

**House File 2124 - Introduced**

HOUSE FILE 2124

BY ISENHART

**A BILL FOR**

1 An Act authorizing cities and counties to establish energy  
2 investment districts and district boards and providing for  
3 financing of energy investments.

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 investment district board  
5 appointed pursuant to this chapter.

6 2. "*Energy investment*" means an acquisition, installation,  
7 or modification benefitting private property, except  
8 residential property with fewer than three residential units,  
9 that is intended to reduce energy consumption or energy costs,  
10 or both, or is intended to provide or 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 energy investments.

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 investment  
4 related item so long as the cost of the energy investment  
5 related item does not exceed twenty-five percent of the total  
6 cost of the project.

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

14     4. "*Project*" means one or more energy investments to be  
15 installed on a property.

16     Sec. 2. NEW SECTION.   **385.2 Energy investment district**  
17 **created.**

18     1. A county or city may create an energy investment district  
19 pursuant to this chapter in order to provide financing for  
20 energy investment projects to benefit real property in the  
21 district.

22     2. One or more counties and one or more cities within  
23 those counties may create, by chapter 28E agreement, an energy  
24 investment district pursuant to this chapter in order to  
25 provide financing for energy investment projects to benefit  
26 real property in the district. The agreement creating the  
27 energy investment district shall specify the geographic  
28 boundaries of the district.

29     Sec. 3. NEW SECTION.   **385.3 Energy investment district board**  
30 **— membership — powers.**

31     1. The governing bodies of the counties and cities  
32 participating in an energy investment district shall appoint a  
33 board to manage and administer the energy investment district.  
34 An energy investment district board shall consist of at least  
35 three members, but if the district is created pursuant to

1 section 385.2, subsection 2, in no case shall there be fewer  
2 members than the number of participating cities and counties.  
3 The agreement creating the energy investment district shall set  
4 the term length of board members.

5 2. A board shall have and may exercise the powers and duties  
6 necessary for management and administration of the energy  
7 investment district as such powers and duties are described  
8 in the agreement, including but not limited to the following  
9 express powers and duties:

10 a. To adopt, amend, and repeal bylaws consistent with the  
11 provisions of this chapter.

12 b. To adopt an official seal.

13 c. To sue and be sued in all courts.

14 d. To make and enter into contracts with public and private  
15 entities.

16 e. To accept grants, guarantees, and donations of property,  
17 labor, services, and other items of value from a public or  
18 private source.

19 f. To employ or contract for such managerial, legal,  
20 technical, clerical, accounting, or other assistance it  
21 deems advisable. However, the board shall not enter into any  
22 arrangement that results in an exclusive lender, underwriter,  
23 or other funding partner for all projects funded by the board.

24 g. To finance projects under assessment contracts.

25 h. To levy and collect special assessments under an  
26 assessment contract with a property owner.

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

29 j. To charge and collect fees pursuant to section 385.5.

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 may finance a project if the following criteria  
3 are met:

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

5 b. The estimated monetary benefit, as determined by the  
6 board after consultation with an outside expert, and including  
7 but not limited to energy cost savings, maintenance, and other  
8 property operating savings expected from the project during the  
9 financing period is equal to or greater than the principal and  
10 interest cost of the project, including special assessments and  
11 any applicable fees.

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

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

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

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

28 c. An agreement by the property owner to pay special  
29 assessments and any applicable fees for a period not to exceed  
30 the weighted average useful life of the project, as specified  
31 in the assessment contract.

32 d. An assessment schedule adopted by the board by  
33 resolution, stating the number of annual installments due,  
34 stating the time when assessments and any applicable fees are  
35 payable, and providing for interest on all unpaid installments

1 and fees at a rate not exceeding that permitted by chapter 74A.

2 *e.* A statement that the obligations provided in the  
3 assessment contract, including the obligation to pay special  
4 assessments and any applicable fees charged, are a covenant  
5 that shall run with the land and be obligations upon future  
6 owners of such property.

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

13 *g.* An acknowledgment from all entities holding mortgages on  
14 the real property, or the contract seller under a real estate  
15 contract, to be assessed under the assessment contract that  
16 such interest holders have consented to the levy and collection  
17 of the special assessments and any applicable fees charged, as  
18 described in the assessment contract.

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

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

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

32 5. A board shall determine an inspection procedure to  
33 be utilized upon completion of an energy investment financed  
34 pursuant to this chapter.

35 **Sec. 5. NEW SECTION. 385.5 Special assessments — fees —**

1 **delinquency.**

2 1. The total special assessments levied by a board under an  
3 assessment contract shall not exceed the sum of the cost of the  
4 project, including any energy audits or inspections or portions  
5 thereof financed by the board, plus interest.

6 2. In addition to special assessments provided under  
7 subsection 1, a board may also charge a fee of up to one percent  
8 of the total cost of a project, which fee may not exceed twenty  
9 thousand dollars per project. Such fee shall be charged in  
10 connection with administration of the assessment contract  
11 and with any technical, consultative, or project assistance  
12 services required. A fee charged under this subsection shall  
13 be included in an assessment contract provided under section  
14 385.4.

15 3. Special assessments levied and any applicable fees  
16 charged by a board under an assessment contract shall be  
17 levied, charged, and collected in the manner as provided in the  
18 assessment contract and with the same priority as ad valorem  
19 property taxes.

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

30 *b.* Special assessments and any applicable fees that are not  
31 delinquent shall not be accelerated as part of any action or  
32 proceeding to collect delinquent special assessments or fees.  
33 Upon the sale of the real property subject to an assessment  
34 contract, any remaining special assessments and applicable fees  
35 shall be collected for the remainder of the assessment contract

1 term from a subsequent owner of the real property, including  
2 an owner that is the state or any political subdivision of the  
3 state.

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

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

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

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

21 A board shall submit to the governing body of each  
22 participating county and city an annual report for the  
23 preceding calendar year that includes the following  
24 information:

25 1. A description of each project completed, including the  
26 physical address of the benefitted property, the name or names  
27 of the property owners, an itemized list of the costs incurred  
28 under the project, and the name of any contractors used to  
29 complete the project.

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

33 3. A summary of the public benefits resulting from the  
34 projects listed in subsection 1, including, without limitation,  
35 estimated cumulative energy savings resulting from the



1 projects.

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

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

6

EXPLANATION

7

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

8

9 This bill authorizes a county or city, or one or more  
10 counties and one or more cities within those counties to create  
11 an energy investment district to finance energy investment  
12 projects for the benefit of property within the district.

13 The bill defines an "energy investment" to mean an  
14 acquisition, installation, or modification benefitting  
15 private property, except residential property with fewer than  
16 three residential units, that is intended to reduce energy  
17 consumption or energy costs, or both, or to allow for the use  
18 of alternate and renewable energy. The bill specifies measures  
19 that are considered energy investments.

20 The bill requires the governing bodies of the counties  
21 and cities participating in an energy investment district  
22 to appoint an energy investment district board to manage  
23 and administer the district. The board must consist of at  
24 least three members, but in no case fewer than the number of  
25 participating cities and counties, and the agreement creating  
26 the district must set the term length of board members.

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

1 assessment contracts that the board enters into.

2 The bill requires a board to enter into an assessment  
3 contract with a property owner to finance a project if the  
4 board finds that there are sufficient resources for the  
5 project, the estimated monetary benefit, as determined by the  
6 board after consulting with an outside expert, is equal to or  
7 greater than the total cost of the project, and the project  
8 complies with all applicable ordinances and regulations in the  
9 county or city where the property is located. An assessment  
10 contract executed between a board and a property owner must  
11 include a description of the project, a mechanism for verifying  
12 the final costs of the project and ensuring that financing  
13 provided does not exceed the final costs of the project, an  
14 agreement by the property owner to pay special assessments and  
15 any applicable fees for a specified period and a schedule of  
16 assessments, a statement that the obligations provided in the  
17 assessment contract are a covenant that run with the land,  
18 an acknowledgment that subdividing property subject to the  
19 contract requires the contract or an amendment to the contract  
20 to divide the total special assessments due, and written  
21 consent to the levy and collection of special assessments and  
22 any applicable fees charged from all entities holding mortgages  
23 on the property or contract sellers of the property.

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

32 The bill provides that the total special assessments levied  
33 by a board cannot exceed the sum of the cost of the project,  
34 including all incidental costs and fees. A board may also  
35 charge a fee of up to 1 percent of the total cost of the

1 project, not to exceed \$20,000. A board must levy and collect  
2 special assessments in the manner as provided in the assessment  
3 contract and with the same priority as real property taxes.  
4 Special assessments and fees not paid within the time period  
5 set forth in the assessment contract are delinquent and become  
6 a lien on the property. A board may collect such delinquent  
7 assessments and fees in the manner of property taxes pursuant  
8 to Code sections 445.3 and 445.4.

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

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