

Senate File 2311 - Reprinted

SENATE FILE 2311
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3093)

(As Amended and Passed by the Senate March 6, 2018)

A BILL FOR

1 An Act modifying various provisions relating to public
2 utilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28F.1, subsection 1, Code 2018, is
2 amended to read as follows:

3 1. **This chapter** provides a means for the joint financing
4 by public agencies of works or facilities useful and necessary
5 for the collection, treatment, purification, and disposal
6 in a sanitary manner of liquid and solid waste, sewage,
7 and industrial waste, facilities used for the conversion of
8 solid waste to energy, gasworks and facilities useful for
9 the delivery of natural gas service, and also electric power
10 facilities constructed within the state of Iowa, except that
11 hydroelectric power facilities may also be located in the
12 waters and on the dams of or on land adjacent to either side
13 of the Mississippi or Missouri river bordering the state of
14 Iowa, water supply systems, swimming pools or golf courses.
15 This chapter applies to the acquisition, construction,
16 reconstruction, ownership, operation, repair, extension,
17 or improvement of such works or facilities, by a separate
18 administrative or legal entity created pursuant to chapter
19 28E or **chapter 389**. When the legal entity created under
20 this chapter is comprised solely of cities, counties, and
21 sanitary districts established under **chapter 358**, or any
22 combination thereof or any combination of the foregoing with
23 other public agencies, the entity shall be both a corporation
24 and a political subdivision with the name under which it was
25 organized. The legal entity may sue and be sued, contract,
26 acquire and hold real and personal property necessary for
27 corporate purposes, adopt a corporate seal and alter the seal
28 at pleasure, and execute all the powers conferred in this
29 chapter.

30 Sec. 2. Section 28F.11, Code 2018, is amended to read as
31 follows:

32 **28F.11 Eminent domain.**

33 Any public agency participating in an agreement authorizing
34 the joint exercise of governmental powers pursuant to this
35 chapter may exercise its power of eminent domain to acquire

1 interests in property, under provisions of law then in effect
2 and applicable to the public agency, for the use of the entity
3 created to carry out the agreement, provided that the power of
4 eminent domain is not used to acquire interests in property
5 which is part of a system of facilities in existence, under
6 construction, or planned, for the generation, transmission
7 or sale of electric power, or for the transmission,
8 transportation, or sale of natural gas. In the exercise
9 of the power of eminent domain, the public agency shall
10 proceed in the manner provided by [chapter 6B](#). Any interests
11 in property acquired are acquired for a public purpose, as
12 defined in [chapter 6A](#), of the condemning public agency, and the
13 payment of the costs of the acquisition may be made pursuant
14 to the agreement or to any separate agreement between the
15 public agency and the entity or the other public agencies
16 participating in the entity or any of them. Upon payment of
17 costs, any property acquired is the property of the entity.

18 Sec. 3. Section 476.1, subsection 7, Code 2018, is amended
19 to read as follows:

20 7. The jurisdiction of the board under [this chapter](#)
21 shall include efforts designed to promote the use of energy
22 efficiency strategies by ~~rate or service-regulated~~ gas and
23 electric utilities required to be rate-regulated.

24 Sec. 4. Section 476.1A, subsections 1, 2, and 4, Code 2018,
25 are amended to read as follows:

26 1. Electric public utilities having fewer than ten
27 thousand customers and electric cooperative corporations
28 and associations are not subject to the ~~rate~~ regulation
29 authority of the board. ~~Such utilities are subject to all~~
30 ~~other regulation and enforcement activities of the board,~~
31 including, except for regulatory action pertaining to all of
32 the following:

33 a. Assessment of fees for the support of the division and
34 the office of consumer advocate, pursuant to section 476.10.

35 b. Safety and engineering standards for equipment,

1 operations, and procedures.

2 *c.* Assigned area of service.

3 *d.* Pilot projects of the board.

4 *e.* Assessment of fees for the support of the Iowa energy
5 center created in [section 15.120](#) and the center for global and
6 regional environmental research established by the state board
7 of regents. This paragraph “e” is repealed July 1, 2022.

8 *f.* Filing alternate energy purchase program plans with the
9 board, and offering such programs to customers, pursuant to
10 section 476.47.

11 *g.* Filing energy efficiency plans and energy efficiency
12 results with the board. The energy efficiency plans as a
13 whole shall be cost-effective. The board may permit these
14 utilities to file joint plans. ~~The board shall periodically~~
15 ~~report the energy efficiency results including energy savings~~
16 ~~of each of these utilities to the general assembly.~~ The board
17 may waive all or part of the energy efficiency filing and
18 review requirements for electric cooperative corporations and
19 associations and electric public utilities which demonstrate
20 superior results with existing energy efficiency efforts.

21 2. However, [sections 476.20](#), [subsections 1 through 4](#),
22 [476.21](#), ~~[476.41 through 476.44](#)~~, [476.51](#), [476.56](#), [476.62](#), and
23 [476.66](#) and [chapters 476A](#) and [478](#), to the extent applicable,
24 apply to such electric utilities.

25 4. The board of directors or the membership of an electric
26 cooperative corporation or association otherwise exempt
27 from rate regulation may elect to have the cooperative’s
28 rates regulated by the board. The board shall adopt rules
29 prescribing the manner in which the board of directors or the
30 membership of an electric cooperative may so elect. If the
31 board of directors or the membership of an electric cooperative
32 has elected to have the cooperative’s rates regulated by the
33 board, after two years have elapsed from the effective date of
34 such election the board of directors or the membership of the
35 electric cooperative may elect to exempt the cooperative from

1 the rate regulation authority of the board, provided, however,
2 that if the membership elected to have the cooperative's rates
3 regulated by the board, only the membership may elect to exempt
4 the cooperative from the rate regulation authority of the
5 board.

6 Sec. 5. Section 476.1B, subsection 1, paragraph 1, Code
7 2018, is amended to read as follows:

8 1. Filing energy efficiency plans and energy efficiency
9 results with the board. The energy efficiency plans as a whole
10 shall be cost-effective. The board may permit these utilities
11 to file joint plans. ~~The board shall periodically report the~~
12 ~~energy efficiency results including energy savings of each of~~
13 ~~these utilities to the general assembly.~~

14 Sec. 6. Section 476.2, subsection 6, Code 2018, is amended
15 by striking the subsection.

16 Sec. 7. Section 476.4, subsection 1, Code 2018, is amended
17 to read as follows:

18 1. Every public utility shall file with the board tariffs
19 showing the rates and charges for its public utility services
20 and the rules and regulations under which such services were
21 furnished, on April 1, 1963, which rates and charges shall be
22 subject to investigation by the board as provided in section
23 476.3, and upon such investigation the burden of establishing
24 the reasonableness of such rates and charges shall be upon the
25 public utility filing the same. These filings shall be made
26 under such rules as the board may prescribe within such time
27 and in such form as the board may designate. In prescribing
28 rules and regulations with respect to the form of tariffs
29 and any other regulations, the board shall, in the case of
30 public utilities subject to regulation by any federal agency,
31 give due regard to any corresponding rules and regulations of
32 such federal agency, to the end that unnecessary duplication
33 of effort and expense may be avoided so far as reasonably
34 possible. Each public utility shall keep copies of its tariffs
35 open to public inspection under such rules as the board may

1 prescribe.

2 Sec. 8. Section 476.6, subsections 1, 8, and 13, Code 2018,
3 are amended to read as follows:

4 1. *Filing with board.* A public utility subject to rate
5 regulation shall not make effective a new or changed rate,
6 charge, schedule, or regulation until the rate, charge,
7 schedule, or regulation has been approved by the board, except
8 as provided in subsections 8, and 9, and 22.

9 8. *Automatic adjustments permitted.*

10 a. This chapter does not prohibit a public utility from
11 making provision for the automatic adjustment of rates and
12 charges for public utility service provided that a schedule
13 showing the automatic adjustment of rates and charges is first
14 filed with the board.

15 b. A public utility may automatically adjust rates and
16 charges to recover costs related to transmission incurred by
17 or charged to the public utility consistent with a tariff or
18 agreement that is subject to the jurisdiction of the federal
19 energy regulatory commission, provided that a schedule showing
20 the automatic adjustment of rates and charges is first filed
21 with the board.

22 13. *Energy efficiency plans.* Electric and gas public
23 utilities shall offer energy efficiency programs to their
24 customers through energy efficiency plans. An energy
25 efficiency plan as a whole shall be cost-effective. In
26 determining the cost-effectiveness of an energy efficiency
27 plan, the board shall apply the societal test, total resource
28 cost test, utility cost test, rate-payer impact test, and
29 participant test. Energy efficiency programs for qualified
30 low-income persons and for tree planting programs, educational
31 programs, and assessments of consumers' needs for information
32 to make effective choices regarding energy use and energy
33 efficiency need not be cost-effective and shall not be
34 considered in determining cost-effectiveness of plans as a
35 whole. The energy efficiency programs in the plans may be

1 provided by the utility or by a contractor or agent of the
2 utility. Programs offered pursuant to [this subsection](#) by gas
3 and electric utilities that are required to be rate-regulated
4 shall require board approval.

5 Sec. 9. Section 476.6, subsection 15, paragraphs a and b,
6 Code 2018, are amended to read as follows:

7 a. (1) (a) Gas and electric utilities required to be
8 rate-regulated under [this chapter](#) shall file five-year energy
9 efficiency plans and demand response plans with the board.
10 An energy efficiency plan and budget or a demand response
11 plan and budget shall include a range of energy efficiency
12 or demand response programs, tailored to the needs of all
13 customer classes, including residential, commercial, and
14 industrial customers, for energy efficiency or demand response
15 opportunities. The plans shall include programs for qualified
16 low-income persons including a cooperative program with any
17 community action agency within the utility's service area to
18 implement countywide or communitywide energy efficiency or
19 demand response programs for qualified low-income persons.
20 Rate-regulated gas and electric utilities shall utilize
21 Iowa agencies and Iowa contractors to the maximum extent
22 cost-effective in their energy efficiency plans and demand
23 response plans filed with the board.

24 (b) A rate-regulated gas or electric utility customer
25 may request an exemption from participation in any energy
26 efficiency plan or demand response plan offered by a gas or
27 electric utility. Upon receipt of a request for exemption
28 submitted by a customer, the gas or electric utility shall
29 grant the exemption and, beginning January 1 of the following
30 year, the customer shall no longer be assessed the costs of the
31 plan and shall be prohibited from participating in any program
32 included in such plan. An exemption shall be permanent and
33 shall exempt the customer from any subsequent five-year plan
34 offered by the gas or electric utility, provided, however,
35 that a customer granted an exemption may request to enroll

1 in a subsequent five-year energy efficiency plan or demand
2 response plan at any time prior to the commencement of such
3 plan. The gas or electric utility shall grant the enrollment
4 and, beginning at the commencement of the subsequent plan, the
5 customer shall be assessed the costs of the plan and shall be
6 allowed to participate in any program included in such plan.

7 (2) Gas and electric utilities required to be
8 rate-regulated under this chapter may request an energy
9 efficiency plan or demand response plan modification during the
10 course of a five-year plan. A modification may be requested
11 due to changes in funding as a result of public utility
12 customers requesting exemptions from the plan or for any other
13 reason identified by the gas or electric utility. The board
14 shall take action on a modification request made by a gas or
15 electric utility within ninety days after the modification
16 request is filed. If the board fails to take action within
17 ninety days after a modification request is filed, the
18 modification request shall be deemed approved.

19 (3) Before any energy efficiency plan or demand response
20 plan is filed with the board pursuant to this subsection, the
21 board shall adopt rules pursuant to chapter 17A establishing
22 reasonable processes and procedures for utility customers to
23 request exemptions from energy efficiency plans or demand
24 response plans pursuant to this subsection. The rules adopted
25 by the board shall only apply to rate-regulated gas or electric
26 utilities and shall, at a minimum, do all of the following:

27 (a) Prohibit a customer from obtaining an exemption from
28 an energy efficiency plan or demand response plan if the
29 customer has participated in any energy efficiency program or
30 demand response program included in a plan during the course
31 of the plan, or has redeemed any rebate pursuant to an energy
32 efficiency program or demand response program included in a
33 plan during the course of the plan.

34 (b) Require utilities to provide notification to customers
35 regarding the ability to request an exemption from an energy

1 efficiency plan or demand response plan, or the ability to
2 enroll in a subsequent five-year plan if the customer received
3 an exemption, and establish requirements regarding the content
4 and form of such notification provided to customers. The
5 notification provided to customers shall inform the customer
6 that participation in any energy efficiency program or demand
7 response program included in a plan during the course of
8 the plan, or redemption of any rebate pursuant to an energy
9 efficiency program or demand response program included
10 in a plan during the course of a plan, shall preclude the
11 customer from receiving an exemption from the plan until the
12 commencement of the next five-year plan. Such information
13 included in the notification shall also be included in any
14 rebate provided to customers relating to an energy efficiency
15 program or demand response program included in a plan.

16 (c) Provide reasonable time for utilities to develop any
17 billing or administrative systems required to implement the
18 rules adopted by the board pursuant to this subparagraph.

19 (d) Provide that if more than ninety percent of the total
20 number of customers in a particular customer class request an
21 exemption from an energy efficiency plan or demand response
22 plan pursuant to this subsection, the utility may discontinue
23 such plan for that particular customer class.

24 (e) Specify how costs that have not been fully recovered
25 from customers during a plan period, including costs of
26 discontinued plans, are to be recovered from customers.

27 (f) Allow a customer to request an exemption during the
28 first plan year of a five-year energy efficiency plan or demand
29 response plan that takes effect on or after January 1, 2019,
30 within a time period of sixty days or more after the date such
31 plan takes effect, which exemption shall become effective at
32 the end of the time period allowed for customers to request an
33 exemption.

34 (g) Allow a customer that moves into the service area of a
35 gas or electric utility during the course of a five-year energy

1 efficiency plan or demand response plan to request an exemption
2 from such plan within sixty days after the commencement of gas
3 or electric service, which exemption shall become effective at
4 the end of the sixty-day time period from which gas or electric
5 service commenced.

6 **b. (1)** A gas and electric utility required to be
7 rate-regulated under **this chapter** shall assess potential energy
8 and capacity savings available from actual and projected
9 customer usage by applying commercially available technology
10 and improved operating practices to energy-using equipment
11 and buildings. The utility shall submit the assessment to
12 the board. Upon receipt of the assessment, the board shall
13 consult with the economic development authority to develop
14 specific capacity and energy savings ~~performance standards~~
15 goals for each utility. Such goals, except as provided for in
16 subsection 13, shall only include cost-effective plans. The
17 utility shall submit an energy efficiency plan which shall
18 include economically achievable programs designed to attain
19 these energy and capacity ~~performance standards~~ goals. The
20 board shall periodically report the energy efficiency results
21 including energy savings of each utility to the general
22 assembly.

23 **(2)** For purposes of this paragraph, "cost-effective" means
24 the total resource cost test result for a plan is greater
25 than one. In applying the total resource cost test, benefits
26 to be considered include avoided capacity and energy costs
27 and federal tax credits, and costs to be considered include
28 incremental costs of equipment, operation, and maintenance,
29 utility costs, and administration costs.

30 Sec. 10. Section 476.6, subsection 15, paragraph c,
31 subparagraphs (1) and (3), Code 2018, are amended to read as
32 follows:

33 **(1)** Gas and electric utilities that are not required to
34 be rate-regulated under **this chapter** shall assess ~~maximum~~
35 potential energy and capacity savings available from actual

1 and projected customer usage through cost-effective energy
2 efficiency measures and programs, taking into consideration the
3 utility service area's historic energy load, projected demand,
4 customer base, and other relevant factors. Each utility shall
5 establish an energy efficiency goal based upon this assessment
6 of potential and shall establish cost-effective energy
7 efficiency programs designed to meet the energy efficiency
8 goal. Separate goals may be established for various customer
9 groupings. Gas and electric utilities that are not required to
10 be rate-regulated shall allow customers to request exemptions
11 from participation in any energy efficiency programs or demand
12 response programs offered by the utility, and shall establish
13 reasonable processes and procedures for customers to request
14 such exemptions. Such processes and procedures established
15 by non-rate-regulated gas and electric utilities shall not be
16 subject to the regulatory authority of the board.

17 (3) ~~Each utility shall commence the process of determining~~
18 ~~its cost-effective energy efficiency goal on or before July 1,~~
19 ~~2008, shall provide a progress report to the board on or before~~
20 ~~January 1, 2009, and complete the process and submit a final~~
21 ~~report to the board on or before January 1, 2010. The report~~
22 ~~shall include the utility's cost-effective energy efficiency~~
23 ~~goal, and for each measure utilized by the utility in meeting~~
24 ~~the goal, the measure's description, projected costs, and the~~
25 ~~analysis of its cost-effectiveness. Each utility or group~~
26 ~~of utilities shall evaluate cost-effectiveness using the~~
27 ~~cost-effectiveness tests in accordance with subsection 13 of~~
28 ~~this section. Individual utilities or groups of utilities may~~
29 ~~collaborate in conducting the studies required hereunder and~~
30 ~~may file a joint report or reports with the board. However,~~
31 ~~the board may require individual information from any utility,~~
32 ~~even if it participates in a joint report.~~

33 Sec. 11. Section 476.6, subsection 15, paragraph d, Code
34 2018, is amended by striking the paragraph.

35 Sec. 12. Section 476.6, subsection 15, paragraphs e, f, and

1 g, Code 2018, are amended to read as follows:

2 e. (1) The board shall conduct contested case proceedings
3 for review of energy efficiency plans, demand response plans,
4 and budgets filed by gas and electric utilities required to
5 be rate-regulated under this chapter. Notwithstanding the
6 goals developed pursuant to paragraph "b", the board shall not
7 require a gas utility to adopt an energy efficiency plan or
8 a demand response plan that results in projected cumulative
9 average annual costs that exceed one and one-half percent of
10 the gas utility's expected annual rate revenue from customers
11 participating in such plans, and shall not require an electric
12 utility to adopt an energy efficiency plan or demand response
13 plan that results in projected cumulative average annual costs
14 that exceed two percent of the electric utility's expected
15 annual rate revenue from customers participating in such
16 plans. For purposes of determining the one and one-half or
17 two percent threshold amount, the board shall exclude from a
18 gas or electric utility's expected annual rate revenue the
19 revenues expected from customers that have received exemptions
20 from energy efficiency plans or demand response plans pursuant
21 to paragraph "a", subparagraph (1), subparagraph division
22 (b). A gas or electric utility may voluntarily propose an
23 energy efficiency plan or demand response plan that results in
24 projected average annual costs that exceed one and one-half
25 percent, on a cumulative basis, of a gas utility's expected
26 annual rate revenue from customers participating in such plans,
27 or two percent, on a cumulative basis, of an electric utility's
28 expected annual rate revenue from customers participating in
29 such plans. The board may approve, reject, or modify the
30 plans and budgets. Notwithstanding the provisions of section
31 17A.19, subsection 5, in an application for judicial review of
32 the board's decision concerning a utility's ~~energy efficiency~~
33 plan or budget, the reviewing court shall not order a stay.

34 ~~Whenever~~

35 (2) Notwithstanding paragraph "a", subparagraph (2), if, on

1 the effective date of this Act, a gas or electric utility's
2 currently approved energy efficiency plan or demand response
3 plan includes projected average annual costs that exceed
4 one and one-half percent, on a cumulative basis, of the gas
5 utility's expected annual rate revenue received from customers
6 participating in such plan for service within the previous
7 calendar year, exclusive of recovery of energy efficiency
8 costs, or two percent, on a cumulative basis, of the electric
9 utility's expected annual rate revenue received from customers
10 participating in such plan for service within the previous
11 calendar year, exclusive of recovery of energy efficiency
12 costs, the gas or electric utility may file a request to
13 modify its approved energy efficiency plan or demand response
14 plan to achieve projected average annual costs at one and
15 one-half or less, on a cumulative basis, of the gas utility's
16 expected annual rate revenue from customers participating in
17 such plan, or two percent or less, on a cumulative basis,
18 of the electric utility's expected annual rate revenue from
19 customers participating in such plan. In such case, or
20 whenever a request to modify an approved plan or budget is
21 filed subsequently by the office of consumer advocate or a
22 gas or electric utility required to be rate-regulated under
23 this chapter, the board shall promptly initiate a formal
24 proceeding if the board determines that any reasonable ground
25 exists for investigating the request. The formal proceeding
26 may be initiated at any time by the board on its own motion.
27 Implementation of board-approved plans or budgets shall
28 be considered continuous in nature and shall be subject to
29 investigation at any time by the board or the office of the
30 consumer advocate.

31 *f.* Notice to customers of a contested case proceeding for
32 review of energy efficiency plans, demand response plans, and
33 budgets shall be in a manner prescribed by the board.

34 *g.* (1) A gas or electric utility required to be
35 rate-regulated under [this chapter](#) may recover, through an

1 automatic adjustment mechanism filed pursuant to subsection 8,
2 over a period not to exceed the term of the plan, the costs of
3 an energy efficiency plan or demand response plan approved by
4 the board, ~~including amounts for a plan approved prior to July~~
5 ~~1, 1996,~~ in a contested case proceeding conducted pursuant to
6 paragraph "e". The board shall ensure that costs are recovered
7 from all customers on a reasonably comparable basis, including
8 customers who utilize alternate energy production facilities as
9 defined in section 476.42. Customers that have been granted
10 exemptions from energy efficiency plans or demand response
11 plans pursuant to paragraph "a", subparagraph (1), subparagraph
12 division (b), shall not be charged for recovery of energy
13 efficiency or demand response costs beginning January 1 of the
14 year following the year in which the customer was granted the
15 exemption.

16 (2) The board shall periodically conduct a contested case
17 proceeding to evaluate the reasonableness and prudence of the
18 utility's implementation of an approved energy efficiency
19 or demand response plan and budget. If a utility is not
20 taking all reasonable actions to cost-effectively implement
21 an approved ~~energy efficiency~~ plan, the board shall not allow
22 the utility to recover from customers costs in excess of those
23 costs that would be incurred under reasonable and prudent
24 implementation and shall not allow the utility to recover
25 future costs at a level other than what the board determines
26 to be reasonable and prudent. If the result of a contested
27 case proceeding is a judgment against a utility, that utility's
28 future level of cost recovery shall be reduced by the amount
29 by which the programs were found to be imprudently conducted.
30 The utility shall ~~not~~ represent energy efficiency or demand
31 response in customer billings as a separate cost or expense
32 ~~unless the board otherwise approves.~~

33 Sec. 13. Section 476.6, subsection 17, Code 2018, is amended
34 by striking the subsection.

35 Sec. 14. Section 476.6, subsection 20, Code 2018, is amended

1 to read as follows:

2 20. *Electric power generating facility emissions.*

3 ~~a. It is the intent of the general assembly that the state,~~
4 ~~through a collaborative effort involving state agencies and~~
5 ~~affected generation owners, provide for compatible statewide~~
6 ~~environmental and electric energy policies with respect~~
7 ~~to regulated emissions from rate-regulated electric power~~
8 ~~generating facilities in the state that are fueled by coal.~~
9 Each A rate-regulated public utility that is an owner of one
10 or more electric power generating facilities fueled by coal
11 and located in this state ~~on July 1, 2001, shall develop a~~
12 multiyear plan and budget may, in its sole discretion, file for
13 advanced review of projects for managing regulated emissions
14 from its facilities in a cost-effective manner.

15 ~~(1) The initial multiyear plan and budget shall be filed~~
16 ~~with the board by April 1, 2002. Updates to the plan and budget~~
17 ~~shall be filed at least every twenty-four months.~~

18 ~~(2) Copies of the initial plan and budget, as well as~~
19 ~~any subsequent updates, shall be served on the department of~~
20 ~~natural resources.~~

21 ~~(3) The initial multiyear plan and budget and any subsequent~~
22 ~~updates shall be considered in a contested case proceeding~~
23 ~~pursuant to [chapter 17A](#). The department of natural resources~~
24 ~~and the consumer advocate shall participate as parties to the~~
25 ~~proceeding.~~

26 b. A rate-regulated public utility shall file an application
27 for advanced review of a project at least one hundred twenty
28 days before the anticipated start of construction. Where an
29 electric power generating facility is owned by two or more
30 rate-regulated public utilities, the operator of the electric
31 power generating facility may file the application on behalf of
32 the rate-regulated public utilities.

33 ~~(4) c.~~ The department of natural resources shall state
34 whether the plan or update project meets applicable state or
35 federal environmental requirements for regulated emissions,

1 including requirements related to air, water, or solid waste.
2 If the ~~plan~~ project does not meet these requirements, the
3 department shall recommend amendments that outline actions
4 necessary to bring the ~~plan or update~~ project into compliance
5 with the environmental requirements.

6 ~~b, d.~~ d. The board shall not approve a ~~plan or update~~ project
7 that does not meet applicable state or federal environmental
8 requirements ~~and federal ambient air quality standards~~ for
9 regulated emissions from electric power generating facilities
10 located in the state.

11 ~~e, e.~~ e. The board shall review the ~~plan or update~~ project
12 and the associated budget, and shall approve the ~~plan or update~~
13 project and the associated budget if the ~~plan or update~~ project
14 and the associated budget are reasonably expected to achieve
15 cost-effective compliance with applicable state or federal
16 environmental requirements ~~and federal ambient air quality~~
17 ~~standards~~. In reaching its decision, the board shall consider
18 whether the ~~plan or update~~ project and the associated budget
19 reasonably balance costs, environmental requirements, economic
20 development potential, and the reliability of the electric
21 generation and transmission system.

22 ~~d, f.~~ f. The board shall issue an order approving or rejecting
23 a ~~plan, update, or budget~~ project within ~~one hundred eighty~~
24 ~~ninety~~ days after the ~~public utility's~~ a filing is deemed
25 complete; ~~however, upon good cause shown, the board may~~
26 ~~extend the time for issuing the order as follows:~~ for approval
27 pursuant to this subsection.

28 ~~(1) The board may grant an extension of thirty days.~~

29 ~~(2) The board may grant more than one extension, but each~~
30 ~~extension must rely upon a separate showing of good cause.~~

31 ~~(3) A subsequent extension must not be granted any earlier~~
32 ~~than five days prior to the expiration of the original~~
33 ~~one-hundred-eighty-day period, or the current extension.~~

34 ~~e, g.~~ g. The reasonable costs incurred by a rate-regulated
35 public utility in preparing and filing the ~~plan, update, or~~

1 ~~budget project~~ and in participating in the proceedings before
2 the board and the reasonable costs associated with implementing
3 the ~~plan, update, or budget project~~ shall be included in its
4 regulated retail rates.

5 ~~f. It is the intent of the general assembly that the board,~~
6 ~~in an environmental plan, update, or associated budget filed~~
7 ~~under this section by a rate-regulated public utility, may~~
8 ~~limit investments or expenditures that are proposed to be~~
9 ~~undertaken prior to the time that the environmental benefit to~~
10 ~~be produced by the investment or expenditure would be required~~
11 ~~by state or federal law.~~

12 Sec. 15. Section 476.6, Code 2018, is amended by adding the
13 following new subsections:

14 NEW SUBSECTION. 22. *Voluntary rates and tariff filings.*

15 a. A rate-regulated public utility may file at any time for
16 expedited approval of a new tariff or rate that is optional for
17 customers and all costs associated with the tariff or rate are
18 borne by customers who elect to participate in the new tariff
19 or rate.

20 b. A tariff or rate approved under this subsection may not
21 change any existing rates or charges.

22 c. The board shall review the tariff or rate filing within
23 sixty days of filing. If the board fails to review the tariff
24 or rate filing within sixty days of filing, the tariff or
25 rate filing shall be deemed approved. The board shall not be
26 required to hold a hearing to review a tariff or rate filing
27 made pursuant to this subsection.

28 NEW SUBSECTION. 23. *Preapproval of cost recovery for natural*
29 *gas extensions — rules.* The board may adopt rules which
30 provide for a preapproval process for cost recovery for natural
31 gas extensions.

32 Sec. 16. Section 476.20, subsection 5, paragraph a,
33 unnumbered paragraph 1, Code 2018, is amended to read as
34 follows:

35 The board shall establish rules which shall be uniform with

1 respect to all public utilities furnishing gas or electricity
2 relating to deposits which may be required by the public
3 utility for the initiation or reinstatement of service. This
4 subsection shall not apply to municipally owned utilities,
5 which shall be governed by the provisions of [section 384.84](#)
6 with respect to deposits and payment plans for delinquent
7 amounts owed. Municipally owned utilities and electric
8 utilities that are not required to be rate-regulated shall not
9 be subject to the board's rules in regards to deposits and
10 payment plans for delinquent amounts owed and repayment of past
11 due debt. Municipally owned utilities and electric utilities
12 that are not required to be rate-regulated shall be subject to
13 the board's rules in regards to payment plans made prior to the
14 disconnection of services.

15 Sec. 17. NEW SECTION. 476.26A Right to construct, own, and
16 maintain electric transmission lines.

17 1. As used in this section, unless the context otherwise
18 requires:

19 a. "*Electric transmission line*" means a high-voltage
20 electric transmission line with a capacity of one hundred
21 kilovolts or more and any associated electric transmission
22 facilities.

23 b. "*Electric transmission owner*" means an individual or
24 entity who, as of the effective date of this Act, owns and
25 maintains an electric transmission facility including electric
26 transmission lines, wires, or cables that are capable of
27 operating at an electric voltage of one hundred kilovolts or
28 more that are required for rate-regulated electric utilities,
29 municipal electric utilities, and rural electric cooperatives
30 in this state to provide electric service to the public for
31 compensation.

32 c. "*Incumbent electric transmission owner*" means any of the
33 following:

34 (1) A public utility or a municipally owned utility that
35 owns, operates, and maintains an electric transmission line in

1 this state.

2 (2) An electric cooperative corporation or association or
3 municipally owned utility that owns an electric transmission
4 facility in this state and has turned over the functional
5 control of such facility to a federally approved authority.

6 (3) An "*electric transmission owner*" as defined in paragraph
7 "b".

8 d. "*Municipally owned utility*" means a "*city utility*" as
9 defined in section 362.2, or an "*electric power agency*" as
10 defined in section 390.9 which is comprised solely of cities or
11 solely of cities and other political subdivisions.

12 2. An incumbent electric transmission owner may construct,
13 own, and maintain an electric transmission line that has
14 been approved for construction in a federally registered
15 planning authority transmission plan and which connects to an
16 electric transmission facility owned by the incumbent electric
17 transmission owner. Where an electric transmission line
18 connects to electric transmission facilities owned by two or
19 more incumbent electric transmission owners, each incumbent
20 electric transmission owner whose facilities connect to the
21 electric transmission line may construct, own, and maintain the
22 electric transmission line individually and equally. If an
23 incumbent electric transmission owner declines to construct,
24 own, and maintain its portion of an electric transmission line
25 that connects to electric transmission facilities owned by
26 two or more incumbent electric transmission owners, then the
27 other incumbent electric transmission owner or owners that own
28 the electric transmission facilities to which the electric
29 transmission line connects may construct, own, and maintain the
30 electric transmission line individually and equally.

31 3. This section shall not modify the authority of the board
32 under chapter 478 or the requirements, rights, and obligations
33 relating to the construction, maintenance, and operation of
34 electric transmission lines pursuant to chapter 478.

35 Sec. 18. Section 476.33, subsection 4, Code 2018, is amended

1 to read as follows:

2 4. The board shall adopt rules that require the board, in
3 rate regulatory proceedings under [sections 476.3 and 476.6](#), to
4 utilize either a historic test year or a future test year at
5 the rate-regulated public utility's discretion.

6 a. For a rate regulatory proceeding utilizing a historic
7 test year, the rules shall require the board to consider the
8 use of the most current test period possible in determining
9 reasonable and just rates, subject only to the availability of
10 existing and verifiable data respecting costs and revenues, and
11 in addition, to consider verifiable data that exists within
12 nine months after the conclusion of the test year, respecting
13 known and measurable changes in costs not associated with a
14 different level of revenue, and known and measurable revenues
15 not associated with a different level of costs, that are to
16 occur at any time within twelve months after the date of
17 commencement of the proceedings. Parties proposing adjustments
18 that are not verifiable at the commencement of the proceedings
19 shall include projected data related to the adjustments in
20 their initial substantive filing with the board. For purposes
21 of [this subsection paragraph](#), a proceeding commences under
22 section 476.6 upon the filing date of new or changed rates,
23 charges, schedules, or regulations. ~~This subsection does not~~
24 ~~limit the authority of the board to consider other evidence in~~
25 ~~proceedings under [sections 476.3 and 476.6](#).~~

26 b. For a rate regulatory proceeding utilizing a future test
27 year, the rules shall require the board to consider the use
28 of any twelve-month period beginning no later than the date
29 on which a proposed rate change is expected to take effect in
30 determining just and reasonable rates.

31 c. This subsection does not limit the authority of the board
32 to consider other evidence in proceedings under [sections 476.3](#)
33 and [476.6](#).

34 Sec. 19. Section 476.53, subsection 3, paragraph a,
35 subparagraph (1), subparagraph division (a), Code 2018, is

S.F. 2311

1 amended by adding the following new subparagraph subdivision:
2 NEW SUBPARAGRAPH SUBDIVISION. (v) Repowering of an
3 alternate energy production facility to upgrade or extend the
4 useful life of the facility.