

**House File 473 - Introduced**

HOUSE FILE 473  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 56)

**A BILL FOR**

1 An Act relating to the acquisition of water, sanitary sewer,  
2 and storm water utilities by rate-regulated public  
3 utilities.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 476.84, subsection 2, Code 2023, is  
2 amended to read as follows:

3 2. *a.* A public utility shall not acquire, in whole or in  
4 part, a water, sanitary sewer, or storm water utility with  
5 a ~~fair market value~~ purchase price of five hundred thousand  
6 three million dollars or more from a non-rate-regulated entity  
7 described in [section 476.1, subsection 4](#), unless the board  
8 first approves the acquisition. In addition, if the utility  
9 to be acquired is a city utility, then the public utility  
10 shall not acquire the city utility until the city has first  
11 ~~met certified completion of the requirements of section 388.2A~~  
12 sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.  
13 A certified completion submitted pursuant to this paragraph  
14 shall contain an affirmation that the city that is the subject  
15 of the acquisition has timely and substantially complied in  
16 relation to the acquisition with the applicable provisions of  
17 sections 362.3, 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.

18 *b.* If a water, sanitary sewer, or storm water utility that  
19 is the subject of an acquisition meets the requirements of  
20 paragraph "a", then the acquiring public utility may apply to  
21 the board, prior to the completion of the acquisition, for  
22 advance approval of a proposed initial tariff for providing  
23 service to customers of the acquired utility.

24 *c.* As part of its review of the proposed acquisition,  
25 the board shall specify in advance, by order issued after a  
26 contested case proceeding, the ratemaking principles that will  
27 apply when the costs of the acquired utility are included in  
28 regulated rates. The lesser of the sale price or the fair  
29 market value of the acquired utility as established pursuant  
30 to [section 388.2A, subsection 2](#), shall be used in determining  
31 the applicable ratemaking principles. In determining the  
32 applicable ratemaking principles, the board shall not be  
33 limited to traditional ratemaking principles or traditional  
34 cost recovery mechanisms. Among the principles and mechanisms  
35 the board may consider, the board has the authority to approve

1 ratemaking principles that provide for reasonable restrictions  
2 upon the ability of the public utility to seek an increase  
3 in specified regulated rates for a period of time after the  
4 acquisition takes place. The final order including the rate  
5 base and approving the acquisition shall consider reasonable  
6 and customary closing costs, the cost of appraisals, and  
7 regulatory and legal expenses incurred in connection with the  
8 acquisition.

9 *d.* In determining the applicable ratemaking principles,  
10 the board shall find that the proposed acquisition will result  
11 in just and reasonable rates to all customers of the public  
12 utility, including but not limited to existing customers of  
13 the public utility. In making this finding, the board may  
14 consider any factor it reasonably concludes may affect future  
15 rates, including but not limited to the price paid for the  
16 acquired utility and the projected cost of reasonable and  
17 prudent ~~changes to~~ investments in the acquired utility in order  
18 to provide ~~adequate~~ safe and reliable services and facilities  
19 to customers. The board shall consider whether there are  
20 ratemaking principles that will result in just and reasonable  
21 rates to all customers in determining whether to approve or  
22 disapprove a proposed acquisition.

23 *e.* (1) In determining the applicable ratemaking principles,  
24 the board shall require the public utility to submit a purchase  
25 agreement for the acquisition and shall find that the purchase  
26 agreement includes terms, conditions, requirements, and other  
27 provisions applicable to the system to be acquired that are in  
28 substantial compliance with the requirements in sections 362.3,  
29 364.2, 364.7, 384.84, 388.2, 388.2A, and 388.6.

30 (2) The purchase agreement shall include a term allowing  
31 the parties thirty days, after final approval of the ratemaking  
32 principles, to terminate the purchase agreement without  
33 penalty.

34 ~~*e.*~~ *f.* If the acquisition involves a utility that is an  
35 at-risk system as defined in section 455B.199D, the board shall

1 issue a final order on an application for approval of the  
2 acquisition within one hundred twenty days from the filing of  
3 the application. For all other acquisitions, the board shall  
4 issue an order within one hundred eighty days of the filing  
5 date of the application.

6 ~~f.~~ g. Upon the approval of a proposal for acquisition  
7 by board order, the parties subject to the acquisition shall  
8 have the option of either proceeding with such acquisition or  
9 not, subject to any termination provisions contained in the  
10 acquisition agreement.

11 ~~g.~~ h. Notwithstanding any provision of **this chapter** to the  
12 contrary, the ratemaking principles established by the board  
13 pursuant to **this section** shall be binding with regard to the  
14 acquired utility in any subsequent rate proceeding.

15 EXPLANATION

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

18 This bill relates to the acquisition of water, sanitary  
19 sewer, and storm water utilities by rate-regulated public  
20 utilities.

21 The bill increases the threshold amount requiring utilities  
22 board (board) approval from \$500,000 to \$3 million when a  
23 public utility is acquiring a water, sanitary sewer, or storm  
24 water utility. The bill modifies city utility acquisition to  
25 include that the city must first certify completion of the  
26 requirements of Code sections 362.3 (regarding publication of  
27 notices), 364.2 (regarding vesting power of franchises), 364.7  
28 (regarding disposal of property), 384.84 (regarding rate and  
29 charges, billing, and contracts), 388.2 (regarding submission  
30 to voters), 388.2A (regarding the procedure for disposal of a  
31 city utility by sale), and 388.6 (regarding discrimination in  
32 rates). Current law requires that the city meet requirements  
33 of Code section 388.2A, but not certify compliance.

34 The bill provides that the rate base in the final order  
35 approving an acquisition shall include reasonable and customary

1 closing costs, the cost of appraisals, and regulatory and legal  
2 expenses incurred in connection with the acquisition.

3 The bill provides that the board shall require a public  
4 utility to submit a purchase agreement for the acquisition and  
5 shall find the purchase agreement includes terms, conditions,  
6 requirements, and other provisions applicable to the system  
7 sought to be acquired and the public utility shall be in  
8 compliance with specified provisions in determining applicable  
9 ratemaking principles. The purchase agreement shall include  
10 a term allowing the parties 30 days after final approval of  
11 the ratemaking principles to terminate the purchase agreement  
12 without penalty.

13 The bill provides that the board shall issue a final order  
14 within 120 days of the filing of an application for the  
15 acquisition of an at-risk utility system, or an order within  
16 180 days for all other acquisitions. Current law provides that  
17 the board shall issue a final order within 120 days of filing  
18 the application for a utility that is an at-risk system.