

Senate File 2311

H-8334

1 Amend Senate File 2311, as amended, passed, and reprinted by  
2 the Senate, as follows:

3 1. Page 2, after line 17 by inserting:

4 <Sec. \_\_\_\_ . NEW SECTION. 385.1 Definitions.

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

7 1. "*Board*" means an energy investment district board  
8 appointed pursuant to this chapter.

9 2. "*Energy investment*" means an acquisition, installation,  
10 or modification benefitting private property, except  
11 residential property with fewer than three residential units,  
12 that is intended to reduce energy consumption or energy costs,  
13 or both, or is intended to provide or allow for the use of  
14 alternate and renewable energy. The term includes but is not  
15 limited to the following measures:

16 a. Insulating walls, roofs, attics, floors, foundations, and  
17 heating and cooling distribution systems.

18 b. Repairing, replacing, or installing storm windows  
19 and doors, multiglazed windows and doors, heat-absorbing or  
20 heat-reflective windows and doors, and other window and door  
21 improvements designed to reduce energy consumption.

22 c. Constructing or reconstructing roofs designed to reduce  
23 energy consumption or support additional loads necessitated by  
24 other energy investments.

25 d. Installing energy control and measurement devices.

26 e. Heating, ventilating, or air conditioning distribution  
27 system modifications and replacements.

28 f. Caulking and weatherstripping.

29 g. Installing lighting fixtures that result in increased  
30 energy efficiency of the lighting system.

31 h. Installing water heating systems, elevators, and  
32 escalators that result in increased energy efficiency.

33 i. Repairing, replacing, or installing energy recovery  
34 systems.

35 j. Repairing, replacing, or installing daylighting systems.

1 k. Repairing, replacing, or installing energy systems that  
2 provide energy from alternate or renewable energy, including  
3 solar, wind, biomass, geothermal, or cogeneration.

4 l. Repairing, replacing, or installing facilities or  
5 fixtures providing for water conservation or pollutant control.

6 m. Repairing, replacing, or installing an energy investment  
7 related item so long as the cost of the energy investment  
8 related item does not exceed twenty-five percent of the total  
9 cost of the project.

10 3. *“Energy investment related item”* means a repair,  
11 replacement, improvement, or modification to real property  
12 that is necessary or desirable in conjunction with an energy  
13 investment. The term includes but is not limited to structural  
14 support improvements and the repair or replacement of any  
15 building components, paved surfaces, or fixtures disrupted or  
16 altered by the installation of an energy investment.

17 4. *“Project”* means one or more energy investments to be  
18 installed on a property.

19 Sec. \_\_\_\_\_. NEW SECTION. **385.2 Energy investment district**  
20 **created.**

21 1. A county or city may create an energy investment district  
22 pursuant to this chapter in order to provide financing for  
23 energy investment projects to benefit real property in the  
24 district.

25 2. One or more counties and one or more cities within  
26 those counties may create, by chapter 28E agreement, an energy  
27 investment district pursuant to this chapter in order to  
28 provide financing for energy investment projects to benefit  
29 real property in the district. The agreement creating the  
30 energy investment district shall specify the geographic  
31 boundaries of the district.

32 Sec. \_\_\_\_\_. NEW SECTION. **385.3 Energy investment district**  
33 **board — membership — powers.**

34 1. The governing bodies of the counties and cities  
35 participating in an energy investment district shall appoint a

1 board to manage and administer the energy investment district.  
2 An energy investment district board shall consist of at least  
3 three members, but if the district is created pursuant to  
4 section 385.2, subsection 2, in no case shall there be fewer  
5 members than the number of participating cities and counties.  
6 The agreement creating the energy investment district shall set  
7 the term length of board members.

8 2. A board shall have and may exercise the powers and duties  
9 necessary for management and administration of the energy  
10 investment district as such powers and duties are described  
11 in the agreement, including but not limited to the following  
12 express powers and duties:

13 a. To adopt, amend, and repeal bylaws consistent with the  
14 provisions of this chapter.

15 b. To adopt an official seal.

16 c. To sue and be sued in all courts.

17 d. To make and enter into contracts with public and private  
18 entities.

19 e. To accept grants, guarantees, and donations of property,  
20 labor, services, and other items of value from a public or  
21 private source.

22 f. To employ or contract for such managerial, legal,  
23 technical, clerical, accounting, or other assistance it  
24 deems advisable. However, the board shall not enter into any  
25 arrangement that results in an exclusive lender, underwriter,  
26 or other funding partner for all projects funded by the board.

27 g. To finance projects under assessment contracts.

28 h. To levy and collect special assessments under an  
29 assessment contract with a property owner.

30 i. To borrow money from a public or private source and issue  
31 bonds and provide security for the repayment of such bonds.

32 j. To charge and collect fees pursuant to section 385.5.

33 k. To invest funds not required for immediate disbursement,  
34 subject to section 28E.5, subsection 2.

35 3. A board shall exist for a minimum duration necessary to

1 finance any assessment contracts that the board enters into  
2 pursuant to section 385.4.

3 Sec. \_\_\_\_ . NEW SECTION. 385.4 Project financing requirements  
4 — assessment contracts.

5 1. A board may finance a project if the following criteria  
6 are met:

7 a. There are sufficient resources to complete the project.

8 b. The estimated monetary benefit, as determined by the  
9 board after consultation with an outside expert, and including  
10 but not limited to energy cost savings, maintenance, and other  
11 property operating savings expected from the project during the  
12 financing period is equal to or greater than the principal and  
13 interest cost of the project, including special assessments and  
14 any applicable fees.

15 c. The project complies with the ordinances and regulations  
16 of the county or city where the property is located, including  
17 but not limited to such ordinances and regulations concerning  
18 zoning, subdivision of property, building, fire safety, and  
19 historic or architectural review.

20 2. A board shall finance a project under an assessment  
21 contract. An assessment contract shall be executed by the  
22 board and the property owner or owners and shall include the  
23 following components:

24 a. A description of the project, including the estimated  
25 cost of the project and a description of the estimated savings,  
26 prepared in accordance with standards accepted by the board.

27 b. A mechanism for verifying the final costs of the project  
28 upon its completion and ensuring that any amounts advanced,  
29 financed, or otherwise provided by the board will not exceed  
30 the final cost of the project.

31 c. An agreement by the property owner to pay special  
32 assessments and any applicable fees for a period not to exceed  
33 the weighted average useful life of the project, as specified  
34 in the assessment contract.

35 d. An assessment schedule adopted by the board by

1 resolution, stating the number of annual installments due,  
2 stating the time when assessments and any applicable fees are  
3 payable, and providing for interest on all unpaid installments  
4 and fees at a rate not exceeding that permitted by chapter 74A.

5 *e.* A statement that the obligations provided in the  
6 assessment contract, including the obligation to pay special  
7 assessments and any applicable fees charged, are a covenant  
8 that shall run with the land and be obligations upon future  
9 owners of such property.

10 *f.* An acknowledgment that the subdivision of property  
11 subject to the assessment contract shall require the assessment  
12 contract or an amendment to the contract to divide the total  
13 special assessment and any applicable fees charged due between  
14 the newly subdivided parcels in proportion to the benefit  
15 realized by each subdivided parcel.

16 *g.* An acknowledgment from all entities holding mortgages on  
17 the real property, or the contract seller under a real estate  
18 contract, to be assessed under the assessment contract that  
19 such interest holders have consented to the levy and collection  
20 of the special assessments and any applicable fees charged, as  
21 described in the assessment contract.

22 3. *a.* A board shall provide a copy of a signed assessment  
23 contract to the county or city assessor, as appropriate, and to  
24 the county auditor of the county where the property is located  
25 and shall file for recording a copy of the assessment contract  
26 with the county recorder.

27 *b.* The city clerk or county auditor, as appropriate, shall  
28 certify the assessment schedule to the treasurer of each county  
29 where the property is located. The county treasurer shall  
30 enter on the county system the amounts to be assessed against  
31 the property, as certified.

32 4. A board may enter into more than one assessment contract  
33 with respect to a single parcel of real property, so long as  
34 each assessment contract relates to a separate project.

35 5. A board shall determine an inspection procedure to

1 be utilized upon completion of an energy investment financed  
2 pursuant to this chapter.

3 Sec. \_\_\_\_ . NEW SECTION. 385.5 **Special assessments — fees**  
4 **— delinquency.**

5 1. The total special assessments levied by a board under an  
6 assessment contract shall not exceed the sum of the cost of the  
7 project, including any energy audits or inspections or portions  
8 thereof financed by the board, plus interest.

9 2. In addition to special assessments provided under  
10 subsection 1, a board may also charge a fee of up to one percent  
11 of the total cost of a project, which fee may not exceed twenty  
12 thousand dollars per project. Such fee shall be charged in  
13 connection with administration of the assessment contract  
14 and with any technical, consultative, or project assistance  
15 services required. A fee charged under this subsection shall  
16 be included in an assessment contract provided under section  
17 385.4.

18 3. Special assessments levied and any applicable fees  
19 charged by a board under an assessment contract shall be  
20 levied, charged, and collected in the manner as provided in the  
21 assessment contract and with the same priority as ad valorem  
22 property taxes.

23 4. *a.* If special assessments and any applicable fees are  
24 not paid within the time period set forth in the assessment  
25 contract, such special assessments and fees shall be considered  
26 delinquent. Delinquent special assessments and fees shall  
27 become a lien on the property against which the special  
28 assessments were levied and the fees charged. A board may  
29 collect delinquent special assessments and fees as if the board  
30 were a county treasurer pursuant to sections 445.3 and 445.4,  
31 except that the property shall not be subject to sale for  
32 delinquent taxes under chapter 446.

33 *b.* Special assessments and any applicable fees that are not  
34 delinquent shall not be accelerated as part of any action or  
35 proceeding to collect delinquent special assessments or fees.

1 Upon the sale of the real property subject to an assessment  
2 contract, any remaining special assessments and applicable fees  
3 shall be collected for the remainder of the assessment contract  
4 term from a subsequent owner of the real property, including  
5 an owner that is the state or any political subdivision of the  
6 state.

7 Sec. \_\_\_\_\_. NEW SECTION. **385.6 Bonds issued.**

8 1. A board may, by resolution, authorize and issue bonds  
9 payable from the proceeds of the special assessments and any  
10 other revenues collected. Such bonds may bear dates, bear  
11 interest at rates not exceeding those permitted by chapter 74A,  
12 mature in one or more installments, be in either coupon or  
13 registered form, carry registration and conversion privileges,  
14 be payable as to principal and interest at times and places,  
15 be subject to terms of redemption prior to maturity with or  
16 without premium, and be in one or more denominations, all as  
17 provided by the resolution of the board authorizing their  
18 issuance.

19 2. Bonds issued under this section shall not constitute a  
20 debt of the state or of the city or county where the property is  
21 located, and the form of such bonds shall contain a statement  
22 to that effect.

23 Sec. \_\_\_\_\_. NEW SECTION. **385.7 Annual reporting.**

24 A board shall submit to the governing body of each  
25 participating county and city an annual report for the  
26 preceding calendar year that includes the following  
27 information:

28 1. A description of each project completed, including the  
29 physical address of the benefitted property, the name or names  
30 of the property owners, an itemized list of the costs incurred  
31 under the project, and the name of any contractors used to  
32 complete the project.

33 2. For each project in subsection 1, the amount of special  
34 assessments due and the amount collected for the fiscal year  
35 ending during the preceding calendar year.

- 1     3. A summary of the public benefits resulting from the  
2 projects listed in subsection 1, including, without limitation,  
3 estimated cumulative energy savings resulting from the  
4 projects.
- 5     4. A description of each assessment contract entered into by  
6 the board, including a description of the project and a summary  
7 of the assessment schedule.
- 8     5. The amount of administrative costs incurred by the  
9 board.>
- 10    2. By renumbering as necessary.

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ISENHART of Dubuque