

CHAPTER 473

ENERGY DEVELOPMENT AND CONSERVATION

[P]

This chapter not enacted as a part of this title;
transferred from chapter 93 in Code 1993

[SP] For provisions regarding transfer of funds under the control of
the office of energy independence to the economic development authority,
continuation of licenses, permits, or contracts by the economic
development authority, continued administration of grants
or loans awarded from the Iowa power fund,
continued administration of federal grant funds
by the economic development authority, and employment status of
certain office of energy independence employees,
see 2011 Acts, ch 118, §51, 89

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473.1 Definitions.

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

1. “*Alternative and renewable energy*” means the same as in section 469.31.*
2. “*Authority*” means the economic development authority created in section 15.105.
3. “*Commission*” means the environmental protection commission of the department of natural resources.
4. “*Director*” means the director of the authority or a designee.
5. “*Energy*” or “*energy sources*” means gasoline, fuel oil, natural gas, propane, coal, special fuels, and electricity.
6. “*Renewable fuel*” means the same as in section 469.31.*
7. “*Supplier*” means any person engaged in the business of selling, importing, storing, or generating energy sources, alternative and renewable energy, or renewable fuel in Iowa.

[C75, 77, 79, 81, §93.1]

86 Acts, ch 1245, §1817 – 1819

C93, §473.1

2008 Acts, ch 1126, §18, 19, 33; 2009 Acts, ch 108, §26, 41; 2011 Acts, ch 118, §45 – 47, 89

[SP] * Chapter 469 repealed by 2011 Acts, ch 118, §49; corrective legislation is pending

[T] NEW subsection 2 and former subsection 2 renumbered as 3

[T] Former subsection 3 amended and renumbered as 4

[T] Former subsection 4 renumbered as 5

[T] Former subsection 5 stricken

473.2 Findings.

The general assembly finds that the health, welfare, and prosperity of all Iowans require the provision of adequate, efficient, reliable, environmentally safe, and least-cost energy at prices which accurately reflect the long-term cost of using such energy resources and which are equitable to all Iowans. The goals and objectives of this policy are to ensure the following:

1. *Efficiency.* The provision of reliable energy at the least possible cost to Iowans in such manner that:

a. Physical, human, natural, and financial resources are allocated efficiently.

b. All supply and demand options are considered and evaluated using comparable terms and methods in order to determine how best to meet consumers' demands for energy at the least cost.

2. *Environmental quality.* The protection of the environment from the adverse external costs of an energy resource utilization so that:

a. Environmental costs of proposed actions having a significant impact on the environment and the environmental impact of the alternatives are identified, documented, and considered in the resource development.

b. The prudently and reasonably incurred costs of environmental controls are recovered.

88 Acts, ch 1179, §1

C89, §93.2

C93, §473.2

2008 Acts, ch 1126, §20, 33

[P] See also chapter 470 for life cycle cost analysis provisions

473.3 Energy resource management goal.

1. The goal of this state is to efficiently utilize energy resources to enhance the economy of the state by decreasing the state's dependence on nonrenewable energy resources from outside the state and by reducing the amount of energy used. This goal is to be implemented through the development of policies and programs that promote energy efficiency, energy conservation, and alternative and renewable energy use by all Iowans, through the development and enhancement of an energy efficiency and alternative and renewable energy industry, through the commercialization of energy resources and technologies that are economically and environmentally viable, and through the development and implementation of effective public information and education programs.

2. State government shall be a model and testing ground for the use of energy efficiency, energy conservation, and alternative and renewable energy systems.

90 Acts, ch 1252, §6

C91, §93.3

C93, §473.3

2008 Acts, ch 1126, §21, 33

473.4 through 473.6 Reserved.**473.7 Duties of the authority.**

The authority shall:

1. Supply and annually update the following information:

a. The historical use and distribution of energy in Iowa.

b. The growth rate of energy consumption in Iowa, including rates of growth for each energy source.

c. A projection of Iowa's energy needs at a minimum through the year 2025.

d. The impact of meeting Iowa's energy needs on the economy of the state, including the impact of energy efficiency and renewable energy on employment and economic development.

e. The impact of meeting Iowa's energy needs on the environment of the state, including the impact of energy production and use on greenhouse gas emissions.

f. An evaluation of renewable energy sources, including the current and future technological potential for such sources.

2. The authority shall collect and analyze data to use in forecasting future energy demand and supply for the state. A supplier is required to provide information pertaining to the supply, storage, distribution, and sale of energy sources in this state when requested by the authority. The information shall be of a nature which directly relates to the supply, storage, distribution, and sale of energy sources, and shall not include any records, documents, books, or other data which relate to the financial position of the supplier. The authority, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if such information is available from any other governmental source. If it finds such information is available, the authority shall not require submission of the information from a supplier. Notwithstanding the provisions of chapter 22, information and reports obtained under this section shall be confidential except when used for statistical purposes without identifying a specific supplier and when release of the information will not give an advantage to competitors and serves a public purpose. The authority shall use this data to conduct energy forecasts.

3. Develop, recommend, and implement with appropriate agencies public and professional education and communication programs in energy efficiency, energy conservation, and conversion to alternative and renewable energy.

4. When necessary to carry out its duties under this chapter, enter into contracts with state agencies and other qualified contractors.

5. Receive and accept grants made available for programs relating to duties of the authority under this chapter.

6. Promulgate rules necessary to carry out the provisions of this chapter, subject to review in accordance with chapter 17A. Rules promulgated by the governor pursuant to a proclamation issued under the provisions of section 473.8 shall not be subject to review or a public hearing as required in chapter 17A; however, authority rules for implementation of the governor's proclamation are subject to the requirements of chapter 17A.

7. Assist in the implementation of public education and communications programs in energy development, use, and conservation, in cooperation with the department of education, the state university extension services, and other public or private agencies and organizations as deemed appropriate by the authority.

8. Develop a program to annually give public recognition to innovative methods of energy conservation, energy management, and alternative and renewable energy production.

9. Administer and coordinate federal funds for energy conservation, energy management, and alternative and renewable energy programs.

10. Administer and coordinate the state building energy management program including projects funded through private financing.

11. Provide information from monthly fuel surveys which establish a statistical average of motor fuel prices for various motor fuels provided throughout the state. Additionally, the authority shall provide statewide monthly fuel survey information which establishes a statistical average of motor fuel prices for various motor fuels provided in both metropolitan and rural areas of the state. The survey results shall be publicized in a monthly press release issued by the authority.

12. Conduct a study on activities related to energy production and use which contribute to global climate change, in conjunction with institutions under the control of the state board of regents. The study shall take the form of a climate change impacts review, to include the following:

a. Performance of an initial review of available climate change impacts studies relevant to this state.

b. Preparation of a summary of available data on recent changes in relevant climate conditions.

c. Identification of climate change impacts issues which require further research and an estimate of their cost.

d. Identification of important public policy issues relevant to climate change impacts.

[C75, 77, 79, 81, §93.7; 82 Acts, ch 1081, §1, 2, ch 1199, §92, 96]

86 Acts, ch 1245, §1820 – 1822; 88 Acts, ch 1179, §2; 88 Acts, ch 1281, §7; 89 Acts, ch 152, §1; 89 Acts, ch 297, §2; 90 Acts, ch 1252, §7 – 10

C93, §473.7

2007 Acts, ch 168, §15, 18; 2008 Acts, ch 1126, §22, 23, 33; 2009 Acts, ch 108, §27, 41; 2010 Acts, ch 1031, §260; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.8 Emergency powers.

1. If the authority by resolution determines the health, safety, or welfare of the people of this state is threatened by an actual or impending acute shortage of usable energy, it shall transmit the resolution to the governor together with its recommendation on the declaration of an emergency by the governor and recommended actions, if any, to be undertaken. Within thirty days of the date of the resolution, the governor may issue a proclamation of emergency which shall be filed with the secretary of state. The proclamation shall state the facts relied upon and the reasons for the proclamation.

2. a. Pursuant to the proclamation of an emergency or in response to a declaration of an energy emergency by the president of the United States under the federal Emergency Energy Conservation Act of 1979, Pub. L. No. 96-102, the governor by executive order may:

(1) Regulate the operating hours of energy consuming instrumentalities of state government, political subdivisions, private institutions and business facilities to the extent the regulation is not hazardous or detrimental to the health, safety, or welfare of the people of this state. However, the governor shall have no authority to suspend, amend or nullify any service being provided by a public utility pursuant to an order or rule of a federal agency which has jurisdiction over the public utility.

(2) Establish a system for the distribution and supply of energy. The system shall not include a coupon rationing program, unless the program is federally mandated.

(3) Curtail public and private transportation utilizing energy sources. Curtailment may include measures designed to promote the use of car pools and mass transit systems.

(4) Delegate any administrative authority vested in the governor to the authority or the director.

(5) Provide for the temporary transfer of directors, personnel, or functions of state departments and agencies, for the purpose of performing or facilitating emergency measures pursuant to subparagraphs (1) and (2).

(6) Accept the delegation of other mandatory measures as allowed by the federal Emergency Energy Conservation Act of 1979, Pub. L. No. 96-102.

b. If the general assembly is in session, it may revoke by concurrent resolution any proclamation of emergency issued by the governor. If the general assembly is not in session, the proclamation of emergency by the governor may be revoked by a majority vote of the standing membership of the legislative council. Such revocation shall be effective upon receipt of notice of the revocation by the secretary of state and any functions being performed pursuant to the governor's proclamation shall cease immediately.

3. A violation of an executive order of the governor issued pursuant to this section is a scheduled violation as provided in section 805.8C, subsection 1. If the violation is continuous and stationary in its nature and subsequent compliance can easily be ascertained, an officer may issue a memorandum of warning in lieu of a citation providing a reasonable amount of time not exceeding fourteen days to correct the violation and to comply with the requirements of the executive order.

[C75, 77, 79, 81, §93.8]

86 Acts, ch 1245, §1822

C93, §473.8

2001 Acts, ch 137, §5; 2009 Acts, ch 108, §28, 29, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.9 Set-aside definitions.

As used in section 473.10 unless the context otherwise requires:

1. "*Hardship*" means a situation involving or potentially involving substantial discomfort or danger or economic dislocation caused by a shortage or distribution imbalance of a liquid fossil fuel.

2. “*Liquid fossil fuel*” means heating oils, diesel oil, motor gasoline, propane, residual fuel oils, kerosene, and aviation fuels.

3. “*Prime supplier*” means an individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity that makes the first sale of a liquid fossil fuel into the state distribution system for consumption within the state.

[81 Acts, ch 32, §3]

C83, §93.9

C93, §473.9

473.10 Reserve required.

1. If the authority or the governor finds that an impending or actual shortage or distribution imbalance of liquid fossil fuels may cause hardship or pose a threat to the health and economic well-being of the people of the state or a significant segment of the state’s population, the authority or the governor may authorize the director to operate a liquid fossil fuel set-aside program as provided in subsection 2.

2. Upon authorization by the authority or the governor the director may require a prime supplier to reserve a specified fraction of the prime supplier’s projected total monthly release of liquid fossil fuel in Iowa. The director may release any or all of the fuel required to be reserved by a prime supplier to end-users or to distributors for release through normal retail distribution channels to retail customers. However, the specified fraction required to be reserved shall not exceed three percent for propane, aviation fuel and residual oil, and five percent for motor gasoline, heating oil, and diesel oil.

3. The authority shall periodically review and may terminate the operation of a set-aside program authorized by the authority under subsection 1 when the authority finds that the conditions that prompted the authorization no longer exist. The governor shall periodically review and may terminate the operation of a set-aside program authorized by the governor under subsection 1 when the governor finds that the conditions that prompted the authorization no longer exist.

4. The director shall adopt rules to implement this section.

[81 Acts, ch 32, §4]

C83, §93.10

86 Acts, ch 1245, §1822

C93, §473.10

2009 Acts, ch 108, §30, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.11 Energy conservation trust established — receipts and disbursements. Repealed by 2008 Acts, ch 1126, § 32, 33.

473.12 Implementation of energy conservation measures — state board of regents. Repealed by 2005 Acts, ch 179, § 160.

473.13 Implementation of energy conservation measures — state department of transportation. Repealed by 2008 Acts, ch 1126, § 32, 33.

473.13A Energy management improvements identified and implemented.

The state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges shall identify and implement, through energy audits and engineering analyses, all energy management improvements identified for which financing is facilitated by the authority for the entity. The energy management improvement financings shall be supported through payments from energy savings.

89 Acts, ch 297, §3

CS89, §93.13A

90 Acts, ch 1252, §11; 91 Acts, ch 253, §6

C93, §473.13A

2009 Acts, ch 108, §31, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.14 Reserved.

473.15 Annual report.

The authority shall complete an annual report to assess the progress of state agencies in implementing energy management improvements, alternative and renewable energy systems, and life cycle cost analyses under chapter 470, and on the use of renewable fuels. The authority shall work with state agencies and with any entity, agency, or organization with which they are associated or involved in such implementation, to use available information to minimize the cost of preparing the report. The authority shall also provide an assessment of the economic and environmental impact of the progress made by state agencies related to energy management and alternative and renewable energy, along with recommendations on technological opportunities and policies necessary for continued improvement in these areas.

88 Acts, ch 1179, §5

C89, §93.15

C93, §473.15

2008 Acts, ch 1126, §24, 33; 2009 Acts, ch 108, §32, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.16 and 473.17 Repealed by 2008 Acts, ch 1126, § 32, 33.

473.18 Reserved.

473.19 Building energy management program.

1. The building energy management program is established by the authority. The building energy management program consists of the following forms of assistance for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations:

- a. Promoting program availability.
- b. Developing or identifying guidelines and model energy techniques for the completion of energy analyses for state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.
- c. Providing technical assistance for conducting or evaluating energy analyses for state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.
- d. Providing or facilitating loans, leases, and other methods of alternative financing under the energy loan program for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to implement energy management improvements or energy analyses.
- e. Providing assistance for obtaining insurance on the energy savings expected to be realized from the implementation of energy management improvements.
- f. Facilitating self-liquidating financing for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations pursuant to section 473.20A.
- g. Assisting the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies to finance energy management improvements pursuant to section 12.28.

2. For the purpose of this section, section 473.20, and section 473.20A, “*energy management improvement*” means construction, rehabilitation, acquisition, or modification of an installation in a facility or vehicle which is intended to reduce energy consumption, or energy costs, or both, or allow the use of alternative and renewable energy. “*Energy management improvement*” may include control and measurement devices. “*Nonprofit organization*” means an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

3. The authority shall submit a report by January 1 annually to the governor and the general assembly detailing services provided and assistance rendered pursuant to the building energy management program and pursuant to sections 473.20 and 473.20A, and receipts and disbursements in relation to the building energy management fund created in section 473.19A.

4. Moneys awarded or allocated to the state, its citizens, or its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations attributable to or contained within the Stripper Well fund shall be allocated to and remain under the control of the authority for utilization for energy program-related staff support purposes.

86 Acts, ch 1167, §2

C87, §93.19

87 Acts, ch 209, §1; 90 Acts, ch 1253, §120, 121; 91 Acts, ch 253, §7

C93, §473.19

2008 Acts, ch 1126, §25, 33; 2009 Acts, ch 108, §33, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.19A Building energy management fund.

1. The building energy management fund is created within the state treasury under the control of the authority. The fund shall be used for the operational expenses and administrative costs incurred by the authority in facilitating and administering the building energy management program established in section 473.19.

2. The building energy management fund shall consist of amounts deposited into the fund or allocated from the following sources:

a. Any moneys awarded or allocated to the state, its citizens, or its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations attributable to or contained within the Exxon fund. Amounts remaining in the oil overcharge account established in section 455E.11, subsection 2, paragraph “e”, Code 2007, and the energy conservation trust established in section 473.11, Code 2007, as of June 30, 2008, shall be deposited into the building energy management fund pursuant to this paragraph, notwithstanding section 8.60, subsection 15, Code 2007.

b. (1) Moneys received in the form of fees imposed upon the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for services performed or assistance rendered pursuant to the building energy management program. Fees imposed pursuant to this paragraph shall be established by the authority in an amount corresponding to the operational expenses or administrative costs incurred by the authority in performing services or providing assistance authorized pursuant to the building energy management program, as follows:

(a) For a building of up to twenty-five thousand square feet, two thousand five hundred dollars.

(b) For a building in excess of twenty-five thousand square feet, an additional eight cents per square foot.

(c) A building that houses more energy intensive functions may be subject to a higher fee than the fees specified in subparagraph divisions (a) and (b) as determined by the authority.

(2) Any fees imposed shall be retained by the authority and are appropriated to the authority for purposes of providing services or assistance under the program.

c. Moneys appropriated by the general assembly and any other moneys, including grants and gifts from government and nonprofit organizations, available to and obtained or accepted by the authority for placement in the fund.

d. Moneys contained in the intermodal revolving loan fund administered by the department of transportation for the fiscal year beginning July 1, 2019, and succeeding fiscal years.

e. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

3. The building energy management fund shall be limited to a maximum of one million

dollars. Amounts in excess of this maximum limitation shall be transferred to and deposited in the rebuild Iowa infrastructure fund created in section 8.57, subsection 6.

2008 Acts, ch 1126, §26, 33; 2009 Acts, ch 108, §34, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.20 Energy loan program.

1. An energy loan program is established and shall be administered by the authority.

2. The authority may facilitate the loan process for political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for implementation of energy management improvements identified in an energy analysis. Loans shall be facilitated for all cost-effective energy management improvements. For political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to receive loan assistance under the program, the authority shall require completion of an energy management plan including an energy analysis. The authority shall approve loans facilitated under this section.

3. a. Cities and counties shall repay the loans from moneys in their debt service funds. Area education agencies shall repay the loans from any moneys available to them.

b. School districts and community colleges may enter into financing arrangements with the authority or its duly authorized agents or representatives obligating the school district or community college to make payments on the loans beyond the current budget year of the school district or community college. Chapter 75 shall not be applicable. School districts shall repay the loans from moneys in either their general fund or debt service fund. Community colleges shall repay the loans from their general fund. Other entities receiving loans under this section shall repay the loans from any moneys available to them.

4. For the purpose of this section, “loans” means loans, leases, or alternative financing arrangements.

5. Political subdivisions of the state, school districts, area education agencies, and community colleges shall design and construct the most energy cost-effective facilities feasible and may use financing facilitated by the authority to cover the incremental costs above minimum building code energy efficiency standards of purchasing energy-efficient devices and materials unless other lower cost financing is available. As used in this section, “facility” means a structure that is heated or cooled by a mechanical or electrical system, or any system of physical operation that consumes energy to carry out a process.

6. The authority shall not require the state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges to implement a specific energy management improvement identified in an energy analysis if the entity which prepared the analysis demonstrates to the authority that the facility which is the subject of the energy management improvement is unlikely to be used or operated for the full period of the expected savings payback of all costs associated with implementing the energy management improvement, including without limitation, any fees or charges of the authority, engineering firms, financial advisors, attorneys, and other third parties, and all financing costs including interest, if financed.

86 Acts, ch 1167, §3

C87, §93.20

87 Acts, ch 209, §2; 90 Acts, ch 1252, §12; 90 Acts, ch 1253, §120; 91 Acts, ch 253, §8

C93, §473.20

94 Acts, ch 1029, §30; 2001 Acts, ch 60, §1; 2008 Acts, ch 1126, §27 – 29, 33; 2009 Acts, ch 108, §35, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.20A Self-liquidating financing.

1. a. The authority may facilitate financing agreements that may be entered into with political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations to finance the costs of energy management improvements on a self-liquidating basis. The provisions of section 473.20 defining eligible energy management improvements apply to financings under this section.

b. The financing agreement may contain provisions, including interest, term, and obligations to make payments on the financing agreement beyond the current budget year, as may be acceptable to political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations.

c. The authority shall assist the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies pursuant to section 12.28 to finance energy management improvements being implemented by state agencies.

2. Political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations may enter into financing agreements and issue obligations necessary to carry out the provisions of the chapter. Chapter 75 shall not be applicable.

87 Acts, ch 209, §3

CS87, §93.20A

90 Acts, ch 1253, §120; 91 Acts, ch 253, §9

C93, §473.20A

2008 Acts, ch 1126, §30, 33; 2009 Acts, ch 108, §36, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.21 through 473.39 Reserved.

473.40 Statewide building energy efficiency rating system. Repealed by 2006 Acts, ch 1014, § 10.

473.41 Energy city designation program.

1. The authority shall establish an energy city designation program, with the objective of encouraging cities to develop and implement innovative energy efficiency programs. To qualify for designation as an energy city, a city shall submit an application on forms prescribed by the authority by rule, indicating the following:

a. Submission of community-based plans for energy reduction projects, energy-efficient building construction and rehabilitation, and alternative or renewable energy production.

b. Efforts to secure local funding for community-based plans, and documentation of any state or federal grant or loan funding being pursued in connection therewith.

c. Involvement of local schools, civic organizations, chambers of commerce, and private groups in a community-based plan.

d. Existing or proposed ordinances encouraging energy efficiency and conservation, recycling efforts, and energy-efficient building code provisions and enforcement.

e. Organization of an energy day observance and proclamation with a commemorating event and awards ceremony for leading energy-efficient community businesses, groups, schools, or individuals.

2. The authority shall establish by rule criteria for awarding energy city designations. If more than one designation is awarded annually, the criteria shall include a requirement that the authority award the designations to cities of varying populations. Rules shall also be established identifying and publicizing state grant and loan programs relating to energy efficiency, and the development of a procedure whereby the authority shall coordinate with other state agencies preferences given in the awarding of grants or making of loans to energy city designated applicants.

2007 Acts, ch 157, §1; 2009 Acts, ch 108, §37, 41; 2011 Acts, ch 118, §50, 89

[T] Code editor directive applied

473.42 Exit signs — standards. Repealed by 2008 Acts, ch 1126, § 32, 33.

473.43 Reserved.

473.44 Plumbing products efficiency standards — penalty. Repealed by 2008 Acts, ch 1126, § 32, 33.