

Senate Study Bill 3068 - Introduced

SENATE FILE _____

BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CHAIRPERSON
BOUSSELOT)

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:

unofficial

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.