

Senate Study Bill 1281

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON WARNSTADT)

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

A BILL FOR

1 An Act establishing an energy independence transmission franchise
2 process which may be used under specified circumstances.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2354XC 83
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1 1 Section 1. NEW SECTION. 478.34 ENERGY INDEPENDENCE
1 2 TRANSMISSION FRANCHISE == OPTIONAL PROCESS.
1 3 1. LEGISLATIVE FINDINGS AND INTENT. The general assembly
1 4 finds that as a matter of public policy and in an effort to
1 5 achieve and sustain economic growth this state must assume a
1 6 leadership role within the broader marketplace of the north
1 7 central region of states with regard to energy independence
1 8 efforts. The general assembly also recognizes that the
1 9 renewable energy resources which exist in this state are
1 10 shared with neighboring states and that economic well-being
1 11 can be enhanced through energy resource interconnection
1 12 throughout the region. The general assembly accordingly
1 13 declares the intention to become a regional leader in
1 14 renewable energy electric transmission corridor development
1 15 and seeks to promote this development through implementation
1 16 of the optional franchise procurement process established
1 17 pursuant to this section.
1 18 2. PROCESS ESTABLISHED. An optional energy independence
1 19 transmission franchise process is established for persons
1 20 qualifying pursuant to subsection 3 with the objective of
1 21 streamlining and consolidating franchise procurement
1 22 requirements and provisions otherwise applicable pursuant to
1 23 this chapter.
1 24 3. PROCEDURAL REQUEST FOR DETERMINATION OF ELIGIBILITY.
1 25 a. A person seeking an energy independence transmission
1 26 franchise shall submit a procedural request on a form to be
1 27 established by the board for consideration for an energy
1 28 independence transmission franchise pursuant to this section.
1 29 The board shall make a preliminary determination of
1 30 eligibility to a person demonstrating that the proposed
1 31 electric line construction satisfies all of the following
1 32 requirements:
1 33 (1) Furthers three or more components or recommendations
1 34 contained within the most recent Iowa energy independence plan
1 35 developed and submitted on an annual basis pursuant to section
2 1 469.4.
2 2 (2) Enhances either directly or indirectly the creation
2 3 and retention of high-quality jobs in this state.
2 4 (3) Facilitates the transmission of electricity across and
2 5 throughout the north central region of states.
2 6 b. The board shall notify the person seeking the franchise
2 7 of a determination of eligibility or ineligibility within
2 8 thirty days after the filing of the procedural request.
2 9 4. MODIFIED PROCESS. A person determined eligible
2 10 pursuant to subsection 3 may file a petition for an energy
2 11 independence transmission franchise pursuant to a streamlined
2 12 process adopted by the utilities board by rule which modifies
2 13 provisions otherwise applicable to obtaining a franchise under
2 14 this chapter, as follows:
2 15 a. The provisions requiring informational meetings and
2 16 notices thereof to be conducted in each impacted county prior
2 17 to the filing of a petition, as specified in section 478.2,
2 18 shall be waived. Informational meetings shall still be

2 19 required, however, in the event of a proposed multicounty
2 20 electric transmission line, with at least one informational
2 21 meeting conducted in a centrally located area for each one
2 22 hundred miles of proposed transmission line. Notice of the
2 23 meetings shall be provided as specified in section 478.2.
2 24 b. Upon completion of informational meetings as provided
2 25 in paragraph "a", if required, a petition for an energy
2 26 independence transmission franchise may be filed with the
2 27 utilities board. A single franchise petition may be filed for
2 28 the entire proposed transmission line rather than a separate
2 29 filing in each county the proposed transmission line
2 30 traverses.
2 31 c. Written notice of the filing of the petition and the
2 32 right to object shall be provided to each landowner who might
2 33 have otherwise received notice of an informational meeting.
2 34 An affidavit stating that such notice has been provided shall
2 35 be included in the petition.
3 1 d. Negotiations for easements and rights-of-way may occur
3 2 prior to the filing of the petition if an informational
3 3 meeting as specified in paragraph "a" is held within one
3 4 hundred miles of the impacted landowner participating in such
3 5 negotiations.
3 6 e. A hearing on the petition, including one in which
3 7 eminent domain is requested, shall be conducted by the board
3 8 as a contested case proceeding pursuant to the provisions of
3 9 chapter 17A. The hearing shall be conducted at the board's
3 10 primary place of business rather than in each county the
3 11 proposed transmission line traverses. The board shall serve
3 12 notice of the hearing in the manner provided in section
3 13 476A.4, subsection 3, upon interested property owners and
3 14 entities, regulatory agencies, and city and county zoning
3 15 authorities, as determined by the board, from the areas which
3 16 the proposed transmission line shall traverse.
3 17 f. If a property owner, entity, regulatory agency, or
3 18 zoning authority which received notice pursuant to paragraph
3 19 "e" fails to appear of record in the contested case
3 20 proceeding, the board shall conclusively presume that the
3 21 party does not object to the petition. A city or county
3 22 zoning authority may appear on record at the hearing and state
3 23 whether the petition meets city, county, or airport zoning
3 24 requirements, as applicable. The failure of a petition to
3 25 meet zoning requirements established pursuant to chapters 329,
3 26 335, and 414 shall not preclude the board from issuance of an
3 27 energy independence transmission franchise and to that extent
3 28 the provisions of this subsection shall supersede the
3 29 provisions of chapters 329, 335, and 414.
3 30 g. The hearing on the franchise petition shall be
3 31 conducted no later than one hundred days following the
3 32 determination of eligibility pursuant to subsection 3. A
3 33 decision regarding issuance of the franchise shall be rendered
3 34 by the board no later than one hundred eighty days following
3 35 the determination of eligibility. In the event that eminent
4 1 domain is not requested, these time frames shall be shortened
4 2 to seventy-five days and one hundred twenty days,
4 3 respectively.
4 4 h. In rendering a decision on a franchise petition under
4 5 this section, the provisions of section 478.4 shall be
4 6 applicable. For purposes of an energy independence
4 7 transmission franchise, however, the criteria that a proposed
4 8 transmission line or lines are necessary to serve a public use
4 9 and represent a reasonable relationship to an overall plan of
4 10 transmitting electricity in the public interest may be
4 11 satisfied by virtue of the demonstration of high-quality job
4 12 creation and retention and regional transmission development
4 13 potential documented in the procedural request for a
4 14 determination of eligibility.
4 15 5. PROVISIONS OTHERWISE APPLICABLE. To the extent not
4 16 inconsistent with the modified provisions established in
4 17 subsection 4, all other provisions of this chapter relating to
4 18 electric transmission line franchise issuance shall apply to
4 19 an energy independence transmission franchise.
4 20 6. RULES. The board shall by rule establish additional
4 21 procedures and requirements as necessary to administer this
4 22 section.
4 23 7. REPLACEMENT TAX ADVISORY COMMITTEE. The replacement
4 24 tax study committee established pursuant to section 476.6,
4 25 subsection 20, shall, by January 1, 2011, make a
4 26 recommendation to the general assembly, after consulting with
4 27 the board and the office of energy independence, regarding the
4 28 appropriate taxing rate to be applied to an energy
4 29 independence transmission franchise.

EXPLANATION

4 30
4 31 This bill establishes an energy independence transmission
4 32 franchise with an optional and streamlined electric
4 33 transmission franchise approval process for eligible
4 34 applicants.

4 35 The bill provides that a person seeking an energy
5 1 independence transmission franchise shall submit a procedural
5 2 request on a form to be established by the utilities board of
5 3 the utilities division of the department of commerce for
5 4 consideration for the franchise. The utilities board shall
5 5 make a preliminary determination of eligibility upon a
5 6 demonstration that the proposed electric line construction
5 7 furthers three or more components or recommendations contained
5 8 within the most recent Iowa energy independence plan developed
5 9 and submitted by the office of energy independence, enhances
5 10 the creation and retention of high-quality jobs in Iowa, and
5 11 facilitates the transmission of electricity across and
5 12 throughout the upper midwest region. The board shall notify
5 13 the person seeking the franchise of a determination of
5 14 eligibility or ineligibility within 30 days of receiving the
5 15 procedural request.

5 16 The bill provides that an eligible person may file a
5 17 petition for an energy independence transmission franchise
5 18 pursuant to streamlined provisions modifying those otherwise
5 19 applicable to obtaining a franchise under Code chapter 478.
5 20 Modifications contained within the bill include waiving the
5 21 requirement of informational meetings unless the proposal is
5 22 for a multicounty transmission line, in which case at least
5 23 one informational meeting shall be conducted in a centrally
5 24 located area for each 100 miles of proposed transmission line;
5 25 permitting a single franchise petition to be filed for the
5 26 entire proposed transmission line rather than a separate
5 27 filing in each county the proposed transmission line
5 28 traverses; provision of written notice of the filing of the
5 29 petition and the right to object has been provided to each
5 30 landowner who might have otherwise received notice of an
5 31 informational meeting; and allowing easement and rights-of-way
5 32 negotiations prior to the filing of the petition if an
5 33 informational meeting is held within 100 miles of impacted
5 34 landowners participating in such negotiations.

5 35 The bill states that a hearing on the petition shall be
6 1 conducted by the board as a contested case proceeding under
6 2 Code chapter 17A at the board's primary place of business, and
6 3 provides notice requirements to property owners, entities,
6 4 regulatory agencies, and city and county zoning authorities
6 5 which parallel current Code provisions relating to utility
6 6 construction franchises. The bill provides that a hearing on
6 7 the franchise petition shall be conducted no later than 100
6 8 days following a determination of eligibility, to be followed
6 9 by a decision regarding issuance of the franchise no later
6 10 than 180 days following the determination of eligibility. In
6 11 the event that eminent domain is not requested, these time
6 12 frames are shortened to 75 days and 120 days, respectively.

6 13 The bill provides that current criteria utilized by the
6 14 board in rendering a decision on a franchise petition
6 15 regarding a proposed transmission line or lines being
6 16 necessary to serve a public use and representing a reasonable
6 17 relationship to an overall plan of transmitting electricity in
6 18 the public interest may be satisfied by the demonstration of
6 19 high-quality job creation and retention and regional
6 20 transmission development potential documented in the
6 21 procedural request for a determination of eligibility.

6 22 The bill states that current franchise provisions in Code
6 23 chapter 478 shall continue to apply to an energy independence
6 24 transmission franchise to the extent not inconsistent with the
6 25 modified provisions contained in the bill, and provides that
6 26 the board shall by rule establish additional procedures and
6 27 requirements as necessary to administer the bill's provisions.

6 28 Additionally, the bill directs the replacement tax study
6 29 committee to make a recommendation to the general assembly,
6 30 after consulting with the board and the office of energy
6 31 independence, regarding the appropriate taxing rate to be
6 32 applied to an energy independence transmission franchise. The
6 33 recommendation is to be made by January 1, 2011.

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