



# Iowa League of Cities

## New Laws of Interest to Cities

June 2014

**Reminder:**  
Unless otherwise noted,  
the effective date of the  
legislation is July 1, 2014.  
The text of each bill is  
accessible from the General  
Assembly's Web site:  
[https://www.legis.iowa.gov/  
Legislation/Find/findLegisla-  
tion.aspx](https://www.legis.iowa.gov/Legislation/Find/findLegislation.aspx)

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The 85<sup>th</sup> General Assembly adjourned *Sine Die* Friday, May 2, 2014. Following a 2013 session that culminated in major compromise and reform to property tax, Medicaid expansion and education, the goal at the beginning of the 2014 session was to finish well before April 22, the scheduled 100<sup>th</sup> day. However, instead of finishing early, the legislative session stretched into May, coming to a politically-charged close. This report covers the legislative highlights and bills the legislature passed that affect cities.

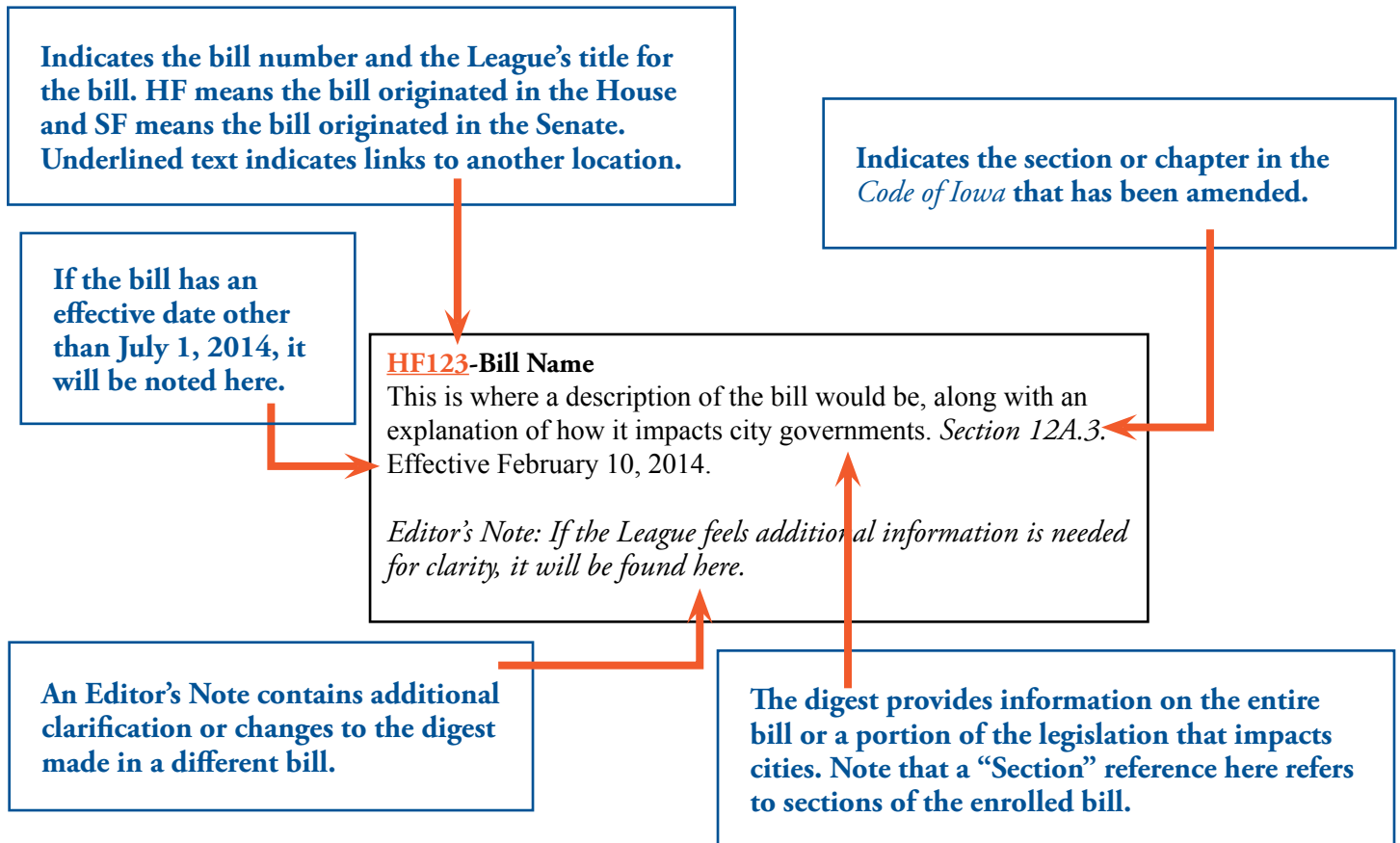
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## Reader's Guide to New Laws Summaries

This Special Report outlines legislation passed during the 2014 session that affects cities and is categorized in subject areas for easier reading. The sample entry below explains what type of information this report contains.

*Editor's Note: The report is intended as a reference guide to new laws that may interest your community. This report should not act as a substitute for the actual final enrolled legislation, nor should it substitute for advice from an attorney.*



## League's Priority Outcomes

The League's Legislative Policy Committee worked over the interim to develop four legislative priorities for cities in Iowa to advocate for during the 2014 Legislative Session: Infrastructure Funding, Public Pension Systems, City Finances and Economic Development Resources and Local Decision-Making.

### Infrastructure Funding

As cities continue to face increasing infrastructure costs, the Legislative Policy Committee developed a priority to focus on additional infrastructure resources that included both road and bridge needs along with water and wastewater. Two additional issues developed within this priority area during session: the harsh winter led to a large number of water and sewer main breaks across the state, and the continued spread of emerald ash borer infestation also highlighted costs that will be borne by citizens.

In the area of road and bridge infrastructure resources, multiple bills were filed to raise the fuel tax with some bills proposing a shift from a tax at the pump to a tax on the wholesale distribution of gasoline. Most notably, the Chairman of the House Transportation Committee moved a bill through the committee that received support but did not come to the House floor. Members of both chambers also brought forth amendments to raise the fuel tax to multiple bills at the end of session, but these bills were procedurally struck down and none received an actual vote in either chamber.

The League has worked hard to raise awareness of the cost of implementation of the Iowa Nutrient Reduction Strategy and compliance with other various environmental requirements. The summer drought and harsh winter also brought attention to the infrastructure costs resulting from extreme weather conditions. This led to the League developing SSB3202 which would have created a grant program to address these infrastructure costs. The bill did not move forward in the Senate, but helped begin to educate more members of the legislature on the infrastructure costs that the communities they represent will face in future years.

Advocates for conservation funding were also successful in advocating for \$25 million from the Legislature for the Resource Enhancement and Protection (REAP) Fund to celebrate the 25<sup>th</sup> anniversary of the program. Governor Branstad line-item vetoed \$9 million of this appropriation but the program will be funded at the \$16 million level. This flexible program that is administered by four separate agencies has been successfully utilized by cities to improve soil and water quality, add outdoor recreation opportunities and create economic development.

During the session, some cities identified the presence of the emerald ash borer. The city of Waterloo has identified more than 4,500 ash trees on public property and estimates the cost of removal at over \$2 million. A similar cost analysis will need to be performed by cities as this pest further pervades the state. The League supported the passage of SF2212 that allows sanitary landfills to accept trees that are infested with emerald ash borer, which is a first step to address this issue.

*Editor's Note: SF2212 is fully reviewed on [page 6](#).*

### ***Public Pension System***

Pensions are traditionally taken up in even-numbered years and the League prioritized addressing the increasing costs and inequities of the Municipal Fire and Police Retirement System of Iowa (MFPRSI). While pensions are typically addressed in the second session, there was little legislative activity related to the pension systems, with no bills passed that impacted them. The two chambers continue to disagree on a path forward for the state's pension systems, stymying efforts to push for change.

The Senate put forward SSB3159, a bill the League supported, that included some provisions that impacted all pension systems, but also included a state appropriation for the MFPRSI system of 3.79 percent of the covered earnable compensation of those participating in the MFPRSI. This percentage is a restoration of a former annual contribution by the state, but the House did not take up the bill. There were also amendments filed to the standing appropriations bill pertaining to the 3.79 percent contribution in both chambers, but were ruled out of order or not germane and did not pass. An amendment the League opposed in the House which would have slightly expanded benefits under MFPRSI also failed, leaving MFPRSI at status quo.

### ***City Finances and Economic Development Resources***

The League also approved a priority that would look more holistically at city finances and included advocating for the backfill promised in last year's property tax reform, diversified revenue options and economic development policies and programs. While there was activity in all areas, not all of the subcategories saw bills pass that would benefit city finances.

The 2013 property tax reform bill, SF295, included a “standing unlimited” appropriation for the amount necessary to cover the local government property tax replacement claims (see *Code of Iowa* Section 441.21A(1)(a)) for property tax revenue losses due to the commercial and industrial rollback. The fiscal analysis for the Standing Appropriations bill, HF2473, included a listing of the unassigned appropriation and the information relating to the backfill ([see page 4 of the analysis](#)) as well as an estimated amount that will be appropriated to the Department of Revenue to cover property tax replacement claims.

Under SF295, this backfill does not include the new multi-residential class, and a new law will narrowly expand that definition. The Legislature passed HF2466, which allows the owner of Housing and Urban Development (HUD) Section 42 Housing to make a one-time, irrevocable election to be included within the new multi-residential class created by SF295. This bill will have varying effects for individual cities based on the amount of Section 42 Housing in each community and the tax benefit to the owner from their election.

During the session, several bills were filed that would impact economic development policies used by cities to foster business growth. A bill the League opposed focused on reforms to parts of *Code of Iowa* Chapter 403 that included changes that would have hindered the purpose and use of tax increment financing (TIF). The bill focused on prohibition of TIF funds for public buildings, a restriction against the usage of annual appropriation debt, a phase-out of TIFs that do not have a statutory end debt and a limitation of all future TIF districts to 20 years. Despite a push by the bill’s proponents, it did not pass.

The Governor also supported a priority that looked to expand Iowans’ access to broadband, with a focus on unserved and underserved communities. The Senate also pushed a bill with a similar goal. The League worked hard at removing cell tower siting provisions from the House’s version of the broadband bill, but was extremely supportive of the overall goal of both bills as an important economic development and educational tool for cities. The League supported a tax incentive for new broadband infrastructure that looked similar to a 10-year tax abatement that cities would utilize to support other new businesses in the community. None of the bills made it to the Governor for signature but the issue of broadband expansion will likely return next legislative session.

The League, along with other water utility groups, pushed hard through a long lobbying process to successfully change the law regarding the interaction between rural water systems and cities in the two-mile-limit outside the city. The existing law had been a hindrance to economic development to cities in certain areas. HF2192 was a compromise developed by the Iowa Association of Municipal Utilities and the Iowa Rural Water Association, along with input from the League, to attempt to level the playing field between rural water districts and cities and increase communication when water utility service needs to be provided in the two-mile area outside the city limits.

*Editor’s Note: HF2192 is fully reviewed on [page 9](#).*

Other economic development program incentives continued to receive support and expansion this session. SF2339, a Governor’s priority of repurposing abandoned public buildings, made changes to the redevelopment tax credit program by allowing the credits to be used for abandoned public buildings and making them refundable for nonprofit entities. The League successfully supported the bill as part of its infrastructure priority, to address abandoned or derelict buildings.

The Iowa Economic Development Authority (IEDA) worked last summer with the League and other stakeholders to develop a compromise that made changes to the Enterprise Zone Program that was due to sunset July 1, 2014. HF2448 created an enhanced High Quality Jobs Program and Workforce Housing Tax Incentives Program, while HF2460 funded the program. Both bills passed. The major provisions of the bill change the wage thresholds for projects on “brownfields” and “grayfields,” expanding the one percent limitation of the county’s area to the entire county and expansion of the housing tax credits as long as they fit within four criteria.

*Editor’s Note: HF2448 is fully reviewed in Appendix A, [page 9](#).*

The League successfully supported a bill, HF2453, brought forward by the Department of Cultural Affairs to improve the administrative efficiency of the Historic Preservation Tax Credit Program. The changes to the program will eliminate the lottery-based reservation system to create a more predictable application process, transition from a three-year reservation system to a “use when ready” system and retooling of the review process.

### ***Local Decision-Making***

The League had a successful year in advocating for Home Rule and avoiding legislation that threatened local decision-making. This included both stopping harmful legislation and assisting in the passage of legislation that helps cities make local decisions.

The League helped to develop and support HF2366 that clarified the law surrounding city elections in regards to filling vacancies. The law provides 60 days to fill a vacancy by appointment and clarifies that the seat will be placed on the next city election ballot. Historically, city elections for city offices have been held in odd-numbered years while general elections for state and county offices were held in even-numbered years. An Iowa Court of Appeals ruling in 2011 caused confusion by holding that when an appointment was made to fill a vacancy in an elective city office, that office would be put up for election at the next city election or at the next general election, whichever occurred first. With the passage of HF2366, it is again clear that the seat will be filled at the next city election.

*Editor’s Note: HF2366 is fully reviewed on [page 6](#).*

The League advocated against legislation that would have had a detrimental impact to cities and neighborhoods. This included bills that would have restricted cities’ ability to regulate the occupancy of residential rental property based upon the existence of familial or non-familial relationships between the occupants of the property. Also, because the League raised concerns, both chambers stripped out most of the harmful provisions related to cell tower siting in the broadband expansion bills, HF2472 and SF2324, which would have negatively impacted local government oversight of wireless infrastructure development. These provisions were an extremely complicated intertwining of state and federal law that would have restricted the ability of local governments to have oversight in cell tower siting. Both of these bills would have significantly reduced local control but were successfully stopped.

## ***Bills of Interest, by category***

### ***Economic Development***

#### **HF2448 – High Quality Jobs Program Creation**

Creates the High Quality Jobs and Workforce Housing Tax Credit Programs while phasing out the Enterprise Zones program. *Amends Multiple Sections.*

*Editor's Note: HF2448 is fully reviewed in Appendix A, [page 9](#).*

#### **HF2453 – Changes to Historic Preservation Tax Credit Program**

Eliminates the lottery-based reservation system to create a more predictable application process, transitions from a three-year reservation system to a “use when ready” system and retools the review process. *Amends Sections 16.188 and 404A.2 through 404A.6.*

#### **HF2460 – High Quality Jobs Program Appropriation**

The appropriations bill for the IEDA gives \$16.9 million for assistance under the newly created High Quality Jobs program that was passed with HF2448 (*See Appendix A*). Also, up to \$1 million of this can be used for infrastructure grants to Main Street Communities under the Main Street Iowa program.

#### **HF2466 – HUD Housing Property Class Election**

Allows the owner of Housing and Urban Development (HUD) Section 42 Housing to make a one-time, irrevocable election to be included within the new multi-residential class created by the 2013 property tax bill. *Amends Sections 426C.4 and 441.21.*

#### **SF2339 – Abandoned School Building Redevelopment**

Changes the redevelopment tax credit program by allowing the credits to be used for abandoned public buildings and making them refundable for nonprofit entities. *Amends Sections 15.291, 15.293A, 15.293B and 15.294.*

### ***Elections***

#### **HF2366 – Policy Administration of Elections and City Elections**

Provides 60 days to fill a vacancy by appointment for city office and clarifies that the seat will be placed on the next city election ballot. Various provisions replace city clerks with county commissioners for election for overall administration of city elections. Makes other administrative changes to elections not directly related to city elections which includes storage of electronic voter registrations. *Amends Sections 426C.4 and 441.21.*

### ***Environment***

#### **SF2212 – Yard Waste**

Allows sanitary landfills to accept yard waste under the following circumstances: when the yard waste is collected for disposal to control, eradicate or prevent the spread of insect pests, tree and plant diseases, or invasive plant species, including trees that are infested with emerald ash borer, when the yard waste is collected for disposal as a result of a severe storm and originates in an area declared to be a disaster area by the President of the United States or the Governor, or when the yard waste is separated at its source from other solid waste and is accepted by the sanitary landfill for the purposes of soil conditioning and composting. *Amends Section 455D.9.*

***Liability*****SF2255 – Architects and Engineers as Employees of the State for Purposes under the Iowa Tort Claims Act**

Brings architects or engineers, who act voluntarily and without compensation at the request of the commissioner of public safety and in coordination with the local emergency management commission to provide structural or building inspection services at a disaster scene, within the definition of an “employee of the state”, making them eligible for defense and indemnification by the state if they are sued for damages in connection with the provision of those services. *Amends Sections 669.2.*

***Open Meetings Open Records*****SF2342 – Iowa Public Information Board (IPIB) Appropriation**

IPIB receives an appropriation of \$350,000 for FY2015 for the office’s ongoing operation. This allows for an additional full-time equivalent position (FTE).

***Public Safety*****HF2289 – Regulation and Use of Unmanned Aerial Vehicles**

Prohibits the state or political subdivisions from using unmanned aerial vehicles (drones) for traffic law enforcement. Makes information obtained as a result of using an unmanned aerial vehicle (drone) inadmissible in a criminal or civil proceeding unless the information is obtained pursuant to a search warrant or is otherwise obtained in a manner consistent with state and federal law. *Creates New Sections 321.492B and 808.15.*

**SF2310 – Underage Possession or Consumption of Alcohol**

Prohibits a person who is the owner or lessee or otherwise has control of property that does not have a liquor control license, wine permit or beer permit from allowing an under-legal-age person from the possession or consumption of an alcoholic beverage on that property. Amends current law to specify that a person under age 21 is prohibited from consuming alcoholic liquor, wine or beer, subject to certain exceptions: consumed in a private home with the knowledge, presence and consent of the underage person’s parent or guardian; administered by a physician or dentist for medicinal purposes, and to the extent that a person under legal age may handle alcoholic beverages, wine and beer during the regular course of employment by a liquor control licensee. Also provides penalties. *Amends Sections 123.47, 123.47B, 232.52 and 805.8C.*

**HF2109 – E-Cigarettes, Alternative Nicotine or Vapor Products**

Expands provisions under Chapter 453A related to cigarette and tobacco taxes to include alternative nicotine and vapor products. This includes prohibiting persons under the age of 18 to smoke, use, possess, purchase, or attempt to purchase alternative nicotine and vapor products. This also includes those products being subject to the permitting provisions of the chapter. *Amends Multiple Sections of 453A.*

***Rebuild Iowa Infrastructure Fund*****SF2349 – Rebuild Iowa Infrastructure Fund**

*Section 1(2).* Appropriates \$1 million in FY2014-2015 for the Iowa Great Places Fund program projects that meet the definition of “vertical infrastructure” in *Code of Iowa* Section 8.57.

*Section 1(5)(a).* Appropriates \$9.6 million for implementation of lake projects that have established watershed improvement initiatives and community support in accordance with the department’s annual lake restoration plan and report.

*Section 1(5)(b).* Appropriates \$2 million for the administration of water trails and low head dam public hazard statewide plan.

*Section 1(9)(a).* \$6 million for acquisition, construction and improving recreational trails with \$1 million earmarked for trail bridges that have documented historical or architectural significance.

*Section 3(3).* \$400,000 for implementation of statewide mass notification and emergency messaging system.

**VETO** *Section 19.* ~~\$4 million for Iowa Resources Enhancement and Protection (REAP).~~

*Division VIII, Sections 23-25.* Creates mass notification and messaging system to be operated by the Department of Homeland Security.

### **HF2458 – Agriculture and Natural Resources Budget**

*Section 21.* Appropriates \$16 million out of the Environment First Fund for the Resources Enhancement and Protection (REAP) fund and program.

*Section 35.* \$1,325,000 for research at the Iowa Nutrient Research Center on research related to the Iowa Nutrient Reduction Strategy.

*Section 48(10).* \$200,000 for the Keep Iowa Beautiful Initiative to assist communities in developing and implementing beautification and community development plans.

### **Standing Appropriations (Standings Bills)**

#### **HF2473 – Standings Bill**

*Section 3.* Appropriates \$416,702 for operational support grants and community cultural grants under Section 99F.11.

*Division VI, Sections 53-58.* Amends law related to operation of snowmobiles on public lands for residents and nonresidents of Iowa.

*Section 76.* Increases tax reduction available for solar tax credit from fifty percent to sixty percent under the federal energy credit.

**VETO** **~~SF2363 – Standings II (One-time appropriations of State Surplus)~~**

~~*Section 7.* Appropriates an additional \$5 million for the Resources Enhancement and Protection (REAP) fund and program.~~

### **Utilities**

#### **HF2408 – Underground Excavation**

Extensively amends Iowa's One Call Law. *Amends Sections 480.4 and 480.10.*

*Editor's Note: HF2408 is fully reviewed in [Appendix B, page 10](#).*

#### **HF2192 – Rural Water 2-Mile Territory**

Clarifies rural water associations, such as rural water districts, are subject to two-mile-limit notification requirements. Requires a water plan to be filed with the governing body of a city utility. Shortens time a city has to provide water service to a customer from four to three years, and shortens a city's response time to a rural water plan from 90 days to 75 days. The city may request additional time or information to study the plan. Creates protection from liability for failure to provide fire protection outside city limits—allows a city to put in lower capacity pipes to provide service. Provision of service is defined to mean



delivering water in sufficient quantity and quality to meet the customer's desired need.  
*Amends Sections 357A.1, 357A.2, 357A.21 and 388.11.*

## **Appendix A: High Quality Jobs Program Absorbs Enterprise Zone Program, HF2448**

Over the past three years, the Iowa Legislature has considered proposals by the IEDA to revise economic development incentive programs, including elimination of the Enterprise Zone ("EZ") program which has been viewed by IEDA as having significant overhead and substantial overlap with the High Quality Jobs program ("HQJ"), and substantially folding the non-duplicative elements of the EZ program into the HQJ program. Finally, [HF2448](#) was signed into law by the Governor on May 30, 2014.

### **How HF2448 affects existing law:**

#### **Division I – High Quality Jobs Program**

Division I makes changes to the HQJ program including a new emphasis on urban core areas and incentives for redevelopment of sites that contain brownfields or grayfields. The changes were made to provide additional capability due to the repeal, in this bill, of the EZ program.

- The HQJ program had only provided tax incentives or project completion assistance for a project that would create or retain jobs that would pay 120 percent of the laborshed wages, unless the project was located in a county that was economically distressed. Under current law, there is a 100 percent wage threshold for projects in distressed areas.
- The bill increases the number of counties which are eligible under HQJ economic distress criteria from 25 to 33, based on the county being in the bottom 33 for either short term unemployment or long term unemployment measures.
  - » It appears that a total of 41 counties would now be eligible as economically distressed, being ranked in the bottom 33 for either short-term or long-term unemployment, according to the IEDA: Allamakee, Appanoose, Cerro Gordo, Chickasaw, Clarke, Clayton, Clinton, Davis, Des Moines, Dickinson, Fayette, Floyd, Guthrie, Hamilton, Hancock, Hardin, Henry, Howard, Jackson, Jasper, Jefferson, Jones, Keokuk, Lee, Louisa, Madison, Mahaska, Marshall, Monona, Monroe, Montgomery, Muscatine, Page, Scott, Tama, Van Buren, Wapello, Webster, Winnebago, Worth and Wright.
- The bill also allows for a 90 percent wage threshold for projects that are developed on a brownfield site and for a 100 percent wage threshold for projects developed on a gray-field site.

#### **Division II – Workforce Housing Tax Incentives Program**

Division II creates a new Workforce Housing Tax Incentives Program, which replaces the Housing Enterprise Zone (HEZ) tax credits, which are repealed. Although the new program is similar to the HEZ program, it is different in a number of ways.

- Projects must include at least one of the following:
  - » Four or more single-family dwelling units
  - » One or more multiple-dwelling unit buildings each containing three or more individual dwelling units
  - » Two or more dwelling units located in the upper story of an existing multi-use building

- A project can be developed anywhere in Iowa as long as the project meets one of these criteria:
  - » Repair, rehabilitation or redevelopment of a brownfield or grayfield site
  - » Repair, rehabilitation or redevelopment of dilapidated dwelling units
  - » Repair, rehabilitation or redevelopment of dwelling units located in the upper story of an existing multi-use building
  - » New construction, rehabilitation, repair or redevelopment of dwelling units in a distressed workforce housing community
- IEDA determines whether a community is a “distressed workforce housing community,” based upon whether the community has a severe housing shortage relative to demand, low vacancy rates or rising housing costs combined with low unemployment.
- The average dwelling unit cost in the project must not exceed \$200,000, unless it is a historic preservation project, in which case the average dwelling unit cost must not exceed \$250,000.
- Tax incentives may be awarded on the costs used for the first \$150,000 of value per unit.
- New credits to a housing business for a project are limited to \$1 million per recipient and cannot exceed \$20 million in the aggregate.
- Unlike the HEZ program, the tax credits under the Workforce Housing Tax Incentives Program are fully transferable. The carry-forward period on the tax credits is limited to five years.
- Division III of the bill provides for the termination and transition of the enterprise zone program.

### **Appendix B: Iowa One Call Revisions, HF2408**

By amending *Code of Iowa* Sections 480.4 and 480.10, HF2408 changes Iowa’s One Call Law significantly:

- Provides that an excavator’s “locate request notice” is valid for a period of twenty days from the date the notice is received by Iowa One Call, allowing the excavator to conduct excavations during that period, but requiring the excavator to submit a new locate notice request to continue excavations after the initial twenty-day period;
- Allows the excavator to commence excavations as soon as the excavator is notified by Iowa One Call that all underground facility operators have responded and completed their location and marking of underground facilities (excavator not required to wait until the end of the 48-hour locate period if all facility operators have sooner responded and completed their location and marking of underground facilities);
- Provides that locate notices received by Iowa One Call after 5:00 p.m. shall be deemed received as of 8:00 a.m. on the next business day, at which time the 48-hour locate period will commence;
- Requires excavators to pre-mark the proposed area of excavation in white (paint, flags, stakes), unless the precise location can be clearly described during the phone call to Iowa One Call, or is electronically white lined on the new electronic system being developed by Iowa One Call;
- Requires all operators to notify Iowa One Call Notification that the marking is complete within 48 hours after receiving the locate request notice;
- Prohibits excavation within 25 feet of an underground natural gas transmission pipeline unless a representative of the operator of the natural gas transmission line is present, or unless otherwise agreed upon by the operator and the excavator in writing; and

- Does not preclude an excavator, an operator, or the One Call Notification Center from having or engaging in communications in addition to the notification requirements specified in the law.

Prior to the July 1 effective date of the new law, Iowa One Call will implement a direct mail campaign to all Iowa One Call Member Operators and all of the major contractor and excavator association/groups, and will make available interactive tutorials and user guides on the forthcoming new [Iowa One Call Web site](#) and by other social media channels.

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