

Metcalf, Ch.
Raecker
Wise

HSB 151

COMMERCE AND REGULATION

SENATE/HOUSE FILE § 0435

BY (PROPOSED DEPARTMENT OF
COMMERCE/UTILITIES DIVISION
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to allocation and payment of expenses arising
2 from performance of duties by the Iowa utilities board and the
3 consumer advocate, and providing an effective date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 476.10, unnumbered paragraphs 1, 2, and
2 3, Code 2001, are amended to read as follows:

3 ~~When the board deems it necessary in~~ In order to carry out
4 the duties imposed upon it by ~~this chapter for the purpose of~~
5 ~~determining rate matters to investigate the books, accounts,~~
6 ~~practices, and activities of, or make appraisals of the~~
7 ~~property of any public utility, or to render any engineering~~
8 ~~or accounting services to any public utility, or to review the~~
9 ~~operations or annual reports of the public utility under~~
10 ~~section 476.31 or 476.32, or to evaluate a proposal for~~
11 ~~reorganization under section 476.77, the public utility shall~~
12 ~~pay the expense reasonably attributable to the investigation,~~
13 ~~appraisal, service, or review~~ law, the board may, at its
14 discretion, allocate and charge directly the expenses
15 attributable to its duties to the person bringing a proceeding
16 before the board or to persons participating in matters before
17 the board. The board shall ascertain the ~~expenses including~~
18 certified expenses incurred and directly chargeable by the
19 consumer advocate division of the department of justice
20 ~~directly chargeable to the public utility under section~~
21 ~~475A-6, and shall render~~ in the performance of its duties.
22 The board and the consumer advocate separately may decide not
23 to charge expenses to persons who, without expanding the scope
24 of the proceeding or matter, intervene in good faith in a
25 board proceeding initiated by a person subject to the board's
26 jurisdiction, the consumer advocate, or the board on its own
27 motion. For assessments in any proceedings or matters before
28 the board, the board and the consumer advocate separately may
29 consider the financial resources of the person, the impact of
30 assessment on participation by intervenors, the nature of the
31 proceeding or matter, and the contribution of a person's
32 participation to the public interest. The board may present a
33 bill for expenses under this paragraph to the public utility
34 person, either at the conclusion of ~~the investigation,~~
35 ~~appraisal, services, or review~~ a proceeding or matter, or from

1 time to time during its progress, which. Presentation of a
2 bill ~~is~~ for expenses under this paragraph constitutes notice
3 of the direct assessment and shall-demand request for payment
4 in accordance with this section. ~~The total amount of such~~
5 ~~expense in any one calendar year, for which any public utility~~
6 ~~shall become liable, shall not exceed two tenths of one~~
7 ~~percent of its gross operating revenues derived from~~
8 ~~intrastate public utility operations in the last preceding~~
9 ~~calendar year.~~

10 The board shall ascertain the total of the division's
11 expenditures expenses incurred during each fiscal year which
12 ~~are reasonably attributable to~~ in the performance of its
13 duties under this chapter law. The board shall add to this
14 the total of the division's expenses the certified expenses of
15 the consumer advocate as provided under section 475A.6 and.
16 The board shall deduct all amounts ~~chargeable directly to any~~
17 ~~specific utility under any law~~ charged directly to any person
18 from the total expenses of the board and the consumer
19 advocate. ~~The remainder shall be assessed by the~~ board may
20 assess the amount remaining after the deduction to the public
21 utilities all persons providing service over which the board
22 has jurisdiction in proportion to ~~their~~ the respective gross
23 operating revenues of such persons from intrastate operations
24 during the last calendar year ~~derived from intrastate public~~
25 ~~utility operations and may be assessed by the board on a~~
26 quarterly basis over which the board has jurisdiction.
27 ~~Assessments may be made quarterly~~ If any portion of the
28 remainder can be identified with a specific type of utility
29 service, the board shall assess those expenses only to the
30 entities providing that type of service over which the board
31 has jurisdiction. The board may make the remainder
32 assessments under this paragraph on a quarterly basis, based
33 upon estimates of the ~~utilities division's and the consumer~~
34 ~~advocate's~~ expenditures for the fiscal year for the utilities
35 division and the consumer advocate. Beginning with the fiscal

1 year beginning July 1, 1987, the first assessment for any
2 fiscal year may be made by the utilities division by May 15 of
3 the preceding fiscal year and shall be paid by the utility on
4 or before the following July 1. Not more than ninety days
5 following the close of the fiscal year, the utilities division
6 shall conform the amount of the prior fiscal year's
7 assessments to the requirements of this section paragraph.
8 Public utilities exempt from rate regulation under this
9 chapter shall not be assessed for remainder expenses incurred
10 during review of rate regulated public utilities under section
11 476.31 or 476.32, but such remainder expenses shall be
12 assessed proportionally as provided in this section among only
13 the rate regulated public utilities. -- The total amount which
14 may be assessed to the public utilities under authority of
15 this paragraph shall not exceed two tenths of one percent of
16 the total gross operating revenues of the public utilities
17 during the calendar year derived from intrastate public
18 utility operations. -- However, the total amount which may be
19 assessed in any one calendar year to a public utility under
20 this section shall not exceed three tenths of one percent of
21 the utility's total gross operating revenues derived from
22 intrastate public utility operation in the last preceding
23 year. For gas and electric public utilities exempted from
24 rate regulation under pursuant to this chapter, the remainder
25 assessments under this paragraph shall be computed at one-half
26 the rate used in computing the assessment for other utilities
27 persons.

28 Each utility A person subject to a charge or assessment
29 shall pay the division the amount charged or assessed against
30 it the person within thirty days from the time the division
31 ma~~is~~ provides notice to it the person of the amount due,
32 unless it shall file with the board objections the person
33 files an objection in writing with the board, setting out the
34 grounds upon which it the person claims that such charge or
35 assessment is excessive, unreasonable, erroneous, unlawful, or

1 invalid. Upon ~~the-filing-of-such-objections~~ receipt of an
2 objection, the board shall set the matter down for hearing and
3 issue its order in accordance with its findings in such the
4 proceeding, which.

5 The order shall be subject to review in the manner provided
6 in this chapter. All amounts collected by the division
7 pursuant to the provisions of this section shall be deposited
8 with the state treasurer of state and credited to the general
9 fund of the state. Such amounts shall be spent in accordance
10 with the provisions of chapter 8.

11 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
12 immediate importance, takes effect upon enactment.

13 EXPLANATION

14 This bill amends Code section 476.10, which deals with
15 allocation of expenses incurred by the Iowa utilities board
16 ("the board") and the consumer advocate.

17 The bill provides that the board may allocate and directly
18 charge to persons bringing or participating in a proceeding or
19 matter before the board expenses attributable to the
20 respective duties of the board and the consumer advocate. The
21 board and consumer advocate may consider the financial
22 resources of the parties, the impact of assessment on
23 participation by intervenors, the nature of the proceeding or
24 matter, and the contribution to the public interest in making
25 such direct assessments, and may decline to charge persons who
26 intervene in a proceeding in good faith without expanding the
27 scope of the proceeding. The board may bill the person during
28 a proceeding, or at the conclusion. Presentation of a bill
29 constitutes notice of direct assessment and a demand for
30 payment according to the time frame established in the bill.

31 This direct assessment procedure in the bill is more
32 detailed than the current Code language on direct assessments
33 and provides specific criteria for the board to consider in
34 making an allocation, or in declining to allocate any expenses
35 to intervenors; applies to all proceedings and matters for

1 which the board is responsible under the law rather than a
2 limited list of activities; applies to all persons before the
3 board rather than just public utilities; and contains no limit
4 on the yearly amount that a person may be assessed, rather
5 than an annual limit of two-tenths of 1 percent of a public
6 utility's gross operating revenues.

7 The bill also addresses quarterly assessments based on the
8 actual expenses of the utilities division, less the direct
9 charges made to persons involved in proceedings or other
10 matters before the board. This quarterly remainder assessment
11 is made to all persons providing service over which the board
12 has jurisdiction, in proportion to their respective gross
13 operating revenues. Electric and gas public utilities who are
14 not subject to rate regulation by the board under Code chapter
15 476 are assessed at one-half the rate of other persons.

16 This quarterly remainder assessment procedure differs from
17 current Code language on quarterly remainder assessments by
18 applying the assessment process to all persons providing
19 service over which the board has jurisdiction, rather than
20 public utilities; by permitting expenses allocable to a
21 particular type of utility to be assessed only to that type of
22 entity over which the board has jurisdiction; by using fiscal
23 year guidelines only and deleting references to specific dates
24 in the procedure; and by not limiting the yearly amount that a
25 person may be assessed, rather than an annual limit of two-
26 tenths of 1 percent of a public utility's gross operating
27 revenues from intrastate public utility operations during the
28 calendar year, and a total of three-tenths of 1 percent of the
29 gross operating revenues in the last preceding year for both
30 the direct and remainder assessments.

31 The bill requires direct charges or remainder assessments
32 to be paid within 30 days of notice of the amount due, unless
33 an objection is filed. The board is required to set the
34 matter of a filed objection for hearing and issue an order in
35 accordance with the procedures in Code chapter 476. The order

1 is subject to review according to the procedures in the Code
2 chapter. The bill differs from current Code language
3 regarding payment by requiring that the board provide notice,
4 instead of mailing notice.

5 The bill takes effect upon enactment.

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HSB 151



THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

To: Members of the General Assembly
From: The Iowa Utilities Board
Date: January 25, 2001
Subject: Iowa Utilities Board Assessment Process

The Utilities Board is funded entirely through the assessment of certain public utilities; no part of its appropriation comes out of the General Fund. However, because of the changing nature of the utility business, the assessment process under Iowa Code § 476.10 is experiencing two disturbingly negative trends.

First, with the decrease in rate cases, direct assessments have declined dramatically in recent years. In fiscal year 1983 direct assessments represented 41% of our total assessments for the year. In fiscal year 1999 direct assessments were down to 14% of the total.

Second, incremental deregulation, particularly in telephone and natural gas, has reduced the pool of jurisdictional revenues. The jurisdictional revenue pool (199 IAC 17.6) has been the basis for the remainder assessments and total assessments, which are currently capped for each utility at .2 percent and .3 percent of intrastate gross operating revenues respectively.

This legislation would not increase the Utilities Board's budget, which must be approved by the Legislature.

Substituted for by SF 279
3/12/01
(p. 693)
FEB 27 2001
WAYS AND MEANS

3-7-01 Placed on Calendar

HOUSE FILE 435
BY COMMITTEE ON COMMERCE
AND REGULATION

WITHDRAWN
4/2/01

(SUCCESSOR TO HSB 151)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to allocation and payment of expenses arising
2 from performance of duties by the Iowa utilities board and the
3 consumer advocate, providing for a report by the Iowa
4 utilities board, and providing an effective date.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 435

1 Section 1. Section 476.10, unnumbered paragraphs 1, 2, and
2 3, Code 2001, are amended to read as follows:

3 ~~When the board deems it necessary in~~ In order to carry out
4 the duties imposed upon it by ~~this chapter for the purpose of~~
5 ~~determining rate matters to investigate the books, accounts,~~
6 ~~practices, and activities of, or make appraisals of the~~
7 ~~property of any public utility, or to render any engineering~~
8 ~~or accounting services to any public utility, or to review the~~
9 ~~operations or annual reports of the public utility under~~
10 ~~section 476.31 or 476.32, or to evaluate a proposal for~~
11 ~~reorganization under section 476.77, the public utility shall~~
12 ~~pay the expense reasonably attributable to the investigation,~~
13 ~~appraisal, service, or review~~ law, the board may, at its
14 discretion, allocate and charge directly the expenses
15 attributable to its duties to the person bringing a proceeding
16 before the board or to persons participating in matters before
17 the board. The board shall ascertain the ~~expenses including~~
18 certified expenses incurred and directly chargeable by the
19 consumer advocate division of the department of justice
20 ~~directly chargeable to the public utility under section~~
21 ~~475A.6, and shall render~~ in the performance of its duties.
22 The board and the consumer advocate separately may decide not
23 to charge expenses to persons who, without expanding the scope
24 of the proceeding or matter, intervene in good faith in a
25 board proceeding initiated by a person subject to the board's
26 jurisdiction, the consumer advocate, or the board on its own
27 motion. For assessments in any proceedings or matters before
28 the board, the board and the consumer advocate separately may
29 consider the financial resources of the person, the impact of
30 assessment on participation by intervenors, the nature of the
31 proceeding or matter, and the contribution of a person's
32 participation to the public interest. The board may present a
33 bill for expenses under this paragraph to the ~~public utility~~
34 ~~person,~~ either at the conclusion of ~~the investigation,~~
35 ~~appraisal, services, or review~~ a proceeding or matter, or from

1 time to time during its progress, which. Presentation of a
2 bill is for expenses under this paragraph constitutes notice
3 of the direct assessment and shall-demand request for payment
4 in accordance with this section. ~~The total amount of such~~
5 ~~expense in any one calendar year, for which any public utility~~
6 ~~shall become liable, shall not exceed two tenths of one~~
7 ~~percent of its gross operating revenues derived from~~
8 ~~intrastate public utility operations in the last preceding~~
9 ~~calendar year.~~

10 The board shall ascertain the total of the division's
11 expenditures expenses incurred during each fiscal year which
12 ~~are reasonably attributable to~~ in the performance of its
13 duties under this chapter law. The board shall add to this
14 the total of the division's expenses the certified expenses of
15 the consumer advocate as provided under section 475A.6 and,
16 The board shall deduct all amounts chargeable directly to any
17 specific utility under any law charged directly to any person
18 from the total expenses of the board and the consumer
19 advocate. ~~The remainder shall be assessed by the~~ board may
20 assess the amount remaining after the deduction to the public
21 utilities all persons providing service over which the board
22 has jurisdiction in proportion to ~~their~~ the respective gross
23 operating revenues of such persons from intrastate operations
24 during the last calendar year ~~derived from intrastate public~~
25 ~~utility operations and may be assessed by the board on a~~
26 quarterly basis over which the board has jurisdiction. For
27 purposes of determining gross operating revenues under this
28 section, the board shall not include gross receipts received
29 by a cooperative corporation or association for wholesale
30 transactions with members of the cooperative corporation or
31 association, provided that the members are subject to
32 assessment by the board based upon the members' gross
33 operating revenues, or provided that such a member is an
34 association whose members are subject to assessment by the
35 board based upon the members' gross operating revenues.

1 ~~Assessments may be made quarterly~~ If any portion of the
2 remainder can be identified with a specific type of utility
3 service, the board shall assess those expenses only to the
4 entities providing that type of service over which the board
5 has jurisdiction. The board may make the remainder
6 assessments under this paragraph on a quarterly basis, based
7 upon estimates of the utilities division's and the consumer
8 advocate's expenditures for the fiscal year for the utilities
9 division and the consumer advocate. Beginning with the fiscal
10 year beginning July 1, 1987, the first assessment for any
11 fiscal year may be made by the utilities division by May 15 of
12 the preceding fiscal year and shall be paid by the utility on
13 or before the following July 1. Not more than ninety days
14 following the close of the fiscal year, the utilities division
15 shall conform the amount of the prior fiscal year's
16 assessments to the requirements of this section paragraph.
17 ~~Public utilities exempt from rate regulation under this~~
18 ~~chapter shall not be assessed for remainder expenses incurred~~
19 ~~during review of rate regulated public utilities under section~~
20 ~~476.31 or 476.32, but such remainder expenses shall be~~
21 ~~assessed proportionally as provided in this section among only~~
22 ~~the rate regulated public utilities. The total amount which~~
23 ~~may be assessed to the public utilities under authority of~~
24 ~~this paragraph shall not exceed two tenths of one percent of~~
25 ~~the total gross operating revenues of the public utilities~~
26 ~~during the calendar year derived from intrastate public~~
27 ~~utility operations. However, the total amount which may be~~
28 ~~assessed in any one calendar year to a public utility under~~
29 ~~this section shall not exceed three tenths of one percent of~~
30 ~~the utility's total gross operating revenues derived from~~
31 ~~intrastate public utility operation in the last preceding~~
32 ~~year.~~ For gas and electric public utilities exempted from
33 rate regulation under pursuant to this chapter, the remainder
34 assessments under this paragraph shall be computed at one-half
35 the rate used in computing the assessment for other utilities

1 persons.

2 ~~Each-utility~~ A person subject to a charge or assessment
3 shall pay the division the amount charged or assessed against
4 ~~it~~ the person within thirty days from the time the division
5 ~~maits~~ provides notice to ~~it~~ the person of the amount due,
6 ~~unless it-shall-file-with-the-board-objections~~ the person
7 files an objection in writing with the board, setting out the
8 grounds upon which ~~it~~ the person claims that such charge or
9 assessment is excessive, unreasonable, erroneous, unlawful, or
10 invalid. Upon ~~the-filing-of-such-objections~~ receipt of an
11 objection, the board shall set the matter ~~down~~ for hearing and
12 issue its order in accordance with its findings in ~~such the~~
13 proceeding, which.

14 The order shall be subject to review in the manner provided
15 in this chapter. All amounts collected by the division
16 pursuant to the provisions of this section shall be deposited
17 with the ~~state~~ treasurer of state and credited to the general
18 fund of the state. Such amounts shall be spent in accordance
19 with the provisions of chapter 8.

20 Sec. 2. UTILITIES BOARD REPORT. The utilities board shall
21 submit a written report to the general assembly on or before
22 March 1, 2002, regarding the direct and remainder assessments
23 made pursuant to this Act. The utilities board shall indicate
24 for both direct and remainder assessments the amount of the
25 assessment and the party to whom it was assessed. The
26 utilities board shall also provide a comparison of the
27 assessments made to the same parties under the previous
28 statute. The utilities board may also address additional
29 issues or information that it deems useful to the general
30 assembly in reviewing the statutory changes.

31 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
32 immediate importance, takes effect upon enactment.

33

EXPLANATION

34 This bill amends Code section 476.10, which deals with
35 allocation of expenses incurred by the Iowa utilities board

1 ("the board") and the consumer advocate.

2 The bill provides that the board may allocate and directly
3 charge to persons bringing or participating in a proceeding or
4 matter before the board expenses attributable to the
5 respective duties of the board and the consumer advocate. The
6 board and consumer advocate may consider the financial
7 resources of the parties, the impact of assessment on
8 participation by intervenors, the nature of the proceeding or
9 matter, and the contribution to the public interest in making
10 such direct assessments, and may decline to charge persons who
11 intervene in a proceeding in good faith without expanding the
12 scope of the proceeding. The board may bill the person during
13 a proceeding, or at the conclusion. Presentation of a bill
14 constitutes notice of direct assessment and a demand for
15 payment according to the time frame established in the bill.

16 This direct assessment procedure in the bill is more
17 detailed than the current Code language on direct assessments
18 and provides specific criteria for the board to consider in
19 making an allocation, or in declining to allocate any expenses
20 to intervenors; applies to all proceedings and matters for
21 which the board is responsible under the law rather than a
22 limited list of activities; applies to all persons before the
23 board rather than just public utilities; and contains no limit
24 on the yearly amount that a person may be assessed, rather
25 than an annual limit of two-tenths of 1 percent of a public
26 utility's gross operating revenues.

27 The bill also addresses quarterly assessments based on the
28 actual expenses of the utilities division, less the direct
29 charges made to persons involved in proceedings or other
30 matters before the board. This quarterly remainder assessment
31 is made to all persons providing service over which the board
32 has jurisdiction, in proportion to their respective gross
33 operating revenues. Electric and gas public utilities who are
34 not subject to rate regulation by the board under Code chapter
35 476 are assessed at one-half the rate of other persons.

1 This quarterly remainder assessment procedure differs from
2 current Code language on quarterly remainder assessments by
3 applying the assessment process to all persons providing
4 service over which the board has jurisdiction, rather than
5 public utilities; by permitting expenses allocable to a
6 particular type of utility to be assessed only to that type of
7 entity over which the board has jurisdiction; by using fiscal
8 year guidelines only and deleting references to specific dates
9 in the procedure; and by not limiting the yearly amount that a
10 person may be assessed, rather than an annual limit of two-
11 tenths of 1 percent of a public utility's gross operating
12 revenues from intrastate public utility operations during the
13 calendar year, and a total of three-tenths of 1 percent of the
14 gross operating revenues in the last preceding year for both
15 the direct and remainder assessments.

16 The bill requires direct charges or remainder assessments
17 to be paid within 30 days of notice of the amount due, unless
18 an objection is filed. The board is required to set the
19 matter of a filed objection for hearing and issue an order in
20 accordance with the procedures in Code chapter 476. The order
21 is subject to review according to the procedures in the Code
22 chapter. The bill differs from current Code language
23 regarding payment by requiring that the board provide notice,
24 instead of mailing notice.

25 The bill requires the utilities board to submit a written
26 report to the general assembly on or before March 1, 2002,
27 regarding the effect of statutory changes on the direct and
28 remainder assessments actually made on utilities. The report
29 shall address the amount of the assessment, the party to whom
30 it was assessed, a comparison of the assessments made to the
31 same party under the previous statute, and any additional
32 information the utilities board deems useful to the general
33 assembly in evaluating the statutory changes.

34 The bill takes effect upon enactment.

35