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Cited in Iowa 2/15, Pass 2/7

SENATE FILE 1161

By BRILES
(Daggett)

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

A BILL FOR

1 An Act relating to municipal cable television.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section three hundred ninety-seven point one
2 (397.1), Code 1973, is amended to read as follows:

3 397.1 CITIES AND TOWNS MAY PURCHASE. Cities and towns
4 shall have the power to purchase, establish, erect, maintain,
5 and operate within or without their corporate limits, cable
6 television systems, heating plants, waterworks, gasworks, or
7 electric light or power plants, with all the necessary
8 reservoirs, mains, filters, streams, trenches, pipes, drains,
9 poles, wires, burners, machinery, apparatus, and other
10 requisites of said systems, works or plants, and lease or
11 sell the same.

12 Sec. 2. Section three hundred ninety-seven point two
13 (397.2), Code 1973, is amended to read as follows:

14 397.2 FRANCHISE MAY BE GRANTED. They may grant to individ-
15 uals or private corporations the authority to erect and main-
16 tain such systems, works or plants for a term of not more
17 than twenty-five years, and may renew, amend, or extend the
18 terms of the grant; but no exclusive franchise shall be
19 granted, amended, extended, or renewed.

20 Sec. 3. Section three hundred ninety-seven point four
21 (397.4), Code 1973, is amended to read as follows:

22 397.4 PURCHASE OF UTILITY PRODUCTS. They may enter into
23 contracts with persons, corporations, or municipalities for
24 the purchase of cable television service, heat, gas, water,
25 or electric current for either light or power purposes, for
26 the purpose of selling the same either to residents of the
27 municipality or to others, including corporations, and shall
28 have power to erect and maintain the necessary transmission
29 lines therefor, either within or without their corporate
30 limits, to the same extent, in the same manner, and under
31 the same regulations, and with the same power to establish
32 rates and collect rents, as is provided by law for cities
33 having municipally owned systems or plants.

34 Sec. 4. Section three hundred ninety-seven point five
35 (397.5), Code 1973, is amended to read as follows:

1 397.5 ELECTION REQUIRED--EXCEPTION. No such systems,
2 works or plants shall be authorized, established, erected,
3 purchased, leased, or sold, or franchise granted, extended,
4 renewed, or amended, or contract of purchase provided for
5 in section 397.4 shall be entered into unless a majority of
6 the legal electors voting thereon vote in favor of the same;
7 provided, however, that any city or town may, without asking
8 or obtaining the approval of a majority of its legal electors
9 voting thereon, contract for periods of not to exceed five
10 years at any one time for the purchase, exchange or interchange
11 of electric energy or gas, or water between the facilities
12 of said city or town and those of any other person, firm or
13 corporation, or for the purchase of electric energy by said
14 city or town when the facilities thereof have become inadequate
15 by reason of accident, emergency or any other cause to serve
16 properly all those persons entitled to be served thereby.

17 Sec. 5. Section three hundred ninety-seven point eight
18 (397.8), subsections one (1) and three (3), Code 1973, are
19 amended to read as follows:

20 1. CONDEMNATION. To condemn and appropriate so much pri-
21 vate property as may be necessary for the construction and
22 operation of said systems, works or plants, and for the purpose
23 of constructing and maintaining dams across the nonnavigable
24 waters and watercourses of the state in forming reservoirs
25 and sources of water to supply such waterworks and plants,
26 as provided for the condemnation of land for city purposes.

27 3. DELEGATED POWER. To confer by ordinance the power
28 to appropriate and condemn private property for such purpose
29 upon any individual or corporation authorized to construct
30 and operate such systems, works or plants.

31 Sec. 6. Section three hundred ninety-seven point nine
32 (397.9), Code 1973, is amended to read as follows:

33 397.9 CONTRACT AUTHORIZED. They shall have power to pay
34 for any such system, plant, improvement or extension there-
35 of out of the past earnings of the plant and/or out of the

1 future earnings and/or may contract for the payment of all
2 or part of the cost of such system, plant, improvement, or
3 extension out of the future earnings from such system or
4 plant, and may secure such contract by the pledge of the
5 property purchased and the net earnings of the system or
6 plant.

7 Sec. 7. Section three hundred ninety-seven point ten
8 (397.10), Code 1973, is amended to read as follows:

9 397.10 BONDS. For the purpose of defraying the cost of
10 any such system, plant, improvement or extension thereof,
11 any such city or town is hereby authorized to issue negotiable,
12 interest-bearing revenue bonds payable from and secured by
13 the net earnings of the system or plant, and may also be
14 secured by the pledge of the property purchased, which bonds
15 shall not constitute a general obligation of such city or
16 town or be enforceable in any manner by taxation. Such revenue
17 bonds may be delivered to the contractor or contractors in
18 payment for such improvement or they may be sold by the
19 municipality and the proceeds used to pay for such improvement;
20 and/or such bonds may be used as collateral security for money
21 borrowed to pay the cost of such improvement, such loan to
22 be repaid only out of the net earnings of the system or plant.

23 Sec. 8. Section three hundred ninety-seven point eleven
24 (397.11), Code 1973, is amended to read as follows:

25 397.11 REFUNDING BONDS. Cities and towns shall have power
26 to refund bonds or obligations issued for the cost of any
27 cable television systems, heating plants, waterworks, gas-
28 works, or electric light or power plants, or for any improve-
29 ment or extension of any such systems or plants, when such
30 bonds or obligations are payable from and secured by the net
31 earnings of any such system or plant and which bonds or
32 obligations do not constitute a general obligation of such
33 city or town, and shall have the power so to refund any such
34 bonds or obligations when the same become due and payable,
35 or prior thereto in any case where such bonds or obligations

1 reserve the right to prepay the same prior to the date fixed
2 therein.

3 All such refunding bonds or obligations issued as authorized
4 in this section, shall conform to the provisions of this chap-
5 ter, shall be payable only from the net earnings of the system
6 or plant, and shall not constitute a general obligation of
7 any such city or town or be enforceable in any manner by
8 taxation.

9 Such refunding bonds or obligations may be exchanged for
10 outstanding bonds or obligations issued to pay for any such
11 system or plant, or for any improvement or extension of any
12 such system or plant; or such refunding bonds or obligations
13 may be sold and the proceeds used only in payment of
14 outstanding bonds or obligations issued to pay for any such
15 system or plant, or for any improvement or extension of such
16 system or plant.

17 Sec. 9. Section three hundred ninety-seven point fifteen
18 (397.15), Code 1973, is amended to read as follows:

19 397.15 INTERPRETATIVE CLAUSE--ELECTION REQUIREMENT.
20 Nothing contained in sections 397.9 to 397.14, inclusive,
21 shall be construed as authorizing an establishment of a system
22 or plant without an election as required by section 397.5.
23 And such proposition when submitted to an election shall state
24 the maximum amount which may be expended for the establishment,
25 construction, or acquisition of such system or plant.

26 Sec. 10. Section three hundred ninety-seven point sixteen
27 (397.16), Code 1973, is amended to read as follows:

28 397.16 NOTICE OF PROPOSED CONTRACT--PUBLICATION. Before
29 any municipality shall enter into any such contract as provided
30 in section 397.9, for the establishment of a system or plant,
31 or for the extension or improvement of an existing system
32 or plant, to cost five thousand dollars or more, the governing
33 body proposing to make such contract shall give thirty days'
34 notice of its intention to adopt proposed plans and speci-
35 fications and proposed form of contract therefor, by publica-

1 tion once each week for two consecutive weeks in some news-
2 paper of general circulation in the municipality and also
3 in some newspaper of general circulation in the state of Iowa,
4 the first publication of which shall be at least thirty days
5 prior to the time of hearing fixed in said notice.

6 Sec. 11. Section three hundred ninety-seven point twenty-
7 six (397.26), Code 1973, is amended to read as follows:

8 397.26 JURISDICTION OF CITY. For the purpose of
9 maintaining and protecting such systems, works or plants from
10 injury, and protecting the water of such waterworks from
11 pollution, the jurisdiction of such city or town shall extend
12 over the territory occupied by such systems, plants or works,
13 and all reservoirs, mains, filters, streams, trenches, pipes,
14 drains, poles, wires, burners, machinery, apparatus, and other
15 requisites of said systems, works or plants used in or
16 necessary for the construction, maintenance, and operation
17 of the same, and over the stream or source from which the
18 water is taken for five miles above the point from which it
19 is taken.

20 Sec. 12. Section three hundred ninety-seven point twenty-
21 seven (397.27), Code 1973, is amended to read as follows:

22 397.27 SALE OF PRODUCTS--RATES--TAXES--EQUIPMENT. They
23 may sell the products of cable television systems, municipi-
24 pal heating plants, waterworks, gasworks, or electric light
25 or power plants to any municipality, individual, or corporation
26 outside the city or town limits, as well as to individuals
27 or corporations within its limits, and may with the consent
28 of the board having jurisdiction thereof erect in the public
29 highway the necessary poles upon which to construct trans-
30 mission lines; and shall, from time to time in such manner
31 as they deem equitable, assess upon each tenement or other
32 place supplied with cable television service, heat, water,
33 gas, light, or power, reasonable rents or rates fixed by ordi-
34 nance, and shall levy a tax as provided by law to pay or aid
35 in paying the expenses of running, operating, renewing, and

1 extending such systems, plants or works, and the interest
2 on any bonds issued to pay all or any part of their construc-
3 tion.

4 Sec. 13. Section three hundred ninety-seven point twenty-
5 eight (397.28), Code 1973, is amended to read as follows:

6 397.28 REGULATION OF RATES AND SERVICE. They shall have
7 power to require every individual or private corporation
8 operating such systems, works or plant, subject to reason-
9 able rules, to furnish any person applying therefor, along
10 the line of its pipes, mains, wires, or other conduits, with
11 cable television service, gas, heat, water, light, or power,
12 and to supply said city or town with water for fire protec-
13 tion, and with cable television service, gas, heat, water,
14 light, or power for other necessary public purposes and to
15 regulate and fix the rent or rate for cable television service,
16 water, gas, heat, light, or power; to regulate and fix the
17 rents or rates of cable television service, water, gas, heat,
18 and electric light or power; to regulate and fix the charges
19 for cable television meters, water meters, gas meters, electric
20 light or power meters, or other device or means necessary
21 for determining the consumption of cable television service,
22 water, gas, heat, electric light or power, and these powers
23 shall not be abridged by ordinance, resolution, or contract.

24 Sec. 14. Section three hundred ninety-seven point twenty-
25 nine (397.29), unnumbered paragraph one (1), Code 1973, as
26 amended by Acts of the Sixty-fifth General Assembly, 1973
27 Session, chapter one hundred thirty-six (136), section three
28 hundred ten (310), is further amended to read as follows:

29 The council of any city or town which owns or may hereafter
30 acquire a cable television system, waterworks, sewage disposal
31 plant, heating plant, gasworks, or electric light or electric
32 power plant, may, and upon petition of ten percent of the
33 qualified electors of such city or town shall, at any general
34 election, or at a special election called for that purpose,
35 submit the question as to whether the management and con-

1 trol of such cable television system, waterworks, sewage
2 disposal plant, heating plant, gasworks, or electric light
3 or electric power plant shall be placed in the hands of a
4 board of trustees.

5 Sec. 15. Section three hundred ninety-seven point thirty-
6 one (397.31), Code 1973, is amended to read as follows:

7 397.31 FORM OF SUBMISSION. The question to be submitted
8 shall be in the following form:

9 "Shall the city (or town) of
10 . . . place the management and control of its waterworks
11 (or heating plant, or gasworks, or electric light or electric
12 power plant or cable television system) in the hands of a
13 board of trustees?"

14 Sec. 16. Section three hundred ninety-seven point thirty-
15 five (397.35), Code 1973, is amended to read as follows:

16 397.35 BONDS. In cities having a population in excess
17 of twenty-five thousand and less than seventy-five thousand
18 and which have no outstanding general city bonds issued for
19 the purpose of purchasing or constructing cable television
20 systems, heating plants, water or gasworks, and electric
21 plants or which have a sinking fund sufficient to retire such
22 general bonds as may be outstanding, and having a board of
23 trustees as provided by this chapter, such board of trustees
24 may, upon resolution, issue bonds at a rate of interest not
25 to exceed seven percent per annum for the purpose of extending
26 or improving such cable television system, heating plant,
27 water or gasworks, or electric plant. Bonds issued under
28 this section shall be first mortgage bonds against the said
29 utility, and not general bonds of the city. No bonds shall
30 be issued in this manner in excess of twenty-five percent
31 of the book value of the plant as shown by the books of the
32 city. The interest and the principal of such bonds must be
33 paid from the net earnings of the utility against which they
34 are issued. Bonds issued under this provision shall not be
35 for a longer period than twenty years and shall be retired

1 serially in equal amounts beginning not later than the third
2 year after issuance.

3 Sec. 17. Section three hundred ninety-seven point thirty-
4 eight (397.38), Code 1973, is amended to read as follows:

5 397.38 TRANSFER OF SURPLUS EARNINGS. Where cable tele-
6 vision systems, waterworks, gasworks, heating plants, or elec-
7 tric plants have been purchased or erected by any city or
8 town and the original purchase bonds or bonds issued for the
9 improvement thereof are paid, or where an adequate sinking
10 fund has been provided for the payment of such bonds, such
11 city or town may, upon the approval of the state comptroller,
12 appropriate and transfer any surplus earnings in excess of
13 the amount required for the retirement of all bonds and
14 interest due in the current year and the succeeding year,
15 from any municipal cable television system, heating plant,
16 waterworks, gasworks, or electric plant, for the purpose of
17 retiring existing bonded indebtedness of said city or town
18 which is payable by general taxation or for the purpose of
19 making any municipal improvement authorized by law and ordered
20 by the city council.

21 Sec. 18. Section three hundred ninety-seven point thirty-
22 nine (397.39), Code 1973, is amended to read as follows:

23 397.39 GENERAL TRANSFER. Any city or town having a sur-
24 plus earned from the operation of a cable television system,
25 municipal heating plant, waterworks, gasworks, or electric
26 plant, and which has no bonded indebtedness against any such
27 system, works or plant or which has sufficient funds on hand
28 to provide for the current year's interest and principal and
29 the succeeding year's interest and principal may on approval
30 of the state comptroller transfer the surplus earnings of
31 such utilities to any other fund of the municipality.

32 Sec. 19. Section three hundred ninety-seven point forty-
33 three (397.43), Code 1973, is amended to read as follows:

34 397.43 CONSOLIDATION OF BOARDS OF TRUSTEES. The coun-
35 cil of any city or town, which has placed or may hereafter

1 place the management and control of its cable television
2 system, waterworks, sewage disposal plant, heating plant,
3 gasworks, or electric light or electric power plant in one
4 or more board of trustees, may, and upon the petition of ten
5 percent of the qualified electors of said city or town shall,
6 at any general election, or at a special election called for
7 that purpose, submit the question as to whether the manage-
8 ment and control of such cable television system, waterworks,
9 sewage disposal plant, heating plant, gasworks, or electric
10 light or electric power plant shall be consolidated in one
11 board of trustees.

12 EXPLANATION

13 This bill provides that a cable television system may be
14 handled in the same manner as other municipal utilities under
15 chapter 397 of the Code. That chapter provides various powers
16 to cities and towns to issue franchises, contract for services,
17 establish municipal utilities, issue revenue bonds for the
18 establishment and expansion, establish and impose rates, and
19 transfer surplus funds of the utilities. Some of the regula-
20 tory powers may also be subject to control by the commerce
21 commission under chapter 490A of the Code, or to the FCC.

22 Under chapter 397, the establishment, erection, purchase,
23 lease, sale, or franchise of a municipal utility, or the
24 establishment of a board of trustees to manage a municipal
25 utility, is subject to election.

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SENATE FILE 1161

S--2570

1 Amend Senate File 1161 by striking all after the
2 enacting clause and inserting in lieu thereof the
3 following:

4 Section 1. NEW SECTION. CABLE TELEVISION
5 ADVISORY COMMISSION. There is created a cable
6 television advisory commission. The commission
7 shall be composed of twelve members determined as
8 follows:

- 9 1. Four persons appointed by the governor.
- 10 2. Two members of the house of representatives
11 representing both political parties and appointed
12 by the speaker of the house.
- 13 3. Two members of the senate representing
14 both political parties and appointed by the
15 president of the senate.
- 16 4. One member appointed by the superintendent
17 of public instruction from within the department of
18 public instruction.
- 19 5. One member, who is the chairperson of the
20 Iowa state commerce commission, or who is the
21 designee of the chairperson.
- 22 6. One member of the state board of regents or
23 a designee of the state board of regents.
- 24 7. The director of the educational radio and
25 television facility board who shall be the

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1 chairperson.

2 Sec. 2. NEW SECTION. TERMS OF OFFICE AND
3 MEETINGS. The commission shall meet at least
4 quarterly, or more often if the majority of the
5 members request such a meeting. Members shall be
6 appointed for four-year terms except for the initial
7 appointees, the governor shall appoint two persons
8 for terms of two years and two persons for terms of
9 four years; the speaker of the house shall appoint
10 one person for a term of two years and one person
11 for a term of four years; and the president of the
12 senate shall appoint one person for a term of two
13 years and one person for a term of four years. If
14 a member ceases to be a member of the government
15 entity from which appointed, the position which he
16 represented is vacant and the appointing authority
17 shall make an appointment for the unexpired term.
18 Members shall be entitled to actual and necessary
19 expenses incurred in the performance of duties and,
20 except in the case of persons who are employed by
21 the state, a per diem of forty dollars for each day
22 incurred in the performance of duties.

23 Sec. 3. NEW SECTION. POWERS AND DUTIES. The
24 commission shall study the development of cable
25 television in this state and other states and make

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March 26, 1974

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1 periodic reports of such developments in each odd-
2 numbered year to the governor and the general assem-
3 bly not later than March first. The report of the
4 commission may include legislation recommended for
5 enactment in Iowa. In addition the commission shall:
6 1. Develop and make available for use by politi-
7 cal subdivisions uniform procedures for granting
8 cable television franchises.
9 2. Establish a clearinghouse for current infor-
10 mation and regulations relating to cable television.
11 3. Review and study the development of cable
12 television in this state in order to determine if
13 a need exists for state regulation.
14 4. Determine, if possible, a method whereby
15 cable television can be made available to persons
16 living in rural areas.
17 5. Make efforts to insure that technical com-
18 patibility exists between the various cable tele-
19 vision systems established in this state.
20 6. Promote the full use and broad knowledge of
21 public access channels.

S-2570 Filed
March 25, 1974

By KELLY and RABEDEAUX

S-2802

1 Amend Senate File 1161 as follows:
2 1. Page 3, by striking all of lines 17 through 30.
3 2. By renumbering remaining sections.

S-2802 Filed
April 18, 1974

By DODERER and POTTER