House File 386 - Introduced

HOUSE FILE 386
BY GASKILL and STECKMAN

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 2011, is
- 2 amended to read as follows:
- 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 2011, is amended
- 9 by adding the following new paragraph:
- 10 NEW PARAGRAPH. h. A city may terminate a franchise granted
- 11 to a rate-regulated electric utility that 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.
- Sec. 3. Section 474.2, Code 2011, 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 2011, is amended by adding the
- 34 following new subsection:
- 35 NEW SUBSECTION. 4. This section shall not prohibit the

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- 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 2011, is amended to read as
- 5 follows:
- 6 476.7 Application by utility for review.
- 7 l. 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 2011, 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 that collects a
- 35 city 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, 2012.
- 14 EXPLANATION
- This bill relates to and modifies provisions applicable to l6 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,

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- 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 2012.