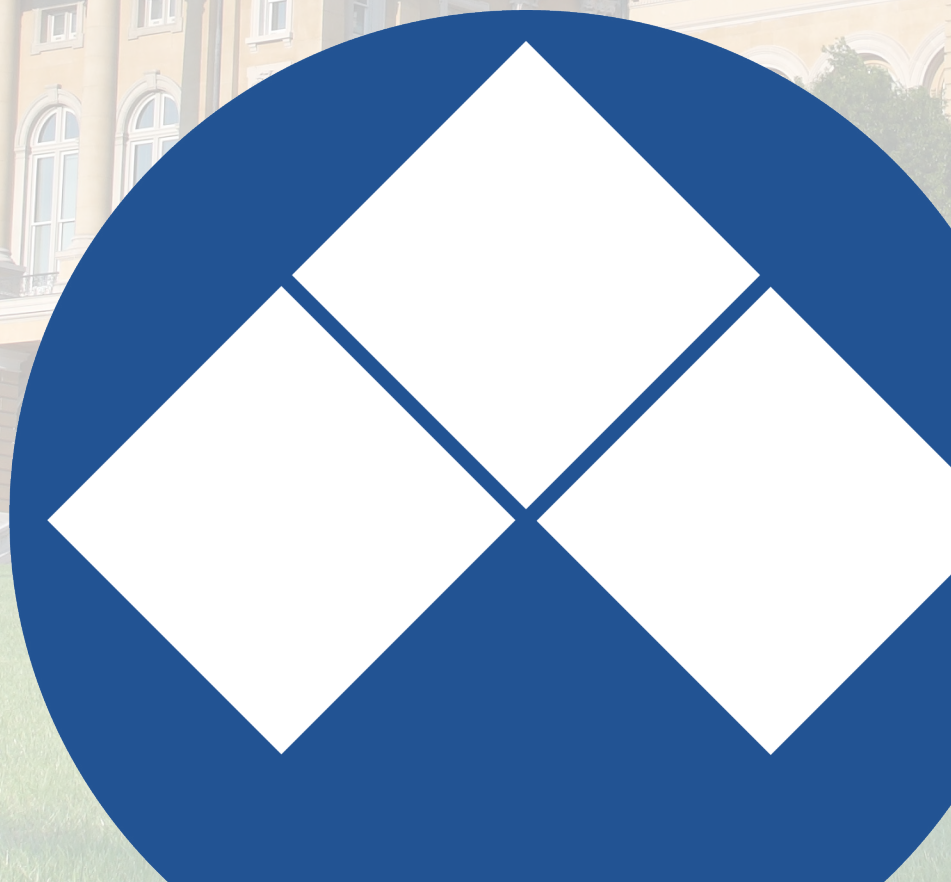




IOWA  
ASSOCIATION OF MUNICIPAL  
UTILITIES

# **Iowa Legislative Session New Laws of Interest to Municipal Utilities**

# 2022



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# Summary of 2022

On Wednesday, May 25, the 2022 Iowa Legislative Session Adjourned Sin Die. Throughout the 19 weeks of the legislative session, the legislature introduced 2201 bills and resolutions. IAMU actively tracked and engaged on 99 of the 2201 bills and resolutions.

2022 was a productive year for IAMU. We got several wins and suffered zero losses. We started the year with a list of legislative priorities that included municipal utility regulatory modernization, digital services sales tax equity, telecom financing, and utility trustee independence. Bills targeting all of IAMU's legislative priorities advanced throughout the session. Though we could not finish work on every priority this year, we finished work on exempting municipal utilities from digital services sales tax and municipal utility trustee independence. In addition to passing legislation, we were effective at defending against many harmful bills, especially in the areas of municipal utility cybersecurity mandates, harmful solar policies, preemption, and predatory telecom policy.

In the end, 155 bills and joint resolutions were enrolled and signed into law. Eight of these bills impact municipal utilities. These bills can be broken down into administration, taxation, and infrastructure themes. Below is the list of the 2022 legislation impacting municipal utilities.



IAMU and Indianola attend the formal signing of the Utility Trustee Independence bill. Pictured from left to right: IAMU's Alex Cutchey; IMU Trustee Adam Voigts; IMU Trustee Mike Rozga; Governor Kim Reynolds; Senator Julian Garrett; Representative Brooke Boden; Mayor Stephanie Erickson; IMU GM Chris DesPlantes.

# Legislation Passed in 2022

## ADMINISTRATION

### **HF 2475 | Utility Trustee Independence**

A bill for an act to remove municipal utility board members under specified circumstances and including effective date provisions. *Amends Section 388.3 | Effective May 17, 2022*

- Adds that municipal utility trustees can only be removed from office during their term by the Mayor with the unanimous approval of the city council for the following reasons:
  - Willful or habitual neglect or refusal to perform the duties of the office
  - Willful misconduct or maladministration in office
  - Corruption
  - Extortion
  - Upon conviction of a felony
  - Intoxication, or upon conviction of being intoxicated
  - Conviction of violating campaign finance laws
  - Failure to pay a fine imposed for election misconduct
  - Habitual non-attendance of board meetings
- Written notice of removal shall be sent to the trustee, and they shall be entitled to a hearing within 30 days of removal. After the public hearing or the passing of 30 days, the city council shall vote on the approval to remove the trustee.
- The bill does not apply to a city with a population over 200,000.

The bill preserves local control, the will of the voters, and the independence of municipal utility boards. The bill fixes a problem in Iowa Code and allows municipal utility trustees to do their job in the best interest of ratepayers without fear of political retaliation.

### **SF 2266 | Increased IPERS Earning Limitation**

A bill for an act concerning compensation and benefits limits, relating to the earnings limitation for retirees under the Iowa public employees' retirement system and compensation limits for school corporation board members. *Amends Section 97B.48A | Effective March 23, 2022*

- Increases the earnings limitation from \$30,000 annually to \$50,000 annually for retirees under the age of 65 who return to work for an Iowa Public Employees' Retirement System (IPERS)-covered employer.

Iowa Code Section 97B.48A provides that a retiree who has not reached age 65 and returns to work for an IPERS-covered employer will have the retiree's retirement allowance reduced by \$0.50 for every \$1 the retiree earns over \$30,000 for the remainder of the calendar year. The earnings limit was last increased from \$14,000 to \$30,000 during the 2002 Legislative Session (2002 Iowa Acts, chapter 1135).

### **SF 2322 | Public Records Fees**

A bill for an act relating to the assessment of fees when a person requests examination and copying of public records. *Amends Section 22.3 | Effective July 1, 2022*

- Adds that the lawful custodian of public records must make every reasonable effort to provide a requested public record at no cost other than copying costs for a record that takes less than 30 minutes to produce. If expenses are necessary, such expenses must be reasonable. A requester may contest the reasonableness of the custodian's expenses as provided for in Iowa Code chapter 22. The bill also provides that costs for legal services should only be utilized for the redaction or review of legally protected confidential information.

Under Iowa Code chapter 22, all expenses for the examination and copying of public records are paid by the person desiring to examine or copy the record. Government bodies may include charges directly attributable to supervising the examination of and making and providing copies of public records and cannot include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office.

## **INFRASTRUCTURE**

### **SF 2279 | Electronic Bidding**

A bill for an act regarding the electronic submission of bids for public improvement contracts. *Amends Sections 26.7 & 10 | Effective July 1, 2022*

- Requires governmental entities to specify the manner for filing proposals.
- Adds that governmental entities may accept bids through an electronic format.
- Requires that if bids are received in an electronic format as provided in section Iowa Code Section 26.7, the governmental entity must electronically record the date and time each bid is received.

Currently, Iowa Code chapter 26 only allows sealed paper bids. This bill allows a governmental entity in a notice to bidders for a public improvement contract to provide that bids may be received in an electronic format.

### **SF 183 | Construction Manager-at-Risk**

A bill for an act relating to a construction manager-at-risk commercial construction alternative delivery method and prohibiting certain other alternative delivery methods in the public sector, including effective date and applicability provisions. *Amends Sections 26A.1-4 | Effective July 1, 2022*

- Prohibits governmental entities from utilizing the fee-based selection of an architect, landscape architect, or engineer for a public improvement.
- Adopts new definitions for "construction manager-at-risk," "governmental entity," "guaranteed maximum price contract," and other terms.
- Authorizes a governmental entity to enter into a guaranteed maximum price contract to construct a public improvement.
- Adopts procedures and requirements for public entities pursuing a guaranteed maximum price contract. These procedures include public disclosures, a request for qualifications, a request for proposal, and the selection of bid winners.

- Prohibits all governmental entities from entering into a design-build contract to construct a public improvement.
- Prohibits governmental entities from entering into a guaranteed maximum price contract for public improvements relating to highway, bridge, or culvert construction.

Generally, public improvement projects must be completed using a process requiring governmental entities to bid using a design-bid-build contract. City utilities under Iowa Code chapter 388 are exempt from public bidding if construction, repair, or maintenance is performed by its employees or when the work relates to existing storage, collection, disposal, treatment, generation, transmission, or distribution of water, sewage, waste, electricity, gas, or telecommunications service or establishing connections to existing storage, collection, disposal, treatment, generation, transmission, or distribution of water, sewage, waste, electricity, gas, or telecommunications service. The bill adds an alternative delivery mechanism that can be utilized for projects that do not meet the city utility public bidding exemption.

### **SF 2325 | Iowa Energy Center**

A bill for an act relating to matters under the purview of the economic development authority, including the high-quality jobs program, the Iowa energy center, and the workforce housing tax incentive program, including effective date and retroactive applicability provisions. *Amends Sections 15.119-120 | Effective March 23, 2022*

- Extends the authorization of the Iowa Energy Center (IEC) and the IEC Board through the end of FY 2027.
- Adds that the IEC may support research and development strategies for carbon management.

Iowa Code section 15.120 establishes the IEC and a governing board appointed by the Governor to oversee, approve, and provide direction concerning the programs established by the IEC, including the Iowa Energy Center Grant Program and the Energy Infrastructure Revolving Loan Program. Current law repeals the IEC on July 1, 2022, which was funded under Iowa Code section 476.10A through an Iowa Utilities Board remittance to the Treasurer of State of 0.1% of the total gross operating revenues of all gas and electric utilities' public utility operations in the State during the previous calendar year. Since FY 2019, 85.0% of this total has been appropriated to the IEC. The remaining 15.0% has been appropriated to the Center for Global and Regional Environmental Research established by the Board of Regents (BOR). Current law repeals these funding sources on July 1, 2022. Funding to the IEC is not being renewed. Since FY 2019, the following appropriations to the IEC have been made: • FY 2019: \$4.5 million • FY 2020: \$3.5 million • FY 2021: \$6.4 million.

## **TAXATION**

### **SF 2366 | Wind Energy Property Taxation**

A bill for an act relating to the assessment and taxation of wind energy conversion property and including effective date, applicability, and retroactive applicability provisions. *Amends Section 427B.26 | Effective May 5, 2022*

- Clarifies that upon repeal and expiration of the special wind energy conversion property valuation calculation, a wind energy conversion property shall be subject to property assessment and taxation under Iowa Code chapter 437A (electricity and natural gas provider replacement property tax) and several other property tax provisions of the Iowa Code.



→ Clarifies that the special valuation calculation for wind energy conversion property that subjects the property to regular property tax is in place of the electricity provider replacement tax.

→ Clarifies that:

- the maintenance, refurbishing, or repowering of the property shall not cause the project to receive the benefit of a new valuation schedule;
- the net acquisition cost shall not be adjusted after the third year of assessment, except to correct a clerical error; and
- the term “substation” refers to a collector substation.

The bill takes effect upon enactment and, except for Iowa Code section 427B.26(3)(b), as enacted in the bill, applies retroactively to assessment years beginning on or after January 1, 2022. Iowa Code section 427B.26(3)(b), as enacted in the bill, applies to assessment schedules commenced on or after the bill’s effective date. Iowa Code section 427B.26, subsection 3, paragraph “b,” as enacted in this Act, applies to assessment schedules commenced under section 427B.26, subsection 2, on or after the effective date of this Act.

### **SF 2367 | Sales Tax Changes**

A bill for an act relating to state taxation by specifying when returns are due, striking sales tax exemptions and exempting other products, and modifying distributions of revenue to local governments and school districts, the liability of sellers, the franchise tax, motor fuel tax reporting, tax refunds and credits, and the individual state income tax, and providing penalties, and including effective date, applicability, and retroactive applicability provisions. *Amends Sections 422.11L & 423.3 | Effective January 1, 2022 and January 1, 2023 respectively*

- Allows taxpayers with residential solar energy system installations completed during calendar year (CY) 2021 or on the waitlist to receive the Solar Energy System Tax Credit. Makes inapplicable the current May 1, 2022, deadline for credit applications to be filed for CY 2021 installations and requires applications to be filed by June 30, 2022. The residential installations approved for the tax credit are not counted as part of the annual \$5.0 million aggregate tax credit cap for all solar energy system installations. The changes are effective upon enactment and apply retroactively to tax year 2022.
- Exempts from sales tax the purchase of specified digital products (SDP), prewritten computer software, and related services sold to all-electric, gas, telecom, and water, public utilities.

The bill makes technical and operational adjustments to Iowa Department of Revenue (IDR) tax programs and administrative functions. The bill also relates to sales/use tax, bank franchise tax, and personal income tax.

The federal tax credit ended for residential installations completed after December 31, 2021. Iowa law limits the total amount of tax credits approved under the program in a calendar year to \$5.0 million. The full CY 2021 allocation has been awarded, and a waitlist exists for projects that qualify for the credit but will not receive an award under current law because of the annual cap. The tax credits are not transferable or refundable, but unused tax credits may carry forward for up to 10 fiscal years.

Iowa Code section 423.2 is the section under which a 6% sales tax is imposed on the sale of certain goods and services. These include storage of tangible or electronic files, documents, or other records; information services; services from or related to installing, maintaining, servicing, repairing, operating, upgrading, or enhancing specified digital products; and software as a service. However, these are exempted if furnished to a commercial enterprise for use exclusively by the commercial enterprise. As municipal utilities are non-profits, they do not fall under the definition of a commercial enterprise, so municipal electric, gas, water, and telecom utilities were left paying a sales tax that their for-profit competitors did not have to pay. The bill fixes the tax inequity and creates tax parity on the issue.

**For more information on legislative matters, or  
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