

FEB 28 1992

Place On Calendar

HOUSE FILE 2326
BY COMMITTEE ON ENERGY
AND ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 588)

Passed House, Date 3/10/92 (p. 507) Passed Senate, Date 3/30/92 (p. 1092)
Vote: Ayes 98 Nays 0 Vote: Ayes 42 Nays 7
Approved April 14, 1992 (p. 1470)

A BILL FOR

1 An Act relating to the civil penalties established for violation
2 of utility board statutes, regulations, or orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

HF 2326

1 Section 1. Section 476.51, Code Supplement 1991, is
2 amended to read as follows:

3 476.51 CIVIL PENALTY.

4 A public utility which, after written notice by the board
5 of a specific violation, violates the same provision of this
6 chapter, the same rule adopted by the board, or the same
7 provision of an order lawfully issued by the board, is subject
8 to a civil penalty, which may be levied by the board, of not
9 less than one hundred dollars nor more than two thousand five
10 hundred dollars per violation.

11 A public utility which willfully, after written notice by
12 the board of a specific violation, violates a the same
13 provision of this chapter, a the same rule adopted by the
14 board, or a the same provision of an order lawfully issued by
15 the board, is subject to a civil penalty, which may be levied
16 by the board, of not more less than one hundred thousand
17 dollars nor more than ten thousand dollars per violation or
18 one-thousand-dollars-per-day-of-a-continuing-violation,
19 whichever-is-greater. For the purposes of this section,
20 "willful" means knowing and deliberate, with a specific intent
21 to violate.

22 Each violation is a separate offense. In the case of a
23 continuing violation, each day a violation continues, after
24 the time specified for compliance in the written notice by the
25 board, is a separate and distinct offense. Any civil penalty
26 may be compromised by the board. In determining the amount of
27 the penalty, or the amount agreed upon in a compromise, the
28 board may consider the appropriateness of the penalty in
29 relation to the size of the public utility, the gravity of the
30 violation, and the good faith of the public utility in
31 attempting to achieve compliance following notification of a
32 violation, and any other relevant factors.

33 The written notice given by the board to a public utility
34 under this section shall specify an appropriate time for
35 compliance.

Now

HOUSE FILE 2326

BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENTAL
PROTECTION BILL BY
CHAIRPERSON OSTERBERG)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the civil penalties established for violation
2 of utility board statutes, regulations, or orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

STATE COMMITTEE ASSIGNMENTS

Dvorsky
Eberger
2/4/92

1 Section 1. Section 476.51, Code Supplement 1991, is
2 amended to read as follows:

3 476.51 CIVIL PENALTY.

4 A public utility which violates a provision of this
5 chapter, a rule adopted by the board, or a provision of an
6 order lawfully issued by the board, is subject to a civil
7 penalty, which may be levied by the board, of not less than
8 one hundred dollars nor more than five thousand dollars per
9 violation.

10 A public utility which willfully violates a provision of
11 this chapter, a rule adopted by the board, or a provision of
12 an order lawfully issued by the board, is subject to a civil
13 penalty, which may be levied by the board, of not more less
14 than one hundred thousand dollars per violation or one not
15 more than ten thousand dollars per day-of-a-continuing
16 violation, whichever is greater. Each violation is a separate
17 offense. In the case of a continuing violation, each day a
18 violation continues is a separate and distinct offense. Any
19 civil penalty is subject to compromise by the board. In
20 determining the amount of the penalty, or the amount agreed
21 upon in compromise, the board may consider the appropriateness
22 of the penalty to the size of the public utility charged, the
23 gravity of the violation, and the good faith of the public
24 utility charged in attempting to achieve compliance after
25 notification of a violation.

26 PARAGRAPH DIVIDED. Civil penalties collected pursuant to
27 this section shall be forwarded by the executive secretary of
28 the board to the treasurer of state to be credited to the
29 energy research and development fund and to be used only for
30 the low income home energy assistance program and the
31 weatherization assistance program administered by the division
32 of community action agencies of the department of human
33 rights. Penalties paid by a rate-regulated public utility
34 pursuant to this section shall be excluded from the utility's
35 costs when determining the utility's revenue requirement, and

1 shall not be included either directly or indirectly in the
2 utility's rates or charges to customers.

3 Notwithstanding the provisions of this section directing
4 that civil penalties collected be deposited into the energy
5 research and development fund, for the fiscal period beginning
6 on July 1, 1991, and ending June 30, 1993, all funds collected
7 shall be deposited into the general fund of the state.

8 EXPLANATION

9 The bill establishes ranges for the penalties which may be
10 imposed for a violation, willful or otherwise, of public
11 utility regulations established pursuant to chapter 476, a
12 utility board rule, or a utility board order. The bill also
13 authorizes the board to compromise any civil penalty it
14 imposes.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 2326

AN ACT

RELATING TO THE CIVIL PENALTIES ESTABLISHED FOR VIOLATION OF
UTILITY BOARD STATUTES, REGULATIONS, OR ORDERS.

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

Section 1. Section 476.51, Code Supplement 1991, is
amended to read as follows:

476.51 CIVIL PENALTY.

A public utility which, after written notice by the board of a specific violation, violates the same provision of this chapter, the same rule adopted by the board, or the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not less than one hundred dollars nor more than two thousand five hundred dollars per violation.

A public utility which willfully, after written notice by the board of a specific violation, violates a the same provision of this chapter, a the same rule adopted by the

board, or a the same provision of an order lawfully issued by the board, is subject to a civil penalty, which may be levied by the board, of not more less than one hundred thousand dollars nor more than ten thousand dollars per violation or one thousand-dollars-per-day-of-a-continuing-violation; whichever-is-greater. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.

Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the board, is a separate and distinct offense. Any civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in a compromise, the board may consider the appropriateness of the penalty in relation to the size of the public utility, the gravity of the violation, and the good faith of the public utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.

The written notice given by the board to a public utility under this section shall specify an appropriate time for compliance.

PARAGRAPH DIVIDED. Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the energy research and development fund and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

Notwithstanding the provisions of this section directing that civil penalties collected be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds collected shall be deposited into the general fund of the state.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2326, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 14, 1992

TERRY E. BRANSTAD
Governor