

CHAPTER 168**JOINT WATER UTILITIES***H.F. 689*

AN ACT relating to the establishment of joint water utilities and their tax status.

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

Section 1. Section 28F.1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

This chapter provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, facilities used for the conversion of solid waste to energy, and also electric power facilities constructed within the state of Iowa except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or Missouri river bordering the state of Iowa, water supply systems, swimming pools or golf courses. This chapter applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E or chapter 388A. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the seal at pleasure, and execute all the powers conferred in this chapter.

Sec. 2. NEW SECTION. 388A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Joint water utility" means a water utility established by two or more cities which owns or operates or proposes to finance the purchase or construction of all or part of a water supply system or the capacity or use of a water supply system pursuant to this chapter. A water supply system includes all land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the system.

2. "Joint water utility board" means the board of trustees established to operate a joint water utility.

3. "Project" means any works or facilities useful or necessary for the operation of a joint water utility.

Sec. 3. NEW SECTION. 388A.2 SUBMISSION TO VOTERS.

A joint water utility may be established by two or more cities. A proposal to establish a joint water utility or to join an existing joint water utility may be submitted to the voters of a city by the city council upon its own motion, or upon receipt of a valid petition pursuant to section 362.4. If the proposal is to establish a joint water utility, the proposal shall be submitted to the voters of each city proposing to establish the joint water utility. If a majority of the electorate in each of at least two cities approves the proposal, the cities approving the proposal may establish a joint water utility.

If the proposal is to join an existing joint water utility, the proposal must first be submitted to the joint water utility board for its approval. If the proposal is approved by the board, the proposal shall be submitted to the electorate of the city wishing to join. The proposal must receive a majority affirmative vote for passage.

Sec. 4. NEW SECTION. 388A.3 POWERS AND DUTIES.

Upon adoption of a proposal to establish a joint water utility, the member cities shall establish a joint water utility board, consisting of at least five members. The mayors of the participating cities shall appoint the members, subject to the approval of the city councils, and

at least one member shall be appointed from each participating city. The board shall be responsible for the planning and operation of a joint water utility, subject to the provisions of this chapter.

A joint water utility is a political subdivision and an instrumentality of municipal government. The statutory powers, duties, and limitations conferred upon a city utility apply to a joint water utility, except that title to property of a joint water utility may be held in the name of the joint water utility. The joint water utility board shall have all powers and authority of a city with respect to property which is held by the joint water utility. A joint water utility shall have the power of eminent domain, including the powers conferred upon a city in chapters 471 and 472, for the purposes of constructing and operating a joint water utility.

The joint water utility board may purchase or construct all or part of any water supply system, and may finance the purchase or construction. The board may also contract to sell all or part of the joint water utility's water supply, including any surplus, to a public or private agency, or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. The board may contract for the purchase, from any source, of all or a portion of the water supply requirements of the joint water facility. A contract may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of the parties to the contract in the event of a default by any of the parties.

Payments made by a joint water utility pursuant to a contract shall constitute operating expenses of the joint water utility and shall be payable from the revenues derived from the operation of the joint water utility.

Sec. 5. NEW SECTION. 388A.4 FINANCING.

A joint water utility may finance projects pursuant to chapter 28F. A city may finance its share of the cost of a project by the use of any method of financing available for city utilities, including but not limited to sections 384.23 through 384.36 and sections 384.80 through 384.94.

If a project is financed by a joint water utility, revenues derived from the project shall be deemed to be revenues of the joint water utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the joint water utility. If a project is financed by member cities of a joint water utility, the revenues derived from the project shall be deemed to be revenues of the city or city utility for all purposes including the issuance and payment of bonds secured by or payable from the revenues of the city or city utility.

Sec. 6. NEW SECTION. 388A.5 CONSTRUCTION.

This chapter being necessary for the public health, public safety, and general welfare, shall be liberally construed to effectuate its purposes. This chapter shall be construed as providing a separate and independent method for accomplishing its purposes, and shall take precedence over any contrary provision of the law.

Sec. 7. Section 422.43, subsection 1, Code 1991, is amended to read as follows:

1. There is imposed a tax of four percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 8. Section 427.1, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 42. JOINT WATER UTILITIES. The property of a joint water utility established under chapter 388A, when devoted to public use and not held for pecuniary profit.

Sec. 9. Section 476.1, unnumbered paragraph 5, Code 1991, is amended to read as follows:
This chapter does not apply to waterworks having less than two thousand customers, municipally owned waterworks, joint water utilities established pursuant to chapter 388A, rural water districts incorporated and organized pursuant to chapters 357A and 504A, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

Approved May 10, 1991

CHAPTER 169

PREVENTION OF DISABILITIES

S.F. 342

AN ACT relating to the prevention of disabling conditions by establishing a prevention of disabilities policy council and a technical assistance committee of the council, by making an appropriation, and providing for a repeal.

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

Section 1. **NEW SECTION. 225D.1 FINDINGS AND INTENT.**

1. The general assembly finds that:

a. Thousands of Iowans are affected by a developmental disability which is a disability that arises before age twenty-two and is of sufficient severity to affect an individual's ability to participate as an independent, productive member of the community. Many other Iowans experience less severe mental or physical disabilities or disabilities which occur in their adult years which require specialized services. Many disabilities are due to conditions that are preventable or could be minimized if recognized or treated early. Preventing disabilities would result in a substantial savings to the state both in terms of human potential and public funds.

b. There is a need for a coordinated and comprehensive prevention of disabilities effort in the state. Many state departments and private organizations are involved in prevention activities but there is no unified prevention strategy or ongoing coordination in the planning, implementation, and evaluation of prevention of disabilities activities in the state.

2. It is the intent of the general assembly to establish a system to coordinate prevention of disability activities among the state departments and to assist the governor and the general assembly in determining priorities and establishing policies for the prevention of disabilities.

Sec. 2. **NEW SECTION. 225D.2 DEFINITIONS.**

As used in this chapter unless the context otherwise requires:

1. "Council" means the prevention of disabilities policy council.

2. "Committee" means the technical assistance committee to the council.

3. "Disability" means a mental or physical impairment that results in significant functional limitation in one or more areas of major life activity and in the need for specialized care, treatment, or training services of extended duration.