

Senate File 2311 - Introduced

SENATE FILE 2311
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3093)

A BILL FOR

1 An Act modifying various provisions relating to public
2 utilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28F.1, subsection 1, Code 2018, is
2 amended to read as follows:

3 1. **This chapter** provides a means for the joint financing
4 by public agencies of works or facilities useful and necessary
5 for the collection, treatment, purification, and disposal
6 in a sanitary manner of liquid and solid waste, sewage,
7 and industrial waste, facilities used for the conversion of
8 solid waste to energy, gasworks and facilities useful for
9 the delivery of natural gas service, and also electric power
10 facilities constructed within the state of Iowa, except that
11 hydroelectric power facilities may also be located in the
12 waters and on the dams of or on land adjacent to either side
13 of the Mississippi or Missouri river bordering the state of
14 Iowa, water supply systems, swimming pools or golf courses.
15 This chapter applies to the acquisition, construction,
16 reconstruction, ownership, operation, repair, extension,
17 or improvement of such works or facilities, by a separate
18 administrative or legal entity created pursuant to chapter
19 28E or **chapter 389**. When the legal entity created under
20 this chapter is comprised solely of cities, counties, and
21 sanitary districts established under **chapter 358**, or any
22 combination thereof or any combination of the foregoing with
23 other public agencies, the entity shall be both a corporation
24 and a political subdivision with the name under which it was
25 organized. The legal entity may sue and be sued, contract,
26 acquire and hold real and personal property necessary for
27 corporate purposes, adopt a corporate seal and alter the seal
28 at pleasure, and execute all the powers conferred in this
29 chapter.

30 Sec. 2. Section 28F.11, Code 2018, is amended to read as
31 follows:

32 **28F.11 Eminent domain.**

33 Any public agency participating in an agreement authorizing
34 the joint exercise of governmental powers pursuant to this
35 chapter may exercise its power of eminent domain to acquire

1 interests in property, under provisions of law then in effect
2 and applicable to the public agency, for the use of the entity
3 created to carry out the agreement, provided that the power of
4 eminent domain is not used to acquire interests in property
5 which is part of a system of facilities in existence, under
6 construction, or planned, for the generation, transmission
7 or sale of electric power, or for the transmission,
8 transportation, or sale of natural gas. In the exercise
9 of the power of eminent domain, the public agency shall
10 proceed in the manner provided by [chapter 6B](#). Any interests
11 in property acquired are acquired for a public purpose, as
12 defined in [chapter 6A](#), of the condemning public agency, and the
13 payment of the costs of the acquisition may be made pursuant
14 to the agreement or to any separate agreement between the
15 public agency and the entity or the other public agencies
16 participating in the entity or any of them. Upon payment of
17 costs, any property acquired is the property of the entity.

18 Sec. 3. Section 476.1, subsection 7, Code 2018, is amended
19 to read as follows:

20 7. The jurisdiction of the board under [this chapter](#)
21 shall include efforts designed to promote the use of energy
22 efficiency strategies by ~~rate or service-regulated~~ gas and
23 electric utilities required to be rate-regulated.

24 Sec. 4. Section 476.1A, subsections 1, 2, and 4, Code 2018,
25 are amended to read as follows:

26 1. Electric public utilities having fewer than ten
27 thousand customers and electric cooperative corporations
28 and associations are not subject to the ~~rate~~ regulation
29 authority of the board. ~~Such utilities are subject to all~~
30 ~~other regulation and enforcement activities of the board,~~
31 including, except for regulatory action pertaining to all of
32 the following:

33 a. Assessment of fees for the support of the division and
34 the office of consumer advocate, pursuant to section 476.10.

35 b. Safety and engineering standards for equipment,

1 operations, and procedures.

2 *c.* Assigned area of service.

3 *d.* Pilot projects of the board.

4 *e.* Assessment of fees for the support of the Iowa energy
5 center created in [section 15.120](#) and the center for global and
6 regional environmental research established by the state board
7 of regents. This paragraph “e” is repealed July 1, 2022.

8 *f.* Filing alternate energy purchase program plans with the
9 board, and offering such programs to customers, pursuant to
10 section 476.47.

11 *g.* Filing energy efficiency plans and energy efficiency
12 results with the board. The energy efficiency plans as a
13 whole shall be cost-effective. The board may permit these
14 utilities to file joint plans. ~~The board shall periodically~~
15 ~~report the energy efficiency results including energy savings~~
16 ~~of each of these utilities to the general assembly.~~ The board
17 may waive all or part of the energy efficiency filing and
18 review requirements for electric cooperative corporations and
19 associations and electric public utilities which demonstrate
20 superior results with existing energy efficiency efforts.

21 2. However, [sections 476.20](#), [subsections 1 through 4](#),
22 [476.21](#), ~~[476.41 through 476.44](#)~~, [476.51](#), [476.56](#), [476.62](#), and
23 [476.66](#) and [chapters 476A](#) and [478](#), to the extent applicable,
24 apply to such electric utilities.

25 4. The board of directors or the membership of an electric
26 cooperative corporation or association otherwise exempt
27 from rate regulation may elect to have the cooperative’s
28 rates regulated by the board. The board shall adopt rules
29 prescribing the manner in which the board of directors or the
30 membership of an electric cooperative may so elect. If the
31 board of directors or the membership of an electric cooperative
32 has elected to have the cooperative’s rates regulated by the
33 board, after two years have elapsed from the effective date of
34 such election the board of directors or the membership of the
35 electric cooperative may elect to exempt the cooperative from

1 the rate regulation authority of the board, provided, however,
2 that if the membership elected to have the cooperative's rates
3 regulated by the board, only the membership may elect to exempt
4 the cooperative from the rate regulation authority of the
5 board.

6 Sec. 5. Section 476.1B, subsection 1, paragraph 1, Code
7 2018, is amended to read as follows:

8 1. Filing energy efficiency plans and energy efficiency
9 results with the board. The energy efficiency plans as a whole
10 shall be cost-effective. The board may permit these utilities
11 to file joint plans. ~~The board shall periodically report the~~
12 ~~energy efficiency results including energy savings of each of~~
13 ~~these utilities to the general assembly.~~

14 Sec. 6. Section 476.2, subsection 6, Code 2018, is amended
15 by striking the subsection.

16 Sec. 7. Section 476.4, subsection 1, Code 2018, is amended
17 to read as follows:

18 1. Every public utility shall file with the board tariffs
19 showing the rates and charges for its public utility services
20 and the rules and regulations under which such services were
21 furnished, on April 1, 1963, which rates and charges shall be
22 subject to investigation by the board as provided in section
23 476.3, and upon such investigation the burden of establishing
24 the reasonableness of such rates and charges shall be upon the
25 public utility filing the same. These filings shall be made
26 under such rules as the board may prescribe within such time
27 and in such form as the board may designate. In prescribing
28 rules and regulations with respect to the form of tariffs
29 and any other regulations, the board shall, in the case of
30 public utilities subject to regulation by any federal agency,
31 give due regard to any corresponding rules and regulations of
32 such federal agency, to the end that unnecessary duplication
33 of effort and expense may be avoided so far as reasonably
34 possible. Each public utility shall keep copies of its tariffs
35 open to public inspection under such rules as the board may

1 prescribe.

2 Sec. 8. Section 476.6, subsections 1, 8, and 13, Code 2018,
3 are amended to read as follows:

4 1. *Filing with board.* A public utility subject to rate
5 regulation shall not make effective a new or changed rate,
6 charge, schedule, or regulation until the rate, charge,
7 schedule, or regulation has been approved by the board, except
8 as provided in subsections 8, and 9, and 22.

9 8. *Automatic adjustments permitted.*

10 a. This chapter does not prohibit a public utility from
11 making provision for the automatic adjustment of rates and
12 charges for public utility service provided that a schedule
13 showing the automatic adjustment of rates and charges is first
14 filed with the board.

15 b. A public utility may automatically adjust rates and
16 charges to recover costs related to transmission incurred by
17 or charged to the public utility consistent with a tariff or
18 agreement that is subject to the jurisdiction of the federal
19 energy regulatory commission, provided that a schedule showing
20 the automatic adjustment of rates and charges is first filed
21 with the board.

22 13. *Energy efficiency plans.* Electric and gas public
23 utilities shall offer energy efficiency programs to their
24 customers through energy efficiency plans. An energy
25 efficiency plan as a whole shall be cost-effective. In
26 determining the cost-effectiveness of an energy efficiency
27 plan, the board shall apply the societal test, total resource
28 cost test, utility cost test, rate-payer impact test, and
29 participant test. Energy efficiency programs for qualified
30 low-income persons and for tree planting programs, educational
31 programs, and assessments of consumers' needs for information
32 to make effective choices regarding energy use and energy
33 efficiency need not be cost-effective and shall not be
34 considered in determining cost-effectiveness of plans as a
35 whole. The energy efficiency programs in the plans may be

1 provided by the utility or by a contractor or agent of the
2 utility. Programs offered pursuant to [this subsection](#) by gas
3 and electric utilities that are required to be rate-regulated
4 shall require board approval.

5 Sec. 9. Section 476.6, subsection 15, paragraphs a and b,
6 Code 2018, are amended to read as follows:

7 a. (1) (a) Gas and electric utilities required to be
8 rate-regulated under [this chapter](#) shall file five-year energy
9 efficiency plans and demand response plans with the board as
10 provided. An energy efficiency plan and budget or a demand
11 response plan and budget shall include a range of energy
12 efficiency or demand response programs, tailored to the needs
13 of all customer classes, including residential, commercial, and
14 industrial customers, for energy efficiency or demand response
15 opportunities. The plans shall include programs for qualified
16 low-income persons including a cooperative program with any
17 community action agency within the utility's service area to
18 implement countywide or communitywide energy efficiency or
19 demand response programs for qualified low-income persons.
20 Rate-regulated gas and electric utilities shall utilize
21 Iowa agencies and Iowa contractors to the maximum extent
22 cost-effective in their energy efficiency plans and demand
23 response plans filed with the board.

24 (b) All gas or electric utility customers shall have the
25 option to enroll in a five-year energy efficiency plan or
26 five-year demand response plan offered by the gas or electric
27 utility during an open enrollment period beginning August
28 1, 2018, and ending September 30, 2018. Gas and electric
29 utilities shall provide notice of the open enrollment period to
30 all customers in the customer's billing statement. Customers
31 may only enroll in a plan during the open enrollment period
32 and cannot withdraw from such plan until the commencement
33 of the next five-year plan offered by the gas or electric
34 utility. Customers that move into the service area of a gas
35 or electric utility may enroll in an energy efficiency plan or

1 demand response plan offered by the gas or electric utility
2 within sixty days after the commencement of gas or electric
3 service. Customers that do not enroll in an energy efficiency
4 plan offered by a gas or electric utility shall not be assessed
5 the costs of the plan and shall not be allowed to participate
6 in energy efficiency programs included in the plan. Customers
7 that do not enroll in a demand response plan offered by a gas or
8 electric utility shall not be assessed the costs of the plan
9 and shall not be allowed to participate in demand response
10 programs included in the plan.

11 (c) Following the completion of an open enrollment period
12 pursuant to subparagraph division (b), the gas or electric
13 utility shall file the energy efficiency plan or demand
14 response plan with the board no later than June 1 of the year
15 following the open enrollment period, provided, however, that
16 ten percent or more of the gas or electric utility's current
17 customers enroll in the energy efficiency plan or demand
18 response plan during the open enrollment period. If less than
19 ten percent of the gas or electric utility's current customers
20 enroll in a plan during the open enrollment period, the gas or
21 electric utility shall commence a subsequent open enrollment
22 period beginning August 1, and ending September 30, of the
23 following year, and every year thereafter, until ten percent
24 or more of the gas or electric utility's current customers
25 enroll in the energy efficiency plan or demand response plan.
26 The board shall approve an energy efficiency plan or demand
27 response plan filed with the board no later than December 1
28 of the year the plan was filed with the board. An energy
29 efficiency plan or demand response plan approved by the board
30 shall commence January 1 of the year following the date the
31 plan was approved by the board. Energy efficiency plans
32 approved by the board prior to the effective date of this Act
33 shall remain in effect until December 31, 2018.

34 (d) A gas or electric utility shall commence an open
35 enrollment period for customers to enroll in a subsequent

1 five-year energy efficiency plan or demand response plan
2 offered by the gas or electric utility beginning August 1, and
3 ending September 30, during the fourth year of a current plan.
4 Enrollment, filing, approval, and commencement of subsequent
5 five-year energy efficiency plans and demand response plans
6 shall comply with subparagraph divisions (b) and (c).

7 (2) Gas and electric utilities required to be
8 rate-regulated under this chapter may request an energy
9 efficiency plan or demand response plan modification during
10 the course of a five-year plan. A modification may be
11 requested due to changes in funding as the result of customer
12 enrollment in such plan or for any other reason identified by
13 the gas or electric utility. The board shall take action on a
14 modification request made by the gas or electric utility within
15 sixty days after a modification request is filed. If the board
16 fails to take action within sixty days after a modification
17 request is filed, the modification request shall be deemed
18 approved.

19 b. (1) A gas and electric utility required to be
20 rate-regulated under [this chapter](#) shall assess potential energy
21 and capacity savings available from actual and projected
22 customer usage by applying commercially available technology
23 and improved operating practices to energy-using equipment and
24 buildings. The utility shall submit the assessment to the
25 board. Upon receipt of the assessment, the board shall consult
26 with the economic development authority to develop specific
27 capacity and energy savings ~~performance standards~~ goals for
28 each utility. Such goals, except as provided for in subsection
29 13, shall only include cost-effective energy efficiency and
30 demand response programs. The utility shall submit an energy
31 efficiency plan which shall include economically achievable
32 programs designed to attain these energy and capacity
33 ~~performance standards~~ goals. The board shall periodically
34 report the energy efficiency results including energy savings
35 of each utility to the general assembly.

1 (2) For purposes of this paragraph, "cost-effective" means
2 the total resource cost test result for a program is greater
3 than one. In applying the total resource cost test, benefits
4 to be considered include avoided capacity and energy costs
5 and federal tax credits, and costs to be considered include
6 incremental costs of equipment, operation, and maintenance,
7 utility costs, and program administration costs.

8 Sec. 10. Section 476.6, subsection 15, paragraph c,
9 subparagraphs (1) and (3), Code 2018, are amended to read as
10 follows:

11 (1) Gas and electric utilities that are not required to
12 be rate-regulated under [this chapter](#) shall assess maximum
13 potential energy and capacity savings available from actual
14 and projected customer usage through cost-effective energy
15 efficiency measures and programs, taking into consideration the
16 utility service area's historic energy load, projected demand,
17 customer base, and other relevant factors. Each utility shall
18 establish an energy efficiency goal based upon this assessment
19 of potential and shall establish cost-effective energy
20 efficiency programs designed to meet the energy efficiency
21 goal. Separate goals may be established for various customer
22 groupings.

23 ~~(3) Each utility shall commence the process of determining~~
24 ~~its cost-effective energy efficiency goal on or before July 1,~~
25 ~~2008, shall provide a progress report to the board on or before~~
26 ~~January 1, 2009, and complete the process and submit a final~~
27 ~~report to the board on or before January 1, 2010. The report~~
28 ~~shall include the utility's cost-effective energy efficiency~~
29 ~~goal, and for each measure utilized by the utility in meeting~~
30 ~~the goal, the measure's description, projected costs, and the~~
31 ~~analysis of its cost-effectiveness. Each utility or group~~
32 ~~of utilities shall evaluate cost-effectiveness using the~~
33 ~~cost-effectiveness tests in accordance with [subsection 13](#) of~~
34 ~~this section. Individual utilities or groups of utilities may~~
35 ~~collaborate in conducting the studies required hereunder and~~

1 may file a joint report or reports with the board. However,
2 the board may require individual information from any utility,
3 even if it participates in a joint report.

4 Sec. 11. Section 476.6, subsection 15, paragraph d, Code
5 2018, is amended by striking the paragraph.

6 Sec. 12. Section 476.6, subsection 15, paragraphs e, f, and
7 g, Code 2018, are amended to read as follows:

8 e. (1) The board shall conduct contested case proceedings
9 for review of energy efficiency plans, demand response plans,
10 and budgets filed by gas and electric utilities required to be
11 rate-regulated under this chapter. Notwithstanding the goals
12 developed pursuant to paragraph "b", the board shall not require
13 a gas utility to adopt an energy efficiency plan or a demand
14 response plan that results in projected annual costs that
15 exceed one and one-half percent of a plan-enrolled gas utility
16 customer's total billing, and shall not require an electric
17 utility to adopt an energy efficiency plan or a demand response
18 plan that results in projected annual costs that exceed two
19 percent of a plan-enrolled electric utility customer's total
20 billing. A gas or electric utility may voluntarily propose an
21 energy efficiency plan or a demand response plan that results
22 in projected annual costs that exceed one and one-half percent
23 of a plan-enrolled gas utility customer's total billing, or
24 two percent of a plan-enrolled electric utility customer's
25 total billing. The board may approve, reject, or modify the
26 plans and budgets. Notwithstanding the provisions of section
27 17A.19, subsection 5, in an application for judicial review of
28 the board's decision concerning a utility's ~~energy efficiency~~
29 plan or budget, the reviewing court shall not order a stay.

30 ~~Whenever~~

31 (2) Notwithstanding paragraph "a", subparagraph (2), if,
32 on the effective date of this Act, a gas or electric utility's
33 currently approved energy efficiency plan includes projected
34 annual costs that exceed one and one-half percent of a gas
35 utility customer's total billing for the previous calendar

1 year, or two percent of an electric utility customer's total
2 billing for the previous calendar year, the gas or electric
3 utility may file a request to modify its approved energy
4 efficiency plan to achieve projected annual costs at one
5 and one-half percent or less of a gas utility customer's
6 total billing, or two percent or less of an electric utility
7 customer's total billing. In such case, or whenever a request
8 to modify an approved plan or budget is filed subsequently by
9 the office of consumer advocate or a gas or electric utility
10 required to be rate-regulated under [this chapter](#), the board
11 shall promptly initiate a formal proceeding if the board
12 determines that any reasonable ground exists for investigating
13 the request. The formal proceeding may be initiated at
14 any time by the board on its own motion. Implementation of
15 board-approved plans or budgets shall be considered continuous
16 in nature and shall be subject to investigation at any time by
17 the board or the office of the consumer advocate.

18 *f.* Notice to customers of a contested case proceeding for
19 review of energy efficiency plans, demand response plans, and
20 budgets shall be in a manner prescribed by the board.

21 *g.* (1) A gas or electric utility required to be
22 rate-regulated under [this chapter](#) may recover, through an
23 automatic adjustment mechanism filed pursuant to [subsection 8](#),
24 over a period not to exceed the term of the plan, the costs of
25 an energy efficiency plan or demand response plan approved by
26 the board, ~~including amounts for a plan approved prior to July~~
27 ~~1, 1996,~~ in a contested case proceeding conducted pursuant to
28 paragraph "e". The board shall ensure that costs are recovered
29 from all customers on a reasonably comparable basis, including
30 customers who utilize alternate energy production facilities as
31 defined in section 476.42. Customers who have not enrolled in
32 energy efficiency plans pursuant to paragraph "a", subparagraph
33 (1), shall not be charged for recovery of energy efficiency
34 costs. Customers who have not enrolled in demand response
35 plans pursuant to paragraph "a", subparagraph (1), shall not be

1 charged for recovery of demand response costs.

2 (2) The board shall periodically conduct a contested case
3 proceeding to evaluate the reasonableness and prudence of the
4 utility's implementation of an approved energy efficiency
5 or demand response plan and budget. If a utility is not
6 taking all reasonable actions to cost-effectively implement
7 an approved ~~energy efficiency plan,~~ the board shall not allow
8 the utility to recover from customers costs in excess of those
9 costs that would be incurred under reasonable and prudent
10 implementation and shall not allow the utility to recover
11 future costs at a level other than what the board determines
12 to be reasonable and prudent. If the result of a contested
13 case proceeding is a judgment against a utility, that utility's
14 future level of cost recovery shall be reduced by the amount
15 by which the programs were found to be imprudently conducted.
16 The utility shall not represent energy efficiency in customer
17 billings as a separate cost or expense unless the board
18 otherwise approves.

19 Sec. 13. Section 476.6, subsection 17, Code 2018, is amended
20 by striking the subsection.

21 Sec. 14. Section 476.6, subsection 20, Code 2018, is amended
22 to read as follows:

23 20. *Electric power generating facility emissions.*

24 ~~a. It is the intent of the general assembly that the state,~~
25 ~~through a collaborative effort involving state agencies and~~
26 ~~affected generation owners, provide for compatible statewide~~
27 ~~environmental and electric energy policies with respect~~
28 ~~to regulated emissions from rate-regulated electric power~~
29 ~~generating facilities in the state that are fueled by coal.~~
30 ~~Each~~ A rate-regulated public utility that is an owner of one
31 or more electric power generating facilities fueled by coal
32 and located in this state ~~on July 1, 2001, shall develop a~~
33 multiyear plan and budget may, in its sole discretion, file for
34 advanced review of projects for managing regulated emissions
35 from its facilities in a cost-effective manner.

1 ~~(1) The initial multiyear plan and budget shall be filed~~
2 ~~with the board by April 1, 2002. Updates to the plan and budget~~
3 ~~shall be filed at least every twenty-four months.~~

4 ~~(2) Copies of the initial plan and budget, as well as~~
5 ~~any subsequent updates, shall be served on the department of~~
6 ~~natural resources.~~

7 ~~(3) The initial multiyear plan and budget and any subsequent~~
8 ~~updates shall be considered in a contested case proceeding~~
9 ~~pursuant to chapter 17A. The department of natural resources~~
10 ~~and the consumer advocate shall participate as parties to the~~
11 ~~proceeding.~~

12 b. A rate-regulated public utility shall file an application
13 for advanced review of a project at least one hundred twenty
14 days before the anticipated start of construction. Where an
15 electric power generating facility is owned by two or more
16 rate-regulated public utilities, the operator of the electric
17 power generating facility may file the application on behalf of
18 the rate-regulated public utilities.

19 ~~(4) c. The department of natural resources shall state~~
20 ~~whether the plan or update project meets applicable state or~~
21 ~~federal environmental requirements for regulated emissions,~~
22 ~~including requirements related to air, water, or solid waste.~~
23 ~~If the plan project does not meet these requirements, the~~
24 ~~department shall recommend amendments that outline actions~~
25 ~~necessary to bring the plan or update project into compliance~~
26 ~~with the environmental requirements.~~

27 ~~b. d. The board shall not approve a plan or update project~~
28 ~~that does not meet applicable state or federal environmental~~
29 ~~requirements and federal ambient air quality standards for~~
30 ~~regulated emissions from electric power generating facilities~~
31 ~~located in the state.~~

32 ~~e. e. The board shall review the plan or update project~~
33 ~~and the associated budget, and shall approve the plan or update~~
34 ~~project and the associated budget if the plan or update project~~
35 ~~and the associated budget are reasonably expected to achieve~~

1 cost-effective compliance with applicable state or federal
2 environmental requirements ~~and federal ambient air quality~~
3 ~~standards~~. In reaching its decision, the board shall consider
4 whether the ~~plan or update~~ project and the associated budget
5 reasonably balance costs, environmental requirements, economic
6 development potential, and the reliability of the electric
7 generation and transmission system.

8 ~~d.~~ f. The board shall issue an order approving or rejecting
9 a ~~plan, update, or budget~~ project within ~~one hundred eighty~~
10 ninety days after the ~~public utility's a~~ filing is deemed
11 complete; ~~however, upon good cause shown, the board may~~
12 ~~extend the time for issuing the order as follows: for approval~~
13 pursuant to this subsection.

14 ~~(1) The board may grant an extension of thirty days.~~

15 ~~(2) The board may grant more than one extension, but each~~
16 ~~extension must rely upon a separate showing of good cause.~~

17 ~~(3) A subsequent extension must not be granted any earlier~~
18 ~~than five days prior to the expiration of the original~~
19 ~~one hundred eighty day period, or the current extension.~~

20 ~~e.~~ g. The reasonable costs incurred by a rate-regulated
21 public utility in preparing and filing the ~~plan, update, or~~
22 ~~budget~~ project and in participating in the proceedings before
23 the board and the reasonable costs associated with implementing
24 the ~~plan, update, or budget~~ project shall be included in its
25 regulated retail rates.

26 ~~f.~~ It is the intent of the general assembly that the board,
27 in an environmental plan, update, or associated budget filed
28 under ~~this section~~ by a rate-regulated public utility, may
29 ~~limit investments or expenditures that are proposed to be~~
30 ~~undertaken prior to the time that the environmental benefit to~~
31 ~~be produced by the investment or expenditure would be required~~
32 ~~by state or federal law.~~

33 Sec. 15. Section 476.6, Code 2018, is amended by adding the
34 following new subsections:

35 NEW SUBSECTION. 22. *Voluntary rates and tariff filings.*

1 *a.* A rate-regulated public utility may file at any time for
2 expedited approval of a new tariff or rate that is optional for
3 customers and all costs associated with the tariff or rate are
4 borne by customers who elect to participate in the new tariff
5 or rate.

6 *b.* A tariff or rate approved under this subsection may not
7 change any existing rates or charges.

8 *c.* The board shall review the tariff or rate filing within
9 sixty days of filing. If the board fails to review the tariff
10 or rate filing within sixty days of filing, the tariff or
11 rate filing shall be deemed approved. The board shall not be
12 required to hold a hearing to review a tariff or rate filing
13 made pursuant to this subsection.

14 NEW SUBSECTION. 23. *Preapproval of cost recovery for natural*
15 *gas extensions — rules.* The board may adopt rules which
16 provide for a preapproval process for cost recovery for natural
17 gas extensions.

18 Sec. 16. Section 476.20, subsection 5, paragraph a,
19 unnumbered paragraph 1, Code 2018, is amended to read as
20 follows:

21 The board shall establish rules which shall be uniform with
22 respect to all public utilities furnishing gas or electricity
23 relating to deposits which may be required by the public
24 utility for the initiation or reinstatement of service. This
25 subsection shall not apply to municipally owned utilities,
26 which shall be governed by the provisions of [section 384.84](#)
27 with respect to deposits and payment plans for delinquent
28 amounts owed. Municipally owned utilities and electric
29 utilities that are not required to be rate-regulated shall not
30 be subject to the board's rules in regards to deposits and
31 payment plans for delinquent amounts owed and repayment of past
32 due debt. Municipally owned utilities and electric utilities
33 that are not required to be rate-regulated shall be subject to
34 the board's rules in regards to payment plans made prior to the
35 disconnection of services.

1 Sec. 17. Section 476.21, Code 2018, is amended to read as
2 follows:

3 **476.21 Discrimination prohibited.**

4 A municipality, corporation or cooperative association
5 providing electrical or gas service shall not consider the
6 use of renewable energy sources by a customer as a basis for
7 establishing discriminatory rates or charges for any service
8 or commodity sold to the customer or discontinue services or
9 subject the customer to any other prejudice or disadvantage
10 based on the customer's use or intended use of renewable energy
11 sources. As used in [this section](#), "*renewable energy sources*"
12 includes but is not limited to solar heating, wind power
13 and the conversion of urban and agricultural organic wastes
14 into methane gas and liquid fuels. This section shall not
15 prohibit the establishment of rates or charges for customers
16 that are different than the rates or charges for customers who
17 obtain all of their energy requirements from the municipality,
18 corporation, or cooperative association, provided that the
19 difference in rates or charges is based on the difference in
20 cost of service and anticipated energy use.

21 Sec. 18. NEW SECTION. 476.26A Right to construct, own, and
22 maintain electric transmission lines.

23 1. As used in this section, unless the context otherwise
24 requires:

25 *a. "Electric transmission line"* means a high-voltage
26 electric transmission line with a capacity of one hundred
27 kilovolts or more and any associated electric transmission
28 facilities.

29 *b. "Electric transmission owner"* means an individual or
30 entity who, as of the effective date of this Act, owns and
31 maintains an electric transmission facility including electric
32 transmission lines, wires, or cables that are capable of
33 operating at an electric voltage of one hundred kilovolts or
34 more that are required for rate-regulated electric utilities,
35 municipal electric utilities, and rural electric cooperatives

1 in this state to provide electric service to the public for
2 compensation.

3 *c. "Incumbent electric transmission owner"* means any of the
4 following:

5 (1) A public utility or a municipally owned utility that
6 owns, operates, and maintains an electric transmission line in
7 this state.

8 (2) An electric cooperative corporation or association or
9 municipally owned utility that owns an electric transmission
10 facility in this state and has turned over the functional
11 control of such facility to a federally approved authority.

12 (3) An *"electric transmission owner"* as defined in paragraph
13 *"b"*.

14 *d. "Municipally owned utility"* means a *"city utility"* as
15 defined in section 362.2, or an *"electric power agency"* as
16 defined in section 390.9 which is comprised solely of cities or
17 solely of cities and other political subdivisions.

18 2. An incumbent electric transmission owner may construct,
19 own, and maintain an electric transmission line that has
20 been approved for construction in a federally registered
21 planning authority transmission plan and which connects to an
22 electric transmission facility owned by the incumbent electric
23 transmission owner. Where an electric transmission line
24 connects to electric transmission facilities owned by two or
25 more incumbent electric transmission owners, each incumbent
26 electric transmission owner whose facilities connect to the
27 electric transmission line may construct, own, and maintain the
28 electric transmission line individually and equally. If an
29 incumbent electric transmission owner declines to construct,
30 own, and maintain its portion of an electric transmission line
31 that connects to electric transmission facilities owned by
32 two or more incumbent electric transmission owners, then the
33 other incumbent electric transmission owner or owners that own
34 the electric transmission facilities to which the electric
35 transmission line connects may construct, own, and maintain the

1 electric transmission line individually and equally.

2 3. This section shall not modify the authority of the board
3 under chapter 478 or the requirements, rights, and obligations
4 relating to the construction, maintenance, and operation of
5 electric transmission lines pursuant to chapter 478.

6 Sec. 19. Section 476.33, subsection 4, Code 2018, is amended
7 to read as follows:

8 4. The board shall adopt rules that require the board, in
9 rate regulatory proceedings under [sections 476.3](#) and [476.6](#), to
10 utilize either a historic test year or a future test year at
11 the rate-regulated public utility's discretion.

12 a. For a rate regulatory proceeding utilizing a historic
13 test year, the rules shall require the board to consider the
14 use of the most current test period possible in determining
15 reasonable and just rates, subject only to the availability of
16 existing and verifiable data respecting costs and revenues, and
17 in addition, to consider verifiable data that exists within
18 nine months after the conclusion of the test year, respecting
19 known and measurable changes in costs not associated with a
20 different level of revenue, and known and measurable revenues
21 not associated with a different level of costs, that are to
22 occur at any time within twelve months after the date of
23 commencement of the proceedings. Parties proposing adjustments
24 that are not verifiable at the commencement of the proceedings
25 shall include projected data related to the adjustments in
26 their initial substantive filing with the board. For purposes
27 of [this subsection paragraph](#), a proceeding commences under
28 section 476.6 upon the filing date of new or changed rates,
29 charges, schedules, or regulations. ~~This subsection does not~~
30 ~~limit the authority of the board to consider other evidence in~~
31 ~~proceedings under [sections 476.3](#) and [476.6](#).~~

32 b. For a rate regulatory proceeding utilizing a future test
33 year, the rules shall require the board to consider the use
34 of any twelve-month period beginning no later than the date
35 on which a proposed rate change is expected to take effect in

1 determining just and reasonable rates.

2 c. This subsection does not limit the authority of the board
3 to consider other evidence in proceedings under sections 476.3
4 and 476.6.

5 Sec. 20. Section 476.53, subsection 3, paragraph a,
6 subparagraph (1), subparagraph division (a), Code 2018, is
7 amended by adding the following new subparagraph subdivision:

8 NEW SUBPARAGRAPH SUBDIVISION. (v) Repowering of an
9 alternate energy production facility to upgrade or extend the
10 useful life of the facility.

11 Sec. 21. NEW SECTION. **476.59 Emerging energy technologies.**

12 1. For purposes of this section, "*emerging energy*
13 *technology*" includes but is not limited to an energy storage
14 facility, electric grid protection system, electric grid
15 management system, cyber security infrastructure, electric
16 vehicle infrastructure, or any other emerging energy technology
17 identified by the board and consistent with the general
18 assembly's intent as provided in subsection 2.

19 2. a. It is the intent of the general assembly to attract
20 the development of emerging energy technologies within the
21 state in sufficient quantity to ensure reliable electric
22 service to Iowa consumers and provide economic benefits to
23 the state. It is also the intent of the general assembly to
24 encourage the development of the state's future electric energy
25 supply and the protection of the electric grid from cyber and
26 physical threats.

27 b. The general assembly's intent with regard to the
28 reliability of electric service to Iowa consumers shall be
29 implemented by considering, among other things, the development
30 of energy storage, and the protection of the electric grid from
31 cyber and physical threats.

32 c. The general assembly's intent with regard to the
33 development of Iowa's future electric energy supply shall be
34 implemented in a manner that advances a reliable, secure,
35 economical, and environmentally responsible energy supply

1 for the state, recognizing the value of emerging energy
2 technologies to promote the state's economic development.

3 3. a. The board shall specify in advance, by order issued
4 after a contested case proceeding, the ratemaking principles
5 that will apply whenever a rate-regulated public utility
6 requests advanced ratemaking principles for the construction,
7 investment, or implementation of an emerging energy technology,
8 and the costs of the emerging energy technology are included in
9 regulated electric rates.

10 b. In determining the applicable ratemaking principles, the
11 board shall not be limited to traditional ratemaking principles
12 or traditional cost recovery mechanisms.

13 c. In determining the applicable ratemaking principles, the
14 board shall make the following findings:

15 (1) The rate-regulated public utility has demonstrated
16 to the board that the proposed emerging energy technology is
17 reasonable.

18 (2) The rate-regulated public utility has demonstrated
19 to the board that the public utility has considered
20 other reasonable alternatives, if any, to the proposed
21 emerging energy technology and that the proposed emerging
22 energy technology is reasonable when compared to any such
23 alternatives.

24 d. The applicable ratemaking principles shall be determined
25 in a contested case proceeding.

26 e. The order setting forth the applicable ratemaking
27 principles shall be issued prior to the construction,
28 investment, or implementation of the emerging energy
29 technology.

30 f. Following issuance of the order, the rate-regulated
31 public utility may proceed with the construction, investment,
32 or implementation of the emerging energy technology.

33 g. Notwithstanding any provision of this chapter to the
34 contrary, the ratemaking principles established by the order
35 issued pursuant to paragraph "e" shall be binding with regard to

1 the specific emerging energy technology in any subsequent rate
2 proceeding.

3

EXPLANATION

4

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

5

6 This bill modifies various provisions relating to public
7 utilities.

8 The bill adds gasworks and facilities useful for the
9 delivery of natural gas service to the list of works or
10 facilities permitted for joint financing by public agencies
11 pursuant to Code chapter 28F. The bill prohibits public
12 agencies participating in joint financing agreements pursuant
13 to Code chapter 28F from exercising their powers of eminent
14 domain to acquire interests in properties used for the
15 transmission, transportation, or sale of natural gas.

16 The bill removes requirements for the board to report
17 the energy efficiency results of certain non-rate-regulated
18 electric utilities and municipally owned utilities to the
19 general assembly.

20 Current law allows the board of directors or the membership
21 of non-rate-regulated electric cooperatives to elect to
22 have the cooperative's rates regulated by the board, and
23 subsequently elect to exempt the cooperative from rate
24 regulation. The bill provides that if the membership of a
25 cooperative elects to have the cooperative's rates regulated
26 by the board, only the membership may elect to exempt the
27 cooperative from rate regulation.

28 The bill allows a public utility to automatically adjust
29 rates and charges to recover certain costs related to
30 transmission, provided that the public utility first files a
31 schedule showing such automatic adjustment with the board.

32 Current law requires gas and electric utilities to offer
33 energy efficiency programs to customers through energy
34 efficiency plans, which plans must be cost-effective. The
35 bill adds the total resource cost test to the list of tests

1 the board must apply in determining the cost-effectiveness of
2 energy efficiency programs.

3 The bill provides that gas and electric utilities shall file
4 five-year energy efficiency plans and demand response plans
5 with the board, which plans shall include a range of energy
6 efficiency or demand response programs. The bill provides that
7 all utility customers shall have the option to enroll in an
8 energy efficiency plan or demand response plan offered by a
9 utility during an open enrollment period beginning August 1,
10 2018, and ending September 30, 2018. Utilities are required
11 to provide notice of the open enrollment period in customer
12 billing statements. Customers may only enroll in any plan
13 during the open enrollment period and cannot withdraw from
14 such plan until the commencement of the next five-year plan.
15 Customers who move into the service area of a utility may
16 enroll in any such plan offered by the utility within 60 days
17 after the commencement of service. Customers that do not
18 enroll in an energy efficiency plan or demand response plan
19 shall not be assessed the costs of such plans, and shall not be
20 allowed to participate in programs included in such plans.

21 The bill provides that following the completion of an
22 open enrollment period for customers to enroll in an energy
23 efficiency or demand response plan, a gas or electric utility
24 shall file such plan with the board no later than June 1 of
25 the year following the open enrollment period, provided that
26 at least 10 percent of the utility's current customers enroll
27 in the plan during the open enrollment period. If less than
28 10 percent of a utility's customers do not enroll in the plan,
29 the utility shall commence a subsequent open enrollment the
30 following year and every year thereafter until it meets the 10
31 percent threshold. The bill requires the board to approve an
32 energy efficiency plan or demand response plan no later than
33 December 1 of the year the plan is filed with the board. A
34 plan approved by the board shall commence January 1 of the
35 year following the date the plan was approved by the board.

1 However, energy efficiency plans approved by the board prior
2 to the effective date of the bill shall remain in effect until
3 December 31, 2018.

4 The bill provides that gas and electric utilities shall
5 commence an open enrollment period for customers to enroll
6 in a subsequent five-year energy efficiency plan or demand
7 response plan beginning August 1 and ending September 30 during
8 the fourth year of a current plan. The requirements in the
9 bill regarding enrollment, filing, approval, and commencement
10 of energy efficiency and demand response plans apply to any
11 subsequent plans.

12 The bill allows a gas or electric utility to request an
13 energy efficiency or demand response plan modification during
14 the course of the five-year plan due to changes in funding or
15 for any other reason identified by the utility. The board must
16 take action within 60 days after filing, or such request is
17 deemed approved.

18 Current law requires the board to consult with the
19 economic development authority to develop capacity and energy
20 savings performance standards for each rate-regulated gas or
21 electric utility. The bill replaces "performance standards"
22 with "goals", and specifies that such goals only include
23 cost-effective energy efficiency and demand response programs,
24 as defined in the bill.

25 The bill removes the outdated requirement for
26 non-rate-regulated gas and electric utilities to submit reports
27 to the board on or before January 1, 2010, relating to such
28 utilities' energy efficiency goals. The bill also removes
29 outdated requirements for the board to submit certain reports
30 relating to energy efficiency to the general assembly in 1998,
31 2009, and 2011.

32 The bill prohibits the board from requiring a gas or electric
33 utility to adopt an energy efficiency plan or demand response
34 plan that results in projected annual costs in excess of
35 1.5 percent of a plan-enrolled gas utility customer's total

1 billing, or 2 percent of a plan-enrolled electric utility
2 customer's total billing. A gas or electric utility may
3 voluntarily propose a plan in excess of such amounts. If a
4 gas or electric utility has an approved energy efficiency plan
5 in excess of such amounts on the effective date of the bill,
6 the utility may file a request to modify the plan to achieve
7 projected annual costs below the amounts.

8 Current law allows gas and electric utilities to recover the
9 costs of energy efficiency plans through automatic adjustment
10 mechanisms. The bill allows such utilities to also recover
11 the costs of demand response plans, and requires the board
12 to ensure that costs are recovered from all customers on a
13 reasonably comparable basis, including customers who utilize
14 alternate energy production facilities. The bill provides that
15 customers that are not enrolled in an energy efficiency plan or
16 demand response plan shall not be charged for recovery of costs
17 associated with such plans.

18 The bill strikes Code section 476.6(17), which allows the
19 board to require rate-regulated gas or electric utilities to
20 offer financing for certain energy efficiency improvements to
21 customers.

22 Current law specifies the general assembly's intent to
23 provide for compatible statewide environmental and electric
24 energy policies with respect to emissions from electric
25 power generating facilities in the state that are fueled
26 by coal. Current law requires each rate-regulated public
27 utility that owns one or more such facilities on July 1, 2001,
28 to develop a multiyear plan and budget managing emissions
29 in a cost-effective manner. The bill strikes the language
30 expressing the general assembly's intent and replaces the
31 requirement that an applicable rate-regulated public utility
32 develop a multiyear plan and budget with the option for a
33 rate-regulated public utility to file for advanced review of
34 projects to manage regulated emissions from its facilities
35 in a cost-effective manner. Such filing shall be made at

1 least 120 days before the anticipated start of construction.
2 When a facility is owned by two or more rate-regulated public
3 utilities, the owner of such facility may file the application
4 for advanced review on behalf of the utilities. The bill
5 requires a project to comply with applicable state and federal
6 environmental requirements. The bill requires the board to
7 issue an order approving or rejecting a project within 90 days
8 after filing. The bill removes the ability of the board to
9 limit certain proposed investments or expenditures pursuant to
10 an environmental plan, update, or associated budget.

11 The bill allows rate-regulated public utilities to file for
12 approval of a tariff or rate that is optional for customers
13 and all associated costs are borne by customers electing to
14 participate. A tariff or rate approved pursuant to the bill
15 may not change existing rates or charges. The board must
16 review the tariff or rate within 60 days of filing or the
17 tariff or rate is deemed approved. The board is not required
18 to hold a hearing to review such tariff or rate.

19 The bill allows the board to adopt rules to provide for
20 a preapproval process for cost recovery for natural gas
21 extensions.

22 The bill provides that non-rate-regulated electric utilities
23 shall not be subject to the board's rules in regards to
24 deposits and payment plans for delinquent amounts owed and
25 repayment of past due debt, but shall be subject to the
26 board's rules in regards to payment plans made prior to the
27 disconnection of service.

28 Current law prohibits a municipality, corporation,
29 or cooperative from considering the use of renewable
30 energy sources by a customer as a basis for establishing
31 discriminatory rates or charges. The bill provides that
32 these entities shall not be prohibited from establishing
33 rates or charges for customers that are different than the
34 rates or charges for customers who obtain all of their energy
35 requirements from such entities, provided that the difference

1 in rates or charges is based on the difference in cost of
2 service and anticipated energy use.

3 The bill allows an incumbent electric transmission owner,
4 as defined in the bill, to construct, own, and maintain an
5 electric transmission line, as defined in the bill, that has
6 been approved for construction in a federally registered
7 planning authority transmission plan and which connects
8 to the owner's electric transmission facility. Where an
9 electric transmission line connects to electric transmission
10 facilities owned by two or more incumbent electric transmission
11 owners, each owner whose facilities connect to the electric
12 transmission line may construct, own, and maintain the electric
13 transmission line individually and equally. If an incumbent
14 electric transmission owner declines to construct, own, and
15 maintain its portion of an electric transmission line that
16 connects to electric transmission facilities owned by two
17 or more owners, then the other owners to which the electric
18 transmission line connects may construct, own, and maintain
19 the electric transmission line individually and equally. The
20 bill provides that the bill does not modify the authority of
21 the board or the requirements, rights, and obligations related
22 to the construction, maintenance, and operation of electric
23 transmission lines under Code chapter 478.

24 Current law requires the board to adopt rules that require
25 the board to consider the most current test period to determine
26 just and reasonable rates in rate regulatory proceedings under
27 Code sections 476.3 and 476.6. The bill requires the board
28 to adopt rules that require the board to utilize either a
29 historic test year or a future test year, at a public utility's
30 discretion, in rate regulatory proceedings. For a proceeding
31 utilizing a historic test year, the rules shall require the
32 board to consider the use of the most current test period
33 to determine just and reasonable rates. For a proceeding
34 utilizing a future test year, the rules shall require the board
35 to consider the use of any 12-month period beginning no later

1 than the date on which a proposed rate change is expected to
2 take effect to determine just and reasonable rates.

3 Current law requires the board to specify ratemaking
4 principles in advance whenever a rate-regulated public utility
5 files an application to significantly alter an existing
6 electric generating facility. The bill adds the repowering of
7 an alternate energy production facility to upgrade or extend
8 the useful life of the facility to the list of significant
9 alterations requiring the establishment of advanced ratemaking
10 principles.

11 The bill creates new Code section 476.59, relating to
12 emerging energy technologies. The bill defines "emerging
13 energy technology" to include but not be limited to an energy
14 storage facility, electric grid protection system, electric
15 grid management system, cyber security infrastructure, electric
16 vehicle infrastructure, or other technologies identified
17 by the board. The bill provides that it is the general
18 assembly's intent to attract the development of emerging energy
19 technologies within the state to ensure reliable electric
20 service and encourage the development of the state's future
21 electric energy supply and the protection of the electric grid
22 from cyber and physical threats. The bill further elaborates
23 on the general assembly's intent with respect to emerging
24 energy technologies.

25 New Code section 476.59 requires the board to specify in
26 advance the ratemaking principles that will apply whenever a
27 rate-regulated public utility requests advanced ratemaking
28 principles for the construction, investment, or implementation
29 of an emerging energy technology and the costs of such
30 technology are included in rates. The board shall not be
31 limited to traditional ratemaking principles or cost recovery
32 mechanisms in determining such ratemaking principles. In
33 determining the applicable ratemaking principles, the board
34 shall find that the utility has demonstrated that the proposed
35 emerging energy technology is reasonable and that such

1 technology is reasonable when compared to any other reasonable
2 alternatives. The applicable ratemaking principles shall be
3 determined in a contested case proceeding and shall be issued
4 prior to the construction, investment, or implementation of
5 the emerging energy technology. Following the issuance of
6 the order, the utility may proceed with the construction,
7 investment, or implementation of the emerging energy
8 technology. The applicable ratemaking principles shall be
9 binding with respect to the specific emerging energy technology
10 in subsequent rate proceedings.