

House Amendment 2048

Amendment Text

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1 1 Amend the Senate amendment, [H-2047](#), to [House File](#)
1 2 742, as amended, passed, and reprinted by the House,
1 3 as follows:
1 4 #1. Page 14, by inserting after line 26, the
1 5 following:
1 6 "Sec. _____. NEW SECTION. 476A.20 DEFINITIONS.
1 7 For purposes of this subchapter, unless the context
1 8 otherwise requires:
1 9 1. "Electric power agency" means an entity as
1 10 defined in section 28F.2.
1 11 2. "Facility" means an electric power generating
1 12 plant, or transmission line or system, as defined in
1 13 section 476A.1.
1 14 3. "Public bond or obligation" means an obligation
1 15 as defined in section 76.14.
1 16 Sec. _____. NEW SECTION. 476A.21 ELECTRIC POWER
1 17 AGENCY GENERAL AUTHORITY.
1 18 In addition to other powers conferred upon an
1 19 electric power agency by chapter 28F or other
1 20 applicable law, an electric power agency may enter
1 21 into and carry out joint agreements with other
1 22 participants for the acquisition of ownership of a
1 23 joint facility and for the planning, financing,
1 24 operation, and maintenance of the joint facility, as
1 25 provided in this subchapter.
1 26 Sec. _____. NEW SECTION. 476A.22 ELECTRIC POWER
1 27 AGENCY AUTHORITY CONFLICTING PROVISIONS.
1 28 1. In addition to any powers conferred upon an
1 29 electric power agency under chapter 28F or other
1 30 applicable law, an electric power agency may exercise
1 31 all other powers reasonably necessary or appropriate
1 32 for or incidental to the effectuation of the electric
1 33 power agency's authorized purposes, including without
1 34 limitation, the powers enumerated in chapters 6A and
1 35 6B for purposes of constructing or acquiring an
1 36 electric power facility.
1 37 2. An electric power agency, in connection with
1 38 its property and affairs, and in connection with
1 39 property within its control, may exercise any and all
1 40 powers that might be exercised by a natural person or
1 41 a private corporation in connection with similar
1 42 property and affairs.
1 43 3. The enumeration of specified powers and
1 44 functions of an electric power agency in this
1 45 subchapter is not a limitation of the powers of an
1 46 electric power agency, but the procedures prescribed
1 47 for exercising the powers and functions enumerated in
1 48 this subchapter control and govern in the event of any
1 49 conflict with any other provision of law.
1 50 4. The authority conferred pursuant to this
2 1 subchapter applies to electric power agencies,
2 2 notwithstanding any contrary provisions of section
2 3 28F.1.
2 4 Sec. _____. NEW SECTION. 476A.23 ISSUANCE OF
2 5 PUBLIC BONDS OR OBLIGATIONS PURPOSES
2 6 LIMITATIONS.
2 7 1. An electric power agency may from time to time

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

2 13 a. The acquisition or construction of any project
2 14 to be owned or leased by the electric power agency, or
2 15 the acquisition of any interest in such project or any
2 16 right to the capacity of such project, including the
2 17 acquisition, construction, or acquisition of any
2 18 interest in an electric power generating plant to be
2 19 constructed in this state, or the acquisition,
2 20 construction, or acquisition of any interest in a
2 21 transmission line or system.

2 22 b. The funding or refunding of the principal of,
2 23 or interest or redemption premiums on, any public
2 24 bonds or obligations issued by the electric power
2 25 agency whether or not the public bonds or obligations
2 26 or interest to be funded or refunded have become due.

2 27 c. The establishment or increase of reserves to
2 28 secure or to pay the public bonds or obligations or
2 29 interest on the public bonds or obligations.

2 30 d. The payment of all other costs or expenses of
2 31 the electric power agency incident to and necessary to
2 32 carry out its purposes and powers.

2 33 2. Notwithstanding anything in this subchapter or
2 34 chapter 28F to the contrary, a facility shall not be
2 35 financed with the proceeds of public bonds or
2 36 obligations, the interest on which is exempt from
2 37 federal income tax, unless the public issuer of such
2 38 public bonds or obligations covenants that the issuer
2 39 shall comply with the requirements or limitations
2 40 imposed by the Internal Revenue Code or other
2 41 applicable federal law to preserve the tax exemption
2 42 of interest payable on the bonds or obligations.

2 43 3. Notwithstanding anything in this subchapter or
2 44 chapter 28F to the contrary, an electric power
2 45 generating facility shall not be financed under this
2 46 subchapter unless all of the following conditions are
2 47 satisfied:

2 48 a. The electric power generating facility is
2 49 designed to serve only the electric power requirements
2 50 of retail customers of members that were municipal
3 1 electric utilities established in the state prior to
3 2 January 1, 2001.

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

3 8 The board shall report to the general assembly if
3 9 any of the provisions are being violated.

3 10 Sec. ____ . NEW SECTION. 476A.24 PUBLIC BONDS OR
3 11 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD
3 12 TERMS.

3 13 1. The board of directors of an electric power
3 14 agency, by resolution, may authorize the issuance of
3 15 public bonds or obligations of the electric power
3 16 agency.

3 17 2. The public bonds or obligations may be issued
3 18 in one or more series under the resolution or under a
3 19 trust indenture or other security agreement.

3 20 3. The resolution, trust indenture, or other
3 21 security agreement, with respect to such public bonds
3 22 or obligations, shall provide for all of the
3 23 following:

3 24 a. The date on the public bonds or obligations.

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

3 40 4. Public bonds or obligations authorized by the
3 41 board of directors shall not be subject to any
3 42 restriction under other law with respect to the
3 43 amount, maturity, interest rate, or other terms of
3 44 obligation of a public agency or private person.

3 45 5. Chapter 75 shall not apply to public bonds or
3 46 obligations authorized by the board of directors as
3 47 provided in this section.

3 48 Sec. _____. NEW SECTION. 476A.25 PUBLIC BONDS OR
3 49 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
3 50 FUNDS.

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

4 6 2. Each public bond or obligation shall contain
4 7 all of the following terms:

4 8 a. That the principal of or interest on such
4 9 public bonds or obligation is payable solely from
4 10 revenues or funds of the electric power agency.

4 11 b. That neither the state or a political
4 12 subdivision of the state other than the electric power
4 13 agency, nor a public agency that is a member of the
4 14 electric power agency is obligated to pay the
4 15 principal or interest on such public bonds or
4 16 obligations.

4 17 c. That neither the full faith and credit nor the
4 18 taxing power of the state, of any political
4 19 subdivision of the state, or of any such public agency
4 20 is pledged to the payment of the principal of or the
4 21 interest on the public bonds or obligations.

4 22 Sec. _____. NEW SECTION. 476A.26 PUBLIC BONDS OR
4 23 OBLIGATIONS TYPES SOURCES FOR PAYMENT
4 24 SECURITY.

4 25 1. Except as otherwise expressly provided by this
4 26 subchapter or by the electric power agency, every
4 27 issue of public bonds or obligations of the electric
4 28 power agency shall be payable out of any revenues or
4 29 funds of the electric power agency, subject only to
4 30 any agreements with the holders of particular public
4 31 bonds or obligations pledging any particular revenues
4 32 or funds.

4 33 2. An electric power agency may issue types of
4 34 public bonds or obligations as it may determine,
4 35 including public bonds or obligations as to which the
4 36 principal and interest are payable exclusively from
4 37 the revenues from one or more projects, or from an
4 38 interest in such project or projects, or a right to
4 39 capacity of such project or projects, or from any
4 40 revenue-producing contract made by the electric power
4 41 agency with any person, or from its revenues

4 42 generally.

4 43 3. Any public bonds or obligations may be
4 44 additionally secured by a pledge of any grant,
4 45 subsidy, or contribution from any public agency or
4 46 other person, or a pledge of any income or revenues,
4 47 funds, or moneys of the electric power agency from any
4 48 other source.

4 49 Sec. _____. NEW SECTION. 476A.27 PUBLIC BONDS OR
4 50 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO
5 1 STATE APPROVAL.

5 2 Public bonds or obligations of an electric power
5 3 agency may be issued under this subchapter, and rents,
5 4 rates, and charges may be established in the same
5 5 manner as provided in section 28F.5 and pledged for
5 6 the security of public bonds or obligations and
5 7 interest and redemption premiums on such public bonds
5 8 or obligations, without obtaining the consent of any
5 9 department, division, commission, board, bureau, or
5 10 agency of the state and without any other proceeding
5 11 or the happening of any other condition or occurrence,
5 12 except as specifically required by this subchapter.

5 13 Sec. _____. NEW SECTION. 476A.28 PUBLIC BONDS OR
5 14 OBLIGATIONS TO BE NEGOTIABLE.

5 15 All public bonds or obligations of an electric
5 16 power agency shall be negotiable within the meaning
5 17 and for all of the purposes of the uniform commercial
5 18 code, chapter 554, subject only to the registration
5 19 requirement of section 76.10.

5 20 Sec. _____. NEW SECTION. 476A.29 VALIDITY OF
5 21 PUBLIC BONDS OR OBLIGATIONS AT DELIVERY TEMPORARY
5 22 BONDS.

5 23 1. Any public bonds or obligations may be issued
5 24 and delivered, notwithstanding that one or more of the
5 25 officers executing them shall have ceased to hold
5 26 office at the time when the public bonds or
5 27 obligations are actually delivered.

5 28 2. Pending preparation of definitive bonds
5 29 obligations, an electric power agency may issue
5 30 temporary bonds or obligations that shall be exchanged
5 31 for the definitive bonds or obligations upon their
5 32 issuance.

5 33 Sec. _____. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
5 34 SALE OF BONDS AND NOTES.

5 35 Public bonds or obligations of an electric power
5 36 agency may be sold at public or private sale for a
5 37 price and in a manner determined by the electric power
5 38 agency.

5 39 Sec. _____. NEW SECTION. 476A.31 PUBLIC BONDS OR
5 40 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
5 41 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

5 42 The following persons may legally invest any debt
5 43 service funds, money, or other funds belonging to such
5 44 person or within such person's control in any public
5 45 bonds or obligations issued pursuant to this
5 46 subchapter:

5 47 1. A bank, trust company, savings association,
5 48 building and loan association, savings and loan
5 49 association, or investment company.

5 50 2. An insurance company, insurance association, or
6 1 any other person carrying on an insurance business.

6 2 3. An executor, administrator, conservator,
6 3 trustee, or other fiduciary.

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

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

6 9 The resolution, trust indenture, or other security
6 10 agreement under which any public bonds or obligations
6 11 are issued shall constitute a contract with the
6 12 holders of the public bonds or obligations, and may
6 13 contain provisions, among others, prescribing any of
6 14 the following terms:

6 15 1. The terms and provisions of the public bonds or
6 16 obligations.

6 17 2. The mortgage or pledge of and the grant of a
6 18 security interest in any real or personal property and
6 19 all or any part of the revenue from any project or any
6 20 revenue producing contract made by the electric power
6 21 agency with any person to secure the payment of public
6 22 bonds or obligations, subject to any agreements with
6 23 the holders of public bonds or obligations which might
6 24 then exist.

6 25 3. The custody, collection, securing, investment,
6 26 and payment of any revenues, assets, money, funds, or
6 27 property with respect to which the electric power
6 28 agency may have any rights or interest.

6 29 4. The rates or charges for electric energy sold
6 30 by, or services rendered by, the electric power
6 31 agency, the amount to be raised by the rates or
6 32 charges, and the use and disposition of any or all
6 33 revenue.

6 34 5. The creation of reserves or debt service funds
6 35 and the regulation and disposition of such reserves or
6 36 funds.

6 37 6. The purposes to which the proceeds from the
6 38 sale of any public bonds or obligations to be issued
6 39 may be applied, and the pledge of the proceeds to
6 40 secure the payment of the public bonds or obligations.

6 41 7. Limitations on the issuance of any additional
6 42 public bonds or obligations, the terms upon which
6 43 additional public bonds or obligations may be issued
6 44 and secured, and the refunding of outstanding public
6 45 bonds or obligations.

6 46 8. The rank or priority of any public bonds or
6 47 obligations with respect to any lien or security.

6 48 9. The creation of special funds or moneys to be
6 49 held for operating expenses, payment, or redemption of
6 50 public bonds or obligations, reserves or other
7 1 purposes, and the use and disposition of moneys held
7 2 in these funds.

7 3 10. The procedure by which the terms of any
7 4 contract with or for the benefit of the holders of
7 5 public bonds or obligations may be amended or
7 6 abrogated, the amount of public bonds or obligations
7 7 the holders of which must consent to such amendment or
7 8 abrogation, and the manner in which consent may be
7 9 given.

7 10 11. The definition of the acts or omissions to act
7 11 that constitute a default in the duties of the
7 12 electric power agency to holders of its public bonds
7 13 or obligations, and the rights and remedies of the
7 14 holders in the event of default including, if the
7 15 electric power agency so determines, the right to
7 16 accelerate the date of the maturation of the public
7 17 bonds or obligations or the right to appoint a
7 18 receiver or receivers of the property or revenues
7 19 subject to the lien of the resolution, trust
7 20 indenture, or other security agreement.

7 21 12. Any other or additional agreements with or for
7 22 the benefit of the holders of public bonds or
7 23 obligations or any covenants or restrictions necessary
7 24 or desirable to safeguard the interests of the
7 25 holders.

7 26 13. The custody of any of the electric power
7 27 agency's property or investments, the safekeeping of
7 28 such property or investments, the insurance to be
7 29 carried on such property or investments, and the use
7 30 and disposition of insurance proceeds.

7 31 14. The vesting in a trustee or trustees, within
7 32 or outside the state, of such property, rights,
7 33 powers, and duties as the electric power agency may
7 34 determine; or the limiting or abrogating of the rights
7 35 of the holders of any public bonds or obligations to
7 36 appoint a trustee, or the limiting of the rights,
7 37 powers, and duties of such trustee.

7 38 15. The appointment of and the establishment of
7 39 the duties and obligations of any paying agent or
7 40 other fiduciary within or outside the state.

7 41 Sec. _____. NEW SECTION. 476A.33 MORTGAGE OR TRUST
7 42 DEED TO SECURE BONDS.

7 43 For the security of public bonds or obligations
7 44 issued or to be issued by an electric power agency,
7 45 the electric power agency may mortgage or execute
7 46 deeds of trust of the whole or any part of its
7 47 property.

7 48 Sec. _____. NEW SECTION. 476A.34 NO PERSONAL
7 49 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

7 50 An official, director, member of an electric power
8 1 agency, or any person executing public bonds or
8 2 obligations shall not be liable personally on the
8 3 public bonds or obligations or be subject to any
8 4 personal liability or accountability by reason of the
8 5 issuance of such public bonds or obligations.

8 6 Sec. _____. NEW SECTION. 476A.35 REPURCHASE OF
8 7 SECURITIES.

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

8 13 Sec. _____. NEW SECTION. 476A.36 PLEDGE OF REVENUE
8 14 AS SECURITY.

8 15 An electric power agency may pledge its rates,
8 16 rents, and other revenues, or any part of such rates,
8 17 rents, and revenues, as security for the repayment,
8 18 with interest and redemption premiums, if any, of the
8 19 moneys borrowed by the electric power agency or
8 20 advanced to the electric power agency for any of its
8 21 authorized purposes and as security for the payment of
8 22 moneys due and owed by the electric power agency under
8 23 any contract.

8 24 Sec. _____. Section [476.53](#), Code 2001, is repealed.

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 #2. Page 15, line 35, by inserting before the word
8 31 "providing" the following: "including by providing
8 32 for joint agreements for the acquisition of ownership
8 33 of a 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 #3. By renumbering, redesignating, and correcting
8 39 internal references as necessary.

8 40

8 41

8 42 _____

8 43 [WISE](#) of Lee

8 44

8 45

8 46

8 47 [CHIODO](#) of Polk

8 48 [HF 742.3](#)19 79

8 49 nh/cf