

House Study Bill 204 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL BY
CHAIRPERSON JONES)

A BILL FOR

1 An Act relating to approval requirements for city utilities.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 364.2, subsection 4, paragraphs a, b, and
2 c, Code 2025, are amended to read as follows:

3 a. A city may grant to any person a franchise to erect,
4 maintain, and operate plants and systems for electric light and
5 power, heating, telegraph, cable television, district telegraph
6 and alarm, motor bus, trolley bus, street railway or other public
7 transit, waterworks, sewer services, or gasworks, within the city
8 for a term of not more than twenty-five years. When considering
9 whether to grant, amend, extend, or renew a franchise, a city
10 shall ~~hold a public hearing on the question~~ follow the same
11 procedure for approval as provided in section 364.7. Notice of
12 the time and place of the hearing shall be published as provided
13 in section 362.3. The franchise may be granted, amended,
14 extended, or renewed only by an ordinance, but no exclusive
15 franchise shall be granted, amended, extended, or renewed.

16 b. ~~Such an ordinance shall not become effective unless~~
17 ~~approved at an election. The~~ A proposal may be submitted by the
18 council on its own motion ~~to the voters at any city election or~~
19 by petition of eligible electors. Upon receipt of a petition
20 meeting the requirements of section 362.4 requesting that a
21 proposal be submitted to the voters, the council shall submit
22 the proposal at the next regular city election or at a special
23 election called for that purpose before the next regular city
24 election. However, the city council may dispense with such
25 election as to the grant, amendment, extension, or renewal of
26 an electric light and power, heating, waterworks, sewer services
27 under section 357A.23, or gasworks franchise ~~unless there is~~
28 ~~a valid petition requesting submission of the proposal to the~~
29 ~~voters, or the party seeking such franchise, grant, amendment,~~
30 ~~extension, or renewal requests an election. If a majority of~~
31 ~~those voting approves the proposal, the city may proceed as~~
32 ~~proposed. The complete text of the ordinance shall be included~~
33 ~~on the ballot if conventional paper ballots are used. If an~~
34 ~~optical scan voting system is used, the proposal shall be stated~~
35 ~~on the optical scan ballot, and the full text of the ordinance~~

1 ~~posted for the voters pursuant to section 52.25. All absentee~~
2 ~~voters shall receive the full text of the ordinance.~~

3 ~~e. Notice of the election shall be given by publication as~~
4 ~~prescribed in section 49.53 in a newspaper of general circulation~~
5 ~~in the city.~~

6 Sec. 2. Section 380.3, Code 2025, is amended to read as
7 follows:

8 **380.3 Two considerations before final passage — how**
9 **waived.**

10 1. A proposed ordinance or amendment must be considered and
11 voted on for passage at two council meetings prior to the meeting
12 at which it is to be finally passed, unless this requirement is
13 suspended by a recorded vote of not less than three-fourths of
14 all of the members of the council. If a proposed ordinance,
15 amendment, or resolution fails to receive sufficient votes for
16 passage at any consideration and vote thereon, the proposed
17 ordinance, amendment, or resolution shall be considered defeated.

18 2. Notwithstanding subsection 1, a proposed ordinance under
19 section 364.2, subsection 4, may be passed following the same
20 procedure for approval as provided in section 364.7.

21 Sec. 3. Section 388.2, Code 2025, is amended to read as
22 follows:

23 **388.2 Submission to voters council.**

24 ~~1. a.~~ The proposal of a city to establish, acquire, lease,
25 or dispose of a city utility, except a sanitary sewage or storm
26 water drainage system, in order to undertake or to discontinue
27 the operation of the city utility, or the proposal to establish
28 or dissolve a combined utility system, or the proposal to
29 establish or discontinue a utility board, is subject to the
30 approval of the voters of the city, except that a same procedure
31 for approval as provided in section 364.7. Additionally, a
32 board may be discontinued by resolution of the council when
33 the city utility, city utilities, or combined utility system it
34 administers is disposed of or leased for a period of over five
35 years.

1 ~~b. Upon the council's own motion, the proposal may be~~
2 ~~submitted to the voters at the general election, the regular~~
3 ~~city election, or at a special election called for that purpose.~~
4 ~~Upon receipt of a valid petition as defined in section 362.4,~~
5 ~~requesting that a proposal be submitted to the voters, the~~
6 ~~council shall submit the proposal at the next regular city~~
7 ~~election.~~

8 ~~c. If the special election is to establish a gas or electric~~
9 ~~utility pursuant to this section, or if such a proposal is to be~~
10 ~~included on the ballot at the regular city or general election,~~
11 ~~the mayor or council shall give notice as required by section~~
12 ~~376.1 to the county commissioner of elections and to any utility~~
13 ~~whose property would be affected by such election not less than~~
14 ~~sixty days before the proposed date of the special, regular city,~~
15 ~~or general election.~~

16 ~~d. A proposal for the establishment of a utility board must~~
17 ~~specify a board of either three or five members.~~

18 ~~2. a. If a majority of those voting for and against the~~
19 ~~proposal approves the proposal, the city may proceed as proposed.~~

20 ~~b. If a majority of those voting for and against the proposal~~
21 ~~does not approve the proposal, the same or a similar proposal~~
22 ~~may not be submitted to the voters of the city for at least four~~
23 ~~years from the date of the election at which the proposal was~~
24 ~~defeated.~~

25 ~~Sec. 4. Section 388.2A, Code 2025, is amended to read as~~
26 ~~follows:~~

27 **388.2A Procedure for disposal of city utility by sale.**

28 ~~1. A proposal to discontinue a city utility and dispose of~~
29 ~~such utility by sale, whether upon the council's own motion or~~
30 ~~upon the receipt of a valid petition pursuant to section 388.2,~~
31 ~~subsection 1, paragraph "b", shall not be submitted to the voters~~
32 ~~of the city pursuant to section 388.2 at any election unless~~
33 ~~the governing body of the city utility meets the requirements of~~
34 ~~this section shall meet the requirements of this section before a~~
35 ~~final determination is made.~~

1 2. a. (1) The governing body of the city utility shall
2 determine the fair market value of the utility system after
3 obtaining two appraisals of the system's fair market value.
4 One appraisal shall be obtained from an independent appraiser
5 selected by the governing body, and the other appraisal shall
6 be obtained from an independent appraiser approved by the Iowa
7 utilities commission. Both appraisals shall be conducted in
8 conformance with the uniform standards of professional appraisal
9 practice or substantially similar standards.

10 (2) Any appraisal obtained pursuant to this paragraph shall
11 consider the depreciated value of the capital assets to be sold,
12 the loss of future revenues to the city utility, including
13 the right to generate surpluses, and the cost of any capital
14 improvements reasonably necessary to provide adequate service and
15 facilities to the city utility's customers.

16 b. After considering the appraisals obtained pursuant to
17 paragraph "a", the governing body shall establish the city
18 utility's fair market value. The fair market value shall be the
19 greater of any of the following:

20 (1) The average of the two appraisals obtained pursuant to
21 paragraph "a".

22 (2) The depreciated value of the capital assets to be sold.

23 (3) The amount necessary to retire all of the city's
24 outstanding revenue and general obligations issued for purposes
25 of the city utility.

26 c. The governing body's determination of a city utility's
27 fair market value pursuant to this subsection shall not be
28 dispositive of the city utility's system price, which shall be
29 subject to negotiation by the governing body.

30 d. The governing body shall prepare an inventory of the city
31 utility's real and personal property, and a statement of net
32 position or balance sheet of the city utility, including all
33 assets, liabilities, outstanding revenue and general obligations
34 used to finance the city utility system.

35 e. The governing body shall prepare a financial information

1 statement of the city utility that includes current and projected
2 rate schedules for the next five fiscal years, as well as
3 the five most recent fiscal year revenue statements, if such
4 statements exist, and a projection of the city utility's revenue
5 statements for the next five fiscal years.

6 *f.* The governing body shall consider alternatives to
7 disposing of the city utility system by sale, including entering
8 into an agreement pursuant to chapter 28E, or into a finance
9 agreement, purchase agreement, or lease agreement with another
10 entity described in section 476.1, subsection 3.

11 *g.* (1) The governing body shall make available on its
12 internet site, at least ~~sixty~~ thirty days prior to submitting a
13 proposal ~~for election~~ pursuant to section 388.2, a copy of each
14 item listed in paragraphs "a" through "f" of this subsection.

15 (2) If, at the time of posting information pursuant to
16 subparagraph (1), the governing body has received any offers or
17 appraisals of fair market value from any prospective purchasers
18 of the city utility system in connection with a proposal to
19 discontinue the city utility and dispose of such utility by sale,
20 then the governing body shall make available on its internet
21 site each offer and appraisal then in existence. Proprietary
22 information of a rate-regulated public utility under chapter 476
23 that is exempt from disclosure pursuant to section 22.7 may be
24 withheld from disclosure on the governing body's internet site.
25 The governing body may continue to receive new or revised offers
26 or appraisals thereafter.

27 (3) The governing body shall make a good-faith effort to
28 provide, by regular mail to each property owner of the city and
29 each ratepayer of the city utility, a notice of the proposal to
30 dispose of the city utility by sale, a summary of the proposal,
31 a summary of the information described in subparagraphs (1) and
32 (2), and instructions for locating the information described in
33 subparagraphs (1) and (2) on the governing body's internet site.

34 3. Upon the governing body meeting the requirements of
35 subsection 2, a city council may submit a proposal to discontinue

1 and dispose of a city utility pursuant to section 388.2.

2 ~~4. If a proposal to discontinue and dispose of a city utility~~
3 ~~is to be submitted to voters following the receipt of a valid~~
4 ~~petition pursuant to section 388.2, subsection 1, paragraph~~
5 ~~"b", the council shall submit the proposal at the next general~~
6 ~~election, regular city election, or a special election called for~~
7 ~~that purpose, within one hundred twenty days after the governing~~
8 ~~body of the city utility meets the requirements of subsection 2.~~

9 ~~5. 4. A proposal to discontinue and dispose of a city~~
10 ~~utility by sale that is approved by the voters pursuant to~~
11 ~~section 388.2, subsection 2, paragraph "a", shall not require the~~
12 ~~governing body or any purchasing entity to finalize a sale of the~~
13 ~~city utility.~~

14 ~~6. No action may be brought which questions the legality of~~
15 ~~the election or the city and governing body's compliance with~~
16 ~~this section, except as provided in section 57.1, within twenty~~
17 ~~days of the canvass of votes for the election by the county board~~
18 ~~of supervisors.~~

19 EXPLANATION

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

22 This bill relates to approval requirements for city utilities.

23 Under current law, when a city is considering whether to
24 grant, amend, extend, or renew a franchise within the city, a
25 public hearing must be held. After the public hearing, the
26 franchise may be granted, amended, extended, or renewed only
27 by an ordinance, and is not effective unless approved at an
28 election. Generally, an ordinance must be considered and voted
29 on for passage at two council meetings prior to the meeting at
30 which the ordinance is to be finally passed. The bill provides
31 that after the public hearing, the city council may make the
32 final determination on whether to grant, amend, extend, or renew
33 the franchise. The bill allows the city council to make the
34 final determination in a single meeting.

35 Under current law, a proposal of a city to establish, acquire,

1 lease, or dispose of a city utility, in order to undertake or to
2 discontinue the operation of the city utility, or the proposal to
3 establish or dissolve a combined utility system, or the proposal
4 to establish or discontinue a utility board, is subject to the
5 approval of the voters of the city. Under the bill, the approval
6 requirement is changed to require the city council to set forth
7 its proposal in a resolution and publish notice of the resolution
8 and of a date, time, and place of a public hearing on the
9 proposal. The bill provides that after the public hearing, the
10 city council may make the final determination on the proposal by
11 resolution.

12 Under current law, a proposal to discontinue a city utility
13 and dispose of such utility by sale, whether upon the city
14 council's motion or upon the receipt of a valid petition is
15 subject to the approval of the voters of the city. The city must
16 make the proposal available at least 60 days before submitting
17 a proposal for the election. Under the bill, the approval
18 requirement is changed to require the city council to set forth
19 the proposal in a resolution and publish notice of the resolution
20 and of a date, time, and place of a public hearing on the
21 proposal at least 30 days before the hearing. The bill also
22 provides that after the public hearing, the city council may make
23 the final determination on the proposal by resolution.