

CHAPTER 78
FINANCING HYDROELECTRIC POWER FACILITIES
H.F. 726

AN ACT relating to joint exercise of powers to finance hydroelectric power facilities.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 28F.14 HYDROELECTRIC UTILITIES — EMINENT DOMAIN — CONTRACTS.**

As used in this section, "hydroelectric utility" means an entity comprised of any number of public agencies or entities created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1, which owns or operates or proposes to own or operate all or part of a hydroelectric power facility or the capacity or use of a hydroelectric power facility.

In addition to other powers, a hydroelectric utility having complied with chapter 469A shall have the power of eminent domain for the purposes of constructing a hydroelectric utility but before exercising the power it shall first exhaust all efforts to secure the necessary voluntary easements. The hydroelectric utility shall comply with provisions of law then in effect, including section 28F.11, and applicable to those public agencies comprising the hydroelectric utility in connection with the construction of hydroelectric power facilities.

In addition to other powers, the governing body of a hydroelectric utility may purchase all or part of any power plant and may purchase all or part of the capacity, power or energy associated with any power plant owned by, or contract to sell all or part of the hydroelectric utility's power and energy including any surplus to, a public agency or private agency or an entity created to carry out an agreement authorizing the joint exercise of any of the governmental powers enumerated in section 28F.1. Any such entity, public agency, or hydroelectric utility may enter into contracts for the purchase or supply, from any source, of all or a portion of the capacity, power and energy requirements of the entity, public agency or hydroelectric utility on terms and conditions as the governing body of the entity, public agency or hydroelectric utility deems fit, subject to section 476.43. The terms may include provisions for the payment for capacity or output of a facility whether the facility is completed or operating, and for establishing the rights and obligations of all parties to the contract in the event of default. Payments made by an entity, public agency or hydroelectric utility under contracts constitute operating expenses of the entity, public agency or hydroelectric utility payable from the revenues derived from the electric power plant and systems of the entity, public agency or hydroelectric utility.

Sec. 2. Section 28F.1, unnumbered paragraph 2, Code 1985, is amended to read as follows:

A city shall not join an entity created under this chapter for the purpose of financing electric power facilities unless that city ~~owned and operated~~ had established a municipal electric utility as of July 1, ~~1981~~ 1984. Power supplied by a municipal power agency ~~may~~ shall not be furnished to a municipal utility not existing as of July 1, ~~1981~~ 1984.

Approved May 6, 1985