

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
4 investments in infrastructure by water and wastewater
5 utilities.
6 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
5 adequate water and wastewater treatment facilities within the
6 state to ensure resilient water supply and sanitation services
7 for 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
17 utility providing water or wastewater service subject to rate
18 regulation 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
22 accomplish 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
23 or penalties assessed against or imposed on a utility for
24 violating laws, regulations, or consent decrees.

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

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

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

1 (c) Installs new utility infrastructure necessary to comply
2 with federal or state requirements pertaining to resilience,
3 health, safety, or environmental protection.

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

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

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

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

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

28 (2) Estimated operation and maintenance costs resulting
29 from the service enhancement improvements.

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

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

1 (a) The applicable requirements, including any consent
2 decrees related to the requirements.

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

5 (c) Alternative plans for compliance considered by the
6 eligible utility.

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

12 (6) Proposed rate schedules establishing a system
13 enhancement charge.

14 (7) The estimated rate impact of the proposed system
15 enhancement charge.

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

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

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

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

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

34 e. An eligible utility that operates both a water and
35 wastewater utility may establish separate plans for water and

1 wastewater enhancement plans and such plans may be presented to
2 the commission through different petitions.

3 4. *a.* An eligible utility with one or more plans approved
4 under subsection 3 may file with the commission an application
5 annually setting forth rate schedules establishing a system
6 enhancement charge, which may thereafter be automatically
7 adjusted and include a reconciliation of revenues collected
8 under previous system enhancement charges. A revenue
9 reconciliation filing will be filed on an annual basis no later
10 than ninety days following the expiration of the charge.

11 *b.* The system enhancement charge shall do all of the
12 following:

13 (1) Be calculated as a monthly fixed charge based upon meter
14 size.

15 (2) Not include recovery of any system enhancement costs
16 recovered by the eligible utility through contributions in aid
17 of construction.

18 (3) Recover system enhancement costs incurred prior to the
19 date of the petition and not previously recovered through a
20 system enhancement charge.

21 (4) Reflect system enhancement costs for system enhancement
22 improvements placed in service prior to the date the
23 application is filed.

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

29 *c.* The application filed to implement the system enhancement
30 charge shall include all of the following:

31 (1) A breakdown of costs for each service enhancement
32 improvement that clearly identifies the status of completion of
33 such project.

34 (2) The actual costs incurred, the projected construction
35 timeline for projects with a construction period of more than

1 twelve months, and the in-service or estimated in-service
2 dates or aggregate information capturing service enhancement
3 improvements constructed pursuant to blanket-type work project
4 orders and the actual annual costs of the replacement programs
5 performed pursuant to blanket-type work project orders.

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

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

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

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

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

35 8. An eligible utility's system enhancement charge approved

1 under this section shall reset to zero upon approval of
2 new basic rates and charges for the eligible utility by the
3 commission in a general rate case in which the eligible utility
4 adds the system enhancement improvements to its rate base.

5 EXPLANATION

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

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

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

33 The bill requires an eligible utility to obtain commission
34 approval of a plan before seeking recovery of system
35 enhancement costs through a system enhancement charge. The

1 bill requires the commission to dismiss an application for a
2 plan if the utility has not received a final order in a general
3 rate case for the same type of utility service within the
4 previous five years.

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

17 The bill requires the application to be a contested case, and
18 the commission must issue a final order within six months of
19 filing. The bill requires the commission to approve the plan
20 if the commission determines that the plan consists of system
21 enhancement improvements, includes cost estimates that allow
22 reasonable assessment, and will result in rates that are just
23 and reasonable.

24 The bill restricts the commission from disapproving a
25 plan on the basis of one or more service enhancements, but
26 allows the commission to approve plans subject to removal of
27 the service enhancement improvements that do not satisfy the
28 criteria.

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

31 Following approval of a plan, the bill permits an eligible
32 utility to file an annual application to establish or adjust a
33 system enhancement charge. The charge must be calculated as
34 a fixed monthly charge based on meter size, shall not include
35 recovery of costs recovered through contributions in aid of

1 construction, must recover system enhancement costs incurred
2 prior to filing that have not been previously recovered, must
3 reflect costs for system enhancement improvements placed
4 in service before the filing date, and must include the
5 pretax return associated with improvements with a projected
6 construction period exceeding 12 months.

7 The bill requires the annual application to include a
8 breakdown of costs for each improvement with a project's status
9 of completion, and actual costs incurred. If actual costs
10 exceed projected costs by more than 25 percent, the eligible
11 utility must specifically justify the cost overrun and obtain
12 specific commission approval before the costs may be authorized
13 in the utility's next general rate case.

14 The bill prohibits the commission from authorizing an
15 adjustment to a system enhancement charge if the utility has
16 not received a final order in a general rate case within the
17 previous five years.

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

29 The bill exempts petitions under the bill from the
30 publication of notice requirements. The bill requires a system
31 enhancement charge to reset to zero upon approval of new basic
32 rates and charges for the eligible utility in a general rate
33 case in which the system enhancement improvements are included
34 in the utility's rate base.