

Senate File 2209 - Introduced

SENATE FILE 2209

BY KREIMAN

A BILL FOR

1 An Act relating to public utility operation and regulation.

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

1 Section 1. Section 306.46, subsection 3, Code 2009, is
2 amended to read as follows:

3 3. This section shall not impair or interfere with a city's
4 authority to grant, amend, extend, terminate, or renew a
5 franchise as provided in section 364.2, and shall not impair
6 or interfere with a city's existing general police powers to
7 control the use of its right-of-way.

8 Sec. 2. Section 364.2, subsection 4, Code Supplement 2009,
9 is amended by adding the following new paragraph:

10 NEW PARAGRAPH. *h.* A city may terminate a franchise granted
11 to a rate-regulated electric utility which has increased rates
12 for electric service by fifteen percent or more than the
13 average rate increase implemented by all other rate-regulated
14 electric utilities providing service in this state. To
15 terminate a franchise pursuant to this paragraph, the city
16 shall provide written notice to the rate-regulated electric
17 utility of the city's intent to terminate the franchise
18 at least one year prior to the date of termination of the
19 franchise.

20 Sec. 3. Section 474.2, Code 2009, is amended to read as
21 follows:

22 **474.2 Certain persons barred from office.**

23 No person in the employ of any common carrier or other public
24 utility within two years prior to appointment, or owning any
25 bonds, stock, or property in any railroad company or other
26 public utility shall be eligible to the office of utilities
27 board member or secretary of the utilities board; and the
28 entering into the employ of any common carrier or other public
29 utility or the acquiring of any stock or other interest in
30 any common carrier or other public utility by such member or
31 secretary after appointment shall disqualify the member or
32 secretary to hold the office or perform the duties thereof.

33 Sec. 4. Section 476.3, Code 2009, is amended by adding the
34 following new subsection:

35 NEW SUBSECTION. 4. This section shall not prohibit the

1 board from authorizing rates which vary according to geographic
2 area based on an area's rate history, per capita income, or
3 need for economic development.

4 Sec. 5. Section 476.7, Code 2009, is amended to read as
5 follows:

6 **476.7 Application by utility for review.**

7 1. If there shall be filed with the board by any public
8 utility an application requesting the board to determine the
9 reasonableness of the utility's rates, charges, schedules,
10 service, or regulations, the board shall promptly initiate a
11 formal proceeding. Such a formal proceeding may be initiated
12 at any time by the board on its own motion. Whenever such
13 a proceeding has been initiated upon application or motion,
14 the board shall set the case for hearing and give such notice
15 thereof as it deems appropriate. Whenever the board, after
16 a hearing held after reasonable notice, finds any public
17 utility's rates, charges, schedules, service, or regulations
18 are unjust, unreasonable, insufficient, discriminatory, or
19 otherwise in violation of any provision of law, the board shall
20 determine just, reasonable, sufficient, and nondiscriminatory
21 rates, charges, schedules, service, or regulations to be
22 thereafter observed and enforced.

23 2. This section shall not prohibit the board from
24 authorizing rates which vary according to geographic area based
25 on an area's rate history, per capita income, or need for
26 economic development.

27 Sec. 6. Section 480A.6, Code 2009, is amended to read as
28 follows:

29 **480A.6 Franchise ordinance not superseded.**

30 This chapter does not modify or supersede the rights and
31 obligations of a local government and the public utility
32 established by the terms of any existing or future franchise
33 granted, approved, ~~and~~ accepted, or terminated pursuant to
34 section 364.2, subsection 4. A city which collects a city
35 franchise fee from an entity pursuant to section 364.2,

1 subsection 4, under an existing or future franchise, shall not
2 also collect a fee from that entity under section 480A.3.

3 Sec. 7. MUNICIPAL UTILITY FORMATION STUDY. The utilities
4 board of the utilities division of the department of
5 commerce shall conduct a study to evaluate the process for
6 establishing a municipal utility. The study shall include
7 identifying existing legal and financial impediments faced by
8 a municipality interested in forming a municipal utility, how
9 the board might facilitate an easier and more cost-effective
10 process, and how the board could provide technical assistance
11 to a community interested in establishing a municipal utility.
12 The board shall submit a report containing recommendations to
13 the general assembly by January 1, 2011.

14 EXPLANATION

15 This bill relates to and modifies provisions applicable to
16 public utility operation and regulation.

17 The bill authorizes a city having granted a franchise to
18 a rate-regulated electric utility to terminate the franchise
19 if the utility has increased rates for electric service by 15
20 percent or more than the average rate increase implemented by
21 all other rate-regulated electric utilities providing service
22 in this state. Prior to termination, the bill requires a
23 city to provide written notice to the utility of its intent
24 to terminate the franchise at least one year prior to the
25 termination date. The bill makes conforming changes consistent
26 with other Code provisions.

27 The bill modifies a current requirement prohibiting
28 eligibility for holding the office of utilities board member
29 or secretary of the utilities board if an individual is in
30 the employ of any common carrier or other public utility to
31 apply this prohibition to the two-year interval preceding the
32 individual's appointment. Given that Code section 475A.1,
33 dealing with qualification for appointment to the office
34 of consumer advocate, references the eligibility criteria
35 applicable to holding the office of utilities board member,

1 this modification would also be applicable to the office of
2 consumer advocate.

3 The bill permits the board to authorize utility rates which
4 vary according to geographic area based on an area's rate
5 history, per capita income, or need for economic development.

6 The bill directs the board to conduct a study evaluating
7 the process for establishing a municipal utility. The bill
8 specifies that the study shall include identifying existing
9 legal and financial impediments faced by a municipality
10 interested in forming a municipal utility, how the board might
11 facilitate an easier and more cost-effective process, and
12 how the board could provide technical assistance. The board
13 is required to submit a report containing recommendations
14 resulting from the study to the general assembly by January 1,
15 2011.