

**610A.3 LOSS OF GOOD CONDUCT TIME PENALTIES.**

~~1. If an action or appeal brought by an inmate or prisoner in state or federal court is determined to be malicious or filed solely to harass or if the inmate or prisoner testifies falsely or otherwise presents false evidence or information to the court in such an action dismissed pursuant to section 610A.2, or, if brought in federal court, is dismissed under any of the principles enumerated in section 610A.2, the inmate shall lose be subject to the following penalties:~~

~~a. The loss of some or all of the good conduct time credits acquired by the inmate or prisoner. Previous dismissals under section 610A.2 may be considered in determining the appropriate level of penalty.~~

~~b. If the inmate or prisoner has no good conduct time credits to deduct, the order of the court or the disciplinary hearing may deduct up to fifty percent of the average balance of the inmate account under section 904.702 or of any prisoner account.~~

2. The court may make an order deducting the credits or the credits may be deducted pursuant to a disciplinary hearing pursuant to chapter 903A at the facility at which the inmate is held.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 7. SEVERABILITY. If this Act, or any portion of this Act, is held to be unconstitutional, the remainder of this Act shall remain in effect to the fullest extent possible.

Approved April 23, 1998

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**CHAPTER 1148****PUBLIC UTILITY FACILITIES IN LOCAL GOVERNMENT RIGHTS-OF-WAY AND  
TELECOMMUNICATIONS FRANCHISES IN CITIES**

S.F. 2368

**AN ACT** relating to the management of public rights-of-way by local government units, eliminating the power of cities to grant franchises to erect, maintain, and operate plants and systems for telecommunications services within the city, and providing an effective date.

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

Section 1. Section 364.2, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, ~~telephone~~, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

Sec. 2. Section 476.6, Code 1997, is amended by adding the following new subsection: **NEW SUBSECTION. 22.** A public utility which is assessed management costs by a local government pursuant to chapter 480A is entitled to recover those costs. If the public utility

serves customers within the boundaries of the local government imposing the management costs, such costs shall be recovered exclusively from those customers.

Sec. 3. NEW SECTION. 480A.1 PURPOSE.

The general assembly finds that it is in the public interest to define the right of local governments to charge public utilities for the location and operation of public utility facilities in local government rights-of-way.

Sec. 4. NEW SECTION. 480A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Local government" means a county, city, township, school district, or any special-purpose district or authority.

2. "Management costs" means the reasonable costs a local government actually incurs in managing public rights-of-way.

3. "Public right-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the local government has an interest, including other dedicated rights-of-way for travel purposes and utility easements. A public right-of-way does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcasts service or utility poles owned by a local government or a municipal utility.

4. "Public utility" means a person owning or operating a facility used for furnishing natural gas by piped distribution system, electricity, communications services not including cable television systems, or water by piped distribution system, to the public for compensation.

Sec. 5. NEW SECTION. 480A.3 FEES.

A local government shall not recover any fee from a public utility for the use of its right-of-way, other than a fee for its management costs. A local government may recover from a public utility only those management costs caused by the public utility's activity in the public right-of-way. A fee or other obligation under this section shall be imposed on a competitively neutral basis. When a local government's management costs cannot be attributed to only one entity, those costs shall be allocated among all users of the public rights-of-way, including the local government itself. The allocation shall reflect proportionately the costs incurred by the local government as a result of the various types of uses of the public rights-of-way.

This section does not prohibit the collection of a franchise fee as permitted in section 480A.6.

Sec. 6. NEW SECTION. 480A.4 IN-KIND SERVICES.

A local government, in lieu of a fee imposed under this chapter, shall not require in-kind services by a public utility right-of-way user, or require in-kind services as a condition of the use of the local government's public right-of-way.

Sec. 7. NEW SECTION. 480A.5 ARBITRATION.

1. A public utility that is denied registration, denied a right-of-way permit, that has its right-of-way permit revoked, or that believes that the fees imposed on such user by the local government do not conform to the requirements of this chapter may request in writing that such denial, revocation, or fee imposition be reviewed by the governing body of the local government. The governing body of the local government shall act within sixty days on a timely written request. A decision by the governing body affirming the denial, revocation, or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.

2. Upon affirmation by the governing body of the denial, revocation, or fee imposition, the public utility may do either of the following:

a. With the consent of the governing body, have the matter finally resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the local government and the public utility. If the parties are unable to agree on an arbitrator, the matter shall be resolved by a three-person arbitration panel made up of one arbitrator selected by the local government, one arbitrator selected by the public utility, and one arbitrator selected by the other two arbitrators. The cost and expense of a single arbitrator shall be borne equally by the local government and the public utility. If a three-person arbitration panel is selected, each party shall bear the expense of its own arbitrator and the parties shall jointly and equally bear the cost and expense of the third arbitrator, and of the arbitration. Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.

b. Bring an action in district court to review a decision of the governing body made under this section.

Sec. 8. NEW SECTION. 480A.6 FRANCHISE ORDINANCE NOT SUPERSEDED.

This chapter does not modify or supersede the rights and obligations of a local government and the public utility established by the terms of any existing or future franchise granted, approved, and accepted pursuant to section 364.2, subsection 4. A city which collects a city franchise fee from an entity pursuant to section 364.2, subsection 4, under an existing or future franchise, shall not also collect a fee from that entity under section 480A.3.

Sec. 9. EFFECTIVE DATE. This Act applies retroactively to January 1, 1998, and supercedes the provisions of any ordinances contrary to this Act in effect on or after that date.

Approved April 23, 1998

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## CHAPTER 1149

### BAIL ENFORCEMENT BUSINESSES, PRIVATE INVESTIGATIVE AGENCIES AND SECURITY AGENTS

S.F. 2374

**AN ACT** providing for the regulation of bail enforcement businesses and their agents, limiting their actions, establishing fees, eliminating temporary county-issued identification for private security agents and investigators, and providing penalties.

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

Section 1. Section 80A.1, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Bail enforcement agent" means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.

NEW SUBSECTION. 0B. "Bail enforcement business" means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to assure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or a law enforcement officer in the course of the officer's official duties.

NEW SUBSECTION. 0C. "Chief law enforcement officer" means the county sheriff, chief of police, or other chief law enforcement officer in the local governmental unit where a defendant is located.