

House Amendment to
Senate File 2311

S-5256

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

3 1. By striking everything after the enacting clause and
4 inserting:

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

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

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

1 **28F.11 Eminent domain.**

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

22 Sec. 3. Section 476.1, subsection 7, Code 2018, is amended
23 to read as follows:

24 7. The jurisdiction of the board under [this chapter](#)
25 shall include efforts designed to promote the use of energy
26 efficiency strategies by ~~rate or service-regulated~~ gas and
27 electric utilities required to be rate-regulated.

28 Sec. 4. Section 476.1A, subsections 1, 2, and 4, Code 2018,
29 are amended to read as follows:

30 1. Electric public utilities having fewer than ten
31 thousand customers and electric cooperative corporations
32 and associations are not subject to the ~~rate~~ regulation
33 authority of the board. ~~Such utilities are subject to all~~
34 ~~other regulation and enforcement activities of the board,~~
35 including, except for regulatory action pertaining to all of

1 the following:

2 *a.* Assessment of fees for the support of the division and
3 the office of consumer advocate, pursuant to section 476.10.

4 *b.* Safety and engineering standards for equipment,
5 operations, and procedures.

6 *c.* Assigned area of service.

7 *d.* Pilot projects of the board.

8 *e.* Assessment of fees for the support of the Iowa energy
9 center created in [section 15.120](#) and the center for global and
10 regional environmental research established by the state board
11 of regents. This paragraph "e" is repealed July 1, 2022.

12 *f.* Filing alternate energy purchase program plans with the
13 board, and offering such programs to customers, pursuant to
14 section 476.47.

15 ~~*g.* Filing energy efficiency plans and energy efficiency~~
16 ~~results with the board. The energy efficiency plans as a~~
17 ~~whole shall be cost-effective. The board may permit these~~
18 ~~utilities to file joint plans. The board shall periodically~~
19 ~~report the energy efficiency results including energy savings~~
20 ~~of each of these utilities to the general assembly. The board~~
21 ~~may waive all or part of the energy efficiency filing and~~
22 ~~review requirements for electric cooperative corporations and~~
23 ~~associations and electric public utilities which demonstrate~~
24 ~~superior results with existing energy efficiency efforts.~~

25 2. However, [sections 476.20](#), subsections 1 through 4,
26 [476.21](#), ~~[476.41 through 476.44](#)~~, [476.51](#), [476.56](#), [476.62](#), and
27 [476.66](#) and [chapters 476A](#) and [478](#), to the extent applicable,
28 apply to such electric utilities.

29 4. The board of directors or the membership of an electric
30 cooperative corporation or association otherwise exempt
31 from rate regulation may elect to have the cooperative's
32 rates regulated by the board. The board shall adopt rules
33 prescribing the manner in which the board of directors or the
34 membership of an electric cooperative may so elect. If the
35 board of directors or the membership of an electric cooperative

1 has elected to have the cooperative's rates regulated by the
2 board, after two years have elapsed from the effective date of
3 such election the board of directors or the membership of the
4 electric cooperative may elect to exempt the cooperative from
5 the rate regulation authority of the board, provided, however,
6 that if the membership elected to have the cooperative's rates
7 regulated by the board, only the membership may elect to exempt
8 the cooperative from the rate regulation authority of the
9 board.

10 Sec. 5. Section 476.1B, subsection 1, paragraphs f and l,
11 Code 2018, are amended by striking the paragraphs.

12 Sec. 6. Section 476.2, subsection 6, Code 2018, is amended
13 by striking the subsection.

14 Sec. 7. Section 476.4, subsection 1, Code 2018, is amended
15 to read as follows:

16 1. Every public utility shall file with the board tariffs
17 showing the rates and charges for its public utility services
18 and the rules and regulations under which such services were
19 furnished, on April 1, 1963, which rates and charges shall be
20 subject to investigation by the board as provided in section
21 476.3, and upon such investigation the burden of establishing
22 the reasonableness of such rates and charges shall be upon the
23 public utility filing the same. These filings shall be made
24 under such rules as the board may prescribe within such time
25 and in such form as the board may designate. In prescribing
26 rules and regulations with respect to the form of tariffs
27 and any other regulations, the board shall, in the case of
28 public utilities subject to regulation by any federal agency,
29 give due regard to any corresponding rules and regulations of
30 such federal agency, to the end that unnecessary duplication
31 of effort and expense may be avoided so far as reasonably
32 possible. Each public utility shall keep copies of its tariffs
33 open to public inspection under such rules as the board may
34 prescribe.

35 Sec. 8. Section 476.6, subsections 8 and 13, Code 2018, are

1 amended to read as follows:

2 8. *Automatic adjustments permitted.*

3 a. This chapter does not prohibit a public utility from
4 making provision for the automatic adjustment of rates and
5 charges for public utility service provided that a schedule
6 showing the automatic adjustment of rates and charges is first
7 filed with and approved by the board.

8 b. A public utility may automatically adjust rates and
9 charges to recover costs related to transmission incurred by
10 or charged to the public utility consistent with a tariff
11 or agreement that is subject to the jurisdiction of the
12 federal energy regulatory commission, provided that a schedule
13 showing the automatic adjustment of rates and charges is first
14 filed with and approved by the board. The board shall adopt
15 rules regarding the reporting of transmission expenses and
16 transmission-related activity pursuant to this paragraph.

17 13. *Energy efficiency plans.* Electric and gas public
18 utilities shall offer energy efficiency programs to their
19 customers through energy efficiency plans. An energy
20 efficiency plan as a whole shall be cost-effective. In
21 determining the cost-effectiveness of an energy efficiency
22 plan, the board shall apply the societal test, total resource
23 cost test, utility cost test, rate-payer impact test, and
24 participant test. Energy efficiency programs for qualified
25 low-income persons and for tree planting programs, educational
26 programs, and assessments of consumers' needs for information
27 to make effective choices regarding energy use and energy
28 efficiency need not be cost-effective and shall not be
29 considered in determining cost-effectiveness of plans as a
30 whole. The energy efficiency programs in the plans may be
31 provided by the utility or by a contractor or agent of the
32 utility. Programs offered pursuant to this subsection by gas
33 and electric utilities that are required to be rate-regulated
34 shall require board approval.

35 Sec. 9. Section 476.6, subsection 15, paragraph a, Code

1 2018, is amended to read as follows:

2 a. (1) (a) ~~Gas and electric~~ Electric utilities required
3 to be rate-regulated under this chapter shall file five-year
4 energy efficiency plans and demand response plans with the
5 board. Gas utilities required to be rate-regulated under
6 this chapter shall file five-year energy efficiency plans
7 with the board. An energy efficiency plan and budget or a
8 demand response plan and budget shall include a range of energy
9 efficiency or demand response programs, tailored to the needs
10 of all customer classes, including residential, commercial,
11 and industrial customers, for energy efficiency opportunities.
12 The plans shall include programs for qualified low-income
13 persons including a cooperative program with any community
14 action agency within the utility's service area to implement
15 countywide or communitywide energy efficiency programs for
16 qualified low-income persons. Rate-regulated gas and electric
17 utilities shall utilize Iowa agencies and Iowa contractors to
18 the maximum extent cost-effective in their energy efficiency
19 plans or demand response plans filed with the board.

20 (b) The board shall allow a customer of an electric utility
21 that is required to be rate-regulated to request an exemption
22 from participation in any five-year energy efficiency plan
23 offered by an electric utility if the energy efficiency plan
24 and demand response plan, at the time of approval by the board,
25 have a cumulative rate-payer impact test result of less than
26 one. Upon receipt of a request for exemption submitted by
27 a customer, the electric utility shall grant the exemption
28 and, beginning January 1 of the following year, the customer
29 shall no longer be assessed the costs of the plan and shall be
30 prohibited from participating in any program included in such
31 plan until the exemption no longer applies, as determined by
32 the board.

33 (2) Gas and electric utilities required to be
34 rate-regulated under this chapter may request an energy
35 efficiency plan or demand response plan modification during the

1 course of a five-year plan. A modification may be requested
2 due to changes in funding as a result of public utility
3 customers requesting exemptions from the plan or for any other
4 reason identified by the gas or electric utility. The board
5 shall take action on a modification request made by a gas or
6 electric utility within ninety days after the modification
7 request is filed. If the board fails to take action within
8 ninety days after a modification request is filed, the
9 modification request shall be deemed approved.

10 (3) The board shall adopt rules pursuant to chapter 17A
11 establishing reasonable processes and procedures for utility
12 customers from any customer class to request exemptions
13 from energy efficiency plans that meet the requirements of
14 subparagraph (1), subparagraph division (b). The rules adopted
15 by the board shall only apply to electric utilities that are
16 required to be rate-regulated.

17 Sec. 10. Section 476.6, subsection 15, paragraphs c and d,
18 Code 2018, are amended by striking the paragraphs.

19 Sec. 11. Section 476.6, subsection 15, paragraphs e, f, and
20 g, Code 2018, are amended to read as follows:

21 e. (1) The board shall conduct contested case proceedings
22 for review of energy efficiency plans, demand response plans,
23 and budgets filed by gas and electric utilities required to be
24 rate-regulated under [this chapter](#).

25 (2) Notwithstanding the goals developed pursuant to
26 paragraph "b", the board shall not require a gas utility to
27 adopt an energy efficiency plan that results in projected
28 cumulative average annual costs that exceed one and one-half
29 percent of the gas utility's expected annual Iowa retail rate
30 revenue from retail customers in the state, shall not require
31 an electric utility to adopt an energy efficiency plan that
32 results in projected cumulative average annual costs that
33 exceed two percent of the electric utility's expected annual
34 Iowa retail rate revenue from retail customers in the state,
35 and shall not require an electric utility to adopt a demand

1 response plan that results in projected cumulative average
2 annual costs that exceed two percent of the electric utility's
3 expected annual Iowa retail rate revenue from retail customers
4 in the state. For purposes of determining the two percent
5 threshold amount, the board shall exclude from an electric
6 utility's expected annual Iowa retail rate revenue the revenues
7 expected from customers that have received exemptions from
8 energy efficiency plans pursuant to paragraph "a". This
9 subparagraph shall apply to energy efficiency plans and demand
10 response plans that are effective on or after January 1, 2019.

11 (3) The board may approve, reject, or modify the plans and
12 budgets. Notwithstanding the provisions of section 17A.19,
13 subsection 5, in an application for judicial review of the
14 board's decision concerning a utility's ~~energy efficiency~~ plan
15 or budget, the reviewing court shall not order a stay.

16 (4) The board shall approve, reject, or modify a plan filed
17 pursuant to this subsection no later than March 31, 2019. If
18 the board fails to approve, reject, or modify a plan filed by a
19 gas or electric utility on or before such date, any plan filed
20 by the gas or electric utility that was approved by the board
21 prior to the effective date of this Act shall be terminated.
22 The board shall not require a gas or electric utility to
23 implement an energy efficiency plan or demand response plan
24 that does not meet the requirements of this subsection.

25 (5) Whenever a request to modify an approved plan or budget
26 is filed subsequently by ~~the office of consumer advocate~~ or a
27 gas or electric utility required to be rate-regulated under
28 this chapter, the board shall promptly initiate a formal
29 proceeding if the board determines that any reasonable ground
30 exists for investigating the request. The formal proceeding
31 may be initiated at any time by the board on its own motion.
32 Implementation of board-approved plans or budgets shall
33 be considered continuous in nature and shall be subject to
34 investigation at any time by the board or the office of the
35 consumer advocate.

1 f. Notice to customers of a contested case proceeding for
2 review of energy efficiency plans, demand response plans, and
3 budgets shall be in a manner prescribed by the board.

4 g. (1) A gas or electric utility required to be
5 rate-regulated under this chapter may recover, through an
6 automatic adjustment mechanism filed pursuant to subsection 8,
7 over a period not to exceed the term of the plan, the costs of
8 an energy efficiency plan or demand response plan approved by
9 the board, ~~including amounts for a plan approved prior to July~~
10 ~~1, 1996,~~ in a contested case proceeding conducted pursuant to
11 paragraph "e". Customers that have been granted exemptions from
12 energy efficiency plans pursuant to paragraph "a", shall not
13 be charged for recovery of energy efficiency costs beginning
14 January 1 of the year following the year in which the customer
15 was granted the exemption.

16 (2) The board shall periodically conduct a contested case
17 proceeding to evaluate the reasonableness and prudence of the
18 utility's implementation of an approved energy efficiency
19 or demand response plan and budget. If a utility is not
20 taking all reasonable actions to cost-effectively implement
21 an approved ~~energy efficiency~~ plan, the board shall not allow
22 the utility to recover from customers costs in excess of those
23 costs that would be incurred under reasonable and prudent
24 implementation and shall not allow the utility to recover
25 future costs at a level other than what the board determines
26 to be reasonable and prudent. If the result of a contested
27 case proceeding is a judgment against a utility, that utility's
28 future level of cost recovery shall be reduced by the amount
29 by which the programs were found to be imprudently conducted.
30 ~~The~~ Beginning January 1, 2019, a gas or electric utility
31 ~~shall not~~ represent energy efficiency and demand response in
32 customer billings as a separate cost or expense ~~unless the~~
33 ~~board otherwise approves.~~

34 Sec. 12. Section 476.6, subsection 17, Code 2018, is amended
35 by striking the subsection.

1 Sec. 13. Section 476.6, Code 2018, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 22. *Preapproval of cost recovery for natural*
4 *gas extensions — rules.* The board may adopt rules which
5 provide for a preapproval process for cost recovery for natural
6 gas extensions.

7 Sec. 14. Section 476.6, Code 2018, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 23. *Federal tax reduction — customer*
10 *benefits.* Customers of gas and electric utilities subject to
11 rate regulation by the board shall receive the full benefits
12 of the utilities' reduced federal corporate income taxes as
13 provided in the federal Tax Cuts and Jobs Act of 2017, Pub.
14 L. No. 115-97, 131 Stat. 2054. Notwithstanding any other
15 provision of law or rule to the contrary, the board shall,
16 no later than June 1, 2018, approve any proposal filed by a
17 rate-regulated gas or electric utility to pass such benefits
18 on to customers. The board may approve rates with provision
19 for adjustments to ensure that the rates are accurate and that
20 customers receive the full benefits.

21 Sec. 15. Section 476.20, subsection 5, paragraph a,
22 unnumbered paragraph 1, Code 2018, is amended to read as
23 follows:

24 The board shall establish rules which shall be uniform with
25 respect to all public utilities furnishing gas or electricity
26 relating to deposits which may be required by the public
27 utility for the initiation or reinstatement of service. This
28 subsection shall not apply to municipally owned utilities,
29 which shall be governed by the provisions of [section 384.84](#)
30 with respect to deposits and payment plans for delinquent
31 amounts owed. Municipally owned utilities and electric
32 utilities that are not required to be rate-regulated shall not
33 be subject to the board's rules in regards to deposits and
34 payment plans for delinquent amounts owed and repayment of past
35 due debt. Municipally owned utilities and electric utilities

1 that are not required to be rate-regulated shall be subject to
2 the board's rules in regards to payment plans made prior to the
3 disconnection of services.

4 Sec. 16. Section 476.21, Code 2018, is amended to read as
5 follows:

6 **476.21 Discrimination prohibited.**

7 A ~~municipality~~, corporation or cooperative association
8 providing electrical or gas service shall not consider the
9 use of renewable energy sources by a customer as a basis for
10 establishing discriminatory rates or charges for any service
11 or commodity sold to the customer or discontinue services or
12 subject the customer to any other prejudice or disadvantage
13 based on the customer's use or intended use of renewable energy
14 sources. As used in [this section](#), "*renewable energy sources*"
15 includes but is not limited to solar heating, wind power and
16 the conversion of urban and agricultural organic wastes into
17 methane gas and liquid fuels.

18 Sec. 17. Section 476.33, subsection 4, Code 2018, is amended
19 to read as follows:

20 4. The board shall adopt rules that require the board, in
21 rate regulatory proceedings under [sections 476.3](#) and [476.6](#), to
22 utilize either a historic test year or a future test year at
23 the rate-regulated public utility's discretion.

24 a. For a rate regulatory proceeding utilizing a historic
25 test year, the rules shall require the board to consider the
26 use of the most current test period possible in determining
27 reasonable and just rates, subject only to the availability of
28 existing and verifiable data respecting costs and revenues, and
29 in addition, to consider verifiable data that exists within
30 nine months after the conclusion of the test year, respecting
31 known and measurable changes in costs not associated with a
32 different level of revenue, and known and measurable revenues
33 not associated with a different level of costs, that are to
34 occur at any time within twelve months after the date of
35 commencement of the proceedings. Parties proposing adjustments

1 that are not verifiable at the commencement of the proceedings
2 shall include projected data related to the adjustments in
3 their initial substantive filing with the board. For purposes
4 of this subsection paragraph, a proceeding commences under
5 section 476.6 upon the filing date of new or changed rates,
6 charges, schedules, or regulations. ~~This subsection does not~~
7 ~~limit the authority of the board to consider other evidence in~~
8 ~~proceedings under sections 476.3 and 476.6.~~

9 b. For a rate regulatory proceeding utilizing a future test
10 year, the rules shall require the board to consider the use
11 of any twelve-month period beginning no later than the date
12 on which a proposed rate change is expected to take effect
13 in determining just and reasonable rates. The rules shall
14 also require the board to conduct a proceeding subsequent to
15 the effective date of a rate resulting from a rate regulatory
16 proceeding utilizing a future test year to determine whether
17 the actual costs and revenues are reasonably consistent with
18 those approved by the board. If the actual costs and revenues
19 are not reasonably consistent with those approved by the
20 board, the board shall adjust the rates accordingly. For a
21 rate regulatory proceeding utilizing a future test year, the
22 board may adopt rules regarding evidence required, information
23 to support forecasts, and any reporting obligations. The
24 board may also adopt rules regarding the conditions under
25 which a public utility that utilizes a future test year may
26 subsequently utilize a historic test year. A public utility
27 shall not be precluded from filing a rate regulatory proceeding
28 utilizing a future test year prior to the adoption of any rules
29 pursuant to this subsection.

30 c. This subsection does not limit the authority of the board
31 to consider other evidence in proceedings under sections 476.3
32 and 476.6.

33 Sec. 18. Section 476.53, subsection 3, paragraph a,
34 subparagraph (1), subparagraph division (a), Code 2018, is
35 amended by adding the following new subparagraph subdivision:

1 NEW SUBPARAGRAPH SUBDIVISION. (v) Repowering of an
2 alternate energy production facility. For purposes of this
3 subparagraph subdivision, "*repowering*" shall mean either the
4 complete dismantling and replacement of generation equipment at
5 an existing project site, or the installation of new parts and
6 equipment to an existing alternate energy production facility
7 in order to increase energy production, reduce load, increase
8 service capacity, improve project reliability, or extend the
9 useful life of the facility.

10 Sec. 19. STUDY OF ELECTRIC VEHICLE INFRASTRUCTURE
11 SUPPORT. The economic development authority, in collaboration
12 with the department of transportation and the Iowa utility
13 industry, shall conduct a study of electric vehicle
14 infrastructure support for both commercial and noncommercial
15 vehicles and make recommendations to the general assembly
16 regarding electric vehicle charging infrastructure. The study
17 shall evaluate the relative costs and benefits associated with
18 various options for electric vehicle infrastructure support.
19 The economic development authority shall submit a report to the
20 general assembly containing the results of the study no later
21 than June 30, 2019.

22 Sec. 20. EFFECTIVE DATE. The following, being deemed of
23 immediate importance, takes effect upon enactment:

24 1. The section of this Act amending section 476.6,
25 subsection 15, paragraphs "e", "f", and "g".

26 2. The section of this Act enacting section 476.6,
27 subsection 23.>

28 2. Title page, line 2, by striking <utilities> and
29 inserting <utilities, providing for a study of electric
30 vehicle infrastructure support, and including effective date
31 provisions>