

Senate Study Bill 3137 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON HART)

A BILL FOR

1 An Act authorizing cities and counties to establish energy
2 efficiency improvement districts and district boards and
3 providing for financing of energy efficiency improvements.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 385.1 Definitions.

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

4 1. "*Board*" means an energy efficiency improvement district
5 board appointed pursuant to this chapter.

6 2. "*Energy efficiency improvement*" means an acquisition,
7 installation, or modification benefitting private property,
8 except residential property with fewer than three residential
9 units, that is intended to reduce energy consumption or
10 energy costs, or both, or is intended to allow for the use of
11 alternate and renewable energy. The term includes but is not
12 limited to the following measures:

13 a. Insulating walls, roofs, attics, floors, foundations, and
14 heating and cooling distribution systems.

15 b. Repairing, replacing, or installing storm windows
16 and doors, multiglazed windows and doors, heat-absorbing or
17 heat-reflective windows and doors, and other window and door
18 improvements designed to reduce energy consumption.

19 c. Constructing or reconstructing roofs designed to reduce
20 energy consumption or support additional loads necessitated by
21 other efficiency improvements.

22 d. Installing energy control and measurement devices.

23 e. Heating, ventilating, or air conditioning distribution
24 system modifications and replacements.

25 f. Caulking and weatherstripping.

26 g. Installing lighting fixtures that result in increased
27 energy efficiency of the lighting system.

28 h. Installing water heating systems that result in increased
29 energy efficiency.

30 i. Repairing, replacing, or installing energy recovery
31 systems.

32 j. Repairing, replacing, or installing daylighting systems.

33 k. Repairing, replacing, or installing energy systems that
34 provide energy from alternate or renewable energy, including
35 solar, wind, biomass, geothermal, or cogeneration.

1 1. Repairing, replacing, or installing facilities or
2 fixtures providing for water conservation or pollutant control.

3 m. Repairing, replacing, or installing an energy efficiency
4 related item so long as the cost of the energy efficiency
5 related item does not exceed twenty-five percent of the total
6 cost of the project.

7 3. "*Energy efficiency related item*" means a repair,
8 replacement, improvement, or modification to real property
9 that is necessary or desirable in conjunction with an
10 energy efficiency improvement. The term includes but is not
11 limited to structural support improvements and the repair or
12 replacement of any building components, paved surfaces, or
13 fixtures disrupted or altered by the installation of an energy
14 efficiency improvement.

15 4. "*Project*" means one or more energy efficiency
16 improvements to be installed on a property.

17 Sec. 2. NEW SECTION. 385.2 Energy efficiency improvement
18 district created.

19 One or more counties and one or more cities within those
20 counties may create, by chapter 28E agreement, an energy
21 efficiency improvement district pursuant to this chapter in
22 order to provide financing for energy efficiency improvement
23 projects to benefit real property in the district.

24 Sec. 3. NEW SECTION. 385.3 Energy efficiency improvement
25 district board — membership — powers.

26 1. The governing bodies of the counties and cities
27 participating in an energy efficiency improvement district
28 shall appoint a board to manage and administer the energy
29 efficiency improvement district. An energy efficiency
30 improvement board shall consist of at least three members,
31 but in no case shall there be fewer members than the number
32 of participating cities and counties. The agreement creating
33 the energy efficiency improvement district shall set the term
34 length of board members.

35 2. A board shall have and may exercise the powers and duties

1 necessary for management and administration of the energy
2 efficiency improvement district as such powers and duties are
3 described in the agreement, including but not limited to the
4 following express powers and duties:

5 *a.* To adopt, amend, and repeal bylaws consistent with the
6 provisions of this chapter.

7 *b.* To adopt an official seal.

8 *c.* To sue and be sued in all courts.

9 *d.* To make and enter into contracts with public and private
10 entities.

11 *e.* To accept grants, guarantees, and donations of property,
12 labor, services, and other items of value from a public or
13 private source.

14 *f.* To employ or contract for such managerial, legal,
15 technical, clerical, accounting, or other assistance it deems
16 advisable. However, the board shall only employ or contract
17 with nonprofit organizations for the administration of the
18 board and the board shall not enter into any arrangement that
19 results in an exclusive lender, underwriter, or other funding
20 partner for all projects funded by the board.

21 *g.* To finance projects under assessment contracts.

22 *h.* To levy and collect special assessments under an
23 assessment contract with a property owner.

24 *i.* To borrow money from a public or private source and issue
25 bonds and provide security for the repayment of such bonds.

26 *j.* To collect reasonable fees and charges in connection with
27 making and servicing assessment contracts and in connection
28 with technical, consultative, or project assistance services
29 offered.

30 *k.* To invest funds not required for immediate disbursement,
31 subject to section 28E.5, subsection 2.

32 3. A board shall exist for a minimum duration necessary to
33 finance any assessment contracts that the board enters into
34 pursuant to section 385.4.

35 Sec. 4. NEW SECTION. 385.4 Project financing requirements

1 — **assessment contracts.**

2 1. A board shall finance a project if the following criteria
3 are met:

4 a. There are sufficient resources to complete the project.

5 b. The estimated economic benefit, including but not
6 limited to energy cost savings, maintenance, and other
7 property operating savings expected from the project during the
8 financing period is equal to or greater than the principal cost
9 of the project.

10 c. The project complies with the ordinances and regulations
11 of the county or city where the property is located, including
12 but not limited to such ordinances and regulations concerning
13 zoning, subdivision of property, building, fire safety, and
14 historic or architectural review.

15 2. A board shall finance a project under an assessment
16 contract. An assessment contract shall be executed by the
17 board and the property owner or owners and shall include the
18 following components:

19 a. A description of the project, including the estimated
20 cost of the project and a description of the estimated savings
21 prepared in accordance with standards accepted by the board.

22 b. A mechanism for verifying the final costs of the project
23 upon its completion and ensuring that any amounts advanced,
24 financed, or otherwise provided by the board will not exceed
25 the final cost of the project.

26 c. An agreement by the property owner to pay special
27 assessments for a period not to exceed the weighted average
28 useful life of the project, as specified in the assessment
29 contract.

30 d. An assessment schedule adopted by the board by
31 resolution, stating the number of annual installments due,
32 stating the time when assessments are payable, and providing
33 for interest on all unpaid installments at a rate not exceeding
34 that permitted by chapter 74A.

35 e. A statement that the obligations provided in the

1 assessment contract, including the obligation to pay special
2 assessments, are a covenant that shall run with the land and be
3 obligations upon future owners of such property.

4 *f.* An acknowledgment that the subdivision of property
5 subject to the assessment contract shall require the assessment
6 contract or an amendment to the contract to divide the total
7 special assessment due between the newly subdivided parcels in
8 proportion to the benefit realized by each subdivided parcel.

9 *g.* A written acknowledgment from all entities holding
10 mortgages on the real property, or the contract seller under
11 a real estate contract, to be assessed under the assessment
12 contract that such interest holders have consented to the levy
13 and collection of the special assessments as described in the
14 assessment contract.

15 3. *a.* A board shall provide a copy of a signed assessment
16 contract to the county or city assessor, as appropriate, and to
17 the county auditor of the county where the property is located
18 and shall file for recording a copy of the assessment contract
19 with the county recorder.

20 *b.* The city clerk or county auditor, as appropriate, shall
21 certify the assessment schedule to the treasurer of each county
22 where the property is located. The county treasurer shall
23 enter on the county system the amounts to be assessed against
24 the property, as certified.

25 4. A board may enter into more than one assessment contract
26 with respect to a single parcel of real property, so long as
27 each assessment contract relates to a separate project.

28 5. A board shall determine an inspection procedure to be
29 utilized upon completion of an energy efficiency improvement
30 financed pursuant to this chapter.

31 **Sec. 5. NEW SECTION. 385.5 Special assessments.**

32 1. The total special assessments levied by a board under an
33 assessment contract shall not exceed the sum of the cost of the
34 project, including any energy audits or inspections or portion
35 thereof financed by the board, plus such administration fees,

1 interest, and other financing costs reasonably required by the
2 board.

3 2. Special assessments levied by a board under an assessment
4 contract shall be levied and collected in the same manner as
5 provided in section 384.65 for public improvement special
6 assessments levied by a city.

7 3. From the date of certification of the assessment schedule
8 under section 385.4, subsection 3, the special assessments
9 with all interest become and remain a lien on the benefitted
10 property until paid and have equal precedence with ordinary
11 taxes, and are not divested by any judicial sale.

12 Sec. 6. NEW SECTION. 385.6 Bonds issued.

13 1. A board may, by resolution, authorize and issue bonds
14 payable from the proceeds of the special assessments and any
15 other revenues collected. Such bonds may bear dates, bear
16 interest at rates not exceeding those permitted by chapter 74A,
17 mature in one or more installments, be in either coupon or
18 registered form, carry registration and conversion privileges,
19 be payable as to principal and interest at times and places,
20 be subject to terms of redemption prior to maturity with or
21 without premium, and be in one or more denominations, all as
22 provided by the resolution of the board authorizing their
23 issuance.

24 2. Bonds issued under this section shall not constitute a
25 debt of the state or of the city or county where the property is
26 located, and the form of such bonds shall contain a statement
27 to that effect.

28 Sec. 7. NEW SECTION. 385.7 Annual reporting.

29 A board shall submit to the governing body of each
30 participating county and city an annual report for the
31 preceding calendar year that includes the following
32 information:

33 1. A description of each project completed, including the
34 physical address of the benefitted property, the name or names
35 of the property owners, an itemized list of the costs incurred

1 under the project, and the name of any contractors used to
2 complete the project.

3 2. For each project in subsection 1, the amount of special
4 assessments due and the amount collected for the fiscal year
5 ending during the preceding calendar year.

6 3. A summary of the public benefits resulting from the
7 projects listed in subsection 1, including, without limitation,
8 estimated cumulative energy savings resulting from the
9 projects.

10 4. A description of each assessment contract entered into by
11 the board, including a description of the project and a summary
12 of the assessment schedule.

13 5. The amount of administrative costs incurred by the board.

14

EXPLANATION

15

The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

16

17 This bill authorizes one or more counties and one or more
18 cities within those counties to create an energy efficiency
19 improvement district to finance energy efficiency improvement
20 projects for the benefit of property within the district.

21 The bill defines an "energy efficiency improvement" to mean
22 an acquisition, installation, or modification benefitting
23 private property, except residential property with three or
24 fewer residential units, that is intended to reduce energy
25 consumption or energy costs, or both, or to allow for the use
26 of alternate and renewable energy. The bill specifies measures
27 that are considered energy efficiency improvements.

28 The bill requires the governing bodies of the counties
29 and cities participating in an energy efficiency improvement
30 district to appoint an energy efficiency improvement board to
31 manage and administer the district. The board must consist of
32 at least three members, but in no case fewer than the number of
33 participating cities and counties, and the agreement creating
34 the district must set the term length of board members.

35 The bill authorizes the district board to exercise all

1 powers and duties necessary to manage and administer the energy
2 efficiency improvement district, as provided in the agreement,
3 including the power to adopt bylaws, adopt an official seal,
4 sue and be sued, make and enter into contracts with public
5 and private entities, employ staff, levy and collect special
6 assessments, borrow money from a public or private source and
7 issue bonds, finance energy efficiency improvement projects,
8 collect reasonable fees and charges, and invest funds. A board
9 must exist for a minimum duration necessary to finance any
10 assessment contracts that the board enters into.

11 The bill requires a board to enter into an assessment
12 contract with a property owner to finance a project if the
13 board finds that there are sufficient resources for the
14 project, the estimated economic benefit is equal to or greater
15 than the cost of the project, and the project complies with
16 all applicable ordinances and regulations in the county or
17 city where the property is located. An assessment contract
18 executed between a board and a property owner must include a
19 description of the project, a mechanism for verifying the final
20 costs of the project and ensuring that financing provided does
21 not exceed the final costs of the project, an agreement by
22 the property owner to pay special assessments for a specified
23 period and a schedule of assessments, a statement that the
24 obligations provided in the assessment contract are a covenant
25 that run with the land, an acknowledgment that subdividing
26 property subject to the contract requires the contract or
27 an amendment to the contract to divide the total special
28 assessments due, and written consent to the levy and collection
29 of special assessments from all entities holding mortgages on
30 the property or contract sellers of the property.

31 The bill requires a board to provide a copy of a signed
32 assessment contract to the local assessor and county auditor
33 of the county where the property is located, as well as filing
34 the agreement with the county recorder. A board is authorized
35 to enter into more than one assessment contract for a single

1 property so long as each contract relates to a separate
2 project. A board shall determine an inspection procedure for
3 completed energy improvements financed pursuant to the bill.

4 The bill provides that the total special assessments levied
5 by a board cannot exceed the sum of the cost of the project,
6 including all incidental costs and fees. A board must levy
7 and collect special assessments in the same manner as provided
8 in Code section 384.65 for city public improvement special
9 assessments. Special assessments, including all interest,
10 become and remain a lien on the property until paid and have
11 equal precedence with ordinary taxes.

12 The bill authorizes a board to issue bonds payable from the
13 special assessments. The board must authorize an issuance of
14 bonds by resolution and may determine the form of the bonds,
15 so long as any interest rates do not exceed those permitted by
16 Code chapter 74A. The bonds do not constitute a debt of the
17 state or of the city or county where the property is located,
18 and must contain a statement to that effect.

19 The bill requires a board to submit an annual report to
20 the governing body of each participating county and city in
21 the district, which must include, for the preceding year, a
22 description of each project completed, the amount of special
23 assessments due and the amount collected for the fiscal year
24 ending during the preceding year, a summary of the public
25 benefits resulting from the projects completed, a description
26 of assessment contracts entered into, and the amount of
27 administrative costs incurred by the board.