

**Senate Study Bill 3169 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON BOLKCOM)

**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, elevators, and  
29 escalators that result in increased 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 charge and collect fees pursuant to section 385.5.

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

29     3. A board shall exist for a minimum duration necessary to  
30 finance any assessment contracts that the board enters into  
31 pursuant to section 385.4.

32     Sec. 4. NEW SECTION. 385.4 Project financing requirements  
33 — assessment contracts.

34     1. A board shall finance a project if the following criteria  
35 are met:

1     *a.* There are sufficient resources to complete the project.

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

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

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

16     *a.* A description of the project, including the estimated  
17 cost of the project and a description of the estimated savings,  
18 prepared in accordance with standards accepted by the board.

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

23     *c.* An agreement by the property owner to pay special  
24 assessments and any applicable fees for a period not to exceed  
25 the weighted average useful life of the project, as specified  
26 in the assessment contract.

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

32     *e.* A statement that the obligations provided in the  
33 assessment contract, including the obligation to pay special  
34 assessments and any applicable fees charged, are a covenant  
35 that shall run with the land and be obligations upon future

1 owners of such property.

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

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

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

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

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

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

30 **Sec. 5. NEW SECTION. 385.5 Special assessments — fees —**  
31 **delinquency.**

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 interest.

1     2. In addition to special assessments provided under  
2 subsection 1, a board may also charge a fee of up to one percent  
3 of the total cost of a project, which fee may not exceed twenty  
4 thousand dollars per project. Such fee shall be charged in  
5 connection with administration of the assessment contract  
6 and with any technical, consultative, or project assistance  
7 services required. A fee charged under this subsection shall  
8 be included in an assessment contract provided under section  
9 385.4.

10    3. Special assessments levied and any applicable fees  
11 charged by a board under an assessment contract shall be  
12 levied, charged, and collected in the manner as provided in the  
13 assessment contract and with the same priority as ad valorem  
14 property taxes.

15    4. *a.* If special assessments and any applicable fees are  
16 not paid within the time period set forth in the assessment  
17 contract, such special assessments and fees shall be considered  
18 delinquent. Delinquent special assessments and fees shall  
19 become a lien on the property against which the special  
20 assessments were levied and the fees charged. A board may  
21 collect delinquent special assessments and fees as if the board  
22 were a county treasurer pursuant to sections 445.3 and 445.4,  
23 except that the property shall not be subject to sale for  
24 delinquent taxes under chapter 446.

25    *b.* Special assessments and any applicable fees that are not  
26 delinquent shall not be accelerated as part of any action or  
27 proceeding to collect delinquent special assessments or fees.  
28 Upon the sale of the real property subject to an assessment  
29 contract, any remaining special assessments and applicable fees  
30 shall be collected for the remainder of the assessment contract  
31 term from a subsequent owner of the real property, including  
32 the state and any political subdivision of the state.

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

34    1. A board may, by resolution, authorize and issue bonds  
35 payable from the proceeds of the special assessments and any

1 other revenues collected. Such bonds may bear dates, bear  
2 interest at rates not exceeding those permitted by chapter 74A,  
3 mature in one or more installments, be in either coupon or  
4 registered form, carry registration and conversion privileges,  
5 be payable as to principal and interest at times and places,  
6 be subject to terms of redemption prior to maturity with or  
7 without premium, and be in one or more denominations, all as  
8 provided by the resolution of the board authorizing their  
9 issuance.

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

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

15 A board shall submit to the governing body of each  
16 participating county and city an annual report for the  
17 preceding calendar year that includes the following  
18 information:

19 1. A description of each project completed, including the  
20 physical address of the benefitted property, the name or names  
21 of the property owners, an itemized list of the costs incurred  
22 under the project, and the name of any contractors used to  
23 complete the project.

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

27 3. A summary of the public benefits resulting from the  
28 projects listed in subsection 1, including, without limitation,  
29 estimated cumulative energy savings resulting from the  
30 projects.

31 4. A description of each assessment contract entered into by  
32 the board, including a description of the project and a summary  
33 of the assessment schedule.

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

35

EXPLANATION



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

3       This bill authorizes one or more counties and one or more  
4 cities within those counties to create an energy efficiency  
5 improvement district to finance energy efficiency improvement  
6 projects for the benefit of property within the district.

7       The bill defines an "energy efficiency improvement" to mean  
8 an acquisition, installation, or modification benefitting  
9 private property, except residential property with three or  
10 fewer residential units, that is intended to reduce energy  
11 consumption or energy costs, or both, or to allow for the use  
12 of alternate and renewable energy. The bill specifies measures  
13 that are considered energy efficiency improvements.

14       The bill requires the governing bodies of the counties  
15 and cities participating in an energy efficiency improvement  
16 district to appoint an energy efficiency improvement board to  
17 manage and administer the district. The board must consist of  
18 at least three members, but in no case fewer than the number of  
19 participating cities and counties, and the agreement creating  
20 the district must set the term length of board members.

21       The bill authorizes the district board to exercise all  
22 powers and duties necessary to manage and administer the energy  
23 efficiency improvement district, as provided in the agreement,  
24 including the power to adopt bylaws, adopt an official seal,  
25 sue and be sued, make and enter into contracts with public  
26 and private entities, employ staff, levy and collect special  
27 assessments, borrow money from a public or private source and  
28 issue bonds, finance energy efficiency improvement projects,  
29 collect fees, and invest funds. A board must exist for a  
30 minimum duration necessary to finance any assessment contracts  
31 that the board enters into.

32       The bill requires a board to enter into an assessment  
33 contract with a property owner to finance a project if the  
34 board finds that there are sufficient resources for the  
35 project, the estimated economic benefit is equal to or greater

1 than the cost of the project, and the project complies with  
2 all applicable ordinances and regulations in the county or  
3 city where the property is located. An assessment contract  
4 executed between a board and a property owner must include  
5 a description of the project, a mechanism for verifying  
6 the final costs of the project and ensuring that financing  
7 provided does not exceed the final costs of the project, an  
8 agreement by the property owner to pay special assessments and  
9 any applicable fees for a specified period and a schedule of  
10 assessments, a statement that the obligations provided in the  
11 assessment contract are a covenant that run with the land,  
12 an acknowledgment that subdividing property subject to the  
13 contract requires the contract or an amendment to the contract  
14 to divide the total special assessments due, and written  
15 consent to the levy and collection of special assessments and  
16 any applicable fees charged from all entities holding mortgages  
17 on the property or contract sellers of the property.

18 The bill requires a board to provide a copy of a signed  
19 assessment contract to the local assessor and county auditor  
20 of the county where the property is located, as well as filing  
21 the agreement with the county recorder. A board is authorized  
22 to enter into more than one assessment contract for a single  
23 property so long as each contract relates to a separate  
24 project. A board shall determine an inspection procedure for  
25 completed energy improvements financed pursuant to the bill.

26 The bill provides that the total special assessments levied  
27 by a board cannot exceed the sum of the cost of the project,  
28 including all incidental costs and fees. A board may also  
29 charge a fee of up to 1 percent of the total cost of the  
30 project, not to exceed \$20,000. A board must levy and collect  
31 special assessments in the manner as provided in the assessment  
32 contract and with the same priority as real property taxes.  
33 Special assessments and fees not paid within the time period  
34 set forth in the assessment contract are delinquent and become  
35 a lien on the property. A board may collect such delinquent

1 assessments and fees pursuant to Code sections 445.3 and 445.4.

2 The bill authorizes a board to issue bonds payable from the  
3 special assessments. The board must authorize an issuance of  
4 bonds by resolution and may determine the form of the bonds,  
5 so long as any interest rates do not exceed those permitted by  
6 Code chapter 74A. The bonds do not constitute a debt of the  
7 state or of the city or county where the property is located,  
8 and must contain a statement to that effect.

9 The bill requires a board to submit an annual report to  
10 the governing body of each participating county and city in  
11 the district, which must include, for the preceding year, a  
12 description of each project completed, the amount of special  
13 assessments due and the amount collected for the fiscal year  
14 ending during the preceding year, a summary of the public  
15 benefits resulting from the projects completed, a description  
16 of assessment contracts entered into, and the amount of  
17 administrative costs incurred by the board.