DICKINSON of Jackson

H-5893 FILED MARCH 30, 1994

With drawn

3/31/93

SZYMONIAK, CH.
VILBACH
MADDOX

SSB 93
LOCAL GOVERNMENT

SENATE FILE 216
BY (PROPOSED COMMITTEE ON LOCAL
GOVERNMENT BILL BY CHAIRPERSON
SORENSEN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to rates and charges for city utility and
2 enterprise services by authorizing their collection as
3 combined service accounts, authorizing the discontinuance of
4 services in the event of nonpayment, and providing uniform
5 notice procedures prior to discontinuance of service and prior
6 to certification of lien for nonpayment.

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

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1 Section 1. Section 384.80, Code 1993, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 2A. "Combined service account" means a
4 customer service account for the provision of two or more
5 utility or enterprise services, regardless of whether those
6 services are being provided by a single city, or by any
7 combination of city utilities, combined utility systems, city
8 enterprises, or combined city enterprises of one or more
9 cities.

10 NEW SUBSECTION. 5A. "Landlord" means the owner of record
11 of a rental property, or a real estate manager or management
12 company appointed by the owner to administer rental property.

13 NEW SUBSECTION. 7A. "Owner" means the owner of record as
14 reflected in the records of the county treasurer.

15 Sec. 2. Section 384.84, Code 1993, is amended by striking
16 the section and inserting in lieu thereof the following:

17 384.84 RATES AND CHARGES -- BILLING AND COLLECTION --
18 CONTRACTS.

19 1. The governing body of a city utility, combined utility
20 system, city enterprise, or combined city enterprise may
21 establish, impose, adjust, and provide for the collection of
22 rates and charges to produce gross revenues at least
23 sufficient to pay the expenses of operation and maintenance of
24 the city utility, combined utility system, city enterprise, or
25 combined city enterprise. When revenue bonds or pledge orders
26 are issued and outstanding pursuant to this division, the
27 governing body shall establish, impose, adjust, and provide
28 for the collection of rates to produce gross revenues at least
29 sufficient to pay the expenses of operation and maintenance of
30 the city utility, combined utility system, city enterprise, or
31 combined city enterprise, to leave a balance of net revenues
32 sufficient to pay the principal of and interest on the revenue
33 bonds and pledge orders as they become due, and to maintain a
34 reasonable reserve for the payment of principal and interest.
35 Rates must be established by ordinance of the council or by

1 resolution of the trustees, published in the same manner as an
2 ordinance.

3 2. a. A city utility or enterprise service to a property
4 or premises, including services of sewer systems, storm water
5 drainage systems, sewage treatment, solid waste collection,
6 water, solid waste disposal, or any of these services, may be
7 discontinued if the account for the service becomes
8 delinquent.

9 b. If more than one city utility or enterprise service is
10 billed to a property or premises as a combined service
11 account, all of the services may be discontinued if the
12 account becomes delinquent.

13 c. A city utility or enterprise service to a property or
14 premises shall not be discontinued unless prior written notice
15 is sent to the account holder by ordinary mail, informing the
16 account holder of the nature of the delinquency and affording
17 the account holder the opportunity for a hearing prior to
18 discontinuance of service. If the account holder is a tenant,
19 and if the owner or landlord of the property has made a
20 written request for notice, the notice shall also be given to
21 the owner or landlord.

22 3. a. All rates or charges for the services of sewer
23 systems, storm water drainage systems, sewage treatment, solid
24 waste collection, water, solid waste disposal, or any of these
25 services, if not paid as provided by ordinance of the council
26 or resolution of the trustees, are a lien upon the property or
27 premises served by any of these services upon certification to
28 the county treasurer that the rates or charges are due.

29 b. This lien may be imposed upon a property or premises
30 even if a city utility or enterprise service to the property
31 or premises have been or may be discontinued as provided in
32 this section.

33 c. A lien for a city utility or enterprise service shall
34 not be certified to the county treasurer for collection unless
35 prior written notice of intent to certify a lien is given to

1 the account holder of the delinquent account. If the account
2 holder is a tenant, and if the owner or landlord of the
3 property has made a written request for notice, the notice
4 shall also be given to the owner or landlord. The notice
5 shall be sent to the appropriate persons by ordinary mail not
6 less than ten days prior to certification of the lien to the
7 county treasurer.

8 d. For a residential rental property where a charge for
9 water service is separately metered and paid directly by the
10 tenant, the rental property is exempt from a lien for those
11 delinquent charges incurred after the landlord gives written
12 notice to the city utility or enterprise that the tenant is
13 liable for the charges and a deposit not exceeding the usual
14 cost of ninety days of water service is paid to the utility or
15 enterprise. Upon receipt, the utility or enterprise shall
16 acknowledge the notice and deposit. A written notice shall
17 contain the name of the tenant responsible for charges,
18 address of the property that the tenant is to occupy, and the
19 date that the occupancy begins. A change in tenant shall
20 require a new written notice and deposit. When the tenant
21 moves from the rental property, the city utility or enterprise
22 shall return the deposit if the water service charges are paid
23 in full and the lien exemption shall be lifted from the rental
24 property. The lien exemption for rental property does not
25 apply to charges for repairs to a water service if the repair
26 charges become delinquent.

27 4. A lien shall not be imposed pursuant to this section
28 for a delinquent charge of less than five dollars. The
29 governing body of the city utility or enterprise may charge up
30 to five dollars, and the county treasurer may charge up to two
31 dollars, as an administrative expense of certifying and filing
32 this lien, which amounts shall be added to the amount of the
33 lien to be collected at the time of payment of the assessment
34 from the payor. Administrative expenses collected by the
35 county treasurer on behalf of the city utility or enterprise

1 shall be paid to the governing body of the city utility or
2 enterprise, and those collected by the county treasurer on
3 behalf of the county shall be credited to the county general
4 fund. The lien has equal precedence with ordinary taxes, may
5 be certified to the county treasurer and collected in the same
6 manner as taxes, and is not divested by a judicial sale.

7 5. A governing body may declare all or a certain portion
8 of a city as a storm water drainage system district for the
9 purpose of establishing, imposing, adjusting, and providing
10 for the collection of rates as provided in this section. The
11 ordinance provisions for collection of rates of a storm water
12 drainage system may prescribe a formula for determination of
13 the rates which may include criteria and standards by which
14 benefits have been previously determined for special
15 assessments for storm water public improvement projects under
16 this chapter.

17 6. a. The governing body of a city utility, combined
18 utility system, city enterprise, or combined city enterprise
19 may:

20 (1) By ordinance of the council or by resolution of the
21 trustees published in the same manner as an ordinance, estab-
22 lish, impose, adjust, and provide for the collection of
23 charges for connection to a city utility or combined utility
24 system.

25 (2) Contract for the use of or services provided by a city
26 utility, combined utility system, city enterprise, or combined
27 city enterprise with persons whose type or quantity of use or
28 service is unusual.

29 (3) Lease for a period not to exceed fifteen years all or
30 part of a city enterprise or combined city enterprise, if the
31 lease will not reduce the net revenues to be produced by the
32 city enterprise or combined city enterprise.

33 (4) Contract for a period not to exceed forty years with
34 other governmental bodies for the use of or the services pro-
35 vided by the city utility, combined utility system, city

1 enterprise, or combined city enterprise on a wholesale basis.

2 (5) Contract for a period not to exceed forty years with
3 persons and other governmental bodies for the purpose or sale
4 of water, gas, or electric power and energy on a wholesale
5 basis.

6 b. Two or more city utilities, combined utility systems,
7 city enterprises, or combined city enterprises, including city
8 utilities established pursuant to chapter 388, may contract
9 pursuant to chapter 28E for joint billing or collection, or
10 both, of combined service accounts for utility or enterprise
11 services, or both, or for the joint exercise of any other
12 powers which any of them possess. The contracts may provide
13 for the discontinuance of one or more of the city utility or
14 enterprise services if a delinquency occurs in the payment of
15 any charges billed under a combined service account.

16 7. The portion of cost attributable to the agreement or
17 arbitration awarded under section 357A.21 may be apportioned
18 in whole or in part among water customers within an annexed
19 area.

20 EXPLANATION

21 This bill provides for the collection of multiple city
22 utility and enterprise service fees and charges, such as those
23 for city water, sewer, and garbage collection services, under
24 a single combined service account. It also authorizes the
25 discontinuance of one or more services in the event of de-
26 linquency in the payment of fees and charges for those
27 services. A uniform notice and hearing requirement is imposed
28 upon all city utilities and enterprises, requiring that notice
29 and an opportunity for a hearing be given to account holders
30 prior to discontinuance. If the account holder is a tenant,
31 notice would also have to be given to the owner or landlord of
32 the property requesting the notice in advance. Notice would
33 also have to be given to an account holder, and to an owner or
34 landlord, if requested, prior to the imposition of a lien upon
35 the property for nonpayment of fees and charges. Cities and

1 independent city utilities are also authorized to enter into
2 chapter 28E agreements to provide for the joint billing and
3 collection of combined service accounts.

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384.84 RATES AND CHARGES -- BILLING AND COLLECTION --
CONTRACTS.

SENATE FILE 216

AN ACT

RELATING TO RATES AND CHARGES FOR CITY UTILITY AND ENTERPRISE SERVICES BY AUTHORIZING THEIR COLLECTION AS COMBINED SERVICE ACCOUNTS, AUTHORIZING THE DISCONTINUANCE OF SERVICES IN THE EVENT OF NONPAYMENT, AND PROVIDING UNIFORM NOTICE PROCEDURES PRIOR TO DISCONTINUANCE OF SERVICE AND PRIOR TO CERTIFICATION OF LIEN FOR NONPAYMENT.

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

Section 1. Section 384.80, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Combined service account" means a customer service account for the provision of two or more utility or enterprise services, regardless of whether those services are being provided by a single city, or by any combination of city utilities, combined utility systems, city enterprises, or combined city enterprises of one or more cities.

NEW SUBSECTION. 5A. "Landlord" means the owner of record of a rental property, or a real estate manager or management company appointed by the owner to administer rental property.

NEW SUBSECTION. 7A. "Owner" means the owner of record as reflected in the records of the county treasurer.

Sec. 2. Section 384.84, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise. When revenue bonds or pledge orders are issued and outstanding pursuant to this division, the governing body shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance.

2. a. A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

b. If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent to the account holder by ordinary mail, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

3. a. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

b. This lien may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises have been or may be discontinued as provided in this section.

c. A lien for a city utility or enterprise service shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten days prior to certification of the lien to the county treasurer.

d. For a residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the city utility or enterprise that the tenant is

liable for the charges and a deposit not exceeding the usual cost of ninety days of water service is paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to two dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

5. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of

the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

6. a. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purpose or sale of water, gas, or electric power and energy on a wholesale basis.

b. Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or

enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

7. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 216, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 12 1994

TERRY E. BRANSTAD
Governor