

Senate File 2311

H-8356

1 Amend the amendment, H-8340, to Senate File 2311, as
2 amended, passed, and reprinted by the Senate, as follows:

3 1. Page 1, after line 4 by inserting:

4 <Sec. _____. Section 8A.412, subsection 11, Code 2018, is
5 amended to read as follows:

6 11. Professional employees under the supervision of the
7 attorney general, the state public defender, the secretary
8 of state, the auditor of state, the treasurer of state, and
9 the public employment relations board. However, employees of
10 ~~the consumer advocate division of the department of justice,~~
11 ~~other than the consumer advocate,~~ and administrative law judges
12 appointed or employed by the public employment relations board
13 are subject to the merit system.

14 Sec. _____. Section 12.91, subsection 1, paragraph b, Code
15 2018, is amended to read as follows:

16 b. "*Chargeable expenses*" means expenses charged by the
17 utilities board and ~~the consumer advocate division of the~~
18 ~~department of justice~~ under section 476.10.

19 Sec. _____. Section 15.120, subsection 2, paragraph a,
20 subparagraph (8), Code 2018, is amended by striking the
21 subparagraph.

22 Sec. _____. Section 17A.2, subsection 1, Code 2018, is amended
23 to read as follows:

24 1. "*Agency*" means each board, commission, department,
25 officer or other administrative office or unit of the state.
26 "*Agency*" does not mean the general assembly, the judicial branch
27 or any of its components, ~~the office of consumer advocate,~~
28 the governor, or a political subdivision of the state or its
29 offices and units. Unless provided otherwise by statute, no
30 less than two-thirds of the members eligible to vote of a
31 multimember agency constitute a quorum authorized to act in the
32 name of the agency.

33 Sec. _____. Section 20.4, subsection 9, Code 2018, is amended
34 to read as follows:

35 9. Persons employed by the state department of justice,

1 ~~except nonsupervisory employees of the consumer advocate~~
2 ~~division who are employed primarily for the purpose of~~
3 ~~performing technical analysis of nonlegal issues.>~~

4 2. Page 2, after line 21 by inserting:

5 <Sec. ___. Section 68B.35, subsection 2, paragraph e, Code
6 2018, is amended to read as follows:

7 e. Members of the state banking council, the Iowa ethics
8 and campaign disclosure board, the credit union review board,
9 the economic development authority, the employment appeal
10 board, the environmental protection commission, the health
11 facilities council, the Iowa finance authority, the Iowa public
12 employees' retirement system investment board, the board of
13 the Iowa lottery authority, the natural resource commission,
14 the board of parole, the petroleum underground storage tank
15 fund board, the public employment relations board, the state
16 racing and gaming commission, the state board of regents, the
17 transportation commission, ~~the office of consumer advocate~~, the
18 utilities board, the Iowa telecommunications and technology
19 commission, and any full-time members of other boards and
20 commissions as defined under section 7E.4 who receive an annual
21 salary for their service on the board or commission. The Iowa
22 ethics and campaign disclosure board shall conduct an annual
23 review to determine if members of any other board, commission,
24 or authority should file a statement and shall require the
25 filing of a statement pursuant to rules adopted pursuant to
26 chapter 17A.

27 Sec. ___. Section 422.7, subsection 2, paragraph d, Code
28 2018, is amended to read as follows:

29 d. Iowa utility board and ~~Iowa consumer advocate~~ building
30 project bonds pursuant to section 12.91, subsection 9.

31 Sec. ___. Section 474.1, subsection 3, Code 2018, is amended
32 to read as follows:

33 3. As used in ~~this chapter~~ and chapters 475A, 476, 476A,
34 478, 479, 479A, and 479B, "division" and "utilities division"
35 mean the utilities division of the department of commerce.>

1 3. Page 3, lines 2 and 3, by striking <and the office of
2 consumer advocate,>

3 4. Page 4, after line 9 by inserting:

4 <Sec. _____. Section 476.1B, subsection 1, paragraphs a and 1,
5 Code 2018, are amended to read as follows:

6 a. Assessment of fees for the support of the division
7 and the office of consumer advocate, as set forth in section
8 476.10.

9 1. Filing energy efficiency plans and energy efficiency
10 results with the board. The energy efficiency plans as a whole
11 shall be cost-effective. The board may permit these utilities
12 to file joint plans. The board shall periodically report the
13 energy efficiency results including energy savings of each of
14 these utilities to the general assembly.>

15 5. Page 4, after line 11 by inserting:

16 <Sec. _____. Section 476.1C, subsection 2, Code 2018, is
17 amended to read as follows:

18 2. If, as a result of a review of a proposed new or changed
19 rate, charge, schedule, or regulation of a gas public utility
20 having fewer than two thousand customers, the consumer advocate
21 alleges in a filing with the board has reason to believe that
22 the utility rates are excessive, the disputed amounts shall be
23 specified by the consumer advocate in the filing in a filing
24 by the board. The gas public utility shall, within the time
25 prescribed by the board, file a bond or undertaking approved by
26 the board conditioned upon the refund in a manner prescribed
27 by the board of amounts collected after the date of the filing
28 which are in excess of rates or charges finally determined by
29 the board to be lawful. If after formal proceeding and hearing
30 pursuant to section 476.6 the board finds that the utility
31 rates are unlawful, the board shall order a refund, with
32 interest, of amounts collected after the date of the filing
33 of the petition that are determined to be in excess of the
34 amounts which would have been collected under the rates finally
35 approved. However, the board shall not order a refund that is

1 greater than the amount specified in the ~~petition filing~~, plus
2 interest. If the board fails to render a decision within ten
3 months following the date of ~~the filing of the petition~~, the
4 board shall not order a refund of any excess amounts that are
5 collected after the expiration of that ten-month period and
6 prior to the date the decision is rendered.>

7 6. Page 4, after line 13 by inserting:

8 <Sec. _____. Section 476.3, subsections 1 and 2, Code 2018,
9 are amended to read as follows:

10 1. A public utility shall furnish reasonably adequate
11 service at rates and charges in accordance with tariffs filed
12 with the board. When there is filed with the board by any
13 person or body politic, or filed by the board upon its own
14 motion, a written complaint requesting the board to determine
15 the reasonableness of the rates, charges, schedules, service,
16 regulations, or anything done or omitted to be done by a
17 public utility subject to **this chapter** in contravention of
18 this chapter, the written complaint shall be forwarded by
19 the board to the public utility, which shall be called upon
20 to satisfy the complaint or to answer it in writing within a
21 reasonable time to be specified by the board. ~~Copies of the~~
22 ~~written complaint forwarded by the board to the public utility~~
23 ~~and copies of all correspondence from the public utility in~~
24 ~~response to the complaint shall be provided by the board in~~
25 ~~an expeditious manner to the consumer advocate.~~ If the board
26 determines the public utility's response is inadequate and
27 there appears to be any reasonable ground for investigating
28 the complaint, the board shall promptly initiate a formal
29 proceeding. ~~If the consumer advocate determines the public~~
30 ~~utility's response to the complaint is inadequate, the consumer~~
31 ~~advocate may file a petition with the board which shall~~
32 ~~promptly initiate a formal proceeding if the board determines~~
33 ~~that there is any reasonable ground for investigating the~~
34 ~~complaint.~~ The complainant or the public utility also may
35 petition the board to initiate a formal proceeding which

1 petition shall be granted if the board determines that there
2 is any reasonable ground for investigating the complaint. The
3 formal proceeding may be initiated at any time by the board on
4 its own motion. If a proceeding is initiated upon petition
5 filed by the ~~consumer advocate~~, complainant, or the public
6 utility, or upon the board's own motion, the board shall set
7 the case for hearing and give notice as it deems appropriate.
8 When the board, after a hearing held after reasonable notice,
9 finds a public utility's rates, charges, schedules, service,
10 or regulations are unjust, unreasonable, discriminatory, or
11 otherwise in violation of any provision of law, the board
12 shall determine just, reasonable, and nondiscriminatory rates,
13 charges, schedules, service, or regulations to be observed and
14 enforced.

15 2. If, as a result of a review procedure conducted under
16 section 476.31, a review conducted under **section 476.32**, a
17 special audit, or an investigation by division staff, ~~or~~ an
~~investigation by the consumer advocate, a petition is filed~~
19 ~~with the board by the consumer advocate, alleging the board~~
20 has reason to believe that a utility's rates are excessive,
21 the disputed amount shall be specified ~~in the petition in a~~
22 filing by the board. The public utility shall, within the time
23 prescribed by the board, file a bond or undertaking approved by
24 the board conditioned upon the refund in a manner prescribed by
25 the board of amounts collected after the date of ~~the filing of~~
26 ~~the petition~~ in excess of rates or charges finally determined
27 by the board to be lawful. If upon hearing the board finds
28 that the utility's rates are unlawful, the board shall order
29 a refund, with interest, of amounts collected after the date
30 of ~~the filing of the petition~~ that are determined to be in
31 excess of the amounts which would have been collected under
32 the rates finally approved. However, the board shall not
33 order a refund that is greater than the amount specified in
34 the ~~petition filing~~, plus interest, and if the board fails
35 to render a decision within ten months following the date of

1 filing of the petition, the board shall not order a refund of
2 any excess amounts that are collected after the expiration of
3 that ten-month period and prior to the date the decision is
4 rendered.>

5 7. Page 9, lines 1 and 2, by striking <or the office of the
6 consumer advocate> and inserting <or the office of the consumer
7 advocate>

8 8. Page 10, after line 7 by inserting:

9 <Sec. _____. Section 476.10, subsections 1, 3, and 4, Code
10 2018, are amended to read as follows:

11 1. a. In order to carry out the duties imposed upon
12 it by law, the board may, at its discretion, allocate and
13 charge directly the expenses attributable to its duties
14 to the person bringing a proceeding before the board or to
15 persons participating in matters before the board. The board
16 shall ascertain the certified expenses incurred and directly
17 chargeable by the consumer advocate division of the department
18 of justice in the performance of its duties. The board and the
19 consumer advocate separately may decide not to charge expenses
20 to persons who, without expanding the scope of the proceeding
21 or matter, intervene in good faith in a board proceeding
22 initiated by a person subject to the board's jurisdiction,
23 the consumer advocate, or the board on its own motion. For
24 assessments in any proceedings or matters before the board, the
25 board and the consumer advocate separately may consider the
26 financial resources of the person, the impact of assessment on
27 participation by intervenors, the nature of the proceeding or
28 matter, and the contribution of a person's participation to the
29 public interest. The board may present a bill for expenses
30 under this subsection to the person, either at the conclusion
31 of a proceeding or matter, or from time to time during its
32 progress. Presentation of a bill for expenses under this
33 subsection constitutes notice of direct assessment and request
34 for payment in accordance with this section.

35 b. The board shall ascertain the total of the division's

1 expenses incurred during each fiscal year in the performance
2 of its duties under law. ~~The board shall add to the total of~~
3 ~~the division's expenses the certified expenses of the consumer~~
4 ~~advocate as provided under section 475A.6.~~ The board shall
5 deduct all amounts charged directly to any person from the
6 total expenses of the board ~~and the consumer advocate.~~ The
7 board may assess the amount remaining after the deduction
8 to all persons providing service over which the board has
9 jurisdiction in proportion to the respective gross operating
10 revenues of such persons from intrastate operations during the
11 last calendar year over which the board has jurisdiction. For
12 purposes of determining gross operating revenues under this
13 section, the board shall not include gross receipts received
14 by a cooperative corporation or association for wholesale
15 transactions with members of the cooperative corporation
16 or association, provided that the members are subject to
17 assessment by the board based upon the members' gross operating
18 revenues, or provided that such a member is an association
19 whose members are subject to assessment by the board based upon
20 the members' gross operating revenues. If any portion of the
21 remainder can be identified with a specific type of utility
22 service, the board shall assess those expenses only to the
23 entities providing that type of service over which the board
24 has jurisdiction. The board may make the remainder assessments
25 under this paragraph on a quarterly basis, based upon estimates
26 of the expenditures for the fiscal year for the utilities
27 division ~~and the consumer advocate.~~ Not more than ninety days
28 following the close of the fiscal year, the utilities division
29 shall conform the amount of the prior fiscal year's assessments
30 to the requirements of this paragraph. For gas and electric
31 public utilities exempted from rate regulation pursuant to
32 this chapter, the remainder assessments under this paragraph
33 shall be computed at one-half the rate used in computing the
34 assessment for other persons.

35 3. Whenever the board shall deem it necessary in order

1 to carry out the duties imposed upon it in connection with
2 rate regulation under **section 476.6**, investigations under
3 section 476.3, or review proceedings under **section 476.31**,
4 the board may employ additional temporary or permanent staff,
5 or may contract with persons who are not state employees for
6 engineering, accounting, or other professional services, or
7 both. The costs of these additional employees and contract
8 services shall be paid by the public utility whose rates
9 are being reviewed in the same manner as other expenses are
10 paid under **this section**. Beginning on July 1, 1991, there
11 is appropriated out of any funds in the state treasury not
12 otherwise appropriated, such sums as may be necessary to enable
13 the board to hire additional staff and contract for services
14 under **this section**. The board shall increase quarterly
15 assessments specified in **subsection 1**, paragraph "b", by
16 amounts necessary to enable the board to hire additional staff
17 and contract for services under **this section**. The authority to
18 hire additional temporary or permanent staff that is granted to
19 the board by **this section** shall not be subject to limitation
20 by any administrative or executive order or decision that
21 restricts the number of state employees or the filling of
22 employee vacancies, and shall not be subject to limitation
23 by any law of this state that restricts the number of state
24 employees or the filling of employee vacancies unless that
25 law is made applicable to **this section** by express reference
26 to **this section**. Before the board expends or encumbers an
27 amount in excess of the funds budgeted for rate regulation and
28 before the board increases quarterly assessments pursuant to
29 this subsection, the director of the department of management
30 shall approve the expenditure or encumbrance. Before approval
31 is given, the director of the department of management shall
32 determine that the expenses exceed the funds budgeted by the
33 general assembly to the board for rate regulation and that
34 the board does not have other funds from which the expenses
35 can be paid. Upon approval of the director of the department

1 of management the board may expend and encumber funds for
2 the excess expenses, and increase quarterly assessments to
3 raise the additional funds. The board and the office of
4 consumer advocate may add additional personnel or contract
5 for additional assistance to review and evaluate energy
6 efficiency plans and the implementation of energy efficiency
7 programs including, but not limited to, professionally trained
8 engineers, accountants, attorneys, skilled examiners and
9 inspectors, and secretaries and clerks. The board and the
10 office of consumer advocate may also contract for additional
11 assistance in the evaluation and implementation of issues
12 relating to telecommunication competition. The board and the
13 office of the consumer advocate may expend additional sums
14 beyond those sums appropriated. However, the authority to add
15 additional personnel or contract for additional assistance
16 must first be approved by the department of management. The
17 additional sums for energy efficiency shall be provided to the
18 board and the office of the consumer advocate by the utilities
19 subject to the energy efficiency requirements in **this chapter**.
20 Telephone companies shall pay any additional sums needed for
21 assistance with telecommunication competition issues. The
22 assessments shall be in addition to and separate from the
23 quarterly assessment.

24 4. a. Fees paid to the utilities division shall be
25 deposited in the department of commerce revolving fund created
26 in **section 546.12**. These funds shall be used for the payment,
27 upon appropriation by the general assembly, of the expenses of
28 the utilities division and the consumer advocate division of
29 the department of justice.

30 b. The administrator and consumer advocate shall account
31 for receipts and disbursements according to the separate duties
32 imposed upon the utilities and consumer advocate divisions
33 division by the laws of this state and each separate duty shall
34 be fiscally self-sustaining.

35 c. All fees and other moneys collected under **this section**

1 and sections 478.4, 479.16, and 479A.9 shall be deposited into
2 the department of commerce revolving fund created in section
3 546.12 and expenses required to be paid under **this section**
4 shall be paid from funds appropriated for those purposes.

5 Sec. ___. Section 476.10B, subsections 1 and 2, Code 2018,
6 are amended to read as follows:

7 1. For the purposes of **this section**, "*building project*
8 *expenses*" means expenses that have been approved by the
9 utilities board for the building and related improvements
10 and furnishings developed under **this section** and that are
11 considered part of the regulatory expenses charged by the
12 utilities board ~~and the consumer advocate division of the~~
13 ~~department of justice~~ for carrying out duties under section
14 476.10.

15 2. The department of administrative services, in
16 consultation with the board ~~and the consumer advocate~~
~~division of the department of justice~~, shall provide for the
18 construction of a building to house the board ~~and the division~~.
19 A building developed under **this subsection** shall be a model
20 energy-efficient building that may be used as a public example
21 for similar efforts. The building shall comply with the life
22 cycle cost provisions developed pursuant to **section 72.5**. The
23 building shall be located on the capitol complex grounds or
24 at another convenient location in the vicinity of the capitol
25 complex grounds.>

26 9. Page 12, after line 30 by inserting:

27 <Sec. ___. Section 476.53, subsection 4, Code 2018, is
28 amended to read as follows:

29 4. The utilities board ~~and the consumer advocate~~ may employ
30 additional temporary staff, or may contract for professional
31 services with persons who are not state employees, as the board
32 ~~and the consumer advocate deem~~ deems necessary to perform
33 required functions as provided in **this section**, including but
34 not limited to review of power purchase contracts, review of
35 emission plans and budgets, and review of ratemaking principles

1 proposed for construction or lease of a new generating
2 facility. Beginning July 1, 2002, there is appropriated out
3 of any funds in the state treasury not otherwise appropriated,
4 such sums as may be necessary to enable the board ~~and the~~
5 ~~consumer advocate~~ to hire additional staff and contract for
6 services under **this section**. The costs of the additional staff
7 and services shall be assessed to the utilities pursuant to the
8 procedure in **section 476.10** and **section 475A.6**.

9 Sec. ___. Section 476.103, subsection 3, paragraph g, Code
10 2018, is amended to read as follows:

11 g. Procedures for a customer, ~~or~~ service provider, ~~or~~
12 ~~the consumer advocate~~ to submit to the board complaints of
13 unauthorized changes in service.

14 Sec. ___. Section 477C.5, subsection 2, Code 2018, is
15 amended to read as follows:

16 2. The council shall consist of:

17 a. Six Seven consumers who have communication impairments.
18 b. Two representatives from telephone companies.

19 c. One representative from the office of deaf services of
20 the department of human rights.

21 d. ~~One representative from the office of the consumer
22 advocate of the department of justice.~~

23 e. d. One member of the board or a designee of the board.

24 Sec. ___. Section 546.12, subsections 1 and 2, Code 2018,
25 are amended to read as follows:

26 1. A department of commerce revolving fund is created in
27 the state treasury. The fund shall consist of moneys collected
28 by the banking division; credit union division; utilities
29 division, ~~including moneys collected on behalf of the office~~
30 ~~of consumer advocate established in section 475A.3~~; and the
31 insurance division of the department; and deposited into an
32 account for that division ~~or office~~ within the fund on a
33 monthly basis. Except as otherwise provided by statute, all
34 costs for operating ~~the office of consumer advocate and the~~
35 banking division, the credit union division, the utilities

1 division, and the insurance division of the department shall be
2 paid from the division's accounts within the fund, subject to
3 appropriation by the general assembly. The insurance division
4 shall administer the fund and all other divisions shall work
5 with the insurance division to make sure the fund is properly
6 accounted and reported to the department of management and the
7 department of administrative services. The divisions shall
8 provide quarterly reports to the department of management
9 and the legislative services agency on revenues billed and
10 collected and expenditures from the fund in a format as
11 determined by the department of management in consultation with
12 the legislative services agency.

13 2. To meet cash flow needs for the ~~office of consumer~~
14 ~~advocate and the~~ banking division, credit union division,
15 utilities division, or the insurance division of the
16 department, the administrative head of that division ~~or~~
17 ~~office~~ may temporarily use funds from the general fund of the
18 state to pay expenses in excess of moneys available in the
19 revolving fund for that division ~~or office~~ if those additional
20 expenditures are fully reimbursable and the division ~~or office~~
21 reimburses the general fund of the state and ensures all
22 moneys are repaid in full by the close of the fiscal year.
23 Notwithstanding any provision to the contrary, the divisions
24 shall, to the fullest extent possible, make an estimate
25 of billings and make such billings as early as possible in
26 each fiscal year, so that the need for the use of general
27 fund moneys is minimized to the lowest extent possible.
28 Periodic billings shall be deemed sufficient to satisfy this
29 requirement. Because any general fund moneys used shall be
30 fully reimbursed, such temporary use of funds from the general
31 fund of the state shall not constitute an appropriation for
32 purposes of calculating the state general fund expenditure
33 limitation pursuant to section 8.54.

34 Sec. _____. REPEAL. Chapter 475A, Code 2018, is repealed.>
35 10. Page 13, line 13, after <<utilities,> by inserting

1 <repealing provisions establishing the office of consumer
2 advocate,>
3 11. By renumbering as necessary.

WATTS of Dallas