

FEB 9 1971

*Please OH Calendar
Sen. Ways & Means 3/22
Pass per
amendment 4/20*

HOUSE FILE 197

BY COMMITTEE ON WAYS AND MEANS

Passed House, Date 2-24-70 Passed Senate, Date 4-22-71

Vote: Ayes 67 Nays 27 Vote: Ayes 32 Nays 12

Approved 5-7-71

*Passed House 4-26-71
ayes 71 nays 23*

A BILL FOR

1 An Act relating to taxation of rural electric cooperative
2 property.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section four hundred thirty-seven point four-
2 teen (437.14), Code 1971, is amended by striking the section
3 and inserting in lieu thereof the following:

4 "Notwithstanding the provisions of sections four hundred
5 thirty-seven point one (437.1) and four hundred forty-one
6 point twenty-one (441.21) of the Code, cooperative corpora-
7 tions or associations which are not organized for profit shall
8 file a verified statement as provided by section four hundred
9 thirty-seven point two (437.2) of the Code, and the director
10 of revenue shall determine the value and shall assess electric
11 lines and associated facilities of the cooperative corporations
12 or associations which are not organized for profit as follows:

13 1. Electric lines and associated facilities operating
14 at thirty-four thousand five hundred volts or higher volt-
15 age, and substations, transformers and associated facili-
16 ties operated at thirty-four thousand five hundred or more
17 volts on the low voltage side are defined as transmission
18 lines and shall be valued and assessed as otherwise provided
19 in this chapter.

20 2. Electric lines and associated facilities operated at
21 less than thirty-four thousand five hundred volts and
22 substations, transformers and associated facilities oper-
23 ated at less than thirty-four thousand five hundred volts
24 on the low voltage side are defined as distribution lines
25 and the actual value thereof for the purpose of section four
26 hundred thirty-seven point six (437.6) of the Code shall be
27 twenty-five percent of the original cost of the distribution
28 lines.

29 Except as provided in this section, the taxation of electric
30 lines and associated facilities of the cooperative corporations
31 or associations shall be identical, including rates of
32 capitalization, to the provisions for other electric lines
33 as provided in this chapter.

34 3. Any electric lines and associated facilities described
35 in this section which are included within the boundaries of a

1 city or town as a result of annexation, incorporation or other-
2 wise, shall be taxed as provided ~~herein~~ and may continue ~~(and~~
3 ~~extend)~~ service within such area under the provisions of section
4 four hundred ninety A point twenty-three (490A.23) of the Code,
5 except that such lines shall be purchased at the end of six
6 years from the date the corporate boundaries are so extended
7 only upon the voluntary agreement of the utilities involved.
8 Any such electric lines, whether transmission or distribution
9 lines, located within the boundaries of a city or town shall be
10 listed and assessed for taxation as provided in section four
11 hundred thirty-seven point thirteen (437.13) of the Code and
12 shall be subject to the authority of any such city or town
13 to impose taxes, charges or fees as provided by law."

14 Sec. 2. This Act shall apply to taxes levied in the year
15 1971 which are payable in the year 1972 and to taxes levied
16 thereafter.

17 Sec. 3. This Act, being deemed of immediate importance,
18 shall take effect and be in force from and after its publication
19 in The Pioneer-Republican, a newspaper published in Marengo,
20 Iowa, and in The Record-Herald and Indianola Tribune, a news-
21 paper published in Indianola, Iowa.

22 EXPLANATION

23 This bill provides that nonprofit electric cooperatives
24 rather than the members of the cooperative will be taxed on
25 electrical cooperative property. The bill also provides for
26 territorial integrity.

27 Under present law the members of the cooperatives are
28 subject to tax equally, without regard to the size of their
29 operation or amount of electricity used.

30 Lines and facilities of 34,500 volts or more shall be
31 valued and assessed as provided in chapter 437 for other
32 electrical companies.

33 Lines and facilities of less than 34,500 volts shall be
34 valued and assessed at 25% of cost.

35

LSB 754

- 1 Amend House File 197 as follows:
2 1. Page 3, lines 2 and 3, by striking the
3 words "and extend service within such area under" and
4 inserting in lieu thereof the words "service within
5 such area subject to".
6 2. Page 3, line 4, by striking the comma
7 and inserting in lieu thereof a period
8 3. Page 3, by striking lines 5, 6, and 7.

Filed
February 10, 1971

Miller of Van Buren, DIST. 99
By HANSEN of Black Hawk, District 36
KEHE of Bremer, District 12
FISCHER of Grundy, District 35
STANLEY of Linn, District 45
EGENES of Story, District 33
KINLEY of Pclk, District 66

- 1 Amend House File 197 as follows:
2 1. Page 3, lines 2 and 3, by striking the words "and
3 extend".
4 2. Page 3, line 7, by inserting after the word
5 "involved" the words "and notwithstanding section 490A.1,
6 all rates charged by a cooperative corporation or
7 association to various classes of consumers within the
8 annexed area shall be regulated by the Iowa state commerce
9 commission under chapter 490A".

Filed. *Adopted 2/24*
February 12, 1971

By FREEMAN of Buena Vista
District 15

HOUSE FILE 197

1 Amend House File 197 as follows:

2 1. Page 3, line 4, by inserting after the word
3 "Code," the words "except that an election shall be held in
4 the annexed territory to determine whether the annexed ter-
5 ritory shall continue to be served by the cooperative cor-
6 poration or association or public utility which is serving
7 the annexed territory at the time of the annexation".

8 2. Page 3, by inserting after line 16 the following
9 new sections:

10 Sec. 3. Section three hundred eighty-six point three
11 (386.3), Code 1971, is amended as follows:

12 386.3 FRANCHISE--ELECTION. No franchise shall be
13 granted, renewed, or extended by any city or town for the
14 use of its streets, highways, avenues, alleys, or public
15 places, for any of the purposes named in sections 386.1
16 and 386.2 unless a majority of the legal electors voting
17 thereon vote in favor of the same at a general, city or
18 town, or special election. The council may order the
19 questions of the granting, renewal, or extension of any
20 such franchise so submitted; or the mayor shall submit said
21 question to such vote upon the petition of twenty-five
22 property owners of each voting precinct in a city, or fifty
23 property owners in any town.

24 If a city or town annexes territory which is served at
25 the time of the annexation by a cooperative corporation or
26 association or public utility which does not have a fran-
27 chise, the city or town council shall order the question
28 submitted to the residents in the annexed territory to
29 determine whether the annexed territory shall continue to
30 be served by the cooperative corporation or association or
31 public utility serving the annexed territory at the time
32 of the annexation or whether the annexed territory shall be
33 served by the public utility or municipally owned utility
34 operating in the city or town under a franchise granted by
35 the city or town.

36 If the residents of the annexed territory vote in
37 favor of being served by the cooperative corporation or
38 association or public utility, the city or town shall
39 grant the cooperative corporation or association or public
40 utility a franchise to serve the annexed territory of the
41 city or town under the same terms and conditions which the
42 public utility presently serving the city or town operates.

43 Nothing in this section shall allow the cooperative
44 corporation or association or public utility to extend
45 services to that part of the city presently being served
46 by another franchised public utility.

47 Sec. 4. Section three hundred ninety-seven point two
48 (397.2), Code 1971, is amended as follows:

Feb. 19, 1971

49 397.2 FRANCHISE MAY BE GRANTED. They may grant to
50 individuals or private corporations the authority to erect
51 and maintain such works or plants for a term of not more
52 than twenty-five years, and may renew, amend, or extend the
53 terms of the grant; but no exclusive franchise shall be
54 granted, amended, extended, or renewed.

55 A city or town shall grant a franchise to any coopera-
56 tive corporation or association or public utility serving
57 any territory annexed at the time of the annexation if the
58 residents of the annexed territory have voted in favor of
59 being served by the cooperative corporation or association
60 or public utility under an election called under section
61 386.2.

62 Sec. 5. Section four hundred ninety A point twenty-
63 three (490A.23), Code 1971, is amended as follows:

64 490A.23 CITIES AND TOWNS--CONFLICT OF SERVICE.

65 The application of section 397.28 to public utilities, as
66 defined in this chapter, with respect to the regulating of
67 rates and services of such public utilities to the extent
68 such jurisdiction and powers are conferred upon the com-
69 mission in this chapter is hereby repealed. All rights of
70 municipal corporations to franchise and regulate use of
71 streets, alleys and other public property, and all rights of
72 acquired by franchise or agreement shall be preserved in
73 such municipalities, excepting only the duties and juris-
74 diction conferred upon the commission in this chapter.
75 Whenever the corporate boundaries of any city or town are
76 extended utility service, as defined in section 490A.1,
77 shall be provided in such extended area by the public
78 utility or the municipally owned utility serving such city
79 or town immediately prior to the extension of such
80 boundaries.

81 However, if an election has been held in the annexed
82 territory under the provisions of section 386.2 and the res-
83 idents have voted to be served by the cooperative corpora-
84 tion or association or public utility presently serving the
85 annexed territory, the city or town shall grant the cooper-
86 ative corporation or association or public utility a
87 franchise to continue service to the annexed territory
88 under the same terms and conditions which the public
89 utility serving the city or town operates. In the event
90 service is provided, in such extended area, at the time of
91 the extension of the corporate boundaries, by a public
92 utility which does not have a municipal franchise for such
93 city or town and the residents in the annexed territory
94 have voted to be served by the public utility operating
95 under a franchise in the city or town, the facilities
96 located within such extended area shall be purchased at the
97 end of six years from the date the corporate boundaries
98 shall have been extended by the franchised public utility
99 of such city or town or by the municipal utility serving
100 such city or town and the municipal franchised public
101 utility or municipally owned utility shall furnish such
102 service without interruption upon the acquisition thereof.

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Feb. 19, 1971'

103 The franchised or municipally owned utility shall pay to
104 the utility serving in the annexed area the fair and
105 reasonable value of its properties within such annexed area
106 by exchange of other electric utility property outside such
107 city or town on a fair and reasonable basis giving due con-
108 sideration to revenue from and value of the respective
109 properties. In the event the public utilities involved are
110 unable to agree as to the terms of such exchange, either
111 utility may file an application with the commission re-
112 questing that the commission determine such fair and
113 reasonable terms for such exchange. After notice and hear-
114 ing the commission shall determine fair and reasonable
115 terms for such exchange, or in the event no appropriate
116 properties can be exchanged the commission shall fix and
117 determine the fair and reasonable value of the property
118 within the annexed area, and such transfer shall be made
119 as directed by the commission. Until such determination
120 by the commission, the facilities shall remain in place
121 and service to the public shall be maintained by the owner.
122 However, the utility not having a municipal franchise and
123 serving such annexed area shall not extend service to any
124 additional points of delivery within such annexed area if
125 the commission, after notice and hearing, with due consid-
126 eration of any unnecessary duplication of facilities,
127 shall determine that such extension is not in the public
128 interest. Provided, however, that production, generation,
129 high-voltage transmission facilities and high-voltage
130 transformers owned by a utility in territory annexed to a
131 city or town shall be exempt from the operation of this
132 section, and provided further that if a public utility not
133 having a municipal franchise at the time of the extension
134 of the corporate boundaries subsequently acquires a
135 municipal franchise as contemplated by chapter 397 within
136 six years of the extension of the corporate boundaries
137 such utility shall be exempt from the operation of this
138 section. All other laws and parts of laws inconsistent
139 with this chapter are hereby repealed; provided, however,
140 that nothing in this chapter shall be construed to repeal
141 or impair any provision of chapter 397, except as expressly
142 provided in this section with respect to section 397.28.
143 3. By renumbering the remaining section.

Filed - *Withdrawn 2/24*
February 18, 1971

By CHRISTENSEN of Union
District 95
TIEDEN of Clayton
District 14

1 Amend House File 197, page 2, line 11, by
2 inserting after the word "facilities" the following:
3 "outside the incorporated areas of cities and
4 towns".

Filed - *adopted 2/23*
February 18, 1971

By CAMP of Clinton
District 73

HOUSE FILE 197

- 1 Amend House File 197, page 3, by inserting in line 5
- 2 after the words "except that" the words "when such lines
- 3 are not purchased by a municipally-owned electric
- 4 utility,".

Filed from the Floor and Lost
February 24, 1971

By EGENES of Story
District 33

HOUSE FILE 197

- 1 Amend the title to House File 197 by striking all
- 2 after the word "taxation" and inserting in lieu
- 3 thereof the words "and regulation of rural electric
- 4 cooperatives."

Filed from the Floor and Adopted By SKINNER of Polk
February 24, 1971

SENATE AMENDMENT TO HOUSE FILE 197

- 1 Amend House File 197 as follows:
- 2 1. Page 3, line 2, by inserting after the word "be" the
- 3 words "valued, assessed and".
- 4 2. Page 3, line 2, by striking the word "as" and inserting
- 5 in lieu thereof the words "in the manner".
- 6 3. Page 3, line 2, by striking the word "herein" and insert-
- 7 ing in lieu thereof the words "for valuation, assessment
- 8 and taxation of transmission lines under this Act".
- 9 4. Page 3, line 3, by adding after the word "service" the
- 10 words "to premises of existing customers as of the effective
- 11 date of this Act or to premises of customers included by
- 12 subsequent annexation or incorporation".
- 13 5. Page 3, line 5, by inserting after the word "lines" the
- 14 words "used to serve the premises of such existing customers
- 15 shall be exchanged or".
- 16 5. Page 3, line 12, by inserting after the word "to" the
- 17 words "all ordinances of the city or town including".

Received from the Senate
April 22, 1971

*House
Concurred
4/26*

HOUSE FILE 197

1 Amend House File 197 as follows:

2 1. Page 2, by striking all of lines 4 through 35, inclusive,
3 and inserting in lieu thereof the following:

4 "Any electric lines and associated facilities owned by
5 cooperative corporations or associations which are not organized
6 for profit which are included within the boundaries of a".

7 2. Page 3, by inserting after line 13 the following:

8 Sec. 2. Section four hundred twenty-eight point twenty-
9 eight (428.28), Code 1971, is amended as follows:

10 428.28 ANNUAL REPORT BY UTILITY. Every individual, co-
11 partnership, corporation, or association operating ~~for-profit~~,
12 waterworks or gasworks or pipe lines, electric light or power
13 plant, railways operated by electricity, elevated street rail-
14 ways, shall, annually on or before the first day of May of
15 each calendar year, make a report on blanks to be provided by
16 the department of revenue of all of the property owned by such
17 individual, copartnership, corporation, or association within
18 the incorporated limits of any city or town in the state, and
19 give such other information as the director of revenue shall
20 require.

21 Sec. 3. Section four hundred thirty-seven point one
22 (437.1), Code 1971, is amended as follows:

23 437.1 "COMPANY DEFINED. The word "company" is used in
24 this chapter and section 427.1, subsection 20, shall be deemed
25 and considered to mean and include any person, copartnership,
26 association, corporation, or syndicate ~~(except co-operative
27 corporations or associations which are not organized or
28 operated for-profit)~~ that shall own or operate transmission
29 line or lines for the conducting of electric energy located
30 within the state and wholly or partly outside cities and
31 towns, whether formed or organized under the laws of this
32 state or elsewhere.

33 3. By renumbering succeeding sections.

Filed - *Last 2/23*
February 10, 1971

By HOLDEN of Scott
District 75

1 Amend House File 197 as follows:

2 1. Page 2, line 10, by inserting **after** the word
3 "assess" the word "all".

4 2. Page 2, line 11, by inserting after the word
5 "facilities" the words "including those".

Filed - *Ruled not germane 2/23*
February 17, 1971

By FISCHER of Grundy
District 35
STANLEY of Linn
District 45

*Last
2/23*

*Ruled
not
germane
2/23*

*Last
2/23*

1 Amend House File 197 as follows:
2 1. Page 3, line 2 by inserting after the word "be" the
3 words "valued, assessed and".
4 2. Page 3, line 2 by striking the word "as" and inserting
5 in lieu thereof the words "in the manner".
6 3. Page 3, line 2 by striking the word "herein" and insert-
7 ing in lieu thereof the words "for valuation, assessment and
8 taxation of transmission lines under this Act".
9 4. Page 3, line 3 by adding after the word "service" the
10 words "to premises of existing customers as of the effective
11 date of this Act or to premises of customers included by subse-
12 quent annexation or incorporation".
13 5. Page 3, line 5 by inserting after the word "lines" the
14 words "used to serve the premises of such existing customers shall
15 be exchanged or".
16 6. Page 3, line 12 by inserting after the word "to" the
17 words "all ordinances of the city or town including".

Filed - *Adopted 4/22*
April 20, 1971

By COMMITTEE ON WAYS AND MEANS

1 Amend the Balloun, et al, amendment to House File 197,
2 found at page 929 of the Senate Journal, dated April 21,
3 1971, as follows:
4 1. By striking from line 7 the word "until" and
5 inserting in lieu thereof the word "after".

Filed and Lost
April 22, 1971

By BASS

1 Amend House File 197, page 2, by striking from line
2 25, the words "the actual value thereof for the purpose of
3 section four" and all of lines 26, 27, and 28, and inserting
4 in lieu thereof, the words "shall be valued and assessed
5 as otherwise provided in this chapter for transmission lines
6 except that the actual value of the distribution lines for
7 the **purpose** of section four hundred thirty-seven point six
8 (437.6) of the Code shall be twenty-five percent (25%) of
9 the actual value of the distribution lines in the July, 1971
10 valuation, fifty percent (50%) of the actual value of the
11 distribution lines in the July, 1972 valuation, seventy-five
12 percent (75%) of the actual value of the distribution lines
13 in the July, 1973 valuation and thereafter shall be valued
14 and assessed as otherwise provided in this chapter for
15 transmission lines."

Filed - *Lost 4/22*
April 21, 1971

By VAN DRIE and CONKLIN

HOUSE FILE 197

1 Amend House File 197 as follows:
2 1. Page 3, line 4, by striking the comma and inserting in
3 lieu thereof a period.
4 2. Page 3, by striking lines 5, 6 and 7 and inserting in lieu
5 thereof the words "Notwithstanding the provisions of section
6 490A.23, no sale or exchange of electric utility property shall
7 be required of any public utility until July 1, 1972."
8 3. Page 3, by striking in line 8 the words "and notwithstand-
9 ing" and inserting in lieu thereof the word "Notwithstanding".

Filed - *Lost* 4/22
April 21, 1971

By BALLOUN, RHODES AND WALSH

1 Amend House File 197, page 3, line 7, by inserting after the
2 word "involved" the words ", or by a petition of sixty percent of
3 residents in annexed area."

Filed - *Withdrawn* ~~Lost~~ 4/22
April 21, 1971

By VAN DRIE

1 Amend House File 197 ay striking on page 2, lines 34 and 35
2 and page 3, lines 1 through 13.

Filed and Withdrawn
April 22, 1971

By WALSH