

*Printed*

MAR 1 1991

HOUSE FILE 386  
BY COMMITTEE ON ENERGY  
AND ENVIRONMENTAL  
PROTECTION

Place On Calendar

(SUCCESSOR TO HSB 151)

Passed House, Date 3/7/91 (p. 565) Passed Senate, Date 4/16/91 (P. 1276)  
Vote: Ayes 97 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 29, 1991

A BILL FOR

- 1 An Act relating to public utility reorganizations.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 386

H-3144

- 1 Amend House File 386 as follows:
- 2 1. Page 2, by inserting after line 4 the
- 3 following:
- 4 "Sec. \_\_\_\_ . This Act, being deemed of immediate
- 5 importance, takes effect upon enactment."
- 6 2. Title page, line 1, by inserting after the
- 7 word "reorganizations" the following: "and providing
- 8 an effective date".
- 9 3. By renumbering as necessary.

By GRONINGA of Cerro Gordo

H-3144 FILED MARCH 5, 1991  
*Adopted 3/7 (p. 565)*

14  
15  
16  
17  
18  
19  
20  
21

1 Section 1. Section 476.77, Code 1991, is amended to read  
2 as follows:

3 476.77 TIME AND STANDARDS FOR REVIEW.

4 1. A reorganization shall not take place if the board  
5 disapproves. Prior to reorganization, the applicant shall  
6 file with the board a proposal for reorganization with  
7 supporting testimony and evidence to establish that the  
8 reorganization is not contrary to the interests of the public  
9 utility's ratepayers and the public interest.

10 2. A proposal for reorganization shall be deemed to have  
11 been approved unless the board disapproves the proposal within  
12 ~~forty-five~~ ninety days after its filing. However, the board  
13 shall not disapprove a proposal for reorganization without  
14 providing for notice and opportunity for hearing. The notice  
15 of hearing shall be provided no later than ~~twenty-one~~ fifty  
16 days after the proposal for reorganization has been filed.

17 3. In its review of a proposal for reorganization, the  
18 board may consider all of the following:

19 a. Whether the board will have reasonable access to books,  
20 records, documents, and other information relating to the  
21 public utility or any of its affiliates.

22 b. Whether the public utility's ability to attract capital  
23 on reasonable terms, including the maintenance of a reasonable  
24 capital structure, is impaired.

25 c. Whether the ability of the public utility to provide  
26 safe, reasonable, and adequate service is impaired.

27 d. Whether ratepayers are detrimentally affected.

28 e. Whether the public interest is detrimentally affected.

29 4. The board may adopt rules which exempt any a public  
30 utility or class of public utility or class of reorganization  
31 from this section if the board finds that with respect to the  
32 public utility or class of public utility or class of  
33 reorganization review is not necessary in the public interest.  
34 The board may adopt rules necessary to protect the interest of  
35 the customers of the exempt public utility. These rules may

1 include, but are not limited to, notification of a proposed  
2 sale or transfer of assets or stock. The board may waive the  
3 requirements of this section, if the board finds that board  
4 review is not necessary in the public interest.

3140

5 EXPLANATION

6 This bill extends the time period from 45 days to 90 days  
7 for the utilities board within the utilities division of the  
8 department of commerce to approve or disapprove a proposal for  
9 utility reorganization. It also extends the period of time  
10 from 21 days to 50 days for a notice of hearing after the  
11 reorganization proposal has been filed.

- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

HOUSE FILE 386  
BY COMMITTEE ON ENERGY  
AND ENVIRONMENTAL  
PROTECTION

(SUCCESSOR TO HSB 151)

(As Amended and Passed by the House March 7, 1991)

Passed House, Date 3/7/91 (p. 565) Passed Senate, Date 4/16/91 (p. 1274)  
Vote: Ayes 97 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 29, 1991 (p. 1905)

A BILL FOR

1 An Act relating to public utility reorganizations and providing  
2 an effective date.

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

House Amendments \_\_\_\_\_

1 Section 1. Section 476.77, Code 1991, is amended to read  
2 as follows:

3 476.77 TIME AND STANDARDS FOR REVIEW.

4 1. A reorganization shall not take place if the board  
5 disapproves. Prior to reorganization, the applicant shall  
6 file with the board a proposal for reorganization with  
7 supporting testimony and evidence to establish that the  
8 reorganization is not contrary to the interests of the public  
9 utility's ratepayers and the public interest.

10 2. A proposal for reorganization shall be deemed to have  
11 been approved unless the board disapproves the proposal within  
12 ~~forty-five~~ ninety days after its filing. However, the board  
13 shall not disapprove a proposal for reorganization without  
14 providing for notice and opportunity for hearing. The notice  
15 of hearing shall be provided no later than ~~twenty-one~~ fifty  
16 days after the proposal for reorganization has been filed.

17 3. In its review of a proposal for reorganization, the  
18 board may consider all of the following:

19 a. Whether the board will have reasonable access to books,  
20 records, documents, and other information relating to the  
21 public utility or any of its affiliates.

22 b. Whether the public utility's ability to attract capital  
23 on reasonable terms, including the maintenance of a reasonable  
24 capital structure, is impaired.

25 c. Whether the ability of the public utility to provide  
26 safe, reasonable, and adequate service is impaired.

27 d. Whether ratepayers are detrimentally affected.

28 e. Whether the public interest is detrimentally affected.

29 4. The board may adopt rules which exempt ~~any~~ a public  
30 utility or class of public utility or class of reorganization  
31 from this section if the board finds that with respect to the  
32 public utility or class of public utility or class of  
33 reorganization review is not necessary in the public interest.  
34 The board may adopt rules necessary to protect the interest of  
35 the customers of the exempt public utility. These rules may

1 include, but are not limited to, notification of a proposed  
2 sale or transfer of assets or stock. The board may waive the  
3 requirements of this section, if the board finds that board  
4 review is not necessary in the public interest.

5 Sec. 2. This Act, being deemed of immediate importance,  
6 takes effect upon enactment.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HSB 151

ENERGY AND ENVIRONMENTAL PROTECTION

Holbeck Ch.  
Adams  
Hahn

SENATE/HOUSE FILE 386  
BY (PROPOSED ATTORNEY  
GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to public utility reorganizations.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 476.77, Code 1991, is amended to read  
2 as follows:

3 476.77 TIME AND STANDARDS FOR REVIEW.

4 1. A reorganization shall not take place if the board  
5 disapproves. Prior to reorganization, the applicant shall  
6 file with the board a proposal for reorganization with  
7 supporting testimony and evidence to establish that the  
8 reorganization is not contrary to the interests of the public  
9 utility's ratepayers and the public interest.

10 2. A proposal for reorganization shall be deemed to have  
11 been approved unless the board disapproves the proposal within  
12 forty-five one hundred eighty days after its filing. However,  
13 the board shall not disapprove a proposal for reorganization  
14 without providing for notice and opportunity for hearing. The  
15 notice of hearing shall be provided no later than twenty-one  
16 sixty days after the proposal for reorganization has been  
17 filed.

18 3. In its review of a proposal for reorganization, the  
19 board may consider all of the following:

20 a. Whether the board will have reasonable access to books,  
21 records, documents, and other information relating to the  
22 public utility or any of its affiliates.

23 b. Whether the public utility's ability to attract capital  
24 on reasonable terms, including the maintenance of a reasonable  
25 capital structure, is impaired.

26 c. Whether the ability of the public utility to provide  
27 safe, reasonable, and adequate service is impaired.

28 d. Whether ratepayers are detrimentally affected.

29 e. Whether the public interest is detrimentally affected.

30 4. If the board approves a reorganization proposal, the  
31 board may within one hundred eighty days after its filing  
32 enter a written order attaching terms, conditions, and  
33 restrictions to the proposal.

34 4 5. The board may adopt rules which exempt any a public  
35 utility or class of public utility or class of reorganization



1 from this section if the board finds that with respect to the  
2 public utility or class of public utility or class of  
3 reorganization review is not necessary in the public interest.  
4 The board may adopt rules necessary to protect the interest of  
5 the customers of the exempt public utility. These rules may  
6 include, but are not limited to, notification of a proposed  
7 sale or transfer of assets or stock. The board may waive the  
8 requirements of this section, if the board finds that board  
9 review is not necessary in the public interest.

10

## EXPLANATION

11 This bill extends the time period from 45 days to 180 days  
12 for the utilities board within the utilities division of the  
13 department of commerce to approve or disapprove a proposal for  
14 utility reorganization. It also extends the period of time  
15 from 21 days to 60 days for a notice of hearing after the  
16 reorganization proposal has been filed. Finally, the bill  
17 allows the board to attach terms, conditions, and restrictions  
18 on the approval of a reorganization proposal by a written  
19 order entered within 180 days of the initial filing of the  
20 reorganization proposal.

21

## BACKGROUND STATEMENT

22

## SUBMITTED BY THE AGENCY

23 This bill provides a minimal amount of time necessary to  
24 meaningfully investigate, evaluate, and litigate, in whole or  
25 in part, a proposal for the reorganization of a utility. The  
26 current 45-day period barely permits the completion of initial  
27 discovery, let alone completion of the entire contested case  
28 proceeding. The current 21-day period in which the utilities  
29 board must decide whether to issue a notice of hearing is also  
30 extended.

31

32 The bill is necessary to provide the utilities board some  
33 flexibility to remedy substantive inadequacies in a proposal  
34 for reorganization where justified. Currently, it is an all  
35 or nothing situation wherein the board must either allow a  
36 proposal for reorganization to go forward or disapprove such a

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 proposal in its entirety.  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HOUSE FILE 386

AN ACT  
RELATING TO PUBLIC UTILITY REORGANIZATIONS AND PROVIDING  
AN EFFECTIVE DATE.

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

Section 1. Section 476.77, Code 1991, is amended to read as follows:

476.77 TIME AND STANDARDS FOR REVIEW.

1. A reorganization shall not take place if the board disapproves. Prior to reorganization, the applicant shall file with the board a proposal for reorganization with supporting testimony and evidence to establish that the reorganization is not contrary to the interests of the public utility's ratepayers and the public interest.

2. A proposal for reorganization shall be deemed to have been approved unless the board disapproves the proposal within forty-five ninety days after its filing. However, the board shall not disapprove a proposal for reorganization without providing for notice and opportunity for hearing. The notice of hearing shall be provided no later than twenty-one fifty days after the proposal for reorganization has been filed.

3. In its review of a proposal for reorganization, the board may consider all of the following:

- a. Whether the board will have reasonable access to books, records, documents, and other information relating to the public utility or any of its affiliates.
- b. Whether the public utility's ability to attract capital on reasonable terms, including the maintenance of a reasonable capital structure, is impaired.
- c. Whether the ability of the public utility to provide safe, reasonable, and adequate service is impaired.
- d. Whether ratepayers are detrimentally affected.
- e. Whether the public interest is detrimentally affected.

4. The board may adopt rules which exempt any a public utility or class of public utility or class of reorganization from this section if the board finds that with respect to the public utility or class of public utility or class of reorganization review is not necessary in the public interest. The board may adopt rules necessary to protect the interest of the customers of the exempt public utility. These rules may include, but are not limited to, notification of a proposed sale or transfer of assets or stock. The board may waive the requirements of this section, if the board finds that board review is not necessary in the public interest.

Sec. 2. This Act, being deemed of immediate importance, takes effect upon enactment.

ROBERT C. ARNOLD  
Speaker of the House

JOE J. WELSH  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 386, Seventy-fourth General Assembly.

JOSEPH O'HERN  
Chief Clerk of the House

Approved April 29, 1991

TERRY E. BRANSTAD  
Governor

HF 386