

House Amendment 1936

Amendment Text

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1 1 Amend the amendment, [H-1933](#), to [House File 751](#), as
1 2 follows:
1 3 #1. By striking page 1, line 2, through page 14,
1 4 line 29, and inserting the following:
1 5 "#____. Page 4, by inserting after line 9, the
1 6 following:
1 7 "Sec. _____. NEW SECTION. 476A.20 DEFINITIONS.
1 8 For purposes of this subchapter, unless the context
1 9 otherwise requires:
1 10 1. "Electric power agency" means an entity as
1 11 defined in section 28F.2.
1 12 2. "Facility" means an electric power generating
1 13 plant, or transmission line or system, as defined in
1 14 section 476A.1.
1 15 3. "Public bond or obligation" means an obligation
1 16 as defined in section 76.14.
1 17 Sec. _____. NEW SECTION. 476A.21 ELECTRIC POWER
1 18 AGENCY GENERAL AUTHORITY.
1 19 In addition to other powers conferred upon an
1 20 electric power agency by chapter 28F or other
1 21 applicable law, an electric power agency may enter
1 22 into and carry out joint agreements with other
1 23 participants for the acquisition of ownership of a
1 24 joint facility and for the planning, financing,
1 25 operation, and maintenance of the joint facility, as
1 26 provided in this subchapter.
1 27 Sec. _____. NEW SECTION. 476A.22 ELECTRIC POWER
1 28 AGENCY AUTHORITY CONFLICTING PROVISIONS.
1 29 1. In addition to any powers conferred upon an
1 30 electric power agency under chapter 28F or other
1 31 applicable law, an electric power agency may exercise
1 32 all other powers reasonably necessary or appropriate
1 33 for or incidental to the effectuation of the electric
1 34 power agency's authorized purposes, including without
1 35 limitation, the powers enumerated in chapters 6A and
1 36 6B for purposes of constructing or acquiring an
1 37 electric power facility.
1 38 2. An electric power agency, in connection with
1 39 its property and affairs, and in connection with
1 40 property within its control, may exercise any and all
1 41 powers that might be exercised by a natural person or
1 42 a private corporation in connection with similar
1 43 property and affairs.
1 44 3. The enumeration of specified powers and
1 45 functions of an electric power agency in this
1 46 subchapter is not a limitation of the powers of an
1 47 electric power agency, but the procedures prescribed
1 48 for exercising the powers and functions enumerated in
1 49 this subchapter control and govern in the event of any
1 50 conflict with any other provision of law.
2 1 4. The authority conferred pursuant to this
2 2 subchapter applies to electric power agencies,
2 3 notwithstanding any contrary provisions of section
2 4 28F.1.
2 5 Sec. _____. NEW SECTION. 476A.23 ISSUANCE OF
2 6 PUBLIC BONDS OR OBLIGATIONS PURPOSES
2 7 LIMITATIONS.

2 8 1. An electric power agency may from time to time
2 9 issue its public bonds or obligations in such
2 10 principal amounts as the electric power agency deems
2 11 necessary to provide sufficient funds to carry out any
2 12 of its purposes and powers, including but not limited
2 13 to any of the following:

2 14 a. The acquisition or construction of any project
2 15 to be owned or leased by the electric power agency, or
2 16 the acquisition of any interest in such project or any
2 17 right to the capacity of such project, including the
2 18 acquisition, construction, or acquisition of any
2 19 interest in an electric power generating plant to be
2 20 constructed in this state, or the acquisition,
2 21 construction, or acquisition of any interest in a
2 22 transmission line or system.

2 23 b. The funding or refunding of the principal of,
2 24 or interest or redemption premiums on, any public
2 25 bonds or obligations issued by the electric power
2 26 agency whether or not the public bonds or obligations
2 27 or interest to be funded or refunded have become due.

2 28 c. The establishment or increase of reserves to
2 29 secure or to pay the public bonds or obligations or
2 30 interest on the public bonds or obligations.

2 31 d. The payment of all other costs or expenses of
2 32 the electric power agency incident to and necessary to
2 33 carry out its purposes and powers.

2 34 2. Notwithstanding anything in this subchapter or
2 35 chapter 28F to the contrary, a facility shall not be
2 36 financed with the proceeds of public bonds or
2 37 obligations, the interest on which is exempt from
2 38 federal income tax, unless the public issuer of such
2 39 public bonds or obligations covenants that the issuer
2 40 shall comply with the requirements or limitations
2 41 imposed by the Internal Revenue Code or other
2 42 applicable federal law to preserve the tax exemption
2 43 of interest payable on the bonds or obligations.

2 44 3. Notwithstanding anything in this subchapter or
2 45 chapter 28F to the contrary, an electric power
2 46 generating facility shall not be financed under this
2 47 subchapter unless all of the following conditions are
2 48 satisfied:

2 49 a. The electric power generating facility is
2 50 designed to serve only the electric power requirements
3 1 of retail customers of members that were municipal
3 2 electric utilities established in the state prior to
3 3 January 1, 2001.

3 4 b. The electric power agency annually files with
3 5 the board, in a manner to be determined by the board,
3 6 information regarding sales from the electric power
3 7 generating facility in sufficient detail to determine
3 8 compliance with these provisions.

3 9 The board shall report to the general assembly if
3 10 any of the provisions are being violated.

3 11 Sec. _____. NEW SECTION. 476A.24 PUBLIC BONDS OR
3 12 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD
3 13 TERMS.

3 14 1. The board of directors of an electric power
3 15 agency, by resolution, may authorize the issuance of
3 16 public bonds or obligations of the electric power
3 17 agency.

3 18 2. The public bonds or obligations may be issued
3 19 in one or more series under the resolution or under a
3 20 trust indenture or other security agreement.

3 21 3. The resolution, trust indenture, or other
3 22 security agreement, with respect to such public bonds
3 23 or obligations, shall provide for all of the
3 24 following:

- 3 25 a. The date on the public bonds or obligations.
3 26 b. The time of maturity.
3 27 c. The rate of interest.
3 28 d. The denomination.
3 29 e. The form, either coupon or registered.
3 30 f. The conversion, registration, and exchange
3 31 privileges.
3 32 g. The rank or priority.
3 33 h. The manner of execution.
3 34 i. The medium of payment, including the place of
3 35 payment, either within or outside of the state.
3 36 j. The terms of redemption, either with or without
3 37 premium.
3 38 k. Such other terms and conditions as set forth by
3 39 the board in the resolution, trust indenture, or other
3 40 security agreement.

3 41 4. Public bonds or obligations authorized by the
3 42 board of directors shall not be subject to any
3 43 restriction under other law with respect to the
3 44 amount, maturity, interest rate, or other terms of
3 45 obligation of a public agency or private person.

3 46 5. Chapter 75 shall not apply to public bonds or
3 47 obligations authorized by the board of directors as
3 48 provided in this section.

3 49 Sec. _____. NEW SECTION. 476A.25 PUBLIC BONDS OR
3 50 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
4 1 FUNDS.

4 2 1. The principal of and interest on any public
4 3 bonds or obligations issued by an electric power
4 4 agency shall be payable solely from the revenues or
4 5 funds pledged or available for their payment as
4 6 authorized in this subchapter.

4 7 2. Each public bond or obligation shall contain
4 8 all of the following terms:

4 9 a. That the principal of or interest on such
4 10 public bonds or obligation is payable solely from
4 11 revenues or funds of the electric power agency.

4 12 b. That neither the state or a political
4 13 subdivision of the state other than the electric power
4 14 agency, nor a public agency that is a member of the
4 15 electric power agency is obligated to pay the
4 16 principal or interest on such public bonds or
4 17 obligations.

4 18 c. That neither the full faith and credit nor the
4 19 taxing power of the state, of any political
4 20 subdivision of the state, or of any such public agency
4 21 is pledged to the payment of the principal of or the
4 22 interest on the public bonds or obligations.

4 23 Sec. _____. NEW SECTION. 476A.26 PUBLIC BONDS OR
4 24 OBLIGATIONS TYPES SOURCES FOR PAYMENT
4 25 SECURITY.

4 26 1. Except as otherwise expressly provided by this
4 27 subchapter or by the electric power agency, every
4 28 issue of public bonds or obligations of the electric
4 29 power agency shall be payable out of any revenues or
4 30 funds of the electric power agency, subject only to
4 31 any agreements with the holders of particular public
4 32 bonds or obligations pledging any particular revenues
4 33 or funds.

4 34 2. An electric power agency may issue types of
4 35 public bonds or obligations as it may determine,
4 36 including public bonds or obligations as to which the
4 37 principal and interest are payable exclusively from
4 38 the revenues from one or more projects, or from an
4 39 interest in such project or projects, or a right to
4 40 capacity of such project or projects, or from any
4 41 revenue-producing contract made by the electric power

4 42 agency with any person, or from its revenues
4 43 generally.

4 44 3. Any public bonds or obligations may be
4 45 additionally secured by a pledge of any grant,
4 46 subsidy, or contribution from any public agency or
4 47 other person, or a pledge of any income or revenues,
4 48 funds, or moneys of the electric power agency from any
4 49 other source.

4 50 Sec. _____. NEW SECTION. 476A.27 PUBLIC BONDS OR
5 1 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO
5 2 STATE APPROVAL.

5 3 Public bonds or obligations of an electric power
5 4 agency may be issued under this subchapter, and rents,
5 5 rates, and charges may be established in the same
5 6 manner as provided in section 28F.5 and pledged for
5 7 the security of public bonds or obligations and
5 8 interest and redemption premiums on such public bonds
5 9 or obligations, without obtaining the consent of any
5 10 department, division, commission, board, bureau, or
5 11 agency of the state and without any other proceeding
5 12 or the happening of any other condition or occurrence,
5 13 except as specifically required by this subchapter.

5 14 Sec. _____. NEW SECTION. 476A.28 PUBLIC BONDS OR
5 15 OBLIGATIONS TO BE NEGOTIABLE.

5 16 All public bonds or obligations of an electric
5 17 power agency shall be negotiable within the meaning
5 18 and for all of the purposes of the uniform commercial
5 19 code, chapter 554, subject only to the registration
5 20 requirement of section 76.10.

5 21 Sec. _____. NEW SECTION. 476A.29 VALIDITY OF
5 22 PUBLIC BONDS OR OBLIGATIONS AT DELIVERY TEMPORARY
5 23 BONDS.

5 24 1. Any public bonds or obligations may be issued
5 25 and delivered, notwithstanding that one or more of the
5 26 officers executing them shall have ceased to hold
5 27 office at the time when the public bonds or
5 28 obligations are actually delivered.

5 29 2. Pending preparation of definitive bonds
5 30 obligations, an electric power agency may issue
5 31 temporary bonds or obligations that shall be exchanged
5 32 for the definitive bonds or obligations upon their
5 33 issuance.

5 34 Sec. _____. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
5 35 SALE OF BONDS AND NOTES.

5 36 Public bonds or obligations of an electric power
5 37 agency may be sold at public or private sale for a
5 38 price and in a manner determined by the electric power
5 39 agency.

5 40 Sec. _____. NEW SECTION. 476A.31 PUBLIC BONDS OR
5 41 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
5 42 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

5 43 The following persons may legally invest any debt
5 44 service funds, money, or other funds belonging to such
5 45 person or within such person's control in any public
5 46 bonds or obligations issued pursuant to this
5 47 subchapter:

5 48 1. A bank, trust company, savings association,
5 49 building and loan association, savings and loan
5 50 association, or investment company.

6 1 2. An insurance company, insurance association, or
6 2 any other person carrying on an insurance business.

6 3 3. An executor, administrator, conservator,
6 4 trustee, or other fiduciary.

6 5 4. Any other person authorized to invest in bonds
6 6 or obligations of the state.

6 7 Sec. _____. NEW SECTION. 476A.32 RESOLUTION, TRUST
6 8 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT

6 9 PROVISIONS.

6 10 The resolution, trust indenture, or other security
6 11 agreement under which any public bonds or obligations
6 12 are issued shall constitute a contract with the
6 13 holders of the public bonds or obligations, and may
6 14 contain provisions, among others, prescribing any of
6 15 the following terms:

6 16 1. The terms and provisions of the public bonds or
6 17 obligations.

6 18 2. The mortgage or pledge of and the grant of a
6 19 security interest in any real or personal property and
6 20 all or any part of the revenue from any project or any
6 21 revenue producing contract made by the electric power
6 22 agency with any person to secure the payment of public
6 23 bonds or obligations, subject to any agreements with
6 24 the holders of public bonds or obligations which might
6 25 then exist.

6 26 3. The custody, collection, securing, investment,
6 27 and payment of any revenues, assets, money, funds, or
6 28 property with respect to which the electric power
6 29 agency may have any rights or interest.

6 30 4. The rates or charges for electric energy sold
6 31 by, or services rendered by, the electric power
6 32 agency, the amount to be raised by the rates or
6 33 charges, and the use and disposition of any or all
6 34 revenue.

6 35 5. The creation of reserves or debt service funds
6 36 and the regulation and disposition of such reserves or
6 37 funds.

6 38 6. The purposes to which the proceeds from the
6 39 sale of any public bonds or obligations to be issued
6 40 may be applied, and the pledge of the proceeds to
6 41 secure the payment of the public bonds or obligations.

6 42 7. Limitations on the issuance of any additional
6 43 public bonds or obligations, the terms upon which
6 44 additional public bonds or obligations may be issued
6 45 and secured, and the refunding of outstanding public
6 46 bonds or obligations.

6 47 8. The rank or priority of any public bonds or
6 48 obligations with respect to any lien or security.

6 49 9. The creation of special funds or moneys to be
6 50 held for operating expenses, payment, or redemption of
7 1 public bonds or obligations, reserves or other
7 2 purposes, and the use and disposition of moneys held
7 3 in these funds.

7 4 10. The procedure by which the terms of any
7 5 contract with or for the benefit of the holders of
7 6 public bonds or obligations may be amended or
7 7 abrogated, the amount of public bonds or obligations
7 8 the holders of which must consent to such amendment or
7 9 abrogation, and the manner in which consent may be
7 10 given.

7 11 11. The definition of the acts or omissions to act
7 12 that constitute a default in the duties of the
7 13 electric power agency to holders of its public bonds
7 14 or obligations, and the rights and remedies of the
7 15 holders in the event of default including, if the
7 16 electric power agency so determines, the right to
7 17 accelerate the date of the maturation of the public
7 18 bonds or obligations or the right to appoint a
7 19 receiver or receivers of the property or revenues
7 20 subject to the lien of the resolution, trust
7 21 indenture, or other security agreement.

7 22 12. Any other or additional agreements with or for
7 23 the benefit of the holders of public bonds or
7 24 obligations or any covenants or restrictions necessary
7 25 or desirable to safeguard the interests of the

7 26 holders.

7 27 13. The custody of any of the electric power
7 28 agency's property or investments, the safekeeping of
7 29 such property or investments, the insurance to be
7 30 carried on such property or investments, and the use
7 31 and disposition of insurance proceeds.

7 32 14. The vesting in a trustee or trustees, within
7 33 or outside the state, of such property, rights,
7 34 powers, and duties as the electric power agency may
7 35 determine; or the limiting or abrogating of the rights
7 36 of the holders of any public bonds or obligations to
7 37 appoint a trustee, or the limiting of the rights,
7 38 powers, and duties of such trustee.

7 39 15. The appointment of and the establishment of
7 40 the duties and obligations of any paying agent or
7 41 other fiduciary within or outside the state.

7 42 Sec. _____. NEW SECTION. 476A.33 MORTGAGE OR TRUST
7 43 DEED TO SECURE BONDS.

7 44 For the security of public bonds or obligations
7 45 issued or to be issued by an electric power agency,
7 46 the electric power agency may mortgage or execute
7 47 deeds of trust of the whole or any part of its
7 48 property.

7 49 Sec. _____. NEW SECTION. 476A.34 NO PERSONAL
7 50 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

8 1 An official, director, member of an electric power
8 2 agency, or any person executing public bonds or
8 3 obligations shall not be liable personally on the
8 4 public bonds or obligations or be subject to any
8 5 personal liability or accountability by reason of the
8 6 issuance of such public bonds or obligations.

8 7 Sec. _____. NEW SECTION. 476A.35 REPURCHASE OF
8 8 SECURITIES.

8 9 An electric power agency may purchase public bonds
8 10 or obligations out of any funds available for such
8 11 purchase, and hold, pledge, cancel, or resell the
8 12 public bonds or obligations, subject to and in
8 13 accordance with any agreements with the holders.

8 14 Sec. _____. NEW SECTION. 476A.36 PLEDGE OF REVENUE
8 15 AS SECURITY.

8 16 An electric power agency may pledge its rates,
8 17 rents, and other revenues, or any part of such rates,
8 18 rents, and revenues, as security for the repayment,
8 19 with interest and redemption premiums, if any, of the
8 20 moneys borrowed by the electric power agency or
8 21 advanced to the electric power agency for any of its
8 22 authorized purposes and as security for the payment of
8 23 moneys due and owed by the electric power agency under
8 24 any contract.

8 25 Sec. _____. CODE EDITOR DIRECTIVE. The Code editor
8 26 shall change references to "this chapter" in sections
8 27 476A.1 through 476A.15 as necessary and appropriate to
8 28 reflect the addition of the new subchapter to chapter
8 29 476A as a result of this Act."

8 30 #____. Title page, line 3, by inserting after the
8 31 word "credits" the following: ", and providing for
8 32 joint agreements for the acquisition of ownership of a
8 33 joint facility for electric power generation and
8 34 transmission, and for the planning, financing,
8 35 operation, and maintenance of the joint facility, and
8 36 providing for the bonding authority of electric power
8 37 agencies".

8 38 #____. By renumbering, redesignating, and
8 39 correcting internal references as necessary."

8 40

8 41

8 42 _____

8 43 [CHIODO](#) of Polk

8 44 [HF 751.304](#) 79

8 45 jj/cf