

Senate File 275

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SENATE FILE 275

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AN ACT

RELATING TO THE TAXATION OF UTILITIES, INCLUDING ESTABLISHMENT OF A NATURAL GAS DELIVERY TAX RATE FOR NEW ELECTRIC POWER GENERATING PLANTS, ESTABLISHMENT OF A REPLACEMENT TRANSMISSION TAX FOR CERTAIN MUNICIPAL UTILITIES, METHODS OF ALLOCATION OF REPLACEMENT GENERATION TAX INCURRED BY CERTAIN NEW STAND-ALONE ELECTRIC POWER GENERATING PLANTS, A FORMULA FOR DETERMINING TAXABLE VALUE FOR PROPERTY GENERATING REPLACEMENT TAX ANNUALLY, EXTENDING THE TASK FORCE, AND PROVIDING FOR APPLICABILITY.

1 14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 15
1 16 Section 1. Section 426B.2, subsections 1 and 3, Code 2003,
1 17 are amended to read as follows:

1 18 1. The moneys in the property tax relief fund available to
1 19 counties for a fiscal year shall be distributed as provided in
1 20 this section. A county's proportion of the moneys shall be
1 21 equivalent to the sum of the following three factors:

1 22 a. One-third based upon the county's proportion of the
1 23 state's general population.

1 24 b. One-third based upon the county's proportion of the
1 25 state's total taxable property valuation assessed for taxes
1 26 payable in the previous fiscal year.

1 27 c. One-third based upon the county's proportion of all
1 28 counties' base year expenditures, as defined in section
1 29 331.438.

1 30 Moneys provided to a county for property tax relief in a
1 31 fiscal year, excluding replacement taxes in the property tax
1 32 relief fund, in accordance with this subsection shall not be
1 33 less than the amount provided for property tax relief in the
1 34 previous fiscal year.

1 35 3. The director of human services shall draw warrants on
2 1 the property tax relief fund, payable to the county treasurer
2 2 in the amount due to a county in accordance with subsection 1
2 3 and mail the warrants to the county auditors in July and
2 4 January of each year. Any replacement generation tax in the
2 5 property tax relief fund as of November 1 shall be paid to the
2 6 county treasurers in July and January of the fiscal year
2 7 beginning the following July 1.

2 8 Sec. 2. Section 437A.3, Code 2003, is amended by adding
2 9 the following new subsection:

2 10 NEW SUBSECTION. 4A. "Cogeneration facility" means a
2 11 facility with a capacity of two hundred megawatts or less that
2 12 uses the same energy source for the sequential generation of
2 13 electrical or mechanical power in combination with steam,
2 14 heat, or other forms of useful energy and, except for
2 15 ownership, meets the criteria to be a qualifying cogeneration
2 16 facility as defined in the federal Public Utility Regulatory
2 17 Policies Act of 1978, 16 U.S.C. } 2601 et seq., and related
2 18 federal regulations.

2 19 Sec. 3. Section 437A.3, subsection 10, Code 2003, is
2 20 amended by adding the following new unnumbered paragraph:

2 21 NEW UNNUMBERED PARAGRAPH. "New electric power generating
2 22 plant" means an electric power generating plant that is owned
2 23 by or leased to an electric company, electric cooperative, or
2 24 municipal utility, and that initially generates electricity
2 25 subject to replacement generation tax under section 437A.6 on
2 26 or after January 1, 2003.

2 27 Sec. 4. Section 437A.3, subsection 13, Code 2003, is
2 28 amended by adding the following new unnumbered paragraph:

2 29 NEW UNNUMBERED PARAGRAPH. "Local amount" for the purposes
2 30 of determining the local taxable value for a new electric
2 31 power generating plant shall annually be determined to be
2 32 equal up to the first forty-four million four hundred forty=
2 33 four thousand four hundred forty-five dollars of the taxable
2 34 value of the new electric power generating plant. "Local
2 35 amount" for the purposes of determining the local assessed
3 1 value for a new electric power generating plant shall be
3 2 annually determined to be the percentage share of the taxable
3 3 value of the new electric power generating plant allocated as
3 4 the local amount multiplied by the total assessed value of the
3 5 new electric power generating plant.

3 6 Sec. 5. Section 437A.3, subsection 21, paragraph a,
3 7 subparagraph (1), subparagraph subdivision (am), Code 2003, is
3 8 amended to read as follows:

3 9 (am) The city of Waukee in Dallas county and the area
3 10 within two miles of the city limits of Waukee as of January 1,
3 11 1999, not including any part of the cities of Clive,
3 12 Urbandale, or West Des Moines.

3 13 Sec. 6. Section 437A.3, Code 2003, is amended by adding
3 14 the following new subsection:

3 15 NEW SUBSECTION. 27A. "Taxable value" means as defined in
3 16 section 437A.19, subsection 2, paragraph "f".

3 17 Sec. 7. Section 437A.5, subsection 1, Code 2003, is
3 18 amended by adding the following new paragraph:

3 19 NEW PARAGRAPH. c. Notwithstanding paragraphs "a" and "b",
3 20 a natural gas delivery rate of one and eleven-hundredths of a
3 21 cent (.0111) per therm of natural gas is imposed on all
3 22 natural gas delivered to or consumed by a new electric power
3 23 generating plant for purposes of generating electricity within
3 24 the state during the tax year. However, if a new electric
3 25 power generating plant is exempt from a replacement generation
3 26 tax pursuant to section 437A.6, subsection 1, paragraph "b",
3 27 the natural gas delivery rate for the municipal service area
3 28 that the new plant serves shall instead apply for deliveries
3 29 of natural gas by the municipal gas utility.

3 30 The provisions of subsection 8, shall not apply to the
3 31 therms of natural gas subject to the delivery tax set forth in
3 32 this paragraph.

3 33 If the new electric power generating plant is part of a
3 34 cogeneration facility, the natural gas delivery rate for that
3 35 plant shall be the lesser of the natural gas delivery rate
4 1 established in this paragraph or the rate per therm of natural
4 2 gas as in effect at the time of the initial natural gas
4 3 deliveries to the plant for the natural gas competitive
4 4 service area where the new electric power generating plant is
4 5 located.

4 6 Sec. 8. Section 437A.5, subsection 6, Code 2003, is
4 7 amended to read as follows:

4 8 6. Notwithstanding subsection 1, the natural gas delivery
4 9 tax rate applied to therms of natural gas delivered by a
4 10 taxpayer to utility property and facilities ~~which that~~ are
4 11 placed in service on or after January 1, 1999, and ~~which that~~
4 12 are owned by or leased to and initially served by such
4 13 taxpayer shall be the natural gas delivery tax rate in effect
4 14 for the natural gas competitive service area principally
4 15 served by such utility property and facilities even though
4 16 such utility property and facilities may be physically located
4 17 in another natural gas competitive service area.

4 18 This subsection shall not apply to natural gas delivered to
4 19 or consumed by new electric power generating plants.

4 20 Sec. 9. Section 437A.7, Code 2003, is amended by adding
4 21 the following new subsection:

4 22 NEW SUBSECTION. 1A. In lieu of the replacement
4 23 transmission tax imposed in subsection 1, a municipal utility
4 24 whose replacement transmission tax liability for the tax year
4 25 1999 was limited to the tax imposed by this section and whose
4 26 anticipated tax revenues from a taxpayer, as defined in
4 27 section 437A.15, subsection 4, for the tax year 1999, exceeded
4 28 its replacement transmission tax by more than one hundred
4 29 thousand dollars shall be subject to replacement transmission
4 30 tax on all transmission lines owned by or leased to the
4 31 municipal utility as of the last day of the tax year 2000 as
4 32 follows:

4 33 a. Three thousand twenty-five dollars per pole mile of
4 34 transmission line owned or leased by the taxpayer not
4 35 exceeding one hundred kilovolts.

5 1 b. Seven thousand dollars per pole mile of transmission
5 2 line owned or leased by the taxpayer greater than one hundred
5 3 fifty kilovolts but not exceeding three hundred kilovolts.

5 4 Sec. 10. Section 437A.8, subsection 4, Code 2003, is
5 5 amended by adding the following new paragraph:

5 6 NEW PARAGRAPH. d. Notwithstanding paragraph "a", a
5 7 taxpayer who owns or leases a new electric power generating
5 8 plant and who has no other operating property in the state of
5 9 Iowa except for operating property directly serving the new
5 10 electric power generating plant as described in section
5 11 437A.16, shall pay the replacement generation tax associated
5 12 with the allocation of the local amount to the county
5 13 treasurer of the county in which the local amount is located
5 14 and shall remit the remaining replacement generation tax, if
5 15 any, to the director according to paragraph "a" for remittance
5 16 of the tax to county treasurers. The director shall notify

5 17 each taxpayer on or before August 31 following a tax year of
5 18 its remaining replacement generation tax to be remitted to the
5 19 director. All remaining replacement generation tax revenues
5 20 received by the director shall be deposited in the property
5 21 tax relief fund created in section 426B.1, and shall be
5 22 distributed as provided in section 426B.2.

5 23 Sec. 11. Section 437A.15, subsection 3, paragraph a, Code
5 24 2003, is amended to read as follows:

5 25 a. All replacement taxes owed by a taxpayer shall be
5 26 allocated among the local taxing districts in which such
5 27 taxpayer's property is located in accordance with a general
5 28 allocation formula determined by the department of management
5 29 on the basis of general property tax equivalents. General
5 30 property tax equivalents shall be determined by applying the
5 31 levy rates reported by each local taxing district to the
5 32 department of management on or before June 30 following a tax
5 33 year to the ~~assessed taxable~~ value of taxpayer property
5 34 allocated to each such local taxing district as adjusted and
5 35 reported to the department of management in such tax year by
6 1 the director pursuant to section 437A.19, subsection 2. The
6 2 general allocation formula for a tax year shall allocate to
6 3 each local taxing district that portion of the replacement
6 4 taxes owed by each taxpayer which bears the same ratio as such
6 5 taxpayer's general property tax equivalents for each local
6 6 taxing district bears to such taxpayer's total general
6 7 property tax equivalents for all local taxing districts in
6 8 Iowa.

6 9 When allocating natural gas delivery taxes on deliveries of
6 10 natural gas to a new electric power generating plant, ten
6 11 percent of those natural gas delivery taxes shall be allocated
6 12 over new gas property built to directly serve the new electric
6 13 power generating plant and ninety percent of those natural gas
6 14 delivery taxes shall be allocated to the general property tax
6 15 equivalents of all gas property within the natural gas
6 16 competitive service area or areas where the new gas property
6 17 is located.

6 18 Sec. 12. Section 437A.15, subsection 3, Code 2003, is
6 19 amended by adding the following new paragraph:

6 20 NEW PARAGRAPH. f. Notwithstanding the provisions of this
6 21 section, if a taxpayer is a municipal utility or a municipal
6 22 owner of an electric power facility financed under the
6 23 provisions of chapter 28F or 476A, the assessed value, other
6 24 than the local amount, of a new electric power generating
6 25 plant shall be allocated to each taxing district in which the
6 26 municipal utility or municipal owner is serving customers and
6 27 has electric meters in operation in the ratio that the number
6 28 of operating electric meters of the municipal utility or
6 29 municipal owner located in the taxing district bears to the
6 30 total number of operating electric meters of the municipal
6 31 utility or municipal owner in the state as of January 1 of the
6 32 tax year. If the municipal utility or municipal owner of an
6 33 electric power facility financed under the provisions of
6 34 chapter 28F or 476A has a new electric power generating plant
6 35 but the municipal utility or municipal owner has no operating
7 1 electric meters in this state, the municipal utility or
7 2 municipal owner shall pay the replacement generation tax
7 3 associated with the new electric power generating plant
7 4 allocation of the local amount to the county treasurer of the
7 5 county in which the local amount is located and shall remit
7 6 the remaining replacement generation tax, if any, to the
7 7 director at the times contained in section 437A.8, subsection
7 8 4, for remittance of the tax to the county treasurers. All
7 9 remaining replacement generation tax revenues received by the
7 10 director shall be deposited in the property tax relief fund
7 11 created in section 426B.1, and shall be distributed as
7 12 provided in section 426B.2.

7 13 Sec. 13. Section 437A.15, subsection 7, Code 2003, is
7 14 amended to read as follows:

7 15 ~~7. On or before July 1, 1998, the~~ The department of
7 16 management, in consultation with the department of revenue and
7 17 finance, shall ~~initiate and coordinate the establishment of a~~
7 18 utility replacement tax task force and provide staffing
7 19 assistance to the task force. It is the intent of the general
7 20 assembly that the task force include representatives of the
7 21 department of management, department of revenue and finance,
7 22 electric companies, natural gas companies, municipal
7 23 utilities, electric cooperatives, counties, cities, school
7 24 boards, and industrial, commercial, and residential consumers,
7 25 and other appropriate stakeholders.

7 26 The task force shall study the effects of the replacement
7 27 tax on local taxing authorities, local taxing districts,

7 28 consumers, and taxpayers and the department of management
7 29 shall report to the general assembly by January 1 of each year
7 30 through January 1, ~~2003~~ 2005, the results of the study and the
7 31 specific recommendations of the task force for modifications
7 32 to the replacement tax, if any, which will further the
7 33 purposes of tax neutrality for local taxing authorities, local
7 34 taxing districts, taxpayers, and consumers, consistent with
7 35 the stated purposes of this chapter. The department of
8 1 management shall also report to the legislative council by
8 2 November 15 of each year through ~~2002~~ 2004, the status of the
8 3 task force study and any recommendations.

8 4 Sec. 14. Section 437A.19, subsection 2, paragraph f, Code
8 5 2003, is amended to read as follows:

8 6 f. In the event the base year assessed value of taxpayer
8 7 property is adjusted as a result of taxpayer appeals, reduce
8 8 the assessed value of taxpayer property in each local taxing
8 9 district to reflect such adjustment. The adjustment shall be
8 10 allocated in proportion to the allocation of the taxpayer's
8 11 assessed value among the local taxing districts determined
8 12 without regard to this adjustment. ~~If an~~ An adjustment to the
8 13 base year assessed value of taxpayer property is finally
~~8 14 determined on or before September 30, 1999, it shall be~~
~~8 15 reflected in the January 1, 1999, assessed value. Otherwise,~~
~~8 16 any such adjustment shall be made as of January 1 of the year~~
8 17 following the date on which the adjustment is finally
8 18 determined.

8 19 In no event shall the adjustments set forth in this
8 20 subsection reduce the assessed value of taxpayer property in
8 21 any local taxing district below zero.

~~8 22 The director, on or before October 31, 1999, in the case of~~
~~8 23 January 1, 1999, assessed values, and on or before August 31~~
8 24 of each ~~subsequent~~ assessment year, shall report to the
8 25 department of management and to the auditor of each county the
8 26 adjusted assessed value of taxpayer property as of January 1
8 27 of such assessment year for each local taxing district,
~~8 28 provided that for a taxpayer whose base year as defined in~~
~~8 29 section 437A.3, subsection 1, changed from 1997 to 1998, the~~
~~8 30 director shall, before May 1, 2000, report to the department~~
~~8 31 of management and to the auditor of each county, the assessed~~
~~8 32 values as of January 1, 1999.~~ For purposes of this
8 33 subsection, the assessed value of taxpayer property in each
8 34 local taxing district subject to adjustment under this section
8 35 by the director means the assessed value of such property as
9 1 of the preceding January 1 as determined and allocated among
9 2 the local taxing districts by the director.

9 3 Nothing in this chapter shall be interpreted to authorize
9 4 local taxing authorities to exclude from the calculation of
9 5 levy rates the ~~adjusted assessed~~ taxable value of taxpayer
9 6 property reported to county auditors pursuant to this
9 7 subsection.

9 8 In addition to reporting the assessed values as described
9 9 in this subsection, the director, on or before October 31,
9 10 2003, in the case of January 1, 2003, values, and on or before
9 11 August 31 of each subsequent assessment year, shall also
9 12 report to the department of management and to the auditor of
9 13 each county the taxable value of taxpayer property as of
9 14 January 1 of such assessment year for each local taxing
9 15 district. For purposes of this chapter, "taxable value" means
9 16 the value for all property subject to the replacement tax
9 17 annually determined by the director, by dividing the estimated
9 18 annual replacement tax liability for that property by the
9 19 prior year's consolidated taxing district rate for the taxing
9 20 district where that property is located, then multiplying the
9 21 quotient by one thousand. The prior year's replacement tax
9 22 amounts for that property shall be used to estimate the
9 23 current tax year's taxable value for that property. If
9 24 property not subject to any threshold recalculation is
9 25 generating replacement tax for the first time, or if a
9 26 taxpayer's replacement tax will not be changed by any
9 27 threshold recalculation and the taxpayer believes that the
9 28 replacement tax will vary more than ten percent from the
9 29 previous tax year, the taxpayer shall report to the director
9 30 by July 15 of the current calendar year, on forms prescribed
9 31 by the director, the estimated replacement tax liability that
9 32 will be attributable to that property for the current tax
9 33 year. For the purposes of computing the taxable value of
9 34 property in a taxing district, the taxing district's share of
9 35 the estimated replacement tax liability shall be the taxing
10 1 district's percentage share of the "assessed value allocated
10 2 by property tax equivalent" multiplied by the total estimated
10 3 replacement tax. "Assessed value allocated by property tax

10 4 equivalent" shall be determined by dividing the taxpayer's
10 5 current year assessed valuation in a taxing district by one
10 6 thousand, and then multiplying by the prior year's
10 7 consolidated tax rate.

10 8 Sec. 15. RETROACTIVE APPLICABILITY. This bill applies
10 9 retroactively to tax years beginning on or after January 1,
10 10 2003.

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MARY E. KRAMER
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

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10 22 I hereby certify that this bill originated in the Senate and
10 23 is known as Senate File 275, Eightieth General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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10 29 Approved _____, 2003

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THOMAS J. VILSACK
Governor