

**Senate File 2304 - Introduced**

SENATE FILE 2304  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3068)

(COMPANION TO HF 2032 BY VONDRAN)

**A BILL FOR**

1 An Act establishing procedures for system enhancement of  
2 infrastructure, including for development of ratemaking  
3 principles permitted for recovery costs of certain investments  
4 in infrastructure by water and wastewater utilities.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **476.59 System enhancement**  
2 **infrastructure.**

3 1. It is the intent of the general assembly to authorize  
4 alternative ratemaking mechanisms to develop and sustain adequate  
5 water and wastewater treatment facilities within the state  
6 to ensure resilient water supply and sanitation services for  
7 Iowa consumers and provide economic benefits to the state.  
8 The commission shall not be bound by traditional ratemaking  
9 principles or traditional cost recovery mechanisms with respect  
10 to system enhancement infrastructure.

11 2. For purposes of this section:

12 a. "*Blanket-type work project order*" means an agreement  
13 between an eligible utility and a supplier to deliver goods or  
14 services at a set price on a recurring basis over a specified  
15 time period.

16 b. "*Eligible utility*" means an investor-owned public utility  
17 providing water or wastewater service subject to rate regulation  
18 by the commission pursuant to section 476.1.

19 c. "*Plan*" means a multiyear plan to implement system  
20 enhancement improvements.

21 d. "*Pretax return*" means the revenues necessary to accomplish  
22 all of the following:

23 (1) Producing net operating income equal to the utility's  
24 weighted cost of capital approved in the utility's most recent  
25 rate case and the actual embedded cost of debt at the time the  
26 filing is made multiplied by investments in service enhancement  
27 improvements.

28 (2) Paying state and federal income taxes applicable to  
29 income under subparagraph (1).

30 e. "*Requirement*" means any decision or regulation imposed on  
31 an eligible utility by a local government unit, a state, or the  
32 federal government in connection with any of the following:

33 (1) The federal Water Pollution Control Act, 33 U.S.C. §1251  
34 et seq.

35 (2) The federal Safe Drinking Water Act, 42 U.S.C. §300f et

1 seq.

2 (3) Any other law, order, or regulation administered by  
3 the United States environmental protection agency, the United  
4 States army corps of engineers, the United States department of  
5 transportation, or the Iowa department of natural resources.

6 (4) Regulations imposed by a local government unit.

7 *f.* "System enhancement charge" means a charge assessed by an  
8 eligible utility to recover system enhancement costs.

9 *g.* (1) "System enhancement costs" means the following  
10 costs associated with any of the following system enhancement  
11 improvements:

12 (a) Depreciation expenses, including any such expenses  
13 incurred prior to the approval of a plan containing the  
14 applicable system enhancement improvement.

15 (b) Operation and maintenance expenses.

16 (c) Restoration costs incurred to restore property to its  
17 preconstruction condition other than those already capitalized  
18 and included in depreciation expenses.

19 (d) Property taxes to be paid by the utility based upon the  
20 first assessment date following placement in service.

21 (e) Pretax return.

22 (2) "System enhancement costs" does not include fines or  
23 penalties assessed against or imposed on a utility for violating  
24 laws, regulations, or consent decrees.

25 *h.* (1) "System enhancement improvement" means a water or  
26 wastewater utility plant project that does any of the following:

27 (a) Replaces or extends the useful life of existing  
28 infrastructure that is at the end of its useful life or for  
29 which replacement is necessary to further resiliency, health,  
30 safety, or environmental protection for the utility's customers  
31 or employees, or the public.

32 (b) Installs new utility infrastructure necessary to further  
33 resiliency, health, safety, or environmental protection for the  
34 utility's customers or employees, or the public.

35 (c) Installs new utility infrastructure necessary to comply

1 with federal or state requirements pertaining to resilience,  
2 health, safety, or environmental protection.

3 (d) Relocates utility infrastructure necessary to accommodate  
4 public improvement projects to the extent the relocation costs  
5 are not otherwise reimbursed through the public improvement  
6 project.

7 (2) "System enhancement improvement" does not include a water  
8 or wastewater utility plant included in the eligible utility's  
9 rate base in its most recent general rate case.

10 3. a. Before an eligible utility may seek recovery of its  
11 service enhancement costs through a system enhancement charge  
12 under this section, it must first obtain approval from the  
13 commission of a plan including the proposed service enhancement  
14 improvement. The eligible utility must file with the commission  
15 an application and supporting evidence for the plan. The  
16 commission shall dismiss an application to approve a plan if the  
17 commission has not issued a final order in a general rate case  
18 proceeding under section 476.6 involving the eligible utility for  
19 the same type of utility service within the past five years.

20 b. Evidence supporting an application to approve a plan shall  
21 include all of the following:

22 (1) Projected annual capital expenditures identified by major  
23 categories of expenditures of service enhancement improvements  
24 included in the plan if such information is reasonably available  
25 at the time of filing the application.

26 (2) Estimated operation and maintenance costs resulting from  
27 the service enhancement improvements.

28 (3) A description of the age, condition, or other similar  
29 and reasonably available information about the existing  
30 infrastructure that is being replaced or having its useful life  
31 extended, if applicable.

32 (4) For service enhancement improvements included in the plan  
33 that are intended to comply with requirements:

34 (a) The applicable requirements, including any consent  
35 decrees related to the requirements.

1 (b) A narrative describing how the service enhancement  
2 improvement enables compliance with the requirements.

3 (c) Alternative plans for compliance considered by the  
4 eligible utility.

5 (5) An engineering evaluation and report identifying the  
6 system enhancement improvements included in the plan, with  
7 descriptions of project objectives, detailed cost estimates,  
8 and the estimated in-service dates for each system enhancement  
9 improvement.

10 (6) Proposed rate schedules establishing a system enhancement  
11 charge.

12 (7) The estimated rate impact of the proposed system  
13 enhancement charge.

14 c. An application for approval of a plan shall be a contested  
15 case. The commission shall issue its final order on the  
16 application not more than six months after the filing of the  
17 petition. The commission shall approve the plan and authorize  
18 the system enhancement charge for the system enhancement costs  
19 resulting from the plan if the commission finds that the system  
20 enhancement plan meets all of the following criteria:

21 (1) Consists of projects that are service enhancement  
22 improvements, except any removed pursuant to paragraph "d".

23 (2) Includes cost estimates that enable a reasonable  
24 assessment of the costs of the plan.

25 (3) Will result in rates that are just and reasonable.

26 d. The commission shall not disapprove the plan on the basis  
27 that one or more service enhancement improvements within the  
28 plan do not satisfy paragraph "e". The commission may approve  
29 the plan subject to the removal of the service enhancement  
30 improvements found not to satisfy paragraph "e".

31 e. An eligible utility that operates both a water and  
32 wastewater utility may establish separate plans for water and  
33 wastewater enhancement plans and such plans may be presented to  
34 the commission through different petitions.

35 4. a. An eligible utility with one or more plans approved

1 under subsection 3 may file with the commission an application  
2 annually setting forth rate schedules establishing a system  
3 enhancement charge, which may thereafter be automatically  
4 adjusted and include a reconciliation of revenues collected under  
5 previous system enhancement charges. A revenue reconciliation  
6 filing will be filed on an annual basis no later than ninety days  
7 following the expiration of the charge.

8 b. The system enhancement charge shall do all of the  
9 following:

10 (1) Be calculated as a monthly fixed charge based upon meter  
11 size.

12 (2) Not include recovery of any system enhancement costs  
13 recovered by the eligible utility through contributions in aid of  
14 construction.

15 (3) Recover system enhancement costs incurred prior to the  
16 date of the petition and not previously recovered through a  
17 system enhancement charge.

18 (4) Reflect system enhancement costs for system enhancement  
19 improvements placed in service prior to the date the application  
20 is filed.

21 (5) Include the pretax return associated with the accrued  
22 asset value reflected on the eligible utility's books and  
23 records as of the date of the petition for system enhancement  
24 improvements with a projected construction period of more than  
25 twelve months.

26 c. The application filed to implement the system enhancement  
27 charge shall include all of the following:

28 (1) A breakdown of costs for each service enhancement  
29 improvement that clearly identifies the status of completion of  
30 such project.

31 (2) The actual costs incurred, the projected construction  
32 timeline for projects with a construction period of more  
33 than twelve months, and the in-service or estimated in-service  
34 dates or aggregate information capturing service enhancement  
35 improvements constructed pursuant to blanket-type work project

1 orders and the actual annual costs of the replacement programs  
2 performed pursuant to blanket-type work project orders.

3 d. Actual costs that exceed more than twenty-five percent of  
4 the projected costs set forth in the eligible utility's plan  
5 approved under this section require specific justification by the  
6 eligible utility and specific approval by the commission before  
7 being authorized in the next general rate case filed by the  
8 eligible utility with the commission.

9 e. The commission shall not authorize an adjustment to the  
10 system enhancement charge to incorporate system enhancement costs  
11 incurred since the date of prior petition filed under this  
12 subsection if the commission has not issued a final order in a  
13 general rate case proceeding under section 476.6 involving the  
14 eligible utility within the past five years.

15 5. System enhancement costs incurred prior to the  
16 commission's approval of a plan shall be eligible for recovery  
17 through a subsequent system enhancement charge, provided the  
18 associated system enhancement improvements are included in a  
19 plan approved by the commission. A utility may defer such  
20 system enhancement costs for recovery through the utility's next  
21 approved system enhancement charge.

22 6. A petition to implement or change a system enhancement  
23 charge may include changes or updates to any information provided  
24 in the system enhancement plan, provided that the utility has  
25 a reasonable expectation that the changes or updates will occur  
26 during the time the plan is effective. Project changes may  
27 include but shall not be limited to additions, replacements, or  
28 deferral projects that otherwise qualify as service enhancement  
29 improvements.

30 7. Publication of notice of an eligible utility's petitions  
31 under section 476.6, subsection 2, is not required.

32 8. An eligible utility's system enhancement charge approved  
33 under this section shall reset to zero upon approval of new basic  
34 rates and charges for the eligible utility by the commission in  
35 a general rate case in which the eligible utility adds the system

1 enhancement improvements to its rate base.

2 EXPLANATION

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

5 This bill establishes procedures for system enhancement  
6 of infrastructure, including the development of ratemaking  
7 principles permitted for the recovery costs of certain  
8 investments in infrastructure by water and wastewater utilities.  
9 The bill states the intent of the general assembly that  
10 these mechanisms be available to support the development and  
11 sustainability of adequate and resilient water and wastewater  
12 treatment facilities, and provides that the commission is not  
13 bound by traditional ratemaking principles when evaluating system  
14 enhancement infrastructure.

15 The bill defines terms, including "system enhancement costs"  
16 and "system enhancement improvement". System enhancement  
17 costs include depreciation expenses, operation and maintenance  
18 expenses, restoration costs, property taxes, and pretax return,  
19 but exclude fines and penalties. System enhancement improvements  
20 include a water or wastewater utility plant project that replaces  
21 or extends the useful life of existing infrastructure; installs  
22 new infrastructure necessary to support resiliency, health,  
23 safety, or environmental protection; constructs infrastructure  
24 necessary to comply with federal or state requirements;  
25 or relocates utility infrastructure necessary to accommodate  
26 public improvement projects when the relocation costs are not  
27 reimbursed. Utility plants included in an eligible utility's  
28 most recent rate base are excluded from the definition.

29 The bill requires an eligible utility to obtain commission  
30 approval of a plan before seeking recovery of system enhancement  
31 costs through a system enhancement charge. The bill requires the  
32 commission to dismiss an application for a plan if the utility  
33 has not received a final order in a general rate case for the  
34 same type of utility service within the previous five years.

35 The bill requires an application for approval of a plan

1 to include projected annual capital expenditures, estimated  
2 operation and maintenance costs, a description of the age or  
3 condition of infrastructure to be replaced or have its useful  
4 life extended, applicable legal or regulatory requirements and  
5 any consent decrees, a description of how proposed improvements  
6 enable compliance, alternative compliance options considered, an  
7 engineering evaluation and report identifying system enhancement  
8 improvements along with cost estimates and estimated in-service  
9 dates, proposed rate schedules for the system enhancement charge,  
10 and the estimated rate impact of the charge.

11 The bill requires the application to be a contested case,  
12 and the commission must issue a final order within six months  
13 of filing. The bill requires the commission to approve the  
14 plan if the commission determines that the plan consists of  
15 system enhancement improvements, includes cost estimates that  
16 allow reasonable assessment, and will result in rates that are  
17 just and reasonable.

18 The bill restricts the commission from disapproving a plan on  
19 the basis of one or more service enhancements, but allows the  
20 commission to approve plans subject to removal of the service  
21 enhancement improvements that do not satisfy the criteria.

22 The bill allows a utility providing both water and wastewater  
23 service to submit separate plans for each service.

24 Following approval of a plan, the bill permits an eligible  
25 utility to file an annual application to establish or adjust  
26 a system enhancement charge. The charge must be calculated as  
27 a fixed monthly charge based on meter size, shall not include  
28 recovery of costs recovered through contributions in aid of  
29 construction, must recover system enhancement costs incurred  
30 prior to filing that have not been previously recovered, must  
31 reflect costs for system enhancement improvements placed in  
32 service before the filing date, and must include the pretax  
33 return associated with improvements with a projected construction  
34 period exceeding 12 months.

35 The bill requires the annual application to include a

1 breakdown of costs for each improvement with a project's status  
2 of completion, and actual costs incurred. If actual costs exceed  
3 projected costs by more than 25 percent, the eligible utility  
4 must specifically justify the cost overrun and obtain specific  
5 commission approval before the costs may be authorized in the  
6 utility's next general rate case.

7 The bill prohibits the commission from authorizing an  
8 adjustment to a system enhancement charge if the utility has not  
9 received a final order in a general rate case within the previous  
10 five years.

11 The bill authorizes an eligible utility to defer system  
12 enhancement costs incurred prior to commission approval of a  
13 plan for recovery through a subsequent system enhancement charge,  
14 provided the associated improvements are included in an approved  
15 plan. The bill further authorizes an eligible utility, when  
16 filing a petition to implement or change a system enhancement  
17 charge, to update information from the plan and to include  
18 project additions, replacements, or deferrals that otherwise  
19 qualify as system enhancement improvements and that the utility  
20 reasonably expects to occur while the plan is effective.

21 The bill exempts petitions under the bill from the publication  
22 of notice requirements. The bill requires a system enhancement  
23 charge to reset to zero upon approval of new basic rates and  
24 charges for the eligible utility in a general rate case in which  
25 the system enhancement improvements are included in the utility's  
26 rate base.