

Reprints 4/10/85

MAR 26 1985

HOUSE FILE 726

Place On Calendar

BY COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

(Formerly House File 671)

Passed House, Date 4-8-85 (p 1404) Passed Senate, Date _____
Vote: Ayes 77 Nays 19 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to joint exercise of powers to finance hydro-
2 electric power facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 726

1 Section 1. NEW SECTION. 28F.14 HYDROELECTRIC UTILITIES -
2 - EMINENT DOMAIN -- CONTRACTS.

3 As used in this section, "hydroelectric utility" means an
4 entity comprised of any number of public agencies, private
5 agencies or entities created to carry out an agreement
6 authorizing the joint exercise of any of the governmental
7 powers enumerated in section 28F.1, which owns or operates or
8 proposes to own or operate all or part of a hydroelectric
9 power facility or the capacity or use of a hydroelectric power
10 facility.

11 In addition to other powers, if a hydroelectric utility is
12 comprised solely of public agencies, the hydroelectric utility
13 has the power of eminent domain to acquire interests in
14 property under provisions of law then in effect and applicable
15 to those public agencies comprising the hydroelectric utility
16 in connection with the construction of hydroelectric power
17 facilities.

18 In addition to other powers, the governing body of a hydro-
19 electric utility may purchase all or part of any power plant
20 and may purchase all or part of the capacity, power or energy
21 associated with any power plant owned by, or contract to sell
22 all or part of the hydroelectric utility's power and energy
23 including any surplus to, a public agency or private agency or
24 an entity created to carry out an agreement authorizing the
25 joint exercise of any of the governmental powers enumerated in
26 section 28F.1. Any such entity, public agency, or
27 hydroelectric utility may enter into contracts for the
28 purchase or supply, from any source, of all or a portion of
29 the capacity, power and energy requirements of the entity,
30 public agency or hydroelectric utility on terms and conditions
31 as the governing body of the entity, public agency or
32 hydroelectric utility deems fit. The terms may include
33 provisions for the payment for capacity or output of a
34 facility whether the facility is completed or operating, and
35 for establishing the rights and obligations of all parties to

1 the contract in the event of default. Payments made by an
2 entity, public agency or hydroelectric utility under contracts
3 constitute operating expenses of the entity, public agency or
4 hydroelectric utility payable from the revenues derived from
5 the electric power plant and systems of the entity, public
6 agency or hydroelectric utility.

7 Sec. 2. Section 28F.1, unnumbered paragraph 2, Code 1985,
8 is amended to read as follows:

9 A city shall not join an entity created under this chapter
10 for the purpose of financing electric power facilities unless
11 that city ~~owned-and-operated~~ had established a municipal
12 electric utility as of July 1, ~~1981~~ 1984. Power supplied by a
13 municipal power agency ~~may~~ shall not be furnished to a
14 municipal utility not existing as of July 1, ~~1981~~ 1984.

15 EXPLANATION

16 This bill defines entities which own or operate or are
17 constructing hydroelectric power facilities as "hydroelectric
18 utilities". It authorizes the joint exercise of eminent do-
19 main powers to the extent already authorized by law to its
20 members in connection with the construction of hydroelectric
21 power facilities. It also authorizes contractual arrangements
22 needed to support financing of construction of hydroelectric
23 power facilities. The bill amends the status required of a
24 city electric utility in order to be a member of a hydroelec-
25 tric utility or joint agency from owning and operating a muni-
26 cipal electric utility as of July 1, 1981 to having
27 established a municipal electric utility as of July 1, 1984.

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HOUSE FILE 726

H-3665

1 Amend House File 726 as follows:

2 1. Page 1, by striking lines 11 through 17 and
3 inserting the following:

4 "In addition to other powers, a hydroelectric
5 utility having complied with chapter 469A shall have
6 the power of eminent domain for the purposes of
7 constructing a hydroelectric utility but before
8 exercising the power it shall first exhaust all
9 efforts to secure the necessary voluntary easements.
10 The hydroelectric utility shall comply with provisions
11 of law then in effect, including section 28F.11, and
12 applicable to those public agencies comprising the
13 hydroelectric utility in connection with the
14 construction of hydroelectric power facilities."

BY TABOR of Jackson
OSTERBERG of Linn
HUMMEL of Benton

H-3665 FILED APRIL 4, 1985

ADOPTED (p. 1404)

HOUSE FILE 726

H-3494

1 Amend House File 726 as follows:
2 1. Page 1, by striking lines 13 through 17 and
3 inserting the following: "has the power of eminent
4 domain for the purposes of constructing a
5 hydroelectric utility only after it has exhausted all
6 efforts to secure the necessary voluntary easements
7 and only with the approval of the commerce
8 commission."

BY JAY of Appanoose
OSTERBERG of Linn
LONERGAN of Boone

H-3494 FILED MARCH 27, 1985

w/d 4/8 (p. 1403)

HOUSE FILE 726

H-3638

1 Amend House File 726 as follows:
2 1. Page 1, line 32, by striking the word "fit"
3 and inserting the following: "fit, subject to section
4 476.43".

H-3638 FILED APRIL 3, 1985 BY TABOR of Jackson

Adopted 4/8 (p. 1404)

HOUSE FILE 726

H-3637

1 Amend House File 726 as follows:
2 1. Page 1, lines 4 and 5, by striking the words
3 "agencies, private agencies" and inserting the
4 following: "agencies".

H-3637 FILED APRIL 3, 1985 BY TABOR of Jackson

Adopted 4/8 (p. 1403)

HOUSE FILE 726

H-3659

1 Amend House File 726 as follows:
2 1. Page 1, by striking lines 11 through 17.

H-3659 FILED APRIL 4, 1985 BY HUMMEL of Benton

w/d 4/8 (p. 1403)

HOUSE FILE 726

H-3660

1 Amend House File 726 as follows:
2 1. Page 1, line 17, by inserting after the word
3 "facilities." the following: "However, before any
4 power of eminent domain may be exercised, the action
5 shall be submitted to a referendum of the voters of
6 each of the public bodies comprising the hydroelectric
7 utility. The action shall not be taken unless a
8 majority of the voters in the referendum in each
9 public body approves of the exercise of the power of
10 eminent domain."

H-3660 FILED APRIL 4, 1985

w/d 4/8 (p. 1403)

BY HUMMEL of Benton

Sen. Energy 4/9/85 Dr. Pass 4/11 (p. 13519)

House File 726

ENERGY & ENVIRONMENT: Gronstal, Chair; Corning and Brown

HOUSE FILE 726

BY COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

(As Amended and Passed by the House April 8, 1985)

Passed House, Date 4-8-85 (p. 1404) Passed Senate, Date 4-17-85 (p. 1455)
Vote: Ayes 77 Nays 19 Vote: Ayes 45 Nays 1
Approved June 6, 1985

A BILL FOR

1 An Act relating to joint exercise of powers to finance hydro-
2 electric power facilities.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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1 Section 1. NEW SECTION. 28F.14 HYDROELECTRIC UTILITIES -
2 -EMINENT DOMAIN -- CONTRACTS.

3 As used in this section, "hydroelectric utility" means an
4 entity comprised of any number of public agencies or entities
5 created to carry out an agreement authorizing the joint
6 exercise of any of the governmental powers enumerated in
7 section 28F.1, which owns or operates or proposes to own or
8 operate all or part of a hydroelectric power facility or the
9 capacity or use of a hydroelectric power facility.

10 In addition to other powers, a hydroelectric utility having
11 complied with chapter 469A shall have the power of eminent
12 domain for the purposes of constructing a hydroelectric
13 utility but before exercising the power it shall first exhaust
14 all efforts to secure the necessary voluntary easements. The
15 hydroelectric utility shall comply with provisions of law then
16 in effect, including section 28F.11, and applicable to those
17 public agencies comprising the hydroelectric utility in
18 connection with the construction of hydroelectric power
19 facilities.

20 In addition to other powers, the governing body of a hydro-
21 electric utility may purchase all or part of any power plant
22 and may purchase all or part of the capacity, power or energy
23 associated with any power plant owned by, or contract to sell
24 all or part of the hydroelectric utility's power and energy
25 including any surplus to, a public agency or private agency or
26 an entity created to carry out an agreement authorizing the
27 joint exercise of any of the governmental powers enumerated in
28 section 28F.1. Any such entity, public agency, or
29 hydroelectric utility may enter into contracts for the
30 purchase or supply, from any source, of all or a portion of
31 the capacity, power and energy requirements of the entity,
32 public agency or hydroelectric utility on terms and conditions
33 as the governing body of the entity, public agency or
34 hydroelectric utility deems fit, subject to section 476.43.
35 The terms may include provisions for the payment for capacity

1 or output of a facility whether the facility is completed or
2 operating, and for establishing the rights and obligations of
3 all parties to the contract in the event of default. Payments
4 made by an entity, public agency or hydroelectric utility
5 under contracts constitute operating expenses of the entity,
6 public agency or hydroelectric utility payable from the
7 revenues derived from the electric power plant and systems of
8 the entity, public agency or hydroelectric utility.

9 Sec. 2. Section 28F.1, unnumbered paragraph 2, Code 1985,
10 is amended to read as follows:

11 A city shall not join an entity created under this chapter
12 for the purpose of financing electric power facilities unless
13 that city ~~owned-and-operated~~ had established a municipal
14 electric utility as of July 1, ~~1981~~ 1984. Power supplied by a
15 municipal power agency ~~may~~ shall not be furnished to a
16 municipal utility not existing as of July 1, ~~1981~~ 1984.

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HOUSE FILE 726

AN ACT
RELATING TO JOINT EXERCISE OF POWERS TO FINANCE HYDROELECTRIC
POWER FACILITIES.

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

Section 1. NEW SECTION. 28F.14 HYDROELECTRIC UTILITIES -
-- EMINENT DOMAIN -- CONTRACTS.

As used in this section, "hydroelectric utility" means an entity comprised of any number of public agencies or entities created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1, which owns or operates or proposes to own or operate all or part of a hydroelectric power facility or the capacity or use of a hydroelectric power facility.

In addition to other powers, a hydroelectric utility having complied with chapter 469A shall have the power of eminent domain for the purposes of constructing a hydroelectric utility but before exercising the power it shall first exhaust

all efforts to secure the necessary voluntary easements. The hydroelectric utility shall comply with provisions of law then in effect, including section 28F.11, and applicable to those public agencies comprising the hydroelectric utility in connection with the construction of hydroelectric power facilities.

In addition to other powers, the governing body of a hydroelectric utility may purchase all or part of any power plant and may purchase all or part of the capacity, power or energy associated with any power plant owned by, or contract to sell all or part of the hydroelectric utility's power and energy including any surplus to, a public agency or private agency or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. Any such entity, public agency, or hydroelectric utility may enter into contracts for the purchase or supply, from any source, of all or a portion of the capacity, power and energy requirements of the entity, public agency or hydroelectric utility on terms and conditions as the governing body of the entity, public agency or hydroelectric utility deems fit, subject to section 476.43. The terms may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of all parties to the contract in the event of default. Payments made by an entity, public agency or hydroelectric utility under contracts constitute operating expenses of the entity, public agency or hydroelectric utility payable from the revenues derived from the electric power plant and systems of the entity, public agency or hydroelectric utility.

Sec. 2. Section 28F.1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A city shall not join an entity created under this chapter for the purpose of financing electric power facilities unless that city owned and-operated had established a municipal

electric utility as of July 1, ~~1981~~ 1984. Power supplied by a municipal power agency ~~may~~ shall not be furnished to a municipal utility not existing as of July 1, ~~1981~~ 1984.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 726, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved June 6, 1985

TERRY E. BRANSTAD
Governor