

**House File 643 - Introduced**

HOUSE FILE 643

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 231)

**A BILL FOR**

1 An Act relating to the taxation of rate-regulated water  
2 utilities by establishing a rate-regulated water utility  
3 replacement tax, imposing a statewide rate-regulated water  
4 utility property tax, providing for the administration of  
5 the replacement tax and statewide property tax, providing  
6 penalties, and including effective date and retroactive  
7 applicability provisions.

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

1 Section 1. Section 257.3, subsection 1, paragraph c, Code  
2 2013, is amended to read as follows:

3 c. Replacement taxes under chapter 437A or chapter 437B  
4 shall be regarded as property taxes for purposes of this  
5 chapter.

6 Sec. 2. Section 331.604, subsection 4, Code 2013, is amended  
7 to read as follows:

8 4. A county shall not be required to pay a fee to the  
9 recorder for filing or recording instruments. However, a  
10 county treasurer is required to pay recording fees pursuant to  
11 ~~section~~ sections 437A.11 and 437B.7.

12 Sec. 3. Section 421.10, Code 2013, is amended to read as  
13 follows:

14 **421.10 Appeal period — applicability.**

15 The appeal period for revision of assessment of tax,  
16 interest, and penalties set out under section 422.28, 423.37,  
17 437A.9, 437A.22, 437B.5, 437B.18, 452A.64, 453A.29, or 453A.46  
18 applies to appeals to notices from the department denying  
19 changes in filing methods, denying refund claims, and denying  
20 portions of refund claims for the tax covered by that section,  
21 and notices of any department action directed to a specific  
22 taxpayer, other than licensing, which involves a calculation.

23 Sec. 4. Section 427A.1, subsection 1, paragraph h, Code  
24 2013, is amended to read as follows:

25 h. Property assessed by the department of revenue pursuant  
26 to sections 428.24 to 428.29, or chapters 433, 434, 437, 437A,  
27 437B, and 438.

28 Sec. 5. Section 427B.17, subsection 5, unnumbered paragraph  
29 1, Code 2013, is amended to read as follows:

30 This section shall not apply to property assessed by the  
31 department of revenue pursuant to sections 428.24 to 428.29, or  
32 chapters 433, 434, 437, 437A, 437B, and 438, and such property  
33 shall not receive the benefits of this section.

34 Sec. 6. Section 428.24, Code 2013, is amended to read as  
35 follows:

1       **428.24 Public utility plants.**

2       The lands, buildings, machinery, and mains belonging to  
3 individuals or corporations operating waterworks, other than  
4 waterworks taxed under chapter 437B, or gasworks or pipelines,  
5 except those natural gas pipelines permitted pursuant to  
6 chapter 479, shall be listed and assessed by the department of  
7 revenue. In the making of assessments of waterworks plants,  
8 the value of any interest in the property assessed, of the  
9 municipal corporation where it is situated, shall be deducted,  
10 whether the interest is evidenced by stock, bonds, contracts,  
11 or otherwise.

12       Sec. 7. Section 428.26, Code 2013, is amended to read as  
13 follows:

14       **428.26 Personal property.**

15       1. All the personal property of such individuals and  
16 corporations used or purchased by them for the purposes of such  
17 gas or waterworks, other than natural gas pipelines permitted  
18 pursuant to chapter 479 and other than waterworks taxed under  
19 chapter 437B, shall be listed and assessed by the department  
20 of revenue.

21       2. In the making of any such assessment of waterworks  
22 plants, the value of any interest in the property so assessed,  
23 of the municipal corporation in which the waterworks is  
24 situated, shall be deducted, whether such interest be evidenced  
25 by stock, bonds, contracts, or otherwise.

26       Sec. 8. Section 428.28, Code 2013, is amended to read as  
27 follows:

28       **428.28 Annual report by utility.**

29       1. Every individual, partnership, corporation, or  
30 association operating for profit, waterworks, other than  
31 waterworks taxed under chapter 437B, or gasworks or pipelines  
32 other than natural gas pipelines permitted pursuant to  
33 chapter 479, annually on or before May 1 of each calendar  
34 year, shall make a report on blanks to be provided by the  
35 department of revenue of all of the property owned by such

1 individual, partnership, corporation, or association within the  
2 incorporated limits of any city in the state, and give such  
3 other information as the director of revenue shall require.

4 2. Every individual, partnership, corporation, or  
5 association which operates a public utility on a nonprofit  
6 basis other than a utility subject to tax under chapter 437A  
7 or chapter 437B, as defined in section 428.24 shall annually,  
8 on or before May 1 of each calendar year, make a report on  
9 blanks to be provided by the department of revenue of all of  
10 the property owned by the individual, partnership, corporation,  
11 or association within the incorporated limits of any city in  
12 the state, and give other information the director of revenue  
13 requires.

14 Sec. 9. Section 437A.15, subsection 7, paragraph b, Code  
15 2013, is amended to read as follows:

16 b. The task force shall study the effects of the replacement  
17 ~~tax~~ taxes under this chapter and chapter 437B on local taxing  
18 authorities, local taxing districts, consumers, and taxpayers  
19 through January 1, ~~2013~~ 2016. If the task force recommends  
20 modifications to the replacement tax that will further the  
21 purposes of tax neutrality for local taxing authorities, local  
22 taxing districts, taxpayers, and consumers, consistent with the  
23 stated purposes of this chapter, the department of management  
24 shall transmit those recommendations to the general assembly.

25 Sec. 10. NEW SECTION. 437B.1 Purposes.

26 The purposes of this chapter are to replace property taxes  
27 imposed on rate-regulated water utilities with a system of  
28 taxation which will remove fluctuations in property taxes  
29 by imposing a system of taxation based on the delivery of  
30 water, to preserve revenue neutrality and debt capacity for  
31 local governments and taxpayers, to preserve neutrality in the  
32 allocation and cost impact of any replacement tax among and  
33 upon consumers of rate-regulated water utilities in this state,  
34 and to provide a system of taxation which reduces existing  
35 administrative burdens on state government.

1     Sec. 11. NEW SECTION.   **437B.2 Definitions.**

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1. "*Centrally assessed property tax*" means property tax  
5 imposed with respect to the value of property determined by the  
6 director pursuant to sections 428.24 to 428.29, Code 2013, and  
7 allocated to water service.

8     2. "*Consumer*" means an end user of water used or consumed  
9 within the service area of a water utility. "*Consumer*" includes  
10 any master-metered facility even though the water delivered  
11 to such facility may ultimately be used by another person. A  
12 person to whom water is delivered by a master-metered facility  
13 is not a consumer. A "*master-metered facility*" means any  
14 multi-occupancy premises where units are separately rented or  
15 owned and where individual metering is impractical, where the  
16 facility is designated for elderly or handicapped persons and  
17 utility costs constitute part of the operating cost and are not  
18 apportioned to individual units, or where submetering or resale  
19 of service was permitted prior to 1966.

20     3. "*Delivery*" means the physical transfer of water,  
21 excluding nonrevenue water, to a consumer for sale. Physical  
22 transfer to a consumer occurs when transportation of water ends  
23 and such water becomes available for use or consumption by a  
24 consumer.

25     4. "*Director*" means the director of revenue.

26     5. "*Lease*" means a contract between a lessor and lessee  
27 pursuant to which the lessee obtains a present possessory  
28 interest in tangible property without obtaining legal title in  
29 such property. A contract to deliver water using operating  
30 property within this state is not a lease. "*Capital lease*"  
31 means a lease classified as a capital lease under generally  
32 accepted accounting principles.

33     6. "*Local taxing authority*" means a city, county, community  
34 college, school district, or other taxing authority located in  
35 this state and authorized to certify a levy on property located

1 within such authority for the payment of bonds and interest or  
2 other obligations of such authority.

3 7. "*Local taxing district*" means a geographic area with a  
4 common consolidated property tax rate.

5 8. a. "*Major addition*" means any acquisition on or after  
6 January 1, 2012, by a taxpayer, by transfer of ownership,  
7 self-construction, or capital lease of any interest in any of  
8 the following:

9 (1) A building in this state where the acquisition cost of  
10 all interests acquired exceeds ten million dollars.

11 (2) A water treatment plant where the acquisition cost  
12 of all interests acquired exceeds ten million dollars. For  
13 purposes of this paragraph, "*water treatment plant*" means  
14 buildings and equipment used in that portion of the potable  
15 water supply system which in some way alters the physical,  
16 chemical, or bacteriological quality of the water.

17 (3) Water utility operating property within a local taxing  
18 district where the acquisition cost of all interests acquired  
19 exceeds one million dollars.

20 (4) Any water utility property in this state acquired by a  
21 person not previously subject to taxation under this chapter  
22 pursuant to section 437B.12.

23 b. For purposes of this chapter, the acquisition cost of  
24 an asset acquired by capital lease is its capitalized value  
25 determined under generally accepted accounting principles.

26 9. "*Nonrevenue water*" means the difference between the total  
27 number of gallons of water carried through the water utility's  
28 distribution system and the number of gallons of water  
29 delivered to consumers using the water utility's distribution  
30 system.

31 10. "*Operating property*" means all property owned by or  
32 leased to a water utility, not otherwise taxed separately,  
33 which is necessary to and without which the company could not  
34 perform the activities of a water utility.

35 11. "*Replacement tax*" means the excise tax imposed on the

1 delivery of water under section 437B.3.

2 12. "*Service area*" means the geographical area within this  
3 state to which the water utility delivers water and related  
4 services. A water utility's service area shall be that  
5 area described in the water utility's tariff filed with the  
6 utilities board.

7 12A. "*Taxable value*" means as defined in section 437B.15,  
8 subsection 2, paragraph "e".

9 13. "*Taxpayer*" means a water utility or other person subject  
10 to the replacement tax imposed under section 437B.3.

11 14. "*Tax year*" means a calendar year beginning January 1 and  
12 ending December 31.

13 15. "*Utilities board*" means the utilities board created in  
14 section 474.1.

15 16. "*Water utility*" or "*rate-regulated water utility*" means a  
16 person engaged primarily in the production, delivery, service,  
17 or sale of water in a service area, whether formed or organized  
18 under the laws of this state or elsewhere, and subject to the  
19 rate and service regulation of the utilities board pursuant to  
20 chapter 476. "*Water utility*" does not include a cooperative,  
21 municipal utility, or other entity engaged primarily in such  
22 activities that is not under the jurisdiction of the utilities  
23 board.

24 Sec. 12. NEW SECTION. 437B.3 Replacement tax imposed on  
25 delivery of water.

26 1. A replacement delivery tax is imposed on each water  
27 utility that delivers water to a consumer within the water  
28 utility's service area. The replacement delivery tax imposed  
29 by this section is equal to the number of gallons of water  
30 delivered to consumers in the water utility's service area by  
31 the taxpayer during the tax year multiplied by the replacement  
32 delivery tax rate in effect for the service area.

33 2. The replacement delivery tax rate for each service area  
34 shall be calculated by the director as follows:

35 a. The director shall determine the centrally assessed

1 property tax liability allocated to water delivery for those  
2 water utilities operating within the service area for the  
3 assessment year 2011 based on property tax amounts due and  
4 payable as the result of that assessment year.

5     *b.* The director shall determine the number of gallons of  
6 water delivered to consumers in the service area which would  
7 have been subject to taxation under this section in calendar  
8 year 2011, had such section been in effect for calendar year  
9 2011.

10     *c.* The director shall determine a replacement delivery tax  
11 rate for each service area by dividing the centrally assessed  
12 property tax liability, as determined in paragraph "a", by the  
13 number of gallons of water delivered, as specified in paragraph  
14 "b".

15     3. *a.* If for any tax year after calendar year 2012, the  
16 total number of gallons of water required to be reported by  
17 a water utility pursuant to section 437B.4, subsection 1,  
18 paragraph "a", increases or decreases by more than the threshold  
19 percentage from the average of the base year amounts for that  
20 water utility for the immediately preceding five calendar  
21 years, the replacement tax rate imposed under subsection 1 for  
22 that tax year shall be recalculated by the director for that  
23 water utility so that the total of the tentative replacement  
24 delivery taxes required to be reported pursuant to section  
25 437B.4, subsection 1, paragraph "b", for that water utility  
26 with respect to the tax imposed under subsection 1, shall be  
27 as follows:

28         (1) If the number of gallons of water required to be  
29 reported increased by more than the threshold percentage, one  
30 hundred two percent of such taxes required to be reported by  
31 the water utility for that water utility for the immediately  
32 preceding tax year.

33         (2) If the number of gallons of water required to be  
34 reported decreased by more than the threshold percentage,  
35 ninety-eight percent of such taxes required to be reported by



1 the water utility for that water utility for the immediately  
2 preceding tax year.

3     **b.** For purposes of paragraph "a", subparagraphs (1) and  
4 (2), in computing the tax rate under subsection 1, for tax year  
5 2013, the director shall use the centrally assessed property  
6 tax liability allocated to water sales computed pursuant to  
7 subsection 2, paragraph "a", or the water utility's centrally  
8 assessed property tax liability for the assessment year 2010,  
9 whichever is greater, in lieu of the taxes required to be  
10 reported for that water utility for the immediately preceding  
11 tax year. In addition, notwithstanding the provisions of this  
12 section to the contrary, for tax years 2013, 2014, and 2015,  
13 if the total amount of replacement delivery taxes imposed on  
14 the water utility in any of those tax years is less than the  
15 utility's centrally assessed property tax liability for the  
16 assessment year 2010, the replacement tax rate imposed under  
17 subsection 1 for that tax year shall be recalculated by the  
18 director so that the total amount of replacement delivery taxes  
19 imposed on the water utility for such tax year equals the water  
20 utility's centrally assessed property tax liability for the  
21 assessment year 2010.

22     **c.** For purposes of this section, "base year amount" means  
23 for calendar years prior to tax year 2013, the number of  
24 gallons of water delivered to consumers by the water utility  
25 which would have been subject to taxation under this section  
26 had this section been in effect for such calendar year, and for  
27 tax years after calendar year 2012, the number of gallons of  
28 water required to be reported by the water utility pursuant to  
29 section 437B.4, subsection 1.

30     **d.** The threshold percentage shall be five percent.

31     **4.** The replacement delivery tax rate in effect for each  
32 service area shall be published by the director in the Iowa  
33 administrative bulletin on or before May 31 of each year.

34     **5.** If recalculation of the replacement delivery tax rate  
35 is required pursuant to subsection 3, the new rate shall be

1 published in the Iowa administrative bulletin by the director  
2 by no later than May 31 following the end of the tax year. The  
3 director shall adjust the tentative replacement tax imposed by  
4 subsection 1 and required to be shown on any affected water  
5 utility's return pursuant to section 437B.4, subsection 1,  
6 paragraph "b", to reflect the adjusted replacement delivery  
7 tax rate for the tax year, and report such adjustment to the  
8 affected water utility on or before June 30 following the end  
9 of the tax year. The new replacement delivery tax rate shall  
10 apply prospectively, until such time as further adjustment is  
11 required.

12 6. For a service area established as the result of the  
13 formation or organization of a new water utility on or after  
14 January 1, 2013, the director shall to the extent possible  
15 determine a replacement delivery tax rate for the new  
16 service area using the procedures of this section and for the  
17 information for the year that the water utility was first under  
18 the jurisdiction of the utilities board.

19 Sec. 13. NEW SECTION. 437B.4 Return and payment  
20 requirements.

21 1. Each taxpayer, on or before March 31 following a tax  
22 year, shall file with the director a return including but not  
23 limited to the following information:

24 a. The total taxable gallons of water delivered by the water  
25 utility to consumers within the service area during the tax  
26 year.

27 b. The tentative replacement taxes imposed by section 437B.3  
28 due for the tax year.

29 2. A return shall be signed by an officer, or other person  
30 duly authorized by the water utility, and must be certified as  
31 correct and in accordance with forms and rules prescribed by  
32 the director.

33 3. At the time of filing the return required by subsection  
34 1 with the director, the taxpayer shall calculate the tentative  
35 replacement tax due for the tax year. The director shall

1 compute any adjustments to the replacement tax required by  
2 subsection 5 and by section 437B.3, subsection 3, and notify  
3 the taxpayer of any such adjustments in accordance with the  
4 requirements of section 437B.3, subsection 5. The director and  
5 the department of management shall compute the allocation of  
6 replacement taxes among local taxing districts and report such  
7 allocations to county treasurers pursuant to section 437B.11.  
8 Based on such allocations, the treasurer of each county shall  
9 notify each taxpayer on or before August 31 following a tax  
10 year of its replacement tax obligation to the county treasurer.  
11 On or before September 30, 2014, and on or before September  
12 30 of each subsequent year, the taxpayer shall remit to the  
13 county treasurer of each county to which such replacement tax  
14 is allocated pursuant to section 437B.11, one-half of the  
15 replacement tax so allocated, and on or before the succeeding  
16 March 31, the taxpayer shall remit to the county treasurers the  
17 remaining replacement tax so allocated. If notification of a  
18 taxpayer's replacement tax obligation is not mailed by a county  
19 treasurer on or before August 31 following a tax year, such  
20 taxpayer shall have thirty days from the date the notification  
21 is mailed to remit one-half of the replacement tax otherwise  
22 required by this subsection to be remitted to such county  
23 treasurer on or before September 30. If a taxpayer fails to  
24 timely remit replacement taxes as provided in this subsection,  
25 the county treasurer of each affected county shall notify the  
26 director of such failure.

27 4. Notwithstanding subsections 1 through 3, a taxpayer  
28 shall not be required to file a return otherwise required by  
29 this section or remit any replacement tax for any tax year in  
30 which the taxpayer's replacement tax liability before credits  
31 is three hundred dollars or less, provided that all water  
32 utilities shall file a return, regardless of the taxpayer's  
33 replacement tax liability.

34 5. Following the determination of replacement delivery tax  
35 rates by the director pursuant to section 437B.3, subsection

1 2, if an adjustment resulting from a taxpayer appeal is made  
2 to taxes levied and paid by a taxpayer with respect to the  
3 assessment year 2011 used in determining such rates, the  
4 director shall recalculate the replacement delivery tax rate  
5 for any affected water utility to reflect the impact of such  
6 adjustment as if such adjustment had been reflected in the  
7 initial determination of the centrally assessed property tax  
8 liability allocated to water service pursuant to section  
9 437B.3, subsection 2, paragraph "a". Rate recalculations shall  
10 be made and published in the Iowa administrative bulletin by  
11 the director on or before March 31 following the calendar year  
12 in which a final determination of the adjustment is made.  
13 Taxpayers shall report to the director any increase or decrease  
14 in the tentative replacement tax required to be shown to be  
15 due pursuant to subsection 1, paragraph "b", for any tax year  
16 with the return for the year in which the recalculated tax  
17 rates which gave rise to the adjustment are published in the  
18 Iowa administrative bulletin. The director and the department  
19 of management shall redetermine the allocation of replacement  
20 taxes pursuant to section 437B.11 for each affected tax year.  
21 If a taxpayer has overpaid replacement taxes, the overpayment  
22 shall be reported by the director to such taxpayer and to the  
23 appropriate county treasurers and shall be a credit against the  
24 replacement taxes owed by such taxpayer for the year in which  
25 the recalculated rates which gave rise to the overpayment are  
26 published in the Iowa administrative bulletin. If a taxpayer  
27 has overpaid centrally assessed property taxes for assessment  
28 years prior to tax year 2013, such overpayment shall be a  
29 credit against replacement taxes owed by such taxpayer for the  
30 year in which the overpayment is determined. Unused credits  
31 may be carried forward and used to reduce future replacement  
32 tax liabilities until exhausted.

33 Sec. 14. NEW SECTION. 437B.5 Failure to file return —  
34 incorrect return.

35 1. As soon as practicable after a return required by section

1 437B.4, subsection 1, is filed, and in any event within three  
2 years after such return is filed, the director shall examine  
3 the return, determine the tax due if the return is found to be  
4 incorrect, and give notice to the taxpayer of the determination  
5 as provided in subsection 2. The period for the examination  
6 and determination of the correct amount of tax is unlimited in  
7 the case of a false or fraudulent return made with the intent  
8 to evade any tax or in the case of a failure to file a return.

9 2. If a return required by section 437B.4, subsection  
10 1, is not filed, or if such return when filed is incorrect  
11 or insufficient and the taxpayer fails to file a corrected  
12 or sufficient return within twenty days after such return  
13 is required by notice from the director, the director shall  
14 determine the amount of tax due from information as the  
15 director may be able to obtain and, if necessary, may estimate  
16 the tax due on the basis of external indices. The director  
17 shall give notice of the determination to the taxpayer liable  
18 for the tax and to the county treasurers to whom the tax  
19 is owed. The determination shall fix the tax unless the  
20 taxpayer against whom it is levied, within sixty days after  
21 notice of the determination, applies to the director for a  
22 hearing. At the hearing evidence may be offered to support  
23 the determination or to prove that it is incorrect. After the  
24 hearing the director shall give notice of the decision to the  
25 person liable for the tax and to the county treasurers to whom  
26 the tax is owed.

27 3. The three-year period of limitation provided in  
28 subsection 1 may be extended by the taxpayer by signing  
29 a waiver agreement form provided by the department. The  
30 agreement shall stipulate the period of extension and the  
31 tax period to which the extension applies. The agreement  
32 shall also provide that a claim for refund may be filed by the  
33 taxpayer at any time during the period of extension.

34 **Sec. 15. NEW SECTION. 437B.6 Judicial review.**

35 1. Judicial review of the actions of the director may

1 be sought pursuant to chapter 17A, the Iowa administrative  
2 procedure Act.

3 2. For cause and upon a showing by the director that  
4 collection of the tax in dispute is in doubt, the court may  
5 order the petitioner to file with the clerk of the district  
6 court a bond for the use of the appropriate local taxing  
7 authorities, with sureties approved by the clerk of the  
8 district court, in the amount of the tax appealed from,  
9 conditioned upon the performance by the petitioner of any  
10 orders of the court.

11 3. An appeal may be taken by the taxpayer or the director to  
12 the supreme court irrespective of the amount involved.

13 4. A person aggrieved by a decision of the chief financial  
14 officer of a city under this chapter may seek review by writ  
15 of certiorari within thirty days of the decision sought to be  
16 reviewed.

17 Sec. 16. NEW SECTION. **437B.7 Lien — actions authorized.**

18 1. Whenever a taxpayer who is liable to pay a replacement  
19 tax imposed by this chapter refuses or neglects to pay such  
20 tax, the amount, including any interest, penalty, or addition  
21 to such tax, together with the costs that may accrue, shall be  
22 a lien in favor of the chief financial officer of the city or  
23 the county treasurer to which the tax is owed upon all property  
24 and rights to property, whether real or personal, belonging to  
25 the taxpayer. The lien shall be prior to and superior over all  
26 subsequent liens upon any personal property within this state,  
27 or right to such personal property, belonging to the taxpayer,  
28 without the necessity of recording the lien. The requirement  
29 for recording, as applied to the replacement tax imposed by  
30 this chapter, shall apply only to a lien upon real property.  
31 The lien may be preserved against subsequent mortgagees,  
32 purchasers, or judgment creditors, for value and without notice  
33 of the lien, on any real property situated in a county, by the  
34 county treasurer to which replacement tax is owed by filing  
35 with the recorder of the county in which the real property is

1 located a notice of the lien. For purposes of the replacement  
2 tax collected by a city, the lien may be preserved against  
3 subsequent mortgagees, purchasers, or judgment creditors, for  
4 value and without notice of the lien, on any real property  
5 situated in the county, by the chief financial officer of  
6 the city to which replacement tax is owed by filing with the  
7 recorder of the county in which the real property is located a  
8 notice of the lien.

9 2. The county recorder of each county shall index each lien  
10 showing the applicable entries specified in sections 558.49  
11 and 558.52 and showing, under the names of taxpayers arranged  
12 alphabetically, all of the following:

13 a. The name of the taxpayer.

14 b. The name of the county treasurer and county or the name  
15 of the chief financial officer and city as claimant.

16 c. Time the notice of lien was filed for recording.

17 d. Date of notice.

18 e. Amount of lien then due.

19 f. Date of assessment.

20 g. Date when the lien is satisfied.

21 3. The recorder shall endorse on each notice of lien the  
22 day, hour, and minute when filed for recording and the document  
23 reference number, shall preserve such notice, shall index the  
24 notice in the index, and shall promptly record the lien in the  
25 manner provided for recording real estate mortgages. The lien  
26 is effective from the time of the indexing of the lien.

27 4. The county treasurer or chief financial officer of the  
28 city shall pay recording fees as provided in section 331.604,  
29 for the recording of the lien, or for its satisfaction.

30 5. Upon the payment of the replacement tax as to which  
31 a county treasurer has filed notice with a county recorder,  
32 the county treasurer shall promptly file with the recorder a  
33 satisfaction of the replacement tax. The recorder shall record  
34 the notice of satisfaction showing the applicable entries  
35 specified in sections 558.49 and 558.52.

1     6. Section 445.3 applies with respect to the replacement  
2 taxes and special utility property tax levies and penalties and  
3 interest imposed by this chapter, except for the provisions  
4 limiting the commencement of actions. In addition, at the  
5 county treasurer's discretion, chapters 446, 447, and 448 apply  
6 in the enforcement of the special utility property tax levies,  
7 but any tax deed issued shall not extinguish a tax lien or  
8 judgment lien for replacement taxes that has attached to the  
9 property.

10     Sec. 17. NEW SECTION. **437B.8 Service of notice.**

11     1. A notice authorized or required under this chapter may  
12 be given by mailing the notice to the taxpayer, addressed to  
13 the taxpayer at the address given in the last return filed by  
14 the taxpayer pursuant to this chapter, or if no return has  
15 been filed, then to the most recent address of the taxpayer  
16 obtainable. The mailing of the notice is presumptive evidence  
17 of the receipt of the notice by the taxpayer to whom the notice  
18 is addressed. A period of time within which some action must  
19 be taken for which notice is provided under this section  
20 commences to run from the date of mailing of the notice.

21     2. There is no limitation for the enforcement of a civil  
22 remedy pursuant to any proceeding or action taken to levy,  
23 appraise, assess, determine, or enforce the collection of any  
24 tax or penalty due under this chapter.

25     Sec. 18. NEW SECTION. **437B.9 Penalties — offenses —**  
26 **limitation.**

27     1. A taxpayer is subject to the penalty provisions in  
28 section 421.27 with respect to any replacement tax due under  
29 this chapter. A taxpayer shall also pay interest on the  
30 delinquent replacement tax at the rate in effect under section  
31 421.7 for each month computed from the date the payment was  
32 due, counting each fraction of a month as an entire month. The  
33 penalty and interest shall be paid to the county treasurer, or  
34 in the case of penalty and interest associated with a municipal  
35 transfer replacement tax to the city financial officer, and



1 shall be disposed of in the same manner as other receipts under  
2 this chapter. Unpaid penalties and interest may be enforced in  
3 the same manner as provided for unpaid replacement tax under  
4 this chapter.

5 2. A taxpayer, or officer, member, or employee of the  
6 taxpayer, who willfully attempts to evade the replacement tax  
7 imposed or the payment of the replacement tax is guilty of a  
8 class "D" felony.

9 3. The issuance of a certificate by the director or a county  
10 treasurer stating that a replacement tax has not been paid,  
11 that a return has not been filed, or that information has not  
12 been supplied pursuant to this chapter is prima facie evidence  
13 of such failure.

14 4. A taxpayer, or officer, member, or employee of the  
15 taxpayer, required to pay a replacement tax, or required to  
16 make, sign, or file an annual return or supplemental return,  
17 who willfully makes a false or fraudulent annual return, or  
18 who willfully fails to pay at least ninety percent of the  
19 replacement tax or willfully fails to make, sign, or file the  
20 annual return, as required, is guilty of a fraudulent practice.

21 5. For purposes of determining the place of trial for a  
22 violation of this section, the situs of an offense is in the  
23 county of the residence of the taxpayer, officer, member, or  
24 employee of the taxpayer charged with the offense, unless  
25 the taxpayer, officer, member, or employee of the taxpayer  
26 is a nonresident of this state or the residence cannot be  
27 established, in which event the situs of the offense is in Polk  
28 county.

29 6. Prosecution for an offense specified in this section  
30 shall be commenced within six years after the commission of the  
31 offense.

32 Sec. 19. NEW SECTION. 437B.10 Correction of errors —  
33 refunds or credits of replacement tax paid — information  
34 confidential — penalty.

35 1. a. If an amount of replacement tax, penalty, or interest

1 has been paid which was not due under this chapter, a county  
2 treasurer to whom such erroneous payment was made shall do one  
3 of the following:

4 (1) Credit the amount of the erroneous payment against any  
5 replacement tax due, or to become due, from the taxpayer on the  
6 books of the city or county.

7 (2) Refund the amount of the erroneous payment to the  
8 taxpayer.

9 b. Claims for refund or credit of replacement taxes paid  
10 shall be filed with the director. A claim for refund or credit  
11 that is not filed with the director within three years after  
12 the replacement tax payment upon which a refund or credit  
13 is claimed became due, or one year after the replacement  
14 tax payment was made, whichever time is later, shall not be  
15 allowed. A claim for refund or credit of tax alleged to be  
16 unconstitutional not filed with the director within ninety days  
17 after the replacement tax payment upon which a refund or credit  
18 is claimed became due shall not be allowed. As a precondition  
19 for claiming a refund or credit of alleged unconstitutional  
20 taxes, such taxes must be paid under written protest which  
21 specifies the particulars of the alleged unconstitutionality.  
22 Claims for refund or credit may only be made by, and refunds or  
23 credits may only be made to, the person responsible for paying  
24 the replacement tax, or such person's successors. The director  
25 shall notify affected county treasurers of the acceptance or  
26 denial of any refund claim. Section 421.10 applies to claims  
27 denied by the director.

28 2. a. It is unlawful for any present or former officer or  
29 employee of the state to divulge or to make known in any manner  
30 to any person the gallons of water delivered by a water utility  
31 disclosed on a tax return, return information, or investigative  
32 or audit information. A person who violates this section is  
33 guilty of a serious misdemeanor. If the offender is an officer  
34 or employee of the state, such person, in addition to any other  
35 penalty, shall also be dismissed from office or discharged from

1 employment. This section does not prohibit turning over to  
2 duly authorized officers of the United States or tax officials  
3 of other states such information pursuant to agreement between  
4 the director and the secretary of the treasury of the United  
5 States or the secretary's delegate or pursuant to a reciprocal  
6 agreement with another state.

7     *b.* Local taxing authority employees are deemed to be  
8 officers and employees of the state for purposes this of  
9 subsection.

10     3. Unless otherwise expressly permitted by a section  
11 referencing this chapter, the gallons of water delivered by a  
12 taxpayer in a service area shall not be divulged to any person  
13 or entity, other than the taxpayer, the department of revenue,  
14 or the internal revenue service for use in a matter unrelated  
15 to tax administration. This prohibition precludes persons or  
16 entities other than the taxpayer, the department of revenue, or  
17 the internal revenue service from obtaining such information  
18 from the department of revenue. A subpoena, order, or process  
19 which requires the department of revenue to produce such  
20 information to a person or entity, other than the taxpayer, the  
21 department of revenue, or internal revenue service, for use in  
22 a nontax proceeding is void.

23     4. Notwithstanding subsections 2 and 3, the chief financial  
24 officer of any local taxing authority and any designee of such  
25 officer shall have access to any computations made by the  
26 director pursuant to the provisions of this chapter, and any  
27 tax return or other information used by the director in making  
28 such computations, which affect the replacement tax owed by any  
29 such taxpayer.

30     5. Claims for refund or credit of special utility property  
31 tax levies shall be filed with the appropriate county  
32 treasurer. Subsection 1 applies with respect to the special  
33 utility property tax levy and the county treasurer shall have  
34 the same authority as is granted to the director under this  
35 section.

1     Sec. 20. NEW SECTION.   **437B.11 Allocation of revenue.**

2     1. The director and the department of management shall  
3 compute the allocation of all replacement tax revenues among  
4 the local taxing districts in accordance with this section and  
5 shall report such allocation by local taxing districts to the  
6 county treasurers on or before August 15 following a tax year.

7     2. The director shall determine and report to the department  
8 of management the total replacement taxes to be collected from  
9 each taxpayer for the tax year on or before July 30 following  
10 such tax year.

11    3. *a.* All replacement taxes owed by a taxpayer shall  
12 be allocated among the local taxing districts in which such  
13 taxpayer's property is located in accordance with a general  
14 allocation formula determined by the department of management  
15 on the basis of general property tax equivalents. General  
16 property tax equivalents shall be determined by applying the  
17 levy rates reported by each local taxing district to the  
18 department of management on or before June 30 following a tax  
19 year to the taxable value of taxpayer property allocated to  
20 each such local taxing district as adjusted and reported to  
21 the department of management in such tax year by the director  
22 pursuant to the procedures required pursuant to section  
23 437B.15. The general allocation formula for a tax year shall  
24 allocate to each local taxing district that portion of the  
25 replacement taxes owed by each taxpayer which bears the same  
26 ratio as such taxpayer's general property tax equivalents for  
27 each local taxing district bears to such taxpayer's total  
28 general property tax equivalents for all local taxing districts  
29 in Iowa.

30    *b.* If, during the tax year, a taxpayer transferred operating  
31 property or an interest in operating property to another  
32 taxpayer, the transferee taxpayer's replacement tax associated  
33 with that property shall be allocated, for the tax year in  
34 which the transfer occurred, under this section in accordance  
35 with the general allocation formula on the basis of the general

1 property tax equivalents of the transferor taxpayer.

2     c. Notwithstanding the provisions of this section, if during  
3 the tax year a person who was not a taxpayer during the prior  
4 tax year acquires a new major addition, as defined in section  
5 437B.2, subsection 8, paragraph "a", subparagraph (4), the  
6 replacement tax associated with that major addition shall be  
7 allocated, for that tax year, under this section in accordance  
8 with the general allocating formula on the basis of the general  
9 property tax equivalents established under paragraph "a" of  
10 this subsection, except that the levy rates established and  
11 reported to the department of management on or before June 30  
12 following the tax year in which the major addition was acquired  
13 shall be applied to the prorated assessed value of the major  
14 addition. For purposes of this paragraph, "*prorated assessed*  
15 *value of the major addition*" means the assessed value of the  
16 major addition as of January 1 of the year following the tax  
17 year in which the major addition was acquired multiplied by the  
18 percentage derived by dividing the number of months that the  
19 major addition existed during the tax year by twelve, counting  
20 any portion of a month as a full month.

21     4. On or before August 31 following tax years 2013, 2014,  
22 and 2015, each county treasurer shall compute a special  
23 utility property tax levy or tax credit for each taxpayer for  
24 which a replacement tax liability for each such tax year is  
25 reported to the county treasurer pursuant to subsection 1, and  
26 shall notify the taxpayer of the amount of such tax levy or  
27 tax credit. The amount of the special utility property tax  
28 levy or credit shall be determined for each taxpayer by the  
29 county treasurer by comparing the taxpayer's total replacement  
30 tax liability allocated to taxing districts in the county  
31 pursuant to this section with the anticipated tax revenues  
32 from the taxpayer for all taxing districts in the county. If  
33 the taxpayer's total replacement tax liability allocated to  
34 taxing districts in the county is less than the anticipated  
35 tax revenues from the taxpayer for all taxing districts in

1 the county, the county treasurer shall levy a special utility  
2 property tax equal to the shortfall which shall be added to  
3 and collected with the replacement tax owed by the taxpayer  
4 to the county treasurer for the tax year pursuant to section  
5 437B.4, subsection 3. If the taxpayer's total replacement tax  
6 liability allocated to taxing districts in the county exceeds  
7 the anticipated tax revenues from the taxpayer for all taxing  
8 districts in the county, the county treasurer shall issue a  
9 credit to the taxpayer which shall be applied to reduce the  
10 taxpayer's replacement tax liability to the county treasurer  
11 for the tax year. If the taxpayer's total replacement tax  
12 liability allocated to taxing districts in the county equals  
13 the anticipated tax revenues from the taxpayer for all taxing  
14 districts in the county, no levy or credit is required.

15 Replacement tax liability for purposes of this subsection means  
16 replacement tax liability before credits allowed by section  
17 437B.4, subsection 5. A recalculation of a special utility  
18 property tax levy or credit shall not be made as a result  
19 of a subsequent recalculation of replacement tax liability  
20 under section 437B.4, subsection 5, or adjustment to assessed  
21 value under section 437B.15. *"Anticipated tax revenues from a*  
22 *taxpayer"* means the product of the total levy rates imposed  
23 by the taxing districts and the value of taxpayer property  
24 allocated to the taxing districts and reported to the county  
25 auditor. Special utility property tax levies and credits  
26 shall be treated as replacement taxes for purposes of section  
27 437B.7. If a special utility property tax levy payment becomes  
28 delinquent, the delinquent payment shall accrue interest and  
29 penalty in the same manner and amount as the replacement tax  
30 under section 437B.9.

31 5. The replacement tax, as adjusted by any special utility  
32 property tax levy or credit and remitted to a county treasurer  
33 by each taxpayer, shall be treated as a property tax when  
34 received and shall be disbursed by the county treasurer  
35 as taxes on real estate. Notwithstanding the allocation

1 provisions of this section, nothing in this section shall deny  
2 any municipality which has enacted an ordinance or entered  
3 into an agreement for the division and allocation of taxes  
4 authorized under section 403.19 and under which ordinance or  
5 agreement the taxes collected in respect of properties owned  
6 by any of the taxpayers remitting replacement taxes pursuant  
7 to the provisions of this chapter are being divided and  
8 allocated, the right to receive its share of the replacement  
9 tax revenues collected for any year which would otherwise be  
10 paid to such municipality under the terms of any such ordinance  
11 or agreement had this chapter not been enacted. To the extent  
12 that adjustment must be made to the allocation described in  
13 this section to give effect to the terms of such ordinances  
14 or agreements, the department of management and the county  
15 treasurer shall make such adjustments.

16 6. In lieu of the adjustment provided for in subsection 5,  
17 the assessed value of property described in section 403.19,  
18 subsection 1, may be reduced by the city or county by the  
19 amount of the taxable value of the property described in  
20 section 437B.12 included in such area on January 1, 2011,  
21 pursuant to amendment of the ordinance adopted by such city or  
22 county pursuant to section 403.19.

23 7. The utility replacement task force created in section  
24 437A.15 shall study the effects of the replacement tax on  
25 local taxing authorities, local taxing districts, consumers,  
26 and taxpayers through January 1, 2016. If the task force  
27 recommends modifications to the replacement tax that will  
28 further the purposes of tax neutrality for local taxing  
29 authorities, local taxing districts, taxpayers, and consumers,  
30 consistent with the stated purposes of this chapter, the  
31 department of management shall transmit those recommendations  
32 to the general assembly.

33 Sec. 21. NEW SECTION. **437B.12 Assessment exclusive.**

34 All operating property and all other property that is  
35 primarily and directly used in the delivery of water subject

1 to replacement tax is exempt from taxation except as otherwise  
2 provided by this chapter.

3     Sec. 22. NEW SECTION. 437B.13 Statutes applicable — rate  
4 calculations.

5     1. The director shall administer and enforce the  
6 replacement tax imposed by this chapter in the same manner as  
7 provided in and subject to sections 422.68, 422.70, 422.71, and  
8 422.75.

9     2. The calculation of tax rates and adjustments to  
10 such rates by the director pursuant to this chapter do not  
11 constitute rulemaking subject to the provisions of chapter 17A.

12     Sec. 23. NEW SECTION. 437B.14 Tax imposition.

13     An annual statewide property tax of three cents per one  
14 thousand dollars of assessed value is imposed upon all property  
15 described in section 437B.12 on the assessment date of January  
16 1.

17     Sec. 24. NEW SECTION. 437B.15 Adjustment to assessed value  
18 — reporting requirements.

19     1. a. A taxpayer whose property is subject to the statewide  
20 property tax shall report to the director by July 1, 2013, and  
21 by May 1 of each subsequent tax year, on forms prescribed by  
22 the director, the book value, as of the beginning and end of  
23 the preceding calendar year, of all of the following:

24         (1) The local amount of any major addition by local taxing  
25 district.

26         (2) The statewide amount of any major addition without  
27 notation of location.

28         (3) Any building in Iowa at acquisition cost of more than  
29 ten million dollars that was originally placed in service by  
30 the taxpayer prior to January 1, 2012, and that was transferred  
31 or disposed of in the preceding calendar year, listed by local  
32 taxing district.

33         (4) All other taxpayer property without notation of  
34 location.

35         (5) The local amount of any major addition eligible for the



1 urban revitalization exemption provided for in chapter 404, by  
2 situs.

3 (6) All other transferred taxpayer property, in addition  
4 to any transferred property reported under subparagraph (3),  
5 listed by local taxing district.

6 (7) Any water utility operating property at acquisition  
7 cost of more than one million dollars that was transferred or  
8 disposed of in the preceding calendar year, listed by local  
9 taxing district.

10 *b.* For purposes of this section:

11 (1) "*Book value*" means acquisition cost less accumulated  
12 depreciation determined under generally accepted accounting  
13 principles.

14 (2) "*Taxpayer property*" means property described in section  
15 437B.12.

16 (3) "*To dispose of*" means to sell, abandon, decommission,  
17 or retire an asset.

18 (4) "*Transfer*" means a transaction which results in a change  
19 of ownership of taxpayer property and includes a capital lease  
20 transaction.

21 *c.* For purposes of this subsection, "*taxpayer*" includes a  
22 person who would have been a taxpayer in calendar year 2012  
23 had the provisions of this chapter been in effect for the 2012  
24 assessment year.

25 *d.* If a taxpayer owns or leases pursuant to a capital lease  
26 less than the entire interest in a major addition, the local  
27 amount and statewide amount, if any, of such major addition  
28 shall be apportioned to the taxpayer on the basis of its  
29 percentage interest in such major addition.

30 2. *a.* Beginning January 1, 2013, the assessed value of  
31 taxpayer property shall be adjusted annually as provided in  
32 this section. The director, with respect to each taxpayer,  
33 shall do all of the following:

34 (1) Adjust the assessed value of taxpayer property in  
35 each local taxing district by the change in book value during

1 the preceding calendar year of the local amount of any major  
2 addition reported within such local taxing district.

3 (2) Adjust the assessed value of taxpayer property in each  
4 local taxing district by allocating the change in book value  
5 during the preceding calendar year of the statewide amount  
6 and all other taxpayer property described in subsection 1,  
7 paragraph "a", subparagraph (5), to the assessed value of  
8 all taxpayer property in the state pro rata according to its  
9 preadjustment value.

10 (3) In the case of taxpayer property described in subsection  
11 1, paragraph "a", subparagraphs (3), (4), and (7), decrease  
12 the assessed value of taxpayer property in each local taxing  
13 district by the assessed value reported within such local  
14 taxing district.

15 (4) In the event of a merger or consolidation of two or more  
16 taxpayers, to determine the assessed value of the surviving  
17 taxpayer, combine the assessed values of such taxpayers  
18 immediately prior to the merger or consolidation.

19 (5) In the event any taxpayer property is eligible for the  
20 urban revitalization tax exemption described in chapter 404,  
21 adjust the assessed value of taxpayer property within each  
22 affected local taxing district to reflect such exemption.

23 (6) In the event the assessed value of taxpayer property is  
24 adjusted as a result of taxpayer appeals, reduce the assessed  
25 value of taxpayer property in each local taxing district to  
26 reflect such adjustment. The adjustment shall be allocated  
27 in proportion to the allocation of the taxpayer's assessed  
28 value among the local taxing districts determined without  
29 regard to this adjustment. An adjustment to the assessed  
30 value of taxpayer property shall be made as of January 1 of  
31 the year following the date on which the adjustment is finally  
32 determined.

33 *b.* In no event shall the adjustments set forth in this  
34 subsection reduce the assessed value of taxpayer property in  
35 any local taxing district below zero.

1     *c.* The director, on or before October 31 of each assessment  
2 year, shall report to the department of management and to the  
3 auditor of each county the adjusted assessed value of taxpayer  
4 property as of January 1 of such assessment year for each local  
5 taxing district. For purposes of this subsection, the assessed  
6 value of taxpayer property in each local taxing district  
7 subject to adjustment under this section by the director means  
8 the assessed value of such property as of the preceding January  
9 1 as determined and allocated among the local taxing districts  
10 by the director.

11     *d.* Nothing in this chapter shall be interpreted to authorize  
12 local taxing authorities to exclude from the calculation of  
13 levy rates the taxable value of taxpayer property reported to  
14 county auditors pursuant to this subsection.

15     *e.* In addition to reporting the assessed values as described  
16 in this subsection, the director, on or before October 31 of  
17 each assessment year, shall also report to the department of  
18 management and to the auditor of each county the taxable value  
19 of taxpayer property as of January 1 of such assessment year  
20 for each local taxing district. For purposes of this chapter,  
21 "*taxable value*" means the value for all property subject to  
22 the replacement tax annually determined by the director, by  
23 dividing the estimated annual replacement tax liability for  
24 that property by the current fiscal year's consolidated taxing  
25 district rate for the taxing district where that property is  
26 located, then multiplying the quotient by one thousand. A  
27 taxpayer who paid more than five hundred thousand dollars in  
28 replacement tax in the previous tax year or who believes the  
29 taxpayer's replacement tax liability will vary more than ten  
30 percent from the previous tax year shall report to the director  
31 by October 1 of the current calendar year, on forms prescribed  
32 by the director, the estimated replacement tax liability that  
33 will be attributable to all of the taxpayer's property subject  
34 to replacement tax for the current tax year. The department  
35 shall utilize the estimated replacement tax liability as

1 reported by the taxpayer or the taxpayer's prior year's  
 2 replacement tax amounts to estimate the current tax year's  
 3 taxable value for that property. Furthermore, a taxpayer  
 4 who has a new major addition of operating property which is  
 5 put into service for the first time in the current calendar  
 6 year shall report to the director by October 1 of the current  
 7 calendar year, or at the time the major addition is put into  
 8 service, whichever time is later, on forms prescribed by the  
 9 director, the cost of the major addition and, if not previously  
 10 reported, shall report the estimated replacement taxes which  
 11 that asset will generate in the current calendar year. For  
 12 the purposes of computing the taxable value of property in a  
 13 taxing district, the taxing district's share of the estimated  
 14 replacement tax liability shall be the taxing district's  
 15 percentage share of the assessed value allocated by property  
 16 tax equivalent multiplied by the total estimated replacement  
 17 tax. The assessed value allocated by property tax equivalent  
 18 shall be determined by dividing the taxpayer's current year  
 19 assessed valuation in a taxing district by one thousand, and  
 20 then multiplying by the prior year's consolidated tax rate.

21 Sec. 25. NEW SECTION. 437B.16 Tax exemptions.

22 Except as provided in section 437B.12, all property tax  
 23 exemptions in the Code do not apply to property subject to the  
 24 statewide property tax unless such exemptions expressly refer  
 25 to the statewide property tax, except that if property was  
 26 exempt from property tax on January 1, 2013, such exemption  
 27 shall continue until the exemption expires, is phased out, or  
 28 is repealed. The property of a taxpayer who does not owe any  
 29 replacement tax is exempt from the statewide property tax for  
 30 the coinciding assessment year.

31 Sec. 26. NEW SECTION. 437B.17 Return and payment  
 32 requirements.

33 1. Each water utility whose property is subject to the  
 34 statewide property tax shall file with the director a return,  
 35 on or before March 31 following the assessment year, including

1 but not limited to the following information:

2     *a.* The assessed value of property subject to the statewide  
3 property tax.

4     *b.* The amount of statewide property tax computed on such  
5 assessed value.

6     2. The first return under subsection 1 is due on or before  
7 February 28, 2014.

8     3. A return shall be signed by an officer, or other person  
9 duly authorized by the taxpayer, and must be certified as  
10 correct and in accordance with rules and forms prescribed by  
11 the director.

12     4. At the time of filing the return with the director,  
13 the taxpayer shall calculate the statewide property tax owed  
14 for the assessment year and shall remit to the director the  
15 statewide property tax required to be shown due on the return.

16     5. Notwithstanding subsections 1 through 4, a taxpayer  
17 is not required to file a return under this section or to  
18 remit any statewide property tax for any tax year in which the  
19 taxpayer's statewide property tax liability is one dollar or  
20 less.

21     Sec. 27. NEW SECTION. **437B.18 Statutes applicable.**

22     1. Sections 437B.5, 437B.6, 437B.8, and 437B.9, and section  
23 437B.10, subsection 1, are applicable to water utilities whose  
24 property is subject to the statewide property tax.

25     2. *a.* Section 422.26 applies with respect to the statewide  
26 property tax and penalties imposed by this chapter, except  
27 that, as applied to any tax imposed by this chapter, the lien  
28 provided shall be prior to and superior over all subsequent  
29 liens upon any personal property within this state or right  
30 to such personal property belonging to the taxpayer, without  
31 the necessity of recording the lien as provided in section  
32 422.26. The requirement for recording, as applied to the  
33 statewide property tax imposed by this chapter, shall apply  
34 only to a lien upon real property. In order to preserve such  
35 lien against subsequent mortgagees, purchasers, or judgment

1 creditors, for value and without notice of the lien, on any  
2 real property situated in a county, the director shall file  
3 with the recorder of the county in which the real property is  
4 located a notice of the lien.

5 *b.* The county recorder of each county shall index each lien  
6 showing the applicable entries specified in sections 558.49  
7 and 558.52 and showing, under the names of taxpayers arranged  
8 alphabetically, all of the following:

- 9 (1) The name of the taxpayer.
- 10 (2) The name "State of Iowa" as claimant.
- 11 (3) Time the notice of lien was filed for recording.
- 12 (4) Date of notice.
- 13 (5) Amount of lien then due.
- 14 (6) Date of assessment.
- 15 (7) Date when the lien is satisfied.

16 *c.* The recorder shall endorse on each notice of lien the  
17 day, hour, and minute when filed for recording and the document  
18 reference number, shall preserve such notice, and shall  
19 promptly record the lien in the manner provided for recording  
20 real estate mortgages. The lien is effective from the time of  
21 the indexing of the lien.

22 *d.* The director, from moneys appropriated to the department  
23 of revenue for this purpose, shall pay recording fees as  
24 provided in section 331.604 for the recording of the lien, or  
25 for its satisfaction.

26 *e.* Upon the payment of the statewide property tax as to  
27 which the director has filed notice with a county recorder, the  
28 director shall promptly file with the recorder a satisfaction  
29 of the statewide property tax. The recorder shall enter the  
30 satisfaction on the notice on file in the recorder's office and  
31 indicate that fact on the index.

32 **Sec. 28. NEW SECTION. 437B.19 Deposit of tax proceeds.**

33 All revenues received from imposition of the statewide  
34 property tax shall be deposited in the general fund of the  
35 state. Fifty percent of the revenues shall be available, as

1 appropriated by the general assembly, to the department of  
2 management for salaries, support, services, and equipment to  
3 administer the replacement tax. The balance of the revenues  
4 shall be available, as appropriated by the general assembly, to  
5 the department of revenue for salaries, support, services, and  
6 equipment to administer and enforce the replacement tax and the  
7 statewide property tax.

8 Sec. 29. NEW SECTION. **437B.20 Records.**

9 Each water utility that is subject to the replacement tax or  
10 the statewide property tax shall maintain records associated  
11 with the replacement tax and the assessed value of property  
12 subject to the statewide property tax for a period of five  
13 years following the later of the original due date for filing a  
14 return pursuant to sections 437B.4 and 437B.17 in which such  
15 taxes are reported, or the date on which either such return is  
16 filed. Such records shall include those associated with any  
17 additions or dispositions of property, and the allocation of  
18 such property among local taxing districts.

19 Sec. 30. NEW SECTION. **437B.21 Rules.**

20 The director of revenue may adopt rules pursuant to chapter  
21 17A for the administration and enforcement of this chapter.

22 Sec. 31. Section 441.73, subsection 1, Code 2013, is amended  
23 to read as follows:

24 1. A litigation expense fund is created in the state  
25 treasury. The litigation expense fund shall be used for the  
26 payment of litigation expenses incurred by the state to defend  
27 property valuations established by the director of revenue  
28 pursuant to section 428.24 and chapters 433, 434, 437, 437A,  
29 437B, and 438, and for the payment of litigation expenses  
30 incurred by the state to defend the imposition of replacement  
31 taxes and statewide property taxes under ~~chapter~~ chapters 437A  
32 and 437B.

33 Sec. 32. Section 443.2, unnumbered paragraph 2, Code 2013,  
34 is amended to read as follows:

35 The county auditor shall list the aggregate actual value

1 and the aggregate taxable value of all taxable property within  
2 the county and each political subdivision including property  
3 subject to the statewide property tax imposed under section  
4 437A.18 or 437B.14 on the tax list in order that the actual  
5 value of the taxable property within the county or a political  
6 subdivision may be ascertained and shown by the tax list for  
7 the purpose of computing the debt-incurring capacity of the  
8 county or political subdivision. As used in this section,  
9 "*actual value*" is the value determined under section 441.21,  
10 subsections 1 to 3, prior to the reduction to a percentage of  
11 actual value as otherwise provided in section 441.21. "*Actual*  
12 *value*" of property subject to statewide property tax is the  
13 assessed value under section 437A.18 or 437B.14.

14 Sec. 33. Section 476.6, subsection 19, paragraphs a and b,  
15 Code 2013, are amended to read as follows:

16 a. The costs of the replacement tax imposed pursuant to  
17 chapter 437A or 437B shall be reflected in the charges of  
18 utilities subject to rate regulation, in lieu of the utilities'  
19 costs of property taxes. The imposition of the replacement  
20 taxes pursuant to chapter 437A is not intended to initiate any  
21 change in the rates and charges for the sale of electricity,  
22 the sale of natural gas, or the transportation of natural gas  
23 that is subject to regulation by the board and in effect on  
24 January 1, 1999. The implementation and initial imposition of  
25 the replacement taxes pursuant to chapter 437B is not intended  
26 to result in an increase in the rates and charges for the sale  
27 of water that is subject to regulation by the board and in  
28 effect on January 1, 2013.

29 b. The cost of the replacement taxes imposed by chapter 437A  
30 or 437B shall be allocated among and within customer classes in  
31 a manner that will replicate the tax cost burden of the current  
32 property tax on individual customers to the maximum extent  
33 practicable.

34 Sec. 34. IMPLEMENTATION — EMERGENCY RULES. The department  
35 of revenue shall adopt administrative rules under section



1 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph  
2 "b", to implement this Act including but not limited to rules  
3 requiring water utilities to report all information and data  
4 necessary for the department to carry out the provisions of  
5 this Act and the rules shall be effective immediately upon  
6 filing unless a later date is specified in the rules. Any  
7 rules adopted in accordance with the provisions of this  
8 section shall also be published as notice of intended action  
9 as provided in section 17A.4.

10 Sec. 35. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
11 of immediate importance, takes effect upon enactment.

12 Sec. 36. RETROACTIVE APPLICABILITY. This Act applies  
13 retroactively to property tax assessment years and replacement  
14 tax years beginning on or after January 1, 2013.

15 EXPLANATION

16 This bill enacts new Code chapter 437B, which establishes  
17 a water utility replacement tax and statewide property tax  
18 imposed on rate-regulated water utility property.

19 The bill imposes a replacement delivery tax on each water  
20 utility that delivers water to a consumer within the water  
21 utility's service area, as defined in the bill. The bill  
22 defines "water utility" or "rate-regulated water utility" to  
23 mean a person engaged primarily in the production, delivery,  
24 service, or sale of water in a service area, whether formed  
25 or organized under the laws of this state or elsewhere, and  
26 subject to the rate and service regulation of the utilities  
27 board pursuant to Code chapter 476. Under the bill, however,  
28 "water utility" does not include a cooperative, municipal  
29 utility, or other entity engaged primarily in such activities  
30 that is not under the jurisdiction of the utilities board.

31 The replacement delivery tax imposed in the bill is equal to  
32 the number of gallons of water delivered to consumers in the  
33 water utility's service area by the taxpayer during the tax  
34 year multiplied by the replacement delivery tax rate in effect  
35 for the service area. The director of revenue is required to

1 calculate the replacement delivery tax rate for each service  
2 area using a methodology specified in the bill. The bill also  
3 establishes conditions under which the replacement delivery  
4 tax rate shall be adjusted for specific service areas. The  
5 replacement delivery tax rate in effect for each service area  
6 must be published annually by the director of revenue in the  
7 Iowa administrative bulletin. The bill also provides for the  
8 recalculation of replacement delivery tax rates so that the  
9 total amount of replacement delivery taxes imposed on a water  
10 utility for tax years 2013, 2014, and 2015 is not less than the  
11 water utility's centrally assessed property tax liability for  
12 assessment year 2010.

13 Each taxpayer subject to the water utility replacement tax  
14 imposed under new Code chapter 437B must file on or before  
15 March 31 following a tax year with the director of revenue a  
16 return signed by an officer or other person authorized by the  
17 water utility that includes specified information relating  
18 to the total taxable gallons of water delivered by the water  
19 utility to consumers within the service area during the tax  
20 year and the tentative replacement taxes due for the tax year.

21 The bill provides that a taxpayer shall not be required to  
22 file a return or remit any replacement tax for any tax year in  
23 which the taxpayer's replacement tax liability before credits  
24 is \$300 or less.

25 The bill specifies the duties of the department of revenue  
26 for the calculation of the tentative replacement tax due  
27 for each tax year, for making applicable adjustments to the  
28 tentative replacement tax amounts, and for the examination of  
29 filed returns.

30 Under the bill, actions of the director of revenue under new  
31 Code chapter 437B are reviewable pursuant to Code chapter 17A  
32 (Iowa Administrative Procedure Act).

33 The bill provides for the filing of a lien when a taxpayer  
34 who is liable to pay a tax imposed by new Code chapter 437B  
35 refuses or neglects to pay such tax.

1 The bill provides that a taxpayer is subject to the  
2 penalty provisions in Code section 421.27 with respect to any  
3 replacement tax due under new Code chapter 437B and requires  
4 a taxpayer to also pay interest on delinquent replacement tax  
5 amounts at the rate in effect under Code section 421.7. A  
6 taxpayer, or officer, member, or employee of the taxpayer, who  
7 willfully attempts to evade the replacement tax imposed or the  
8 payment of the replacement tax is guilty of a class "D" felony.  
9 In addition, a taxpayer, or officer, member, or employee of the  
10 taxpayer, required to pay a replacement tax, or required to  
11 make, sign, or file an annual return or supplemental return,  
12 who willfully makes a false or fraudulent annual return, or who  
13 willfully fails to pay at least 90 percent of the replacement  
14 tax or willfully fails to make, sign, or file the annual  
15 return, as required, is guilty of a fraudulent practice. The  
16 bill provides that prosecution for such offenses shall be  
17 commenced within six years after the commission of the offense.

18 The bill specifies the procedures for refunding or providing  
19 a credit for the payment of a replacement tax, penalty, or  
20 interest which was not due under new Code chapter 437B.

21 Under the bill, it is unlawful for any present or former  
22 officer or employee of the state to divulge or to make known in  
23 any manner to any person, except specified government entities,  
24 the gallons of water delivered by a water utility disclosed on  
25 a tax return, return information, or investigative or audit  
26 information. A person who violates this provision of the  
27 bill is guilty of a serious misdemeanor. In addition, if the  
28 offender is an officer or employee of the state, such person,  
29 in addition to any other penalty, shall also be dismissed from  
30 office or discharged from employment.

31 The bill requires the director of revenue and the department  
32 of management to compute the allocation of all replacement  
33 tax revenues among the local taxing districts and report such  
34 allocation by local taxing districts to the county treasurers  
35 on or before August 15 following a tax year. Under the bill,

1 all replacement taxes owed by a taxpayer shall be allocated  
2 among the local taxing districts in which such taxpayer's  
3 property is located in accordance with a general allocation  
4 formula determined by the department of management on the basis  
5 of general property tax equivalents, as determined in the bill.  
6 The general allocation formula for a tax year shall allocate  
7 to each local taxing district that portion of the replacement  
8 taxes owed by each taxpayer which bears the same ratio as such  
9 taxpayer's general property tax equivalents for each local  
10 taxing district bears to such taxpayer's total general property  
11 tax equivalents for all local taxing districts in the state.  
12 The bill provides for the adjustments to the allocations based  
13 on certain specified conditions.

14 The bill provides that on or before August 31 following  
15 tax years 2013, 2014, and 2015, each county treasurer shall  
16 compute a special utility property tax levy or tax credit for  
17 each taxpayer for which a replacement tax liability for each  
18 such tax year is reported to the county treasurer and shall  
19 notify the taxpayer of the amount of such tax levy or tax  
20 credit. The amount of the special utility property tax levy  
21 or credit shall be determined for each taxpayer by the county  
22 treasurer by comparing the taxpayer's total replacement tax  
23 liability allocated to taxing districts in the county with  
24 the anticipated tax revenues from the taxpayer for all taxing  
25 districts in the county. If the taxpayer's total replacement  
26 tax liability allocated to taxing districts in the county is  
27 less than the anticipated tax revenues from the taxpayer for  
28 all taxing districts in the county, the county treasurer shall  
29 levy a special utility property tax equal to the shortfall  
30 which shall be added to and collected with the replacement tax  
31 owed by the taxpayer to the county treasurer for the tax year.  
32 If the taxpayer's total replacement tax liability allocated  
33 to taxing districts in the county exceeds the anticipated  
34 tax revenues from the taxpayer for all taxing districts in  
35 the county, the county treasurer shall issue a credit to the

1 taxpayer which shall be applied to reduce the taxpayer's  
2 replacement tax liability to the county treasurer for the tax  
3 year.

4 The replacement tax, as adjusted by any special utility  
5 property tax levy or credit and remitted to a county treasurer  
6 by each taxpayer, shall be treated as a property tax when  
7 received and shall be disbursed by the county treasurer as  
8 taxes on real estate. The bill specifies the manner in which  
9 replacement tax revenue under new Code chapter 437B shall be  
10 apportioned for property subject to division and allocation of  
11 taxes authorized under Code section 403.19.

12 The bill requires the utility replacement task force  
13 created in Code section 437A.15 to study the effects of the  
14 replacement tax on local taxing authorities, local taxing  
15 districts, consumers, and taxpayers through January 1, 2016,  
16 and authorizes the utility replacement task force to make  
17 appropriate recommendations to the general assembly.

18 The bill specifies that all operating property and all  
19 other property that is primarily and directly used in the  
20 delivery of water subject to the replacement tax is exempt  
21 from taxation except as otherwise provided by new Code chapter  
22 437B, which, in addition to the replacement tax, imposes the  
23 statewide property tax levy of three cents per \$1,000 of  
24 assessed value. The bill requires a taxpayer whose property  
25 is subject to the statewide property tax to report to the  
26 director of revenue specified property and value information  
27 relating to such property and file a return with the director  
28 of revenue specifying the assessed value of property subject to  
29 the statewide property tax and the amount of statewide property  
30 tax computed on such assessed value.

31 Under the bill, all revenues received from imposition of  
32 the statewide property tax shall be deposited in the general  
33 fund of the state. Fifty percent of the revenues shall be  
34 available, as appropriated by the general assembly, to the  
35 department of management for salaries, support, services, and

1 equipment to administer the replacement tax. The balance  
2 of the revenues shall be available, as appropriated by the  
3 general assembly, to the department of revenue for salaries,  
4 support, services, and equipment to administer and enforce the  
5 replacement tax and the statewide property tax.

6 The bill specifies replacement tax record retention and  
7 maintenance requirements for water utilities.

8 The bill authorizes the director of revenue to adopt  
9 rules pursuant to Code chapter 17A for the administration  
10 and enforcement of new Code chapter 437B. In addition, the  
11 bill authorizes the department of revenue to adopt emergency  
12 administrative rules to implement the bill including but not  
13 limited to rules requiring water utilities to report all  
14 information and data necessary for the department to carry out  
15 the provisions of the bill.

16 The bill makes corresponding changes to other provisions of  
17 the Code to reflect the enactment of new Code chapter 437B.

18 The bill takes effect upon enactment and applies  
19 retroactively to property tax assessment years and replacement  
20 tax years beginning on or after January 1, 2013.