

Proposed 3/88

MAR 4 1988

Place On Calendar

HOUSE FILE 2395
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(Formerly House File 2286)✓

Passed House, Date 3/9/88 (p. 613) Passed Senate, Date 3/29/88 (p. 1121)

Vote: Ayes 23 Nays 12 Vote: Ayes 46 Nays 1

Approved May 6, 1988

*Motion to Reconsider (p. 680)
3/17/88 (p. 710)*

A BILL FOR

1 An Act permitting certain water utilities to become cooperatives.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2395

H-5408

1 Amend House File 2395 as follows:
2 1. Title page, line 1, by inserting after the word
3 "cooperatives" the following: "and expanding allowable
4 purposes under Chapter 499".

H-5408 FILED MARCH 9, 1988 BY STROMER of Hancock
ADOPTED BY UNANIMOUS CONSENT (*p. 670*)

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1 Section 1. Section 357A.21, Code Supplement 1987, is
2 amended to read as follows:

3 357A.21 ANNEXATION OF LAND BY A CITY -- ARBITRATION.

4 A water district organized under chapter 357, 357A, 499, or
5 504A shall be fairly compensated for losses resulting from
6 annexation. The governing body of a city or water utility and
7 the board of directors or trustees of the water district may
8 agree to terms which provide that the facilities owned by the
9 water district and located within the city shall be retained
10 by the water district for the purpose of transporting water to
11 customers outside the city. If an agreement is not reached
12 within ninety days, the issues shall be submitted to
13 arbitration. An arbitrator shall be selected by a committee
14 which includes one member of the governing body of the city or
15 its designee, one member of the water district's board of
16 directors or trustees or its designee, and a disinterested
17 party selected by the other two members of the committee. A
18 list of qualified arbitrators may be obtained from the
19 American arbitration association or other recognized
20 arbitration organization or association.

21 Sec. 2. Section 476.1, subsection 3, unnumbered paragraph
22 3, Code 1987, is amended to read as follows:

23 This chapter does not apply to water works having less than
24 two thousand customers, municipally owned water works, or
25 rural water districts incorporated and organized pursuant to
26 chapters 357A and 504A, cooperative water associations
27 incorporated and organized pursuant to chapter 499, or to a
28 person furnishing electricity to five or fewer customers from
29 electricity that is produced primarily for the person's own
30 use.

31 Sec. 3. Section 499.5, Code 1987, is amended to read as
32 follows:

33 499.5 PERMISSIBLE ORGANIZERS.

34 1. Five or more individuals, or two or more associations,
35 may organize an association.

1 2. All individual incorporators of agricultural
 2 associations must be engaged in producing agricultural
 3 products, which ~~term-shall-include~~ phrase includes landlords
 4 and tenants as specified in section 499.13.

5 3. A nonprofit water utility organized under chapter 357A
 6 or 504A may elect to become an association under this chapter
 7 upon majority vote of its members by filing with the secretary
 8 of state a verified statement confirming the election and
 9 appropriate articles of incorporation. However, the
 10 association is subject to the service limitation provisions
 11 contained in sections 357.1 and 357A.2.

12 Sec. 4. NEW SECTION. 499.5A WATER UTILITIES -- MEMBERS
 13 OF FEDERATED ASSOCIATIONS.

14 Notwithstanding section 499.13, a water utility organized
 15 under this chapter and a municipal water utility may be a
 16 member of a federated association.

17 Sec. 5. Section 499.6, Code 1987, is amended by striking
 18 the section and inserting in lieu thereof the following.

19 499.6 OBJECTS.

20 A cooperative association may be organized under this
 21 chapter for any lawful purpose or purposes.

22 EXPLANATION

23 This bill allows a nonprofit water utility organized under
 24 chapter 357A or 540A to elect to become a cooperative
 25 association under chapter 499 upon a majority vote of its
 26 members by filing with the secretary of state a verified
 27 statement confirming the election and appropriate articles of
 28 incorporation. Such water utilities are exempt from
 29 regulation under chapter 476. However, the utility is subject
 30 to the service limitation provisions contained in sections
 31 357.1 and 357A.2.

32 The bill also allows a water utility organized under
 33 chapter 499 and a municipal water utility to be members of a
 34 federated association.

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Amended 2/11
Amended per 5550 & 5551 Senate 3/24

HOUSE FILE 2395
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(As Amended and Passed by the House March 9, 1988)

Passed House, Date 4/6/88 (p. 144) Passed Senate, Date 3/24/88 (p. 1121)
Vote: Ayes 96 Nays 0 Vote: Ayes 46 Nays 1
Approved May 6, 1988

A BILL FOR

1 An Act permitting certain water utilities to become cooperatives
2 and expanding allowable purposes under Chapter 499.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2395

S-5550

1 Amend House File 2395 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 1, line 28, by inserting after the word
4 "customers" the following: "either by secondary line
5 or from an alternate energy production facility or
6 small hydro facility,".
7 2. Title page, line 1, by striking the word
8 "cooperatives" and inserting the following:
9 "cooperatives, restricting the exemption from the
10 application of the provisions of chapter 476 for
11 persons furnishing electricity to five or fewer
12 customers to those such persons who are furnishing the
13 electricity by secondary line, from an alternate
14 energy production facility, or small hydro facility,".

S-5550
Filed March 24, 1988
(d.f.t.) 3/29 (p. 1121)

BY COMMITTEE ON ENVIRONMENT AND
ENERGY UTILITIES
PATRICK DELCHERY, Chairperson

1 Section 1. Section 357A.21, Code Supplement 1987, is
2 amended to read as follows:

3 357A.21 ANNEXATION OF LAND BY A CITY -- ARBITRATION.

4 A water district organized under chapter 357, 357A, 499, or
5 504A shall be fairly compensated for losses resulting from
6 annexation. The governing body of a city or water utility and
7 the board of directors or trustees of the water district may
8 agree to terms which provide that the facilities owned by the
9 water district and located within the city shall be retained
10 by the water district for the purpose of transporting water to
11 customers outside the city. If an agreement is not reached
12 within ninety days, the issues shall be submitted to
13 arbitration. An arbitrator shall be selected by a committee
14 which includes one member of the governing body of the city or
15 its designee, one member of the water district's board of
16 directors or trustees or its designee, and a disinterested
17 party selected by the other two members of the committee. A
18 list of qualified arbitrators may be obtained from the
19 American arbitration association or other recognized
20 arbitration organization or association.

21 Sec. 2. Section 476.1, subsection 3, unnumbered paragraph
22 3, Code 1987, is amended to read as follows:

23 This chapter does not apply to water works having less than
24 two thousand customers, municipally owned water works, or
25 rural water districts incorporated and organized pursuant to
26 chapters 357A and 504A, cooperative water associations
27 incorporated and organized pursuant to chapter 499, or to a
28 person furnishing electricity to five or fewer customers from
29 electricity that is produced primarily for the person's own
30 use.

31 Sec. 3. Section 499.5, Code 1987, is amended to read as
32 follows:

33 499.5 PERMISSIBLE ORGANIZERS.

34 1. Five or more individuals, or two or more associations,
35 may organize an association.

1 2. All individual incorporators of agricultural
2 associations must be engaged in producing agricultural
3 products, which ~~term-shall-include~~ phrase includes landlords
4 and tenants as specified in section 499.13.

5 3. A nonprofit water utility organized under chapter 357A
6 or 504A may elect to become an association under this chapter
7 upon majority vote of its members by filing with the secretary
8 of state a verified statement confirming the election and
9 appropriate articles of incorporation. However, the
10 association is subject to the service limitation provisions
11 contained in sections 357.1 and 357A.2.

12 Sec. 4. NEW SECTION. 499.5A WATER UTILITIES -- MEMBERS
13 OF FEDERATED ASSOCIATIONS.

14 Notwithstanding section 499.13, a water utility organized
15 under this chapter and a municipal water utility may be a
16 member of a federated association.

17 Sec. 5. Section 499.6, Code 1987, is amended by striking
18 the section and inserting in lieu thereof the following:

19 499.6 OBJECTS.

20 A cooperative association may be organized under this
21 chapter for any lawful purpose or purposes.

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SENATE AMENDMENT TO HOUSE FILE 2395

H-6070

1 Amend House File 2395 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 28, by inserting after the word
4 "customers" the following: "either by secondary line
5 or from an alternate energy production facility or
6 small hydro facility,".

7 2. Title page, line 1, by striking the word
8 "cooperatives" and inserting the following:
9 "cooperatives, restricting the exemption from the
10 application of the provisions of chapter 476 for
11 persons furnishing electricity to five or fewer
12 customers to those such persons who are furnishing the
13 electricity by secondary line, from an alternate
14 energy production facility, or small hydro facility,".

H-6070 FILED MARCH 30, 1988 RECEIVED FROM THE SENATE

House Amendment #16 (p. 14-15)

HOUSE FILE 2395

AN ACT

PERMITTING CERTAIN WATER UTILITIES TO BECOME COOPERATIVES,
RESTRICTING THE EXEMPTION FROM THE APPLICATION OF THE PRO-
VISIONS OF CHAPTER 476 FOR PERSONS FURNISHING ELECTRICITY
TO FIVE OR FEWER CUSTOMERS TO THOSE SUCH PERSONS WHO ARE
FURNISHING THE ELECTRICITY BY SECONDARY LINE, FROM AN AL-
TERNATE ENERGY PRODUCTION FACILITY, OR SMALL HYDRO FACILITY,
AND EXPANDING ALLOWABLE PURPOSES UNDER CHAPTER 499.

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

Section 1. Section 357A.21, Code Supplement 1987, is amended to read as follows:

357A.21 ANNEXATION OF LAND BY A CITY -- ARBITRATION.

A water district organized under chapter 357, 357A, 499, or 504A shall be fairly compensated for losses resulting from annexation. The governing body of a city or water utility and the board of directors or trustees of the water district may agree to terms which provide that the facilities owned by the water district and located within the city shall be retained by the water district for the purpose of transporting water to customers outside the city. If an agreement is not reached within ninety days, the issues shall be submitted to arbitration. An arbitrator shall be selected by a committee which includes one member of the governing body of the city or its designee, one member of the water district's board of directors or trustees or its designee, and a disinterested party selected by the other two members of the committee. A list of qualified arbitrators may be obtained from the

American arbitration association or other recognized arbitration organization or association.

Sec. 2. Section 476.1, subsection 3, unnumbered paragraph 3, Code 1987, is amended to read as follows:

This chapter does not apply to water works having less than two thousand customers, municipally owned water works, or rural water districts incorporated and organized pursuant to chapters 357A and 504A, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person's own use.

Sec. 3. Section 499.5, Code 1987, is amended to read as follows:

499.5 PERMISSIBLE ORGANIZERS.

1. Five or more individuals, or two or more associations, may organize an association.

2. All individual incorporators of agricultural associations must be engaged in producing agricultural products, which ~~term shall include~~ phrase includes landlords and tenants as specified in section 499.13.

3. A nonprofit water utility organized under chapter 357A or 504A may elect to become an association under this chapter upon majority vote of its members by filing with the secretary of state a verified statement confirming the election and appropriate articles of incorporation. However, the association is subject to the service limitation provisions contained in sections 357.1 and 357A.2.

Sec. 4. NEW SECTION. 499.5A WATER UTILITIES -- MEMBERS OF FEDERATED ASSOCIATIONS.

Notwithstanding section 499.13, a water utility organized under this chapter and a municipal water utility may be a member of a federated association.

Sec. 5. Section 499.6, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

499.6 OBJECTS.

A cooperative association may be organized under this chapter for any lawful purpose or purposes.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2395, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved Moyle, 1988

TERRY E. BRANSTAD
Governor