

Senate Amendment 3713

Amendment Text

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1 1 Amend [House File 577](#), as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. By striking everything after the enacting
1 4 clause and inserting the following:
1 5 "Section 1. Section [12C.1](#), subsection 1, Code
1 6 2001, as amended by 2001 Iowa Acts, [House File 637](#),
1 7 section 4, is amended to read as follows:
1 8 1. All funds held by the following officers or
1 9 institutions shall be deposited in one or more
1 10 depositories first approved by the appropriate
1 11 governing body as indicated: for the treasurer of
1 12 state, by the executive council; for judicial officers
1 13 and court employees, by the supreme court; for the
1 14 county treasurer, recorder, auditor, and sheriff, by
1 15 the board of supervisors; for the city treasurer or
1 16 other designated financial officer of a city, by the
1 17 city council; for the county public hospital or merged
1 18 area hospital, by the board of hospital trustees; for
1 19 a memorial hospital, by the memorial hospital
1 20 commission; for a school corporation, by the board of
1 21 school directors; for a city utility or combined
1 22 utility system established under chapter 388, by the
1 23 utility board; for a library service area established
1 24 under chapter 256, by the library service area board
1 25 of trustees; and for an electric power agency as
1 26 defined in section 28F.2 or 476A.20, by the governing
1 27 body of the electric power agency. However, the
1 28 treasurer of state and the treasurer of each political
1 29 subdivision or the designated financial officer of a
1 30 city shall invest all funds not needed for current
1 31 operating expenses in time certificates of deposit in
1 32 approved depositories pursuant to this chapter or in
1 33 investments permitted by section 12B.10. The list of
1 34 public depositories and the amounts severally
1 35 deposited in the depositories are matters of public
1 36 record. This subsection does not limit the definition
1 37 of "public funds" contained in subsection 2.
1 38 Notwithstanding provisions of this section to the
1 39 contrary, public funds of a state government deferred
1 40 compensation plan established by the executive council
1 41 may also be invested in the investment products
1 42 authorized under section 509A.12.
1 43 Sec. 2. Section [12C.1](#), subsection 2, paragraph b,
1 44 Code 2001, is amended to read as follows:
1 45 b. "Public funds" and "public deposits" mean the
1 46 moneys of the state or a political subdivision or
1 47 instrumentality of the state including a county,
1 48 school corporation, special district, drainage
1 49 district, unincorporated town or township,
1 50 municipality, or municipal corporation or any agency,
2 1 board, or commission of the state or a political
2 2 subdivision; any court or public body noted in
2 3 subsection 1; a legal or administrative entity created
2 4 pursuant to chapter 28E; an electric power agency as
2 5 defined in section 28F.2 or 476A.20; and federal and
2 6 state grant moneys of a quasi-public state entity that
2 7 are placed in a depository pursuant to this chapter.

2 8 Sec. 3. Section [28F.2](#), Code 2001, is amended to
2 9 read as follows:
2 10 28F.2 DEFINITIONS.
2 11 As used in this chapter, unless the context
2 12 otherwise requires:
2 13 1.

~~The terms "public~~

- "Public agency", "state", and
2 14 "private agency" shall have the meanings prescribed by
2 15 section 28E.2.
2 16 2.

~~The term "project"~~

- "Project" or "projects"
2 17

~~shall mean~~

- means any works or facilities referred to
2 18 in section 28F.1 and shall include all property real
2 19 and personal, pertinent thereto or connected with such
2 20 project or projects, and the existing works or
2 21 facilities, if any, to which such project or projects
2 22 are an extension, addition, betterment or improvement.

2 23 3. "Electric power agency" means an entity
2 24 financing or acquiring electric power facilities
2 25 pursuant to this chapter or chapter 28E or 476A.

2 26 Sec. 4. Section [427.1](#), subsection 2, Code 2001, is
2 27 amended to read as follows:

2 28 2. MUNICIPAL AND MILITARY PROPERTY. The property
2 29 of a county, township, city, school corporation, levee
2 30 district, drainage district, or the Iowa national
2 31 guard, when devoted to public use and not held for
2 32 pecuniary profit, except property of a municipally
2 33 owned electric utility held under joint ownership and
2 34 property of an electric power facility financed under
2 35 chapter 28F

~~which~~

- or 476A that shall be subject to
2 36 taxation under chapter 437A and facilities of a
2 37 municipal utility that are used for the provision of
2 38 local exchange services pursuant to chapter 476, but
2 39 only to the extent such facilities are used to provide
2 40 such services, which shall be subject to taxation
2 41 under chapter 433, except that section 433.11 shall
2 42 not apply. The exemption for property owned by a city
2 43 or county also applies to property which is operated
2 44 by a city or county as a library, art gallery or
2 45 museum, conservatory, botanical garden or display,
2 46 observatory or science museum, or as a location for
2 47 holding athletic contests, sports or entertainment
2 48 events, expositions, meetings or conventions, or
2 49 leased from the city or county for any such purposes,
2 50 or leased from the city or county by the Iowa national
3 1 guard or by a federal agency for the benefit of the
3 2 Iowa national guard when devoted for public use and
3 3 not for pecuniary profit. Food and beverages may be
3 4 served at the events or locations without affecting
3 5 the exemptions, provided the city has approved the
3 6 serving of food and beverages on the property if the
3 7 property is owned by the city or the county has
3 8 approved the serving of food and beverages on the
3 9 property if the property is owned by the county.

3 10 Sec. 5. Section [437A.3](#), subsection 17, paragraph
3 11 b, Code 2001, is amended to read as follows:

3 12 b. An electric power generating plant where the

3 13 acquisition cost of all interests acquired exceeds ten
3 14 million dollars. For purposes of this paragraph,
3 15 "electric power generating plant" means each nameplate
3 16 rated electric power generating plant owned solely or
3 17 jointly by any person or electric power facility
3 18 financed under the provisions of chapter 28F or 476A
3 19 in which electrical energy is produced from other
3 20 forms of energy, including all equipment used in the
3 21 production of such energy through its step-up
3 22 transformer.

3 23 Sec. 6. Section 437A.6, subsection 1, paragraph b,
3 24 Code 2001, is amended to read as follows:

3 25 b. Facilities owned by or leased to a municipal
3 26 utility when devoted to public use and not held for
3 27 pecuniary profit, except facilities of a municipally
3 28 owned electric utility held under joint ownership or
3 29 lease and facilities of an electric power facility
3 30 financed under chapter 28F or 476A.

3 31 Sec. 7. Section 437A.7, subsection 2, paragraph a,
3 32 Code 2001, is amended to read as follows:

3 33 a. Transmission lines owned by or leased to a
3 34 municipal utility when devoted to public use and not
3 35 for pecuniary profit, except transmission lines of a
3 36 municipally owned electric utility held under joint
3 37 ownership and transmission lines of an electric power
3 38 facility financed under chapter 28F or 476A.

3 39 Sec. 8. Section 476.1A, Code 2001, is amended by
3 40 adding the following new subsection:

3 41 NEW SUBSECTION. 5A. Filing alternate energy
3 42 purchase program plans with the board, and offering
3 43 such programs to customers, pursuant to section
3 44 476.47.

3 45 Sec. 9. Section 476.1B, subsection 1, Code 2001,
3 46 is amended by adding the following new paragraphs:

3 47 NEW PARAGRAPH. m. An electric power agency as
3 48 defined in chapters 28F and 476A that includes as a
3 49 member a city or municipally owned utility that builds
3 50 transmission facilities after July 1, 2001, is subject
4 1 to applicable transmission reliability rules or
4 2 standards adopted by the board for those facilities.

4 3 n. Filing alternate energy purchase program plans
4 4 with the board, and offering such programs to
4 5 customers, pursuant to section 476.47.

4 6 Sec. 10. Section 476.6, Code 2001, is amended by
4 7 adding the following new subsection:

4 8 NEW SUBSECTION. 16B. ELECTRIC POWER GENERATING
4 9 FACILITY EMISSIONS.

4 10 a. It is the intent of the general assembly that
4 11 the state, through a collaborative effort involving
4 12 state agencies and affected generation owners, provide
4 13 for compatible statewide environmental and electric
4 14 energy policies with respect to regulated emissions
4 15 from rate-regulated electric power generating
4 16 facilities in the state that are fueled by coal. Each
4 17 rate-regulated public utility that is an owner of one
4 18 or more electric power generating facilities fueled by
4 19 coal and located in this state on July 1, 2001, shall
4 20 develop a multiyear plan and budget for managing
4 21 regulated emissions from its facilities in a cost-
4 22 effective manner.

4 23 (1) The initial multiyear plan and budget shall be
4 24 filed with the board by April 1, 2002. Updates to the
4 25 plan and budget shall be filed at least every twenty-
4 26 four months.

4 27 (2) Copies of the initial plan and budget, as well
4 28 as any subsequent updates, shall be served on the
4 29 environmental protection division of the department of

4 30 natural resources.

4 31 (3) The initial multiyear plan and budget and any
4 32 subsequent updates shall be considered in a contested
4 33 case proceeding pursuant to chapter 17A. The
4 34 environmental protection division of the department of
4 35 natural resources and the consumer advocate shall
4 36 participate as parties to the proceeding.

4 37 (4) The department of natural resources shall
4 38 state whether the plan or update meets applicable
4 39 state environmental requirements for regulated
4 40 emissions. If the plan does not meet these
4 41 requirements, the department shall recommend
4 42 amendments that outline actions necessary to bring the
4 43 plan or update into compliance with the environmental
4 44 requirements.

4 45 b. The board shall not approve a plan or update
4 46 that does not meet applicable state environmental
4 47 requirements and federal ambient air quality standards
4 48 for regulated emissions from electric power generating
4 49 facilities located in the state.

4 50 c. The board shall review the plan or update and
5 1 the associated budget, and shall approve the plan or
5 2 update and the associated budget if the plan or update
5 3 and the associated budget are reasonably expected to
5 4 achieve cost effective compliance with applicable
5 5 state environmental requirements and federal ambient
5 6 air quality standards. In reaching its decision, the
5 7 board shall consider whether the plan or update and
5 8 the associated budget reasonably balance costs,
5 9 environmental requirements, economic development
5 10 potential, and the reliability of the electric
5 11 generation and transmission system.

5 12 d. The board shall issue an order approving or
5 13 rejecting a plan, update, or budget within one hundred
5 14 eighty days after the public utility's filing is
5 15 deemed complete; however, upon good cause shown, the
5 16 board may extend the time for issuing the order as
5 17 follows:

5 18 (1) The board may grant an extension of thirty
5 19 days.

5 20 (2) The board may grant more than one extension,
5 21 but each extension must rely upon a separate showing
5 22 of good cause.

5 23 (3) A subsequent extension must not be granted any
5 24 earlier than five days prior to the expiration of the
5 25 original one-hundred-eighty-day period, or the current
5 26 extension.

5 27 e. The reasonable costs incurred by a rate-
5 28 regulated public utility in preparing and filing the
5 29 plan, update, or budget and in participating in the
5 30 proceedings before the board and the reasonable costs
5 31 associated with implementing the plan, update, or
5 32 budget shall be included in its regulated retail
5 33 rates.

5 34 f. It is the intent of the general assembly that
5 35 the board, in an environmental plan, update, or
5 36 associated budget filed under this section by a rate-
5 37 regulated public utility, may limit investments or
5 38 expenditures that are proposed to be undertaken prior
5 39 to the time that the environmental benefit to be
5 40 produced by the investment or expenditure would be
5 41 required by state or federal law.

5 42 g. The board shall report to the general assembly
5 43 by January 21, 2003, on the appropriateness and
5 44 desirability of requiring the municipal utilities and
5 45 the rural electric cooperatives to file multiyear
5 46 plans and budgets for managing regulated emissions

5 47 from their electric power generating facilities fueled
5 48 by coal and located in this state, similar to the
5 49 process required for rate-regulated public utilities
5 50 under this subsection.

6 1 Sec. 11. NEW SECTION. 476.47 ALTERNATE ENERGY
6 2 PURCHASE PROGRAMS.

6 3 1. Beginning January 1, 2004, all electric
6 4 utilities, whether or not rate-regulated under this
6 5 chapter, shall offer alternate energy purchase
6 6 programs to all customers, based on energy produced by
6 7 alternate energy production facilities in Iowa.

6 8 2. The board shall require electric utilities to
6 9 file plans for alternate energy purchase programs
6 10 offered pursuant to this section.

6 11 a. Rate-regulated electric utilities shall file
6 12 plans for alternate energy purchase programs that
6 13 allow customers to contribute voluntarily to the
6 14 development of alternate energy in Iowa, and shall
6 15 file tariffs as required by the board by rule.

6 16 b. Electric utilities that are not rate-regulated
6 17 shall offer alternate energy purchase programs at
6 18 rates determined by their governing authority, and
6 19 shall file tariffs with the board for informational
6 20 purposes only.

6 21 3. The electric utility shall notify consumers of
6 22 its alternate energy purchase program and any proposed
6 23 modifications to such program at least sixty days
6 24 prior to implementation of the program or any
6 25 modification.

6 26 4. For purposes of this section, an electric
6 27 utility may base its program on energy produced by an
6 28 alternate energy production facility located outside
6 29 of Iowa under any of the following circumstances:

6 30 a. The energy is purchased by the electric utility
6 31 pursuant to a contract in effect prior to July 1,
6 32 2001, and continues until the expiration of the
6 33 contract, including any options to renew that are
6 34 exercised by the electric utility.

6 35 b. The electric utility has a financial interest,
6 36 as of July 1, 2001, in the alternate energy production
6 37 facility that is located outside of Iowa, or in an
6 38 entity that has a financial interest in an alternate
6 39 energy production facility located outside of Iowa.

6 40 c. The energy is purchased by an electric utility
6 41 that is not rate-regulated and that is required to
6 42 purchase all of its electric power requirements from a
6 43 single supplier that is physically located outside of
6 44 Iowa.

6 45 5. This section shall not apply to non-rate-
6 46 regulated electric utilities physically located
6 47 outside of Iowa that serve Iowa customers.

6 48 Sec. 12. Section [476.53](#), Code 2001, is amended by
6 49 striking the section and inserting in lieu thereof the
6 50 following:

7 1 476.53 ELECTRIC GENERATING AND TRANSMISSION
7 2 FACILITIES.

7 3 1. It is the intent of the general assembly to
7 4 attract the development of electric power generating
7 5 and transmission facilities within the state in
7 6 sufficient quantity to ensure reliable electric
7 7 service to Iowa consumers and provide economic
7 8 benefits to the state.

7 9 2. The general assembly's intent with regard to
7 10 the development of electric power generating and
7 11 transmission facilities, as provided in subsection 1,
7 12 shall be implemented in a manner that is cost-
7 13 effective and compatible with the environmental

7 14 policies of the state, as expressed in Title XI.
7 15 3. a. If a rate-regulated public utility files an
7 16 application pursuant to section 476A.3 to construct in
7 17 Iowa a baseload electric power generating facility
7 18 with a nameplate generating capacity equal to or
7 19 greater than three hundred megawatts or a combined-
7 20 cycle electric power generating facility, or an
7 21 alternate energy production facility as defined in
7 22 section 476.42, or if a rate-regulated public utility
7 23 leases or owns in Iowa, in whole or in part, a new
7 24 baseload electric power generating facility with a
7 25 nameplate generating capacity equal to or greater than
7 26 three hundred megawatts or a combined-cycle electric
7 27 power generating facility, or a new alternate energy
7 28 production facility as defined in section 476.42, the
7 29 board shall specify in advance, by order issued after
7 30 a contested case proceeding, the ratemaking principles
7 31 that will apply when the costs of the facility are
7 32 included in regulated electric rates.
7 33 b. In determining the applicable ratemaking
7 34 principles, the board shall not be limited to
7 35 traditional ratemaking principles or traditional cost
7 36 recovery mechanisms.
7 37 c. In determining the applicable ratemaking
7 38 principles, the board shall make the following
7 39 findings:
7 40 (1) The rate-regulated public utility has in
7 41 effect a board-approved energy efficiency plan as
7 42 required under section 476.6, subsection 19.
7 43 (2) The rate-regulated public utility has
7 44 demonstrated to the board that the public utility has
7 45 considered other sources for long-term electric supply
7 46 and that the facility or lease is reasonable when
7 47 compared to other feasible alternative sources of
7 48 supply. The rate-regulated public utility may satisfy
7 49 the requirements of this subparagraph through a
7 50 competitive bidding process, under rules adopted by
8 1 the board, that demonstrate the facility or lease is a
8 2 reasonable alternative to meet its electric supply
8 3 needs.
8 4 d. The applicable ratemaking principles shall be
8 5 determined in a contested case proceeding, which
8 6 proceeding may be combined with the proceeding for
8 7 issuance of a certificate conducted pursuant to
8 8 chapter 476A.
8 9 e. The order setting forth the applicable
8 10 ratemaking principles shall be issued prior to the
8 11 commencement of construction or lease of the facility.
8 12 f. Following issuance of the order, the rate-
8 13 regulated public utility shall have the option of
8 14 proceeding with construction or lease of the facility
8 15 in Iowa, or withdrawing its application for a
8 16 certificate under chapter 476A.
8 17 g. Notwithstanding any provision of this chapter
8 18 to the contrary, the ratemaking principles established
8 19 by the order issued pursuant to paragraph "e" shall be
8 20 binding with regard to the specific electric power
8 21 generating facility in any subsequent rate proceeding.
8 22 Sec. 13. Section [476A.4](#), Code 2001, is amended by
8 23 adding the following new subsection:
8 24 NEW SUBSECTION. 5. A proceeding for the issuance
8 25 of a certificate under section 476A.5 may be
8 26 consolidated with a contested case proceeding for
8 27 determination of applicable ratemaking principles
8 28 under section 476.53.
8 29 Sec. 14. Section [476A.6](#), Code 2001, is amended to
8 30 read as follows:

8 31 476A.6 DECISION CRITERIA.
8 32 The board shall render a decision on the
8 33 application in an expeditious manner. A certificate
8 34 shall be issued to the applicant if the board finds
8 35 all of the following:
8 36 1. The services and operations resulting from the
8 37 construction of the facility are

~~required by the~~

8 38

~~present or future public convenience, use and~~

8 39

~~necessity~~

~~consistent with legislative intent as~~

8 40 expressed in section 476.53 and the economic
8 41 development policy of the state as expressed in Title
8 42 I, subtitle 5, and will not be detrimental to the
8 43 provision of adequate and reliable electric service.

8 44 2. The applicant is willing to

~~perform such~~

8 45

~~services and~~

~~construct, maintain, and operate the~~
8 46 facility pursuant to the provisions of the certificate
8 47 and this chapter.

8 48 3. The construction, maintenance, and operation of
8 49 the facility will

~~cause minimum adverse~~

~~be consistent~~

8 50 with reasonable land use

~~and environmental~~

~~and~~

9 1

~~aesthetic impact~~

~~policies and~~

~~are~~

~~consonant with~~
9 2 reasonable utilization of air, land, and water
9 3 resources,

~~for beneficial purposes~~

~~considering~~

9 4 available technology and the economics of available
9 5 alternatives.
9 6

~~4. The applicant, if a public utility as defined~~

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~~in section 476.1, has in effect a comprehensive energy~~

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~~management program designed to reduce peak loads and~~
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~~to increase efficiency of use of energy by all classes~~
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~~of customers of the utility, and the facility in the~~
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~~application is necessary notwithstanding the existence~~
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~~of the comprehensive energy management program. As~~
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~~used in this subsection, a "comprehensive energy~~
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~~management program" includes at a minimum the~~
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~~following:~~
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~~a. Establishment of load management and~~
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~~interruptible service programs, where cost effective.~~
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~~b. Development of wheeling agreements and other~~
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~~energy sharing agreements, where cost effective with~~
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~~utilities that have available capacity.~~
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~~c. Establishment of cost effective energy~~
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~~efficiency and renewable energy services and programs.~~
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~~d. Compliance with board rules on energy~~
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~~management procedures.~~
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~~5. The applicant, if a public utility as defined~~

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~~in section 476.1, shall demonstrate to the board that~~

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~~the utility has considered sources for long term~~

9 28

~~electric supply from either purchase of electricity or~~

9 29

~~investment in facilities owned by other persons.~~

9 30

~~6. The applicant, if a public utility as defined~~

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~~in section 476.1, has considered all feasible~~

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~~alternatives to the proposed facility including~~

9 33

~~nongeneration alternatives; has ranked those~~

9 34

~~alternatives by cost; has implemented the least cost~~

9 35

~~alternatives first; and the facility in the~~

9 36

~~application is necessary notwithstanding the~~

9 37

~~implementation of these alternatives.~~

9 38 Sec. 15. Section [476A.7](#), Code 2001, is amended by
9 39 adding the following new subsection:

9 40 NEW SUBSECTION. 3. Pursuant to the provisions of
9 41 section 476.53, a rate-regulated public utility shall
9 42 have the option of withdrawing its application for
9 43 issuance of a certificate at any time prior to the
9 44 issuance of the certificate, or after the certificate
9 45 has been issued.

9 46 Sec. 16. Section [476A.15](#), Code 2001, is amended to
9 47 read as follows:

9 48 476A.15 WAIVER.

9 49 The board, if it determines that the public
9 50 interest would not be adversely affected, may waive

10 1 any of the requirements of this chapter

~~for facilities~~

10 2

~~with a capacity of one hundred or fewer megawatts~~

10 3 Sec. 17. NEW SECTION. 476A.20 DEFINITIONS.

10 4 For purposes of this subchapter, unless the context
10 5 otherwise requires:

10 6 1. "Electric power agency" means an entity as
10 7 defined in section 28F.2.

10 8 2. "Facility" means an electric power generating
10 9 plant, or transmission line or system, as defined in
10 10 section 476A.1.

10 11 3. "Public bond or obligation" means an obligation
10 12 as defined in section 76.14.

10 13 Sec. 18. NEW SECTION. 476A.21 ELECTRIC POWER
10 14 AGENCY GENERAL AUTHORITY.

10 15 In addition to other powers conferred upon an
10 16 electric power agency by chapter 28F or other
10 17 applicable law, an electric power agency may enter
10 18 into and carry out joint agreements with other
10 19 participants for the acquisition of ownership of a
10 20 joint facility and for the planning, financing,
10 21 operation, and maintenance of the joint facility, as
10 22 provided in this subchapter.

10 23 Sec. 19. NEW SECTION. 476A.22 ELECTRIC POWER
10 24 AGENCY AUTHORITY CONFLICTING PROVISIONS.

10 25 1. In addition to any powers conferred upon an
10 26 electric power agency under chapter 28F or other
10 27 applicable law, an electric power agency may exercise
10 28 all other powers reasonably necessary or appropriate
10 29 for or incidental to the effectuation of the electric
10 30 power agency's authorized purposes, including without
10 31 limitation, the powers enumerated in chapters 6A and
10 32 6B for purposes of constructing or acquiring an
10 33 electric power facility.

10 34 2. An electric power agency, in connection with
10 35 its property and affairs, and in connection with
10 36 property within its control, may exercise any and all
10 37 powers that might be exercised by a natural person or
10 38 a private corporation in connection with similar
10 39 property and affairs.

10 40 3. The enumeration of specified powers and
10 41 functions of an electric power agency in this
10 42 subchapter is not a limitation of the powers of an
10 43 electric power agency, but the procedures prescribed
10 44 for exercising the powers and functions enumerated in
10 45 this subchapter control and govern in the event of any
10 46 conflict with any other provision of law.

10 47 4. The authority conferred pursuant to this
10 48 subchapter applies to electric power agencies,
10 49 notwithstanding any contrary provisions of section
10 50 28F.1.

11 1 Sec. 20. NEW SECTION. 476A.23 ISSUANCE OF PUBLIC
11 2 BONDS OR OBLIGATIONS PURPOSES LIMITATIONS.

11 3 1. An electric power agency may from time to time
11 4 issue its public bonds or obligations in such
11 5 principal amounts as the electric power agency deems
11 6 necessary to provide sufficient funds to carry out any
11 7 of its purposes and powers, including but not limited
11 8 to any of the following:

11 9 a. The acquisition or construction of any project
11 10 to be owned or leased by the electric power agency, or
11 11 the acquisition of any interest in such project or any
11 12 right to the capacity of such project, including the
11 13 acquisition, construction, or acquisition of any

11 14 interest in an electric power generating plant to be
11 15 constructed in this state, or the acquisition,
11 16 construction, or acquisition of any interest in a
11 17 transmission line or system.

11 18 b. The funding or refunding of the principal of,
11 19 or interest or redemption premiums on, any public
11 20 bonds or obligations issued by the electric power
11 21 agency whether or not the public bonds or obligations
11 22 or interest to be funded or refunded have become due.

11 23 c. The establishment or increase of reserves to
11 24 secure or to pay the public bonds or obligations or
11 25 interest on the public bonds or obligations.

11 26 d. The payment of all other costs or expenses of
11 27 the electric power agency incident to and necessary to
11 28 carry out its purposes and powers.

11 29 2. Notwithstanding anything in this subchapter or
11 30 chapter 28F to the contrary, a facility shall not be
11 31 financed with the proceeds of public bonds or
11 32 obligations, the interest on which is exempt from
11 33 federal income tax, unless the public issuer of such
11 34 public bonds or obligations covenants that the issuer
11 35 shall comply with the requirements or limitations
11 36 imposed by the Internal Revenue Code or other
11 37 applicable federal law to preserve the tax exemption
11 38 of interest payable on the bonds or obligations.

11 39 3. Notwithstanding anything in this subchapter or
11 40 chapter 28F to the contrary, an electric power
11 41 generating facility shall not be financed under this
11 42 subchapter unless all of the following conditions are
11 43 satisfied:

11 44 a. The portion of the electric power generating
11 45 facility financed by the electric power agency is not
11 46 designed to serve the electric power requirements of
11 47 retail customers of members that are municipal
11 48 electric utilities established in the state after
11 49 January 1, 2001.

11 50 b. The electric power agency annually files with
12 1 the board, in a manner to be determined by the board,
12 2 information regarding sales from the electric power
12 3 generating facility in sufficient detail to determine
12 4 compliance with these provisions.

12 5 The board shall report to the general assembly if
12 6 any of the provisions are being violated.

12 7 Sec. 21. NEW SECTION. 476A.24 PUBLIC BONDS OR
12 8 OBLIGATIONS AUTHORIZED BY RESOLUTION OF BOARD
12 9 TERMS.

12 10 1. The board of directors of an electric power
12 11 agency, by resolution, may authorize the issuance of
12 12 public bonds or obligations of the electric power
12 13 agency.

12 14 2. The public bonds or obligations may be issued
12 15 in one or more series under the resolution or under a
12 16 trust indenture or other security agreement.

12 17 3. The resolution, trust indenture, or other
12 18 security agreement, with respect to such public bonds
12 19 or obligations, shall provide for all of the
12 20 following:

12 21 a. The date on the public bonds or obligations.

12 22 b. The time of maturity.

12 23 c. The rate of interest.

12 24 d. The denomination.

12 25 e. The form, either coupon or registered.

12 26 f. The conversion, registration, and exchange
12 27 privileges.

12 28 g. The rank or priority.

12 29 h. The manner of execution.

12 30 i. The medium of payment, including the place of

12 31 payment, either within or outside of the state.
12 32 j. The terms of redemption, either with or without
12 33 premium.
12 34 k. Such other terms and conditions as set forth by
12 35 the board in the resolution, trust indenture, or other
12 36 security agreement.

12 37 4. Public bonds or obligations authorized by the
12 38 board of directors shall not be subject to any
12 39 restriction under other law with respect to the
12 40 amount, maturity, interest rate, or other terms of
12 41 obligation of a public agency or private person.

12 42 5. Chapter 75 shall not apply to public bonds or
12 43 obligations authorized by the board of directors as
12 44 provided in this section.

12 45 Sec. 22. NEW SECTION. 476A.25 PUBLIC BONDS OR
12 46 OBLIGATIONS PAYABLE SOLELY FROM AGENCY REVENUES OR
12 47 FUNDS.

12 48 1. The principal of and interest on any public
12 49 bonds or obligations issued by an electric power
12 50 agency shall be payable solely from the revenues or
13 1 funds pledged or available for their payment as
13 2 authorized in this subchapter.

13 3 2. Each public bond or obligation shall contain
13 4 all of the following terms:

13 5 a. That the principal of or interest on such
13 6 public bonds or obligations is payable solely from
13 7 revenues or funds of the electric power agency.

13 8 b. That neither the state or a political
13 9 subdivision of the state other than the electric power
13 10 agency, nor a public agency that is a member of the
13 11 electric power agency is obligated to pay the
13 12 principal or interest on such public bonds or
13 13 obligations.

13 14 c. That neither the full faith and credit nor the
13 15 taxing power of the state, of any political
13 16 subdivision of the state, or of any such public agency
13 17 is pledged to the payment of the principal of or the
13 18 interest on the public bonds or obligations.

13 19 Sec. 23. NEW SECTION. 476A.26 PUBLIC BONDS OR
13 20 OBLIGATIONS TYPES SOURCES FOR PAYMENT
13 21 SECURITY.

13 22 1. Except as otherwise expressly provided by this
13 23 subchapter or by the electric power agency, every
13 24 issue of public bonds or obligations of the electric
13 25 power agency shall be payable out of any revenues or
13 26 funds of the electric power agency, subject only to
13 27 any agreements with the holders of particular public
13 28 bonds or obligations pledging any particular revenues
13 29 or funds.

13 30 2. An electric power agency may issue types of
13 31 public bonds or obligations as it may determine,
13 32 including public bonds or obligations as to which the
13 33 principal and interest are payable exclusively from
13 34 the revenues from one or more projects, or from an
13 35 interest in such project or projects, or a right to
13 36 capacity of such project or projects, or from any
13 37 revenue-producing contract made by the electric power
13 38 agency with any person, or from its revenues
13 39 generally.

13 40 3. Any public bonds or obligations may be
13 41 additionally secured by a pledge of any grant,
13 42 subsidy, or contribution from any public agency or
13 43 other person, or a pledge of any income or revenues,
13 44 funds, or moneys of the electric power agency from any
13 45 other source.

13 46 Sec. 24. NEW SECTION. 476A.27 PUBLIC BONDS OR
13 47 OBLIGATIONS AND RATES FOR DEBT SERVICE NOT SUBJECT TO

13 48 STATE APPROVAL.

13 49 Public bonds or obligations of an electric power
13 50 agency may be issued under this subchapter, and rents,
14 1 rates, and charges may be established in the same
14 2 manner as provided in section 28F.5 and pledged for
14 3 the security of public bonds or obligations and
14 4 interest and redemption premiums on such public bonds
14 5 or obligations, without obtaining the consent of any
14 6 department, division, commission, board, bureau, or
14 7 agency of the state and without any other proceeding
14 8 or the happening of any other condition or occurrence,
14 9 except as specifically required by this subchapter.

14 10 Sec. 25. NEW SECTION. 476A.28 PUBLIC BONDS OR
14 11 OBLIGATIONS TO BE NEGOTIABLE.

14 12 All public bonds or obligations of an electric
14 13 power agency shall be negotiable within the meaning
14 14 and for all of the purposes of the uniform commercial
14 15 code, chapter 554, subject only to the registration
14 16 requirement of section 76.10.

14 17 Sec. 26. NEW SECTION. 476A.29 VALIDITY OF PUBLIC
14 18 BONDS OR OBLIGATIONS AT DELIVERY TEMPORARY BONDS.

14 19 1. Any public bonds or obligations may be issued
14 20 and delivered, notwithstanding that one or more of the
14 21 officers executing them shall have ceased to hold
14 22 office at the time when the public bonds or
14 23 obligations are actually delivered.

14 24 2. Pending preparation of definitive bonds or
14 25 obligations, an electric power agency may issue
14 26 temporary bonds or obligations that shall be exchanged
14 27 for the definitive bonds or obligations upon their
14 28 issuance.

14 29 Sec. 27. NEW SECTION. 476A.30 PUBLIC OR PRIVATE
14 30 SALE OF BONDS AND NOTES.

14 31 Public bonds or obligations of an electric power
14 32 agency may be sold at public or private sale for a
14 33 price and in a manner determined by the electric power
14 34 agency.

14 35 Sec. 28. NEW SECTION. 476A.31 PUBLIC BONDS OR
14 36 OBLIGATIONS AS SUITABLE INVESTMENTS FOR GOVERNMENTAL
14 37 UNITS, FINANCIAL INSTITUTIONS, AND FIDUCIARIES.

14 38 The following persons may legally invest any debt
14 39 service funds, money, or other funds belonging to such
14 40 person or within such person's control in any public
14 41 bonds or obligations issued pursuant to this
14 42 subchapter:

14 43 1. A bank, trust company, savings association,
14 44 building and loan association, savings and loan
14 45 association, or investment company.

14 46 2. An insurance company, insurance association, or
14 47 any other person carrying on an insurance business.

14 48 3. An executor, administrator, conservator,
14 49 trustee, or other fiduciary.

14 50 4. Any other person authorized to invest in bonds
15 1 or obligations of the state.

15 2 Sec. 29. NEW SECTION. 476A.32 RESOLUTION, TRUST
15 3 INDENTURE, OR SECURITY AGREEMENT CONSTITUTES CONTRACT
15 4 PROVISIONS.

15 5 The resolution, trust indenture, or other security
15 6 agreement under which any public bonds or obligations
15 7 are issued shall constitute a contract with the
15 8 holders of the public bonds or obligations, and may
15 9 contain provisions, among others, prescribing any of
15 10 the following terms:

15 11 1. The terms and provisions of the public bonds or
15 12 obligations.

15 13 2. The mortgage or pledge of and the grant of a
15 14 security interest in any real or personal property and

15 15 all or any part of the revenue from any project or any
15 16 revenue producing contract made by the electric power
15 17 agency with any person to secure the payment of public
15 18 bonds or obligations, subject to any agreements with
15 19 the holders of public bonds or obligations which might
15 20 then exist.

15 21 3. The custody, collection, securing, investment,
15 22 and payment of any revenues, assets, money, funds, or
15 23 property with respect to which the electric power
15 24 agency may have any rights or interest.

15 25 4. The rates or charges for electric energy sold
15 26 by, or services rendered by, the electric power
15 27 agency, the amount to be raised by the rates or
15 28 charges, and the use and disposition of any or all
15 29 revenue.

15 30 5. The creation of reserves or debt service funds
15 31 and the regulation and disposition of such reserves or
15 32 funds.

15 33 6. The purposes to which the proceeds from the
15 34 sale of any public bonds or obligations to be issued
15 35 may be applied, and the pledge of the proceeds to
15 36 secure the payment of the public bonds or obligations.

15 37 7. Limitations on the issuance of any additional
15 38 public bonds or obligations, the terms upon which
15 39 additional public bonds or obligations may be issued
15 40 and secured, and the refunding of outstanding public
15 41 bonds or obligations.

15 42 8. The rank or priority of any public bonds or
15 43 obligations with respect to any lien or security.

15 44 9. The creation of special funds or moneys to be
15 45 held for operating expenses, payment, or redemption of
15 46 public bonds or obligations, reserves or other
15 47 purposes, and the use and disposition of moneys held
15 48 in these funds.

15 49 10. The procedure by which the terms of any
15 50 contract with or for the benefit of the holders of
16 1 public bonds or obligations may be amended or
16 2 abrogated, the amount of public bonds or obligations
16 3 the holders of which must consent to such amendment or
16 4 abrogation, and the manner in which consent may be
16 5 given.

16 6 11. The definition of the acts or omissions to act
16 7 that constitute a default in the duties of the
16 8 electric power agency to holders of its public bonds
16 9 or obligations, and the rights and remedies of the
16 10 holders in the event of default including, if the
16 11 electric power agency so determines, the right to
16 12 accelerate the date of the maturation of the public
16 13 bonds or obligations or the right to appoint a
16 14 receiver or receivers of the property or revenues
16 15 subject to the lien of the resolution, trust
16 16 indenture, or other security agreement.

16 17 12. Any other or additional agreements with or for
16 18 the benefit of the holders of public bonds or
16 19 obligations or any covenants or restrictions necessary
16 20 or desirable to safeguard the interests of the
16 21 holders.

16 22 13. The custody of any of the electric power
16 23 agency's property or investments, the safekeeping of
16 24 such property or investments, the insurance to be
16 25 carried on such property or investments, and the use
16 26 and disposition of insurance proceeds.

16 27 14. The vesting in a trustee or trustees, within
16 28 or outside the state, of such property, rights,
16 29 powers, and duties as the electric power agency may
16 30 determine; or the limiting or abrogating of the rights
16 31 of the holders of any public bonds or obligations to

16 32 appoint a trustee, or the limiting of the rights,
16 33 powers, and duties of such trustee.

16 34 15. The appointment of and the establishment of
16 35 the duties and obligations of any paying agent or
16 36 other fiduciary within or outside the state.

16 37 Sec. 30. NEW SECTION. 476A.33 MORTGAGE OR TRUST
16 38 DEED TO SECURE BONDS.

16 39 For the security of public bonds or obligations
16 40 issued or to be issued by an electric power agency,
16 41 the electric power agency may mortgage or execute
16 42 deeds of trust of the whole or any part of its
16 43 property.

16 44 Sec. 31. NEW SECTION. 476A.34 NO PERSONAL
16 45 LIABILITY ON PUBLIC BONDS OR OBLIGATIONS.

16 46 An official, director, member of an electric power
16 47 agency, or any person executing public bonds or
16 48 obligations shall not be liable personally on the
16 49 public bonds or obligations or be subject to any
16 50 personal liability or accountability by reason of the
17 1 issuance of such public bonds or obligations.

17 2 Sec. 32. NEW SECTION. 476A.35 REPURCHASE OF
17 3 SECURITIES.

17 4 An electric power agency may purchase public bonds
17 5 or obligations out of any funds available for such
17 6 purchase, and hold, pledge, cancel, or resell the
17 7 public bonds or obligations, subject to and in
17 8 accordance with any agreements with the holders.

17 9 Sec. 33. NEW SECTION. 476A.36 PLEDGE OF REVENUE
17 10 AS SECURITY.

17 11 An electric power agency may pledge its rates,
17 12 rents, and other revenues, or any part of such rates,
17 13 rents, and revenues, as security for the repayment,
17 14 with interest and redemption premiums, if any, of the
17 15 moneys borrowed by the electric power agency or
17 16 advanced to the electric power agency for any of its
17 17 authorized purposes and as security for the payment of
17 18 moneys due and owed by the electric power agency under
17 19 any contract.

17 20 Sec. 34. Section [478.3](#), Code 2001, is amended by
17 21 adding the following new subsection:

17 22 NEW SUBSECTION. 3. For the purpose of this
17 23 section, the term "public" shall not be interpreted to
17 24 be limited to consumers located in this state.

17 25 Sec. 35. CODE EDITOR DIRECTIVE. The Code editor
17 26 shall change references to "this chapter" in sections
17 27 476A.1 through 476A.15 as necessary and appropriate to
17 28 reflect the addition of the new subchapter to chapter
17 29 476A as a result of this Act.

17 30 Sec. 36. EFFECTIVE DATE. This Act, being deemed
17 31 of immediate importance, takes effect upon enactment."

17 32 #2. Title page, line 2, by inserting after the
17 33 word "construction" the following: "or lease".

17 34 #3. Title page, line 3, by inserting after the
17 35 word "facility" the following: ", and for the
17 36 development of ratemaking principles to apply to
17 37 certain electric generating facilities".

17 38 #4. Title page, line 4, by inserting after the
17 39 word "contracts" the following: ", and for approval
17 40 of plans and budgets for regulating emissions from
17 41 coal-fired plants".

17 42 #5. Title page, line 5, by inserting after the
17 43 word "policy;" the following: "providing for
17 44 alternate energy purchase programs;".

17 45 #6. Title page, line 11, by inserting after the
17 46 word "transmission" the following: "; and providing
17 47 an effective date".

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18 1 JoANN JOHNSON

18 2 [HF 577.7](#)57 79

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