

House Study Bill 222 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON KAUFMANN)

A BILL FOR

1 An Act modifying provisions applicable to the construction,
2 erection, maintenance, or operation of electric transmission
3 lines, and including effective date and applicability
4 provisions.

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

1 Section 1. Section 478.3, subsection 3, Code 2015, is
2 amended to read as follows:

3 3. For the purpose of this ~~section~~ chapter, the term
4 "public" when used in relation to public interest, public use,
5 or needs of the public shall not be interpreted to refer to and
6 be limited to consumers located in this state.

7 Sec. 2. Section 478.4, Code 2015, is amended to read as
8 follows:

9 **478.4 Franchise — hearing.**

10 1. The utilities board shall consider the petition and
11 any objections filed to it in the manner provided. It shall
12 examine the proposed route or cause any engineer selected
13 by it to do so. If a hearing is held on the petition it may
14 hear testimony as may aid it in determining the propriety of
15 granting the franchise. It may grant the franchise in whole or
16 in part upon the terms, conditions, and restrictions, and with
17 the modifications as to location and route as may seem to it
18 just and proper. Before granting the franchise, the utilities
19 board shall make a finding that the proposed line or lines are
20 necessary to serve a public use and represents a reasonable
21 relationship to an overall plan of transmitting electricity in
22 the public interest. A franchise shall not become effective
23 until the petitioners shall pay, or file an agreement to pay,
24 all costs and expenses of the franchise proceeding, whether
25 or not objections are filed, including costs of inspections
26 or examinations of the route, hearing, salaries, publishing
27 of notice, and any other expenses reasonably attributable to
28 it. The funds received for the costs and the expenses of the
29 franchise proceeding shall be remitted to the treasurer of
30 state for deposit in the department of commerce revolving fund
31 created in section 546.12 as provided in section 476.10.

32 2. A finding of public use and public interest shall not be
33 made in regard to a petition for a franchise or an extension
34 of franchise if the petition sets forth that the exercise of
35 the right of eminent domain will be used and if the petition

1 to an overall plan of transmitting electricity in the public
2 interest. The bill provides that a finding of public use and
3 public interest shall not be made in the event a petition for
4 a franchise or an extension of franchise sets forth that the
5 exercise of eminent domain will be used and the petition is
6 filed by or involves a merchant transmission line or company
7 that sells less than 50 percent of the electricity transmitted
8 through this state by the line or company to a public utility
9 located within Iowa. The bill defines a "merchant transmission
10 line or company" to mean an entity that generates and
11 transmits, or solely transmits, electricity through this state.
12 The bill defines a "public utility" by referencing a definition
13 contained in Code section 476.1, subsection 3, paragraph "a",
14 as meaning any person, partnership, business association, or
15 corporation, domestic or foreign, owning or operating any
16 facilities for furnishing gas by piped distribution system or
17 electricity to the public for compensation.

18 Additionally, current Code section 478.3, specifying
19 franchise petition requirements, provides that for the
20 purposes of that Code section, the term "public" shall not be
21 interpreted to be limited to consumers located in Iowa. The
22 bill modifies this provision to instead specify that the term
23 "public" as used in Code chapter 478 in reference to public
24 use, interest, and needs shall refer to and be limited to
25 consumers located in this state.

26 Further, the bill contains a severability provision
27 providing that if any provision of Code chapter 478 or its
28 application to any person or circumstance is held invalid or
29 otherwise rendered ineffective by any entity, the invalidity
30 or ineffectiveness shall not affect other provisions or
31 applications of the Code chapter that can be given effect
32 without the invalid or ineffective provision or application,
33 and to this end the provisions of the Code chapter are
34 severable.

35 The bill takes effect upon enactment and applies to

H.F. _____

1 petitions for franchise or extension of franchise filed on
2 or after November 1, 2014, which have not been acted upon by
3 the board on the bill's effective date, and to petitions for
4 franchise or extension of franchise filed on or after the
5 bill's effective date.