

Senate File 2311

H-8428

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

3 1. By striking page 1, line 1, through page 2, line 21, and
4 inserting:

5 <Amend Senate File 2311, as amended, passed, and reprinted
6 by the Senate, as follows:

7 1. By striking everything after the enacting clause and
8 inserting:

9 <Section 1. Section 28F.1, subsection 1, Code 2018, is
10 amended to read as follows:

11 1. **This chapter** provides a means for the joint financing
12 by public agencies of works or facilities useful and necessary
13 for the collection, treatment, purification, and disposal
14 in a sanitary manner of liquid and solid waste, sewage,
15 and industrial waste, facilities used for the conversion of
16 solid waste to energy, gasworks and facilities useful for
17 the delivery of natural gas service, and also electric power
18 facilities constructed within the state of Iowa, except that
19 hydroelectric power facilities may also be located in the
20 waters and on the dams of or on land adjacent to either side
21 of the Mississippi or Missouri river bordering the state of
22 Iowa, water supply systems, swimming pools or golf courses.
23 This chapter applies to the acquisition, construction,
24 reconstruction, ownership, operation, repair, extension,
25 or improvement of such works or facilities, by a separate
26 administrative or legal entity created pursuant to chapter
27 28E or **chapter 389**. When the legal entity created under
28 this chapter is comprised solely of cities, counties, and
29 sanitary districts established under **chapter 358**, or any
30 combination thereof or any combination of the foregoing with
31 other public agencies, the entity shall be both a corporation
32 and a political subdivision with the name under which it was
33 organized. The legal entity may sue and be sued, contract,
34 acquire and hold real and personal property necessary for
35 corporate purposes, adopt a corporate seal and alter the seal

1 at pleasure, and execute all the powers conferred in this
2 chapter.

3 Sec. 2. Section 28F.11, Code 2018, is amended to read as
4 follows:

5 **28F.11 Eminent domain.**

6 Any public agency participating in an agreement authorizing
7 the joint exercise of governmental powers pursuant to this
8 chapter may exercise its power of eminent domain to acquire
9 interests in property, under provisions of law then in effect
10 and applicable to the public agency, for the use of the entity
11 created to carry out the agreement, provided that the power of
12 eminent domain is not used to acquire interests in property
13 which is part of a system of facilities in existence, under
14 construction, or planned, for the generation, transmission
15 or sale of electric power, or for the transmission,
16 transportation, or sale of natural gas. In the exercise
17 of the power of eminent domain, the public agency shall
18 proceed in the manner provided by [chapter 6B](#). Any interests
19 in property acquired are acquired for a public purpose, as
20 defined in [chapter 6A](#), of the condemning public agency, and the
21 payment of the costs of the acquisition may be made pursuant
22 to the agreement or to any separate agreement between the
23 public agency and the entity or the other public agencies
24 participating in the entity or any of them. Upon payment of
25 costs, any property acquired is the property of the entity.>>

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

27 <Sec. ____ . NEW SECTION. 385.1 **Definitions.**

28 As used in this chapter, unless the context otherwise
29 requires:

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

32 2. "*Energy investment*" means an acquisition, installation,
33 or modification benefitting private property, except
34 residential property with fewer than three residential units,
35 that is intended to reduce energy consumption or energy costs,

1 or both, or is intended to provide or allow for the use of
2 alternate and renewable energy. The term includes but is not
3 limited to the following measures:

4 a. Insulating walls, roofs, attics, floors, foundations, and
5 heating and cooling distribution systems.

6 b. Repairing, replacing, or installing storm windows
7 and doors, multiglazed windows and doors, heat-absorbing or
8 heat-reflective windows and doors, and other window and door
9 improvements designed to reduce energy consumption.

10 c. Constructing or reconstructing roofs designed to reduce
11 energy consumption or support additional loads necessitated by
12 other energy investments.

13 d. Installing energy control and measurement devices.

14 e. Heating, ventilating, or air conditioning distribution
15 system modifications and replacements.

16 f. Caulking and weatherstripping.

17 g. Installing lighting fixtures that result in increased
18 energy efficiency of the lighting system.

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

21 i. Repairing, replacing, or installing energy recovery
22 systems.

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

24 k. Repairing, replacing, or installing energy systems that
25 provide energy from alternate or renewable energy, including
26 solar, wind, biomass, geothermal, or cogeneration.

27 l. Repairing, replacing, or installing facilities or
28 fixtures providing for water conservation or pollutant control.

29 m. Repairing, replacing, or installing an energy investment
30 related item so long as the cost of the energy investment
31 related item does not exceed twenty-five percent of the total
32 cost of the project.

33 3. *"Energy investment related item"* means a repair,
34 replacement, improvement, or modification to real property
35 that is necessary or desirable in conjunction with an energy

1 investment. The term includes but is not limited to structural
2 support improvements and the repair or replacement of any
3 building components, paved surfaces, or fixtures disrupted or
4 altered by the installation of an energy investment.

5 4. "Project" means one or more energy investments to be
6 installed on a property.

7 Sec. _____. NEW SECTION. 385.2 Energy investment district
8 created.

9 1. A county or city may create an energy investment district
10 pursuant to this chapter in order to provide financing for
11 energy investment projects to benefit real property in the
12 district.

13 2. One or more counties and one or more cities within
14 those counties may create, by chapter 28E agreement, an energy
15 investment district pursuant to this chapter in order to
16 provide financing for energy investment projects to benefit
17 real property in the district. The agreement creating the
18 energy investment district shall specify the geographic
19 boundaries of the district.

20 Sec. _____. NEW SECTION. 385.3 Energy investment district
21 board — membership — powers.

22 1. The governing bodies of the counties and cities
23 participating in an energy investment district shall appoint a
24 board to manage and administer the energy investment district.
25 An energy investment district board shall consist of at least
26 three members, but if the district is created pursuant to
27 section 385.2, subsection 2, in no case shall there be fewer
28 members than the number of participating cities and counties.
29 The agreement creating the energy investment district shall set
30 the term length of board members.

31 2. A board shall have and may exercise the powers and duties
32 necessary for management and administration of the energy
33 investment district as such powers and duties are described
34 in the agreement, including but not limited to the following
35 express powers and duties:

- 1 *a.* To adopt, amend, and repeal bylaws consistent with the
2 provisions of this chapter.
- 3 *b.* To adopt an official seal.
- 4 *c.* To sue and be sued in all courts.
- 5 *d.* To make and enter into contracts with public and private
6 entities.
- 7 *e.* To accept grants, guarantees, and donations of property,
8 labor, services, and other items of value from a public or
9 private source.
- 10 *f.* To employ or contract for such managerial, legal,
11 technical, clerical, accounting, or other assistance it
12 deems advisable. However, the board shall not enter into any
13 arrangement that results in an exclusive lender, underwriter,
14 or other funding partner for all projects funded by the board.
- 15 *g.* To finance projects under assessment contracts.
- 16 *h.* To levy and collect special assessments under an
17 assessment contract with a property owner.
- 18 *i.* To borrow money from a public or private source and issue
19 bonds and provide security for the repayment of such bonds.
- 20 *j.* To charge and collect fees pursuant to section 385.5.
- 21 *k.* To invest funds not required for immediate disbursement,
22 subject to section 28E.5, subsection 2.

23 3. A board shall exist for a minimum duration necessary to
24 finance any assessment contracts that the board enters into
25 pursuant to section 385.4.

26 Sec. _____. NEW SECTION. **385.4 Project financing requirements**
27 **— assessment contracts.**

28 1. A board may finance a project if the following criteria
29 are met:

- 30 *a.* There are sufficient resources to complete the project.
- 31 *b.* The estimated monetary benefit, as determined by the
32 board after consultation with an outside expert, and including
33 but not limited to energy cost savings, maintenance, and other
34 property operating savings expected from the project during the
35 financing period is equal to or greater than the principal and

1 interest cost of the project, including special assessments and
2 any applicable fees.

3 *c.* The project complies with the ordinances and regulations
4 of the county or city where the property is located, including
5 but not limited to such ordinances and regulations concerning
6 zoning, subdivision of property, building, fire safety, and
7 historic or architectural review.

8 2. A board shall finance a project under an assessment
9 contract. An assessment contract shall be executed by the
10 board and the property owner or owners and shall include the
11 following components:

12 *a.* A description of the project, including the estimated
13 cost of the project and a description of the estimated savings,
14 prepared in accordance with standards accepted by the board.

15 *b.* A mechanism for verifying the final costs of the project
16 upon its completion and ensuring that any amounts advanced,
17 financed, or otherwise provided by the board will not exceed
18 the final cost of the project.

19 *c.* An agreement by the property owner to pay special
20 assessments and any applicable fees for a period not to exceed
21 the weighted average useful life of the project, as specified
22 in the assessment contract.

23 *d.* An assessment schedule adopted by the board by
24 resolution, stating the number of annual installments due,
25 stating the time when assessments and any applicable fees are
26 payable, and providing for interest on all unpaid installments
27 and fees at a rate not exceeding that permitted by chapter 74A.

28 *e.* A statement that the obligations provided in the
29 assessment contract, including the obligation to pay special
30 assessments and any applicable fees charged, are a covenant
31 that shall run with the land and be obligations upon future
32 owners of such property.

33 *f.* An acknowledgment that the subdivision of property
34 subject to the assessment contract shall require the assessment
35 contract or an amendment to the contract to divide the total

1 special assessment and any applicable fees charged due between
2 the newly subdivided parcels in proportion to the benefit
3 realized by each subdivided parcel.

4 *g.* An acknowledgment from all entities holding mortgages on
5 the real property, or the contract seller under a real estate
6 contract, to be assessed under the assessment contract that
7 such interest holders have consented to the levy and collection
8 of the special assessments and any applicable fees charged, as
9 described in the assessment contract.

10 3. *a.* A board shall provide a copy of a signed assessment
11 contract to the county or city assessor, as appropriate, and to
12 the county auditor of the county where the property is located
13 and shall file for recording a copy of the assessment contract
14 with the county recorder.

15 *b.* The city clerk or county auditor, as appropriate, shall
16 certify the assessment schedule to the treasurer of each county
17 where the property is located. The county treasurer shall
18 enter on the county system the amounts to be assessed against
19 the property, as certified.

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

23 5. A board shall determine an inspection procedure to
24 be utilized upon completion of an energy investment financed
25 pursuant to this chapter.

26 Sec. _____. NEW SECTION. **385.5 Special assessments — fees**
27 **— delinquency.**

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

32 2. In addition to special assessments provided under
33 subsection 1, a board may also charge a fee of up to one percent
34 of the total cost of a project, which fee may not exceed twenty
35 thousand dollars per project. Such fee shall be charged in

1 connection with administration of the assessment contract
2 and with any technical, consultative, or project assistance
3 services required. A fee charged under this subsection shall
4 be included in an assessment contract provided under section
5 385.4.

6 3. Special assessments levied and any applicable fees
7 charged by a board under an assessment contract shall be
8 levied, charged, and collected in the manner as provided in the
9 assessment contract and with the same priority as ad valorem
10 property taxes.

11 4. *a.* If special assessments and any applicable fees are
12 not paid within the time period set forth in the assessment
13 contract, such special assessments and fees shall be considered
14 delinquent. Delinquent special assessments and fees shall
15 become a lien on the property against which the special
16 assessments were levied and the fees charged. A board may
17 collect delinquent special assessments and fees as if the board
18 were a county treasurer pursuant to sections 445.3 and 445.4,
19 except that the property shall not be subject to sale for
20 delinquent taxes under chapter 446.

21 *b.* Special assessments and any applicable fees that are not
22 delinquent shall not be accelerated as part of any action or
23 proceeding to collect delinquent special assessments or fees.
24 Upon the sale of the real property subject to an assessment
25 contract, any remaining special assessments and applicable fees
26 shall be collected for the remainder of the assessment contract
27 term from a subsequent owner of the real property, including
28 an owner that is the state or any political subdivision of the
29 state.

30 Sec. _____. NEW SECTION. 385.6 Bonds issued.

31 1. A board may, by resolution, authorize and issue bonds
32 payable from the proceeds of the special assessments and any
33 other revenues collected. Such bonds may bear dates, bear
34 interest at rates not exceeding those permitted by chapter 74A,
35 mature in one or more installments, be in either coupon or

1 registered form, carry registration and conversion privileges,
2 be payable as to principal and interest at times and places,
3 be subject to terms of redemption prior to maturity with or
4 without premium, and be in one or more denominations, all as
5 provided by the resolution of the board authorizing their
6 issuance.

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

11 Sec. ____ . NEW SECTION. 385.7 Annual reporting.

12 A board shall submit to the governing body of each
13 participating county and city an annual report for the
14 preceding calendar year that includes the following
15 information:

16 1. A description of each project completed, including the
17 physical address of the benefitted property, the name or names
18 of the property owners, an itemized list of the costs incurred
19 under the project, and the name of any contractors used to
20 complete the project.

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

24 3. A summary of the public benefits resulting from the
25 projects listed in subsection 1, including, without limitation,
26 estimated cumulative energy savings resulting from the
27 projects.

28 4. A description of each assessment contract entered into by
29 the board, including a description of the project and a summary
30 of the assessment schedule.

31 5. The amount of administrative costs incurred by the
32 board.>

33 3. By renumbering as necessary.

ISENHART of Dubuque