

House Study Bill 651 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON WAGNER)

A BILL FOR

1 An Act relating to certain records relating to competitive
2 information of rural water districts, city utilities, and
3 city enterprises.

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

1 Section 1. NEW SECTION. 357A.11A **Competitive information.**

2 1. Notwithstanding section 21.5, subsection 1, the board
3 of a district by a vote of two-thirds of the members of the
4 body or all of the members present at the meeting, may hold
5 a closed session to discuss marketing and pricing strategies
6 or proprietary information if its competitive position would
7 be harmed by public disclosure not required of potential or
8 actual competitors, and if no public purpose would be served by
9 such disclosure. The minutes and a tape recording of a session
10 closed under this subsection shall be available for public
11 examination at that point in time when the public disclosure
12 would no longer harm the district's competitive position.

13 2. a. Notwithstanding section 22.2, subsection 1, public
14 records of a district, which shall not be examined or copied as
15 of right, include proprietary information, records of customer
16 names and accounts, any portion of a record that contains
17 private customer information, records associated with marketing
18 or pricing strategies, preliminary working papers, spreadsheet
19 scenarios, and cost data, if the competitive position of the
20 district would be harmed by public disclosure not required of a
21 potential or actual competitor, and if no public purpose would
22 be served by such disclosure. A public record not subject to
23 examination or copying under this subsection shall be available
24 for public examination and copying at that point in time when
25 public disclosure would no longer harm the competitive position
26 of the district.

27 b. For purposes of this subsection, "*proprietary*
28 *information*" includes customer records that if disclosed would
29 harm the competitive position of a customer; or information
30 required by a noncustomer contracting party to be kept
31 confidential pursuant to a nondisclosure agreement which
32 relates to electric transmission planning and construction,
33 critical energy infrastructure, an ownership interest or
34 acquisition of an ownership interest in an electric generating
35 facility, or other information made confidential by law or

1 rule.

2 *c.* For purposes of this subsection, "*private customer*
3 *information*" means information concerning a specific customer,
4 a specific customer account, or a specific user of an internet
5 site if the board of the district adopts a policy defining such
6 information as private customer information in order to protect
7 the privacy of customers or internet site user information and
8 records.

9 Sec. 2. Section 388.9, subsection 2, paragraph a, Code 2011,
10 is amended to read as follows:

11 *a.* Notwithstanding section 22.2, subsection 1, public
12 records of a city utility or combined utility system, or a city
13 enterprise or combined city enterprise as defined in section
14 384.80, which shall not be examined or copied as of right,
15 include proprietary information, records of customer names
16 and accounts, any portion of a record that contains private
17 customer information, records associated with marketing or
18 pricing strategies, preliminary working papers, spreadsheet
19 scenarios, and cost data, if the competitive position of the
20 city utility, combined utility system, city enterprise, or
21 combined city enterprise would be harmed by public disclosure
22 not required of a potential or actual competitor, and if
23 no public purpose would be served by such disclosure. A
24 public record not subject to examination or copying under
25 this subsection shall be available for public examination and
26 copying at that point in time when public disclosure would
27 no longer harm the competitive position of the city utility,
28 combined utility system, city enterprise, or combined city
29 enterprise.

30 Sec. 3. Section 388.9, subsection 2, Code 2011, is amended
31 by adding the following new paragraph:

32 NEW PARAGRAPH. *c.* For purposes of this subsection, "*private*
33 *customer information*" means information concerning a specific
34 customer, a specific customer account, or a specific user of
35 an internet site if the governing body of the city utility or

1 combined utility system, or the city enterprise or combined
2 city enterprise adopts a policy defining such information as
3 private customer information in order to protect the privacy of
4 customers or internet site user information and records.

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EXPLANATION

6 This bill relates to the customer records of rural water
7 districts, city utilities, and city enterprises.

8 The bill provides that the boards of rural water districts
9 may hold closed sessions to discuss certain information,
10 notwithstanding the requirements of Code section 21.5(1). The
11 bill requires that the minutes and a tape recording of such
12 a closed session be available for public examination at the
13 time that public disclosure would no longer harm a district's
14 competitive position.

15 The bill provides that public records of such districts
16 including proprietary information, records of customer names
17 and accounts, any portion of a record that contains private
18 customer information, records associated with marketing or
19 pricing strategies, preliminary working papers, spreadsheet
20 scenarios, and cost data, of a district shall not be examined
21 or copied as of right in the event that the competitive
22 position of the district would be harmed by disclosure and if
23 no public purpose would be served by such disclosure. The bill
24 requires that such records be available for public examination
25 at the time that public disclosure would no longer harm a
26 district's competitive position.

27 The bill provides that proprietary information of such
28 districts includes customer records that would harm the
29 competitive position of a customer, energy-related information
30 required by a noncustomer contracting party to be kept
31 confidential, or other information made confidential by law or
32 rule.

33 The bill defines private customer information as information
34 concerning a specific customer, a specific customer account,
35 or a specific user of an internet site if the board of the

1 district has adopted a privacy policy defining such information
2 as private customer information.

3 The bill provides that portions of records of a city utility
4 or combined utility system, or a city enterprise or combined
5 city enterprise containing private customer information shall
6 not be examined or copied as of right pursuant to Code section
7 22.2(1). The bill defines private customer information
8 as information concerning a specific customer, a specific
9 customer account, or a specific user of an internet site if
10 the governing body of the city utility or city enterprise has
11 adopted a privacy policy defining such information as private
12 customer information.