

Jensen  
Flynn  
Freeman

SSB 3088  
Commerce

SENATE/HOUSE FILE SF/HF 2252 Succeeded By  
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 electric transmission lines.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 478.13, Code 2001, is amended to read  
2 as follows:

3 478.13 EXTENSION OF FRANCHISE -- PUBLIC NOTICE.

4 1. Any person, firm, or corporation owning a franchise  
5 granted under this chapter or previously existing law,  
6 ~~desiring-to-acquire-extensions-of-such-franchise,~~ may petition  
7 the utilities board ~~in-the-manner-provided-for-the-granting-of~~  
8 ~~a-franchise-and-the-proceeding-shall-be-conducted-in-the-same~~  
9 ~~manner-as-an-original-application,-including-the-assessing-of~~  
10 ~~costs-provided-by-section-478.4~~ for an extension of the  
11 franchise. The board shall adopt rules governing extension  
12 applications and proceedings. Assessment of costs shall be as  
13 provided in section 478.4.

14 2. If the extension of franchise is sought for all lines  
15 in a given county or counties, the published notice need not  
16 contain a general description of the lands and highways  
17 traversed by the lines, but in lieu of containing such  
18 description the petitioner may offer to provide to any  
19 interested party, free of charge and within ten working days,  
20 a current, accurate map showing the location of the lines for  
21 which the franchise extension is sought. The public notice  
22 shall advise the citizens of the county or counties affected  
23 of the availability of such map. If this alternate procedure  
24 is not followed the publication of the description of the  
25 lands and highways traversed by the lines shall be done in the  
26 manner as in an original application for franchise.

27 3. ~~In-any-event-an~~ An extension under this section shall  
28 be granted only for a valid, existing franchise, and the  
29 lands, roads, or streams covered by the franchise over,  
30 through, or upon which electric transmission lines have in  
31 fact been erected or constructed and are in use or operation  
32 at the time of the application for the extension of the  
33 franchise. ~~Such-petition~~

34 4. The application for the extension of the franchise  
35 shall be accompanied by the written consent of the applicant

1 that the provisions of all laws relating to public utilities,  
2 franchises, and transmission lines, or to the regulation,  
3 supervision, or control thereof which are then in force or  
4 which may be thereafter enacted, shall apply to its existing  
5 line or lines, franchises, and rights ~~with-the-same-force-and~~  
6 effect as if such the franchise had been granted ~~or-such, the~~  
7 lines had been constructed, or rights had been obtained under  
8 the provisions of this chapter.

9 5. An extension of a franchise is not required for an  
10 electric transmission line ~~which that~~ has been permanently  
11 retired from operation at thirty-four and one-half kilovolts  
12 or more but ~~which that~~ remains in service at a lower voltage.  
13 The board shall be notified of changes in operating status.

14 Sec. 2. Section 478.18, Code 2001, is amended to read as  
15 follows:

16 478.18 SUPERVISION OF CONSTRUCTION -- LOCATION.

17 1. The utilities board shall have power of supervision  
18 over the construction of ~~said a~~ transmission line and over its  
19 future operation and maintenance. ~~Said~~

20 2. A transmission line shall be constructed near and  
21 parallel to roads, to the ~~right-of-way~~ right-of-way of the  
22 railways of the state, or along the division lines of the  
23 lands, according to the government survey thereof, wherever  
24 the same is practicable and reasonable, and so as not to  
25 interfere with the use by the public of the highways or  
26 streams of the state, nor unnecessarily interfere with the use  
27 of any lands by the occupant thereof.

28 Sec. 3. Section 478.21, Code 2001, is amended to read as  
29 follows:

30 478.21 NONUSER.

31 1. If the improvement for which a franchise is granted is  
32 not constructed in whole or in part within two years from the  
33 date the franchise is granted, or within two years after final  
34 unappealable disposition of judicial review of a franchise  
35 order or of condemnation proceedings, the franchise shall be

1 forfeited and the utilities board which granted the franchise  
2 shall revoke the franchise and make a record of the  
3 revocation, unless the person holding the franchise petitions  
4 the board for an extension of time.

5 2. Upon a showing of sufficient justification for the  
6 delay of construction, the board may grant an-extension one or  
7 more extensions of time for not-more-than-an-additional  
8 periods up to two years for each extension. ~~An-extension-of~~  
9 ~~time-shall-only-be-allowed-for-franchises-granted-on-or-after~~  
10 ~~July-17-1994.~~

11 EXPLANATION

12 This bill amends provisions of Code chapter 478, relating  
13 to electric transmission lines.

14 Code section 478.13 is amended to provide for adoption of  
15 rules by the utilities board related to extension of utilities  
16 franchises. The bill also divides current Code language into  
17 subsections, and modernizes certain language used in the Code  
18 section.

19 Code section 478.18 is amended to include roadways as one  
20 of the preferred routes for electric lines. The current Code  
21 also provides that division lines of land and railroad rights-  
22 of-way are other preferred routes for electric lines. The  
23 bill also divides current Code language into subsections, and  
24 modernizes certain language used in the Code section.

25 The bill amends Code section 478.21 to provide that the  
26 franchise for an electric transmission line may only be  
27 considered forfeited two years after final unappealable  
28 disposition of any judicial review of a franchise order or of  
29 any condemnation proceedings. Code section 478.21 is also  
30 amended to allow multiple extensions to be granted during the  
31 construction of a franchised electric line if the franchisee  
32 can justify the extension. The bill also divides current Code  
33 language into subsections.

34  
35

3088



# STATE OF IOWA

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

IOWA UTILITIES BOARD  
IOWA DEPARTMENT OF COMMERCE

**Memo to:** Iowa General Assembly  
**From:** Iowa Utilities Board  
**Date:** January 28, 2002  
**Subject:** Changes to Iowa Code ch. 478 – Electric Transmission Lines

The Iowa Utilities Board is proposing three changes to Iowa Code ch. 478 -- Electric Transmission Lines:

**1. Amend Iowa Code to give the Board discretion to establish the necessary filing requirements for petitions for extension of electric franchises.**

*Analysis:* The law does not allow permanent authorization for electric franchises, but requires they be renewed at intervals not to exceed 25 years. Extension requests must re-establish that the line continues to be necessary to serve a public use, and must incorporate all amendments to the franchise, line decommissionings, rebuilds, and other changes into a current, updated franchise. Although routing is a major consideration in a new franchise proceeding, it is not ordinarily revisited in an extension proceeding. Iowa Code § 478.13, however, directs that when a petition for extension of franchise is filed, "... the proceeding shall be conducted in the same manner as an original application..."

This process of renewal is very time consuming for both staff and the utility, with limited benefits. Board discretion to establish the necessary filing requirements for extensions would streamline the renewal process with no apparent downside to the public interest.

**2. Amend Iowa Code to include roadways, along with land division lines and railroads, in routing considerations for electric lines.**

*Analysis:* Iowa Code § 478.18 recognizes only division lines of land and railroad rights-of-way as preferred routes for electric lines. The majority of Iowa roads are on division lines of land; however, newer highways, as well as many roads in rougher areas of northeast Iowa and the loess hills of far western Iowa, frequently have little correlation with division lines of land. In addition, land division lines that are not property lines do not tend to be fence lines, thereby making routing across open fields undesirable from a property owner's perspective. When incorporating guying and utility access requirements, land division lines that are not property lines are generally not feasible routes. Roadways are established corridors and construction along roads confers much the same benefits as routes along railroad right-of-way and land division lines.

**3. Amend Iowa Code to allow the time to construct a franchised electric line to be extended by the Board as many times as can be justified by the franchise holder.**

*Analysis:* Iowa Code § 478.21 directs if construction of a franchised electric line is not initiated within two years, the franchise is "forfeited" and the Board "shall revoke the franchise." Further, the Board may grant an extension of time for not more than two additional years. It appears from the language that only one extension can be granted.

If the Board's issuance of a franchise is appealed to the courts, legal proceedings can easily consume two years. Condemnation proceedings may also become court cases. It appears only one extension of time is permitted, allowing a maximum of four years to initiate construction. Appeals and other legitimate reasons may cause construction to be delayed for more than the four years currently allowed. After four years the franchise is forfeited and the entire process would have to start over again.

The amendment would not start the clock until court processes are completed. It also would allow more than one two-year extension upon a sufficient showing.

3/18/02 Returned to Commerce

FILED FEB 20 2002

SENATE FILE 2252  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3088)

(COMPANION TO HSB 670)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to electric transmission lines.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21

SF 2252

1 Section 1. Section 478.13, Code 2001, is amended to read  
2 as follows:

3 478.13 EXTENSION OF FRANCHISE -- PUBLIC NOTICE.

4 1. Any person, firm, or corporation owning a franchise  
5 granted under this chapter or previously existing law  
6 ~~desiring to acquire extensions of such franchise,~~ may petition  
7 the utilities board ~~in the manner provided for the granting of~~  
8 ~~a franchise and the proceeding shall be conducted in the same~~  
9 ~~manner as an original application, including the assessing of~~  
10 ~~costs provided by section 478.4~~ for an extension of the  
11 franchise. The board shall adopt rules governing extension  
12 applications and proceedings with the intent that the  
13 extension applications and proceedings are less extensive than  
14 original applications and proceedings. Assessment of costs  
15 shall be as provided in section 478.4.

16 2. If the extension of franchise is sought for all lines  
17 in a given county or counties, the published notice need not  
18 contain a general description of the lands and highways  
19 traversed by the lines, but in lieu of containing such  
20 description the petitioner may offer to provide to any  
21 interested party, free of charge and within ten working days,  
22 a current, accurate map showing the location of the lines for  
23 which the franchise extension is sought. The public notice  
24 shall advise the citizens of the county or counties affected  
25 of the availability of such map. If this alternate procedure  
26 is not followed the publication of the description of the  
27 lands and highways traversed by the lines shall be done in the  
28 manner as in an original application for franchise.

29 3. ~~In any event an~~ An extension under this section shall  
30 be granted only for a valid, existing franchise, and the  
31 lands, roads, or streams covered by the franchise over,  
32 through, or upon which electric transmission lines have in  
33 fact been erected or constructed and are in use or operation  
34 at the time of the application for the extension of the  
35 franchise. ~~Such petition~~

1     4. The application for the extension of the franchise  
2 shall be accompanied by the written consent of the applicant  
3 that the provisions of all laws relating to public utilities,  
4 franchises, and transmission lines, or to the regulation,  
5 supervision, or control thereof which are then in force or  
6 which may be thereafter enacted, shall apply to its existing  
7 line or lines, franchises, and rights ~~with-the-same-force-and~~  
8 effect as if ~~such~~ the franchise had been granted ~~or-such,~~ the  
9 lines had been constructed, or rights had been obtained under  
10 the provisions of this chapter.

11     5. An extension of a franchise is not required for an  
12 electric transmission line ~~which~~ that has been permanently  
13 retired from operation at thirty-four and one-half kilovolts  
14 or more but ~~which~~ that remains in service at a lower voltage.  
15 The board shall be notified of changes in operating status.

16     Sec. 2. Section 478.18, Code 2001, is amended to read as  
17 follows:

18     478.18 SUPERVISION OF CONSTRUCTION -- LOCATION.

19     1. The utilities board shall have power of supervision  
20 over the construction of ~~said~~ a transmission line and over its  
21 future operation and maintenance. ~~Said~~

22     2. A transmission line shall be constructed near and  
23 parallel to roads, to the ~~right-of-way~~ right-of-way of the  
24 railways of the state, or along the division lines of the  
25 lands, according to the government survey thereof, wherever  
26 the same is practicable and reasonable, and so as not to  
27 interfere with the use by the public of the highways or  
28 streams of the state, nor unnecessarily interfere with the use  
29 of any lands by the occupant thereof.

30     Sec. 3. Section 478.21, Code 2001, is amended to read as  
31 follows:

32     478.21 NONUSER.

33     1. If the improvement for which a franchise is granted is  
34 not constructed in whole or in part within two years from the  
35 date the franchise is granted, or within two years after final

1 unappealable disposition of judicial review of a franchise  
2 order or of condemnation proceedings, the franchise shall be  
3 forfeited and the utilities board which granted the franchise  
4 shall revoke the franchise and make a record of the  
5 revocation, unless the person holding the franchise petitions  
6 the board for an extension of time.

7 2. Upon a showing of sufficient justification for the  
8 delay of construction, the board may grant an extension one or  
9 more extensions of time for ~~not more than an additional~~  
10 periods up to two years for each extension. ~~An extension of~~  
11 ~~time shall only be allowed for franchises granted on or after~~  
12 ~~July 17, 1994.~~

13 EXPLANATION

14 This bill amends provisions of Code chapter 478, relating  
15 to electric transmission lines.

16 Code section 478.13 is amended to provide for adoption of  
17 rules by the utilities board related to extension of utilities  
18 franchises. The bill also divides current Code language into  
19 subsections, and modernizes certain language used in the Code  
20 section.

21 Code section 478.18 is amended to include roadways as one  
22 of the preferred routes for electric lines. The current Code  
23 also provides that division lines of land and railroad rights-  
24 of-way are other preferred routes for electric lines. The  
25 bill also divides current Code language into subsections, and  
26 modernizes certain language used in the Code section.

27 The bill amends Code section 478.21 to provide that the  
28 franchise for an electric transmission line may only be  
29 considered forfeited two years after final unappealable  
30 disposition of any judicial review of a franchise order or of  
31 any condemnation proceedings. Code section 478.21 is also  
32 amended to allow multiple extensions to be granted during the  
33 construction of a franchised electric line if the franchisee  
34 can justify the extension. The bill also divides current Code  
35 language into subsections.