

Jensen
King
Flynn

SSB-1071
Commerce
Succeeded By
SF/HF 392

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CHAIR-
PERSON JENSEN)

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

A BILL FOR

1 An Act relating to telecommunications systems or services which
2 may be provided by a city utility, establishing certain
3 requirements on such city, and including effective date and
4 retroactive applicability provisions.

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

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1 Section 1. LEGISLATIVE INTENT. It is the intent of the
2 general assembly to specifically provide that cities of Iowa
3 which create city utilities in the manner provided by law are
4 authorized to provide separate or combined cable
5 communications or television, telephone, telecommunications
6 systems or services, including wireless systems or services,
7 through the ownership of systems or offering of the services.

8 Sec. 2. Section 362.2, subsection 6, Code 1999, is amended
9 to read as follows:

10 6. "City utility" means all or part of a waterworks,
11 gasworks, sanitary sewage system, storm water drainage system,
12 electric light and power plant and system, heating plant,
13 cable communication or television system, telecommunications
14 systems or services offered separately or combined with any
15 system or service specified in this subsection or authorized
16 by other law, any of which are owned by a city, including all
17 land, easements, rights of way, fixtures, equipment,
18 accessories, improvements, appurtenances, and other property
19 necessary or useful for the operation of the utility.

20 Sec. 3. Section 364.3, Code 1999, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 7. A city providing telecommunications
23 systems or services to the public for compensation is subject
24 to all of the following:

25 a. Such systems or services must be provided to any person
26 on equal terms and conditions throughout the service territory
27 as defined by the Iowa utilities board.

28 b. A providing city is subject to all requirements which
29 would apply to a local exchange carrier in the same manner as
30 such requirements would apply to a local exchange carrier
31 providing such systems or services.

32 c. A providing city is subject to the provisions
33 applicable to a local exchange carrier in sections 476.100 and
34 476.101.

35 d. A providing city is prohibited from using public funds

1 for providing such systems or services.

2 e. A providing city shall not cross-subsidize such systems
3 or services with funds associated with or revenue generated
4 from other city services.

5 f. A providing city shall not provide any other city
6 facilities, equipment, or services in connection with such
7 telecommunications systems or services, at a cost which is
8 less than would be paid by the same person receiving such
9 facilities, equipment, or services and not receiving
10 telecommunications systems or services.

11 g. A providing city shall not provide telecommunications
12 systems or services in conjunction with any other city
13 facilities, equipment, or services at a cost for such
14 telecommunications systems or services which is less than
15 would be paid by the same person receiving such
16 telecommunications systems or services not in conjunction with
17 any other city facility, equipment, or service.

18 h. A providing city shall maintain separate records
19 relating to the revenue, expenses, property, and source of
20 investment capital associated with providing such systems or
21 services.

22 i. A providing city, notwithstanding any contrary
23 provision of the Code, shall remit, on its facilities used to
24 provide telecommunications systems and services, all taxes and
25 fees which would be applicable if the providing city were a
26 local exchange carrier using such facilities to provide such
27 systems or services.

28 Sec. 4. Section 476.29, subsection 13, Code 1999, is
29 amended to read as follows:

30 13. Notwithstanding other provisions of this section,
31 approval by the voters of a city pursuant to section 388.2 of
32 a proposal to establish or acquire a public utility providing
33 communications services is conclusive evidence of the fact
34 that the city has the technical, financial, and managerial
35 ability to provide such service. Following the notice and

1 opportunity for hearing in subsection 2, an applicant shall
2 not be denied a certificate if the board finds the proposed
3 service is consistent with the public interest and the
4 applicant has demonstrated its ability to comply with the
5 requirements of section 364.3, subsection 7.

6 Sec. 5. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

7 This Act, being deemed of immediate importance, takes effect
8 upon enactment, and applies retroactively to July 1, 1993.
9 City elections held after June 30, 1993, for the purpose of
10 voting on the question of offering telecommunications systems
11 or services offered separately or combined with any system or
12 service specified under section 362.2, subsection 6, are
13 deemed to have been held in accordance with this Act and are
14 valid for the purpose of offering such systems or services.
15 Actions of the utilities board taken in reliance on the
16 results of the city elections held as specified in this
17 section are deemed to have been taken in accordance with this
18 Act and are valid.

19 EXPLANATION

20 This bill provides that a city utility includes
21 telecommunications systems or services offered separately or
22 combined with any system or service specified in Code section
23 362.2, subsection 6, or authorized by other law.

24 The bill provides that a city providing telecommunications
25 systems or services to the public for compensation must
26 provide such systems or services to any person on equal terms
27 and conditions throughout the service territory of the city as
28 defined by the Iowa utilities board; is subject to all
29 requirements which would apply to a local exchange carrier in
30 the same manner as such requirements would apply to a local
31 exchange carrier providing such systems or services; is
32 subject to the equal access provisions in Code sections
33 476.100 and 476.101; is prohibited from using public funds for
34 providing such systems or services; shall not cross-subsidize
35 such systems or services with revenue generated from other

1071

1 city services; shall not provide any other city facilities,
 2 equipment, or services in connection with such
 3 telecommunications systems or services, at a cost which is
 4 less than that paid by another person who receives such
 5 facilities, equipment, or services, but who does not receive
 6 telecommunications systems or services from the providing
 7 city; shall not provide telecommunications systems or services
 8 in conjunction with any other city facilities, equipment, or
 9 services at a cost for such telecommunications systems or
 10 services which is less than would be paid by the same person
 11 receiving such telecommunications systems or services not in
 12 conjunction with any other city facility, equipment, or
 13 service; shall maintain separate records relating to the
 14 revenue, expenses, property, and source of investment capital
 15 associated with providing such systems or services; and must
 16 remit, on its facilities used to provide telecommunications
 17 systems and services, all taxes and fees which would be
 18 applicable if the providing city were a local exchange carrier
 19 using such facilities to provide such systems or services.

20 The bill is effective upon enactment and applies
 21 retroactively to July 1, 1993. Certain city elections and
 22 utility board actions are deemed to be valid.

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REPRINTED

FILED MAR 10 1999

SENATE FILE 392
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1071)

Passed Senate, Date ^(P.806) 3-25-99 Passed House, Date ^(P.1069) 4/6/99
Vote: Ayes 46 Nays 1 Vote: Ayes 89 Nays 5
Approved April 26, 1999

^(P.1060) Passed 4-12-99
Vote 44-5

A BILL FOR

1 An Act relating to telecommunications systems or services which
2 may be provided by a city utility, establishing certain
3 requirements on such city, and including effective date and
4 retroactive applicability provisions.

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

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SF 392

1 Section 1. LEGISLATIVE INTENT. It is the intent of the
2 general assembly to specifically provide that cities of Iowa
3 which create city utilities in the manner provided by law are
4 authorized to provide separate or combined cable
5 communications or television, telephone, telecommunications
6 systems or services, including wireless systems or services,
7 through the ownership of systems or offering of the services.

8 Sec. 2. Section 362.2, subsection 6, Code 1999, is amended
9 to read as follows:

10 6. "City utility" means all or part of a waterworks,
11 gasworks, sanitary sewage system, storm water drainage system,
12 electric light and power plant and system, heating plant,
13 cable communication or television system, telephone or
14 telecommunications systems or services offered separately or
15 combined with any system or service specified in this
16 subsection or authorized by other law, any of which are owned
17 by a city, including all land, easements, rights of way,
18 fixtures, equipment, accessories, improvements, appurtenances,
19 and other property necessary or useful for the operation of
20 the utility.

21 Sec. 3. NEW SECTION. 388.9 COMPETITIVE INFORMATION.

22 1. Notwithstanding section 21.5, subsection 1, the
23 governing body of a city utility or combined utility system,
24 or a city enterprise or combined city enterprise as defined in
25 section 384.80, by a vote of two-thirds of the members of the
26 body or all of the members present at the meeting, may hold a
27 closed session to discuss marketing and pricing strategies or
28 proprietary information if its competitive position would be
29 harmed by public disclosure not required of potential or
30 actual competitors, and if no public purpose would be served
31 by such disclosure. The minutes and a tape recording of a
32 session closed under this subsection shall be available for
33 public examination at that point in time when the public
34 disclosure would no longer harm the utility's competitive
35 position.

1 2. Notwithstanding section 22.2, subsection 1, public
2 records of a city utility or combined utility system, or a
3 city enterprise or combined city enterprise as defined in
4 section 384.80, which shall not be examined or copied as of
5 right, include proprietary information, records of customer
6 names and accounts, records associated with marketing or
7 pricing strategies, preliminary working papers, spreadsheet
8 scenarios, and cost data, if the competitive position of the
9 city utility, combined utility system, city enterprise, or
10 combined city enterprise would be harmed by public disclosure
11 not required of a potential or actual competitor, and if no
12 public purpose would be served by such disclosure. A public
13 record not subject to examination or copying under this
14 subsection shall be available for public examination and
15 copying at that point in time when public disclosure would no
16 longer harm the competitive position of the city utility,
17 combined utility system, city enterprise, or combined city
18 enterprise.

19 Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY PROVIDING
20 LOCAL EXCHANGE SERVICES.

21 1. a. A city that owns or operates a municipal utility
22 providing local exchange services pursuant to chapter 476
23 shall not do either of the following:

24 (1) Use general fund moneys for the ongoing support or
25 subsidy of a telecommunications system.

26 (2) Provide any city facilities, equipment, or services to
27 provide telecommunications systems or services at a cost for
28 such facilities, equipment, or services which is less than the
29 reasonable cost of providing such city facilities, equipment,
30 or services.

31 b. For purposes of this section, "telecommunications
32 system" means only that portion of a system or facilities
33 which is used exclusively to provide local exchange services.

34 2. A city that owns or operates a municipal utility
35 providing local exchange services pursuant to chapter 476

1 shall do both of the following:

2 a. Prepare and maintain records which record the full cost
3 accounting of providing local exchange service. The records
4 shall show the amount and source of capital for initial
5 construction or acquisition of the local exchange system or
6 facilities. This section shall not prohibit a municipal
7 utility from utilizing capital from any lawful source,
8 including general funds, provided that the reasonable cost of
9 such capital is accounted for as a cost of providing the
10 service.

11 b. Adopt rates for the provision of local exchange
12 services that reflect the actual cost of providing the local
13 exchange service. However, this paragraph shall not prohibit
14 the utility from establishing market-based prices for
15 competitive local exchange services.

16 3. This section shall not prohibit the marketing or
17 bundling of other products or services, in addition to local
18 exchange services. However, a city shall include on a billing
19 statement sent to a person receiving services from the city, a
20 separate charge for each service provided to the person. This
21 subsection does not prohibit the city from also including on
22 the billing statement a total amount to be paid by the person.

23 Sec. 5. Section 427.1, subsection 2, Code 1999, is amended
24 to read as follows:

25 2. MUNICIPAL AND MILITARY PROPERTY. The property of a
26 county, township, city, school corporation, levee district,
27 drainage district or military company of the state of Iowa,
28 when devoted to public use and not held for pecuniary profit,
29 except property of a municipally owned electric utility held
30 under joint ownership and property of an electric power
31 facility financed under chapter 28F which shall be subject to
32 taxation under chapter 437A and facilities of a municipal
33 utility that are used for the provision of local exchange
34 services pursuant to chapter 476, but only to the extent such
35 facilities are used to provide such services, shall be

1 subject to taxation under chapter 433. The exemption for
2 property owned by a city or county also applies to property
3 which is operated by a city or county as a library, art
4 gallery or museum, conservatory, botanical garden or display,
5 observatory or science museum, or as a location for holding
6 athletic contests, sports or entertainment events,
7 expositions, meetings or conventions, or leased from the city
8 or county for any such purposes. Food and beverages may be
9 served at the events or locations without affecting the
10 exemptions, provided the city has approved the serving of food
11 and beverages on the property if the property is owned by the
12 city or the county has approved the serving of food and
13 beverages on the property if the property is owned by the
14 county.

15 Sec. 6. Section 433.12, Code 1999, is amended to read as
16 follows:

17 433.12 "COMPANY" DEFINED.

18 "Company" as used in this chapter means any person,
19 copartnership, association, corporation, or syndicate that
20 owns or operates, or is engaged in operating, any telegraph or
21 telephone line, whether formed or organized under the laws of
22 this state or elsewhere. "Company" includes a city that owns
23 or operates a municipal utility providing local exchange
24 services pursuant to chapter 476.

25 Sec. 7. Section 476.1B, subsection 3, Code 1999, is
26 amended to read as follows:

27 3. Unless otherwise specifically provided by statute, a
28 municipally owned utility providing local exchange services is
29 not subject to regulation by the board under this chapter
30 except for regulatory action pertaining to the enforcement of
31 sections 476.11, 476.29, 476.95, 476.96, 476.100, subsections
32 1 through 5 and subsection 7, 476.101, and 476.102.

33 Sec. 8. Section 476.29, Code 1999, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 16. Notwithstanding any provision of this

1 section to the contrary, a competitive local exchange carrier
2 applying for a certificate under this section shall be
3 required to provide basic local telephone service to the
4 entire local exchange of the incumbent local exchange carrier.
5 The competitive local exchange carrier shall offer comparable
6 rates and services to each customer in the exchange. The
7 board may allow for provision of service in an area that is
8 less than the total area of the exchange if the board finds
9 that to do so is in the public interest. A municipal utility
10 providing local exchange service shall not be required to
11 serve another city that is located within the exchange, unless
12 the city council of that other city has so approved. If the
13 board determines that a municipal utility providing local
14 exchange service obtains market power within the local
15 exchange, the board may require the utility to assume any of
16 the duties of an incumbent local exchange service provider
17 pursuant to section 476.101.

18 Sec. 9. Section 476.100, subsection 7, Code 1999, is
19 amended to read as follows:

20 7. Discriminate in favor of itself or an affiliate in the
21 provision and pricing of, or extension of credit for, any
22 telephone service, except that a municipal utility providing
23 local exchange service may provide free service or reduced
24 rates to the city as provided in section 384.91.

25 Sec. 10. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
26 This Act, being deemed of immediate importance, takes effect
27 upon enactment, and applies retroactively to July 1, 1993.
28 City elections held after June 30, 1993, for the purpose of
29 voting on the question of offering communications or
30 telecommunications systems or services offered separately or
31 combined with any system or service specified under section
32 362.2, subsection 6, are deemed to have been held in
33 accordance with this Act and are valid for the purpose of
34 offering such systems or services. Actions of the utilities
35 board taken in reliance on the results of the city elections

1 held as specified in this section are deemed to have been
2 taken in accordance with this Act and are valid. Financing
3 measures taken by a city prior to January 1, 1999, are not a
4 violation of this Act.

5

EXPLANATION

6 This bill provides that a city utility includes
7 telecommunications systems or services offered separately or
8 combined with any system or service specified in Code section
9 362.2, subsection 6, or authorized by other law.

10 The bill creates new Code section 388.9 which provides that
11 the governing body of a city utility or combined utility
12 system, or a city enterprise or combined city enterprise may
13 hold a closed session to discuss marketing and pricing
14 strategies or proprietary information if its competitive
15 position would be harmed by public disclosure not required of
16 potential or actual competitors, and if no public purpose
17 would be served by such disclosure. The new Code section also
18 provides that certain public records of a city utility or
19 combined utility system, or a city enterprise or combined city
20 enterprise shall not be examined or copied as of right if the
21 competitive position of such utility or system would be harmed
22 by public disclosure not required of potential or actual
23 competitors, and if no public purpose would be served by such
24 disclosure.

25 The bill creates new Code section 388.10 which establishes
26 certain restrictions and requirements on a municipal utility
27 providing local exchange services. The bill prohibits the use
28 of the city's general fund moneys for the ongoing support or
29 subsidy of a telecommunications system, and the providing of
30 any city facilities, equipment, or services to provide
31 telecommunications systems or services at a cost for such
32 facilities, equipment, or services which is less than the
33 reasonable cost of providing such city facilities, equipment,
34 or services. A city that owns or operates a municipal utility
35 providing local exchange services must prepare and maintain

1 records which record the full cost accounting of providing
2 local exchange service, and adopt rates for the provision of
3 local exchange services that reflect the actual cost of
4 providing the local exchange services.

5 The bill provides that a municipal utility providing local
6 exchange services will be subject to taxation on the
7 facilities of such utility that are used for providing local
8 exchange services pursuant to Code chapter 433.

9 The bill amends Code section 476.29 and provides that a
10 competitive local exchange carrier applying for a certificate
11 under this section shall be required to provide basic local
12 telephone service to the entire local exchange of the
13 incumbent local exchange carrier. The competitive local
14 exchange carrier shall offer comparable rates and services to
15 each customer in the exchange. The board may allow for
16 provision of service in an area that is less than the total
17 area of the exchange if the board finds that to do so is in
18 the public interest. A municipal utility providing local
19 exchange services shall not be required to serve another city
20 that is located within the exchange, unless the city council
21 of that other city has so approved.

22 The bill is effective upon enactment and applies
23 retroactively to July 1, 1993. Certain city elections and
24 utility board actions are deemed to be valid.

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SENATE FILE 392

S-3128

1 Amend Senate File 392 as follows:

2 1. Page 1, line 4, by inserting after the word
3 "provide" the following: "on an equal basis with
4 existing local exchange carriers".

5 2. Page 2, by striking line 23 and inserting the
6 following: "or the municipal utility shall not do,
7 directly or indirectly, any of the following:"

8 3. Page 2, by inserting after line 30 the
9 following:

10 "(3) Provide any other city service to a
11 telecommunications customer at a cost which is less
12 than would be paid by the same person receiving such
13 other city service if the person was not a
14 telecommunications customer.

15 (4) Use funds or revenue generated from electric,
16 gas, water, sewage, or garbage services provided by
17 the city to support systems and services used to
18 provide local exchange services."

19 4. Page 2, line 33, by striking the word
20 "exclusively".

21 5. Page 3, by striking line 1 and inserting the
22 following: "or the municipal utility shall do the
23 following:"

24 6. Page 3, line 8, by striking the words
25 "including general funds,".

26 7. Page 3, line 14, by inserting after the word
27 "the" the following: "municipal".

28 8. Page 3, by inserting after line 15 the
29 following:

30 "c. Be subject to all requirements of the city
31 which would apply to a local exchange carrier in the
32 same manner as such requirements would apply to a
33 local exchange carrier providing such services.

34 d. Remit, on its facilities used to provide
35 telecommunications and information systems and
36 services, all taxes and fees which would be applicable
37 if the municipal utility were a local exchange carrier
38 using such facilities to provide such systems or
39 services."

40 9. Page 4, lines 31 and 32 by striking the words
41 and figures "subsections 1 through 5 and subsection
42 7,".

43 10. By striking page 4, line 33, through page 5,
44 line 24.

45 11. By renumbering as necessary.

By JOHN W. JENSEN

WALLY E. HORN

DENNIS H. BLACK

EUGENE S. FRAISE

NEAL SCHUERER

STEWART IVERSON, Jr.

S-3128 FILED MARCH 23, 1999

DEFERRED

*out of order
3/25/99
(P. 806)*

SENATE FILE 392

S-3148

1 Amend Senate File 392 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. LEGISLATIVE INTENT. It is the intent
5 of the general assembly to specifically provide that
6 cities of Iowa which create city utilities in the
7 manner provided by law are authorized to provide on a
8 competitively neutral basis with existing local
9 exchange carriers separate or combined cable
10 communications or television, telephone,
11 telecommunications systems or services, including
12 wireless systems or services, through the ownership of
13 systems or offering of the services.

14 Sec. 2. Section 362.2, subsection 6, Code 1999, is
15 amended to read as follows:

16 6. "City utility" means all or part of a
17 waterworks, gasworks, sanitary sewage system, storm
18 water drainage system, electric light and power plant
19 and system, heating plant, cable communication or
20 television system, telephone or telecommunications
21 systems or services offered separately or combined
22 with any system or service specified in this
23 subsection or authorized by other law, any of which
24 are owned by a city, including all land, easements,
25 rights of way, fixtures, equipment, accessories,
26 improvements, appurtenances, and other property
27 necessary or useful for the operation of the utility.

28 Sec. 3. NEW SECTION. 388.9 COMPETITIVE
29 INFORMATION.

30 1. Notwithstanding section 21.5, subsection 1, the
31 governing body of a city utility or combined utility
32 system, or a city enterprise or combined city
33 enterprise as defined in section 384.80, by a vote of
34 two-thirds of the members of the body or all of the
35 members present at the meeting, may hold a closed
36 session to discuss marketing and pricing strategies or
37 proprietary information if its competitive position
38 would be harmed by public disclosure not required of
39 potential or actual competitors, and if no public
40 purpose would be served by such disclosure. The
41 minutes and a tape recording of a session closed under
42 this subsection shall be available for public
43 examination at that point in time when the public
44 disclosure would no longer harm the utility's
45 competitive position.

46 2. Notwithstanding section 22.2, subsection 1,
47 public records of a city utility or combined utility
48 system, or a city enterprise or combined city
49 enterprise as defined in section 384.80, which shall
50 not be examined or copied as of right, include

S-3148

S-3148

Page 2

1 proprietary information, records of customer names and
2 accounts, records associated with marketing or pricing
3 strategies, preliminary working papers, spreadsheet
4 scenarios, and cost data, if the competitive position
5 of the city utility, combined utility system, city
6 enterprise, or combined city enterprise would be
7 harmed by public disclosure not required of a
8 potential or actual competitor, and if no public
9 purpose would be served by such disclosure. A public
10 record not subject to examination or copying under
11 this subsection shall be available for public
12 examination and copying at that point in time when
13 public disclosure would no longer harm the competitive
14 position of the city utility, combined utility system,
15 city enterprise, or combined city enterprise.

16 Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY
17 PROVIDING LOCAL EXCHANGE SERVICES.

18 1. a. A city that owns or operates a municipal
19 utility providing local exchange services pursuant to
20 chapter 476 or the municipal utility shall not do,
21 directly or indirectly, any of the following:

22 (1) Use general fund moneys for the ongoing
23 support or subsidy of a telecommunications system.

24 (2) Provide any city facilities, equipment, or
25 services to provide telecommunications systems or
26 services at a cost for such facilities, equipment, or
27 services which is less than the reasonable cost of
28 providing such city facilities, equipment, or
29 services.

30 (3) Provide any other city service, other than a
31 communications service, to a telecommunications
32 customer at a cost which is less than would be paid by
33 the same person receiving such other city service if
34 the person was not a telecommunications customer.

35 (4) Use funds or revenue generated from electric,
36 gas, water, sewage, or garbage services provided by
37 the city for the ongoing support of systems and
38 services used to provide local exchange services.

39 b. For purposes of this section,
40 "telecommunications system" means only that portion of
41 a system or facilities which is used to provide local
42 exchange services.

43 2. A city that owns or operates a municipal
44 utility providing local exchange services pursuant to
45 chapter 476 or the municipal utility shall do the
46 following:

47 a. Prepare and maintain records which record the
48 full cost accounting of providing local exchange
49 service. The records shall show the amount and source
50 of capital for initial construction or acquisition of

S-3148

-2-

S-3148

Page 3

1 the local exchange system or facilities. This section
2 shall not prohibit a municipal utility from utilizing
3 capital from any lawful source, provided that the
4 reasonable cost of such capital is accounted for as a
5 cost of providing the service.

6 b. Adopt rates for the provision of local exchange
7 services that reflect the actual cost of providing the
8 local exchange service. However, this paragraph shall
9 not prohibit the municipal utility from establishing
10 market-based prices for competitive local exchange
11 services.

12 c. Be subject to all requirements of the city
13 which would apply to any other provider of local
14 exchange services in the same manner as such
15 requirements would apply to such other provider.

16 3. This section shall not prohibit the marketing
17 or bundling of other products or services, in addition
18 to local exchange services. However, a city shall
19 include on a billing statement sent to a person
20 receiving services from the city, a separate charge
21 for each service provided to the person. This
22 subsection does not prohibit the city from also
23 including on the billing statement a total amount to
24 be paid by the person.

25 Sec. 5. Section 427.1, subsection 2, Code 1999, is
26 amended to read as follows:

27 2. MUNICIPAL AND MILITARY PROPERTY. The property
28 of a county, township, city, school corporation, levee
29 district, drainage district or military company of the
30 state of Iowa, when devoted to public use and not held
31 for pecuniary profit, except property of a municipally
32 owned electric utility held under joint ownership and
33 property of an electric power facility financed under
34 chapter 28F which shall be subject to taxation under
35 chapter 437A and facilities of a municipal utility
36 that are used for the provision of local exchange
37 services pursuant to chapter 476, but only to the
38 extent such facilities are used to provide such
39 services, which shall be subject to taxation under
40 chapter 433, except that section 433.11 shall not
41 apply. The exemption for property owned by a city or
42 county also applies to property which is operated by a
43 city or county as a library, art gallery or museum,
44 conservatory, botanical garden or display, observatory
45 or science museum, or as a location for holding
46 athletic contests, sports or entertainment events,
47 expositions, meetings or conventions, or leased from
48 the city or county for any such purposes. Food and
49 beverages may be served at the events or locations
50 without affecting the exemptions, provided the city

S-3148

-3-

S-3148

Page 4

1 has approved the serving of food and beverages on the
2 property if the property is owned by the city or the
3 county has approved the serving of food and beverages
4 on the property if the property is owned by the
5 county.

6 Sec. 6. Section 433.12, Code 1999, is amended to
7 read as follows:

8 433.12 "COMPANY" DEFINED.

9 "Company" as used in this chapter means any person,
10 copartnership, association, corporation, or syndicate
11 that owns or operates, or is engaged in operating, any
12 telegraph or telephone line, whether formed or
13 organized under the laws of this state or elsewhere.
14 "Company" includes a city that owns or operates a
15 municipal utility providing local exchange services
16 pursuant to chapter 476.

17 Sec. 7. Section 476.1B, subsection 3, Code 1999,
18 is amended to read as follows:

19 3. Unless otherwise specifically provided by
20 statute, a municipally owned utility providing local
21 exchange services is not subject to regulation by the
22 board under this chapter except for regulatory action
23 pertaining to the enforcement of sections 476.11,
24 476.29, 476.95, 476.96, 476.100, 476.101, and 476.102.

25 Sec. 8. EFFECTIVE DATE AND RETROACTIVE
26 APPLICABILITY. This Act, being deemed of immediate
27 importance, takes effect upon enactment, and applies
28 retroactively to July 1, 1993. City elections held
29 after June 30, 1993, for the purpose of voting on the
30 question of offering communications or
31 telecommunications systems or services offered
32 separately or combined with any system or service
33 specified under section 362.2, subsection 6, are
34 deemed to have been held in accordance with this Act
35 and are valid for the purpose of offering such systems
36 or services. Actions of the utilities board taken in
37 reliance on the results of the city elections held as
38 specified in this section are deemed to have been
39 taken in accordance with this Act and are valid.
40 Financing measures taken by a city prior to January 1,
41 1999, are not a violation of this Act."

By JOHN W. JENSEN
MICHAEL E. GRONSTAL

S-3148 FILED MARCH 24, 1999

adopted
3/25/99
(p. 806)

SENATE FILE 392

S-3162

1 Amend the amendment, S-3148, to Senate File 392 as
2 follows:

3 1. By striking page 1, line 2, through page 4,
4 line 41, and inserting the following:

5 "_____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. LEGISLATIVE INTENT. It is the intent
8 of the general assembly to specifically provide that
9 cities of Iowa which create city utilities in the
10 manner provided by law are authorized to provide on a
11 competitively neutral basis with existing local
12 exchange carriers separate or combined cable
13 communications or television, telephone,
14 telecommunications systems or services, including
15 wireless systems or services, through the ownership of
16 systems or offering of the services.

17 Sec. 2. Section 362.2, subsection 6, Code 1999, is
18 amended to read as follows:

19 6. "City utility" means all or part of a
20 waterworks, gasworks, sanitary sewage system, storm
21 water drainage system, electric light and power plant
22 and system, heating plant, cable communication or
23 television system, telephone or telecommunications
24 systems or services offered separately or combined
25 with any system or service specified in this
26 subsection or authorized by other law, any of which
27 are owned by a city, including all land, easements,
28 rights of way, fixtures, equipment, accessories,
29 improvements, appurtenances, and other property
30 necessary or useful for the operation of the utility.

31 Sec. 3. NEW SECTION. 388.9 COMPETITIVE
32 INFORMATION.

33 1. Notwithstanding section 21.5, subsection 1, the
34 governing body of a city utility or combined utility
35 system, or a city enterprise or combined city
36 enterprise as defined in section 384.80, by a vote of
37 two-thirds of the members of the body or all of the
38 members present at the meeting, may hold a closed
39 session to discuss marketing and pricing strategies or
40 proprietary information if its competitive position
41 would be harmed by public disclosure not required of
42 potential or actual competitors, and if no public
43 purpose would be served by such disclosure. The
44 minutes and a tape recording of a session closed under
45 this subsection shall be available for public
46 examination at that point in time when the public
47 disclosure would no longer harm the utility's
48 competitive position.

49 2. Notwithstanding section 22.2, subsection 1,
50 public records of a city utility or combined utility

S-3162

S-3162

Page 2

1 system, or a city enterprise or combined city
2 enterprise as defined in section 384.80, which shall
3 not be examined or copied as of right, include
4 proprietary information, records of customer names and
5 accounts, records associated with marketing or pricing
6 strategies, preliminary working papers, spreadsheet
7 scenarios, and cost data, if the competitive position
8 of the city utility, combined utility system, city
9 enterprise, or combined city enterprise would be
10 harmed by public disclosure not required of a
11 potential or actual competitor, and if no public
12 purpose would be served by such disclosure. A public
13 record not subject to examination or copying under
14 this subsection shall be available for public
15 examination and copying at that point in time when
16 public disclosure would no longer harm the competitive
17 position of the city utility, combined utility system,
18 city enterprise, or combined city enterprise.

19 Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY
20 PROVIDING LOCAL EXCHANGE SERVICES.

21 1. a. A city that owns or operates a municipal
22 utility providing local exchange services pursuant to
23 chapter 476 or the municipal utility shall not do any
24 of the following:

25 (1) Use general fund moneys for the ongoing
26 support or subsidy of a telecommunications system.

27 (2) Provide any city facilities, equipment, or
28 services to provide telecommunications systems or
29 services at a cost for such facilities, equipment, or
30 services which is less than the reasonable cost of
31 providing such city facilities, equipment, or
32 services.

33 (3) Provide any other city service, other than a
34 communications service, to a telecommunications
35 customer at a cost which is less than would be paid by
36 the same person receiving such other city service if
37 the person was not a telecommunications customer. For
38 purposes of this subparagraph, "communications
39 service" includes, but is not limited to, voice,
40 video, and data products and services.

41 (4) Use funds or revenue generated from electric,
42 gas, water, sewage, or solid waste services provided
43 by the city for the ongoing support of that portion of
44 a system or service used to provide local exchange
45 services.

46 b. For purposes of this section,
47 "telecommunications system" means only that portion of
48 a system or facilities which is used to provide local
49 exchange services.

50 2. A city that owns or operates a municipal

S-3162

S-3162

Page 3

1 utility providing local exchange services pursuant to
2 chapter 476 or the municipal utility shall do the
3 following:

4 a. Prepare and maintain records which record the
5 full cost accounting of providing local exchange
6 service. The records shall show the amount and source
7 of capital for initial construction or acquisition of
8 the local exchange system or facilities. This section
9 shall not prohibit a municipal utility from utilizing
10 capital from any lawful source, provided that the
11 reasonable cost of such capital is accounted for as a
12 cost of providing the service.

13 b. Adopt rates for the provision of local exchange
14 services that reflect the actual cost of providing the
15 local exchange service. However, this paragraph shall
16 not prohibit the municipal utility from establishing
17 market-based prices for competitive local exchange
18 services.

19 c. Be subject to all requirements of the city
20 which would apply to any other provider of local
21 exchange services in the same manner as such
22 requirements would apply to such other provider.

23 3. This section shall not prohibit the marketing
24 or bundling of other products or services, in addition
25 to local exchange services. However, a city shall
26 include on a billing statement sent to a person
27 receiving services from the city, a separate charge
28 for each service provided to the person. This
29 subsection does not prohibit the city from also
30 including on the billing statement a total amount to
31 be paid by the person.

32 Sec. 5. Section 427.1, subsection 2, Code 1999, is
33 amended to read as follows:

34 2. MUNICIPAL AND MILITARY PROPERTY. The property
35 of a county, township, city, school corporation, levee
36 district, drainage district or military company of the
37 state of Iowa, when devoted to public use and not held
38 for pecuniary profit, except property of a municipally
39 owned electric utility held under joint ownership and
40 property of an electric power facility financed under
41 chapter 28F which shall be subject to taxation under
42 chapter 437A and facilities of a municipal utility
43 that are used for the provision of local exchange
44 services pursuant to chapter 476, but only to the
45 extent such facilities are used to provide such
46 services, which shall be subject to taxation under
47 chapter 433, except that section 433.11 shall not
48 apply. The exemption for property owned by a city or
49 county also applies to property which is operated by a
50 city or county as a library, art gallery or museum,

S-3162

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S-3162

Page 4

1 conservatory, botanical garden or display, observatory
 2 or science museum, or as a location for holding
 3 athletic contests, sports or entertainment events,
 4 expositions, meetings or conventions, or leased from
 5 the city or county for any such purposes. Food and
 6 beverages may be served at the events or locations
 7 without affecting the exemptions, provided the city
 8 has approved the serving of food and beverages on the
 9 property if the property is owned by the city or the
 10 county has approved the serving of food and beverages
 11 on the property if the property is owned by the
 12 county.

13 Sec. 6. Section 433.12, Code 1999, is amended to
 14 read as follows:

15 433.12 "COMPANY" DEFINED.

16 "Company" as used in this chapter means any person,
 17 copartnership, association, corporation, or syndicate
 18 that owns or operates, or is engaged in operating, any
 19 telegraph or telephone line, whether formed or
 20 organized under the laws of this state or elsewhere.
 21 "Company" includes a city that owns or operates a
 22 municipal utility providing local exchange services
 23 pursuant to chapter 476.

24 Sec. 7. Section 476.1B, subsection 3, Code 1999,
 25 is amended to read as follows:

26 3. Unless otherwise specifically provided by
 27 statute, a municipally owned utility providing local
 28 exchange services is not subject to regulation by the
 29 board under this chapter except for regulatory action
 30 pertaining to the enforcement of sections 476.11,
 31 476.29, 476.95, 476.96, 476.100, 476.101, and 476.102.

32 Sec. 8. EFFECTIVE DATE AND RETROACTIVE
 33 APPLICABILITY. This Act, being deemed of immediate
 34 importance, takes effect upon enactment, and applies
 35 retroactively to July 1, 1993. City elections held
 36 after June 30, 1993, for the purpose of voting on the
 37 question of offering communications or
 38 telecommunications systems or services offered
 39 separately or combined with any system or service
 40 specified under section 362.2, subsection 6, are
 41 deemed to have been held in accordance with this Act
 42 and are valid for the purpose of offering such systems
 43 or services. Actions of the utilities board taken in
 44 reliance on the results of the city elections held as
 45 specified in this section are deemed to have been
 46 taken in accordance with this Act and are valid.
 47 Financing measures taken by a city prior to January 1,
 48 1999, are not a violation of this Act."

By STEVE KING

S-3162 FILED MARCH 25, 1999

WITHDRAWN

3/25/99
 (p. 806)

H. 3/29/99 Commerce & Regulation
H. 3/31/99 Amend/Do Pass w/ OH 1336

SENATE FILE 392
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1071)

(AS AMENDED AND PASSED BY THE SENATE MARCH 25, 1999)

ALL New Language by the Senate

Passed Senate, ^(P. 1060) Date 4/12/99 Passed House, ^(P. 1069) Date 4/6/99
Vote: Ayes 44 Nays 5 Vote: Ayes 89 Nays 5
Approved April 26, 1999

A BILL FOR

1 An Act relating to telecommunications systems or services which
2 may be provided by a city utility, establishing certain
3 requirements on such city, and including effective date and
4 retroactive applicability provisions.

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

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S.F. 392

1 Section 1. LEGISLATIVE INTENT. It is the intent of the
2 general assembly to specifically provide that cities of Iowa
3 which create city utilities in the manner provided by law are
4 authorized to provide on a competitively neutral basis with
5 existing local exchange carriers separate or combined cable
6 communications or television, telephone, telecommunications
7 systems or services, including wireless systems or services,
8 through the ownership of systems or offering of the services.

9 Sec. 2. Section 362.2, subsection 6, Code 1999, is amended
10 to read as follows:

11 6. "City utility" means all or part of a waterworks,
12 gasworks, sanitary sewage system, storm water drainage system,
13 electric light and power plant and system, heating plant,
14 cable communication or television system, telephone or
15 telecommunications systems or services offered separately or
16 combined with any system or service specified in this
17 subsection or authorized by other law, any of which are owned
18 by a city, including all land, easements, rights of way,
19 fixtures, equipment, accessories, improvements, appurtenances,
20 and other property necessary or useful for the operation of
21 the utility.

22 Sec. 3. NEW SECTION. 388.9 COMPETITIVE INFORMATION.

23 1. Notwithstanding section 21.5, subsection 1, the
24 governing body of a city utility or combined utility system,
25 or a city enterprise or combined city enterprise as defined in
26 section 384.80, by a vote of two-thirds of the members of the
27 body or all of the members present at the meeting, may hold a
28 closed session to discuss marketing and pricing strategies or
29 proprietary information if its competitive position would be
30 harmed by public disclosure not required of potential or
31 actual competitors, and if no public purpose would be served
32 by such disclosure. The minutes and a tape recording of a
33 session closed under this subsection shall be available for
34 public examination at that point in time when the public
35 disclosure would no longer harm the utility's competitive

1 position.

2 2. Notwithstanding section 22.2, subsection 1, public
3 records of a city utility or combined utility system, or a
4 city enterprise or combined city enterprise as defined in
5 section 384.80, which shall not be examined or copied as of
6 right, include proprietary information, records of customer
7 names and accounts, records associated with marketing or
8 pricing strategies, preliminary working papers, spreadsheet
9 scenarios, and cost data, if the competitive position of the
10 city utility, combined utility system, city enterprise, or
11 combined city enterprise would be harmed by public disclosure
12 not required of a potential or actual competitor, and if no
13 public purpose would be served by such disclosure. A public
14 record not subject to examination or copying under this
15 subsection shall be available for public examination and
16 copying at that point in time when public disclosure would no
17 longer harm the competitive position of the city utility,
18 combined utility system, city enterprise, or combined city
19 enterprise.

20 Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY PROVIDING
21 LOCAL EXCHANGE SERVICES.

22 1. a. A city that owns or operates a municipal utility
23 providing local exchange services pursuant to chapter 476 or
24 the municipal utility shall not do, directly or indirectly,
25 any of the following:

26 (1) Use general fund moneys for the ongoing support or
27 subsidy of a telecommunications system.

28 (2) Provide any city facilities, equipment, or services to
29 provide telecommunications systems or services at a cost for
30 such facilities, equipment, or services which is less than the
31 reasonable cost of providing such city facilities, equipment,
32 or services.

33 (3) Provide any other city service, other than a
34 communications service, to a telecommunications customer at a
35 cost which is less than would be paid by the same person

1 receiving such other city service if the person was not a
2 telecommunications customer.

3 (4) Use funds or revenue generated from electric, gas,
4 water, sewage, or garbage services provided by the city for
5 the ongoing support of systems and services used to provide
6 local exchange services.

7 b. For purposes of this section, "telecommunications
8 system" means only that portion of a system or facilities
9 which is used to provide local exchange services.

10 2. A city that owns or operates a municipal utility
11 providing local exchange services pursuant to chapter 476 or
12 the municipal utility shall do the following:

13 a. Prepare and maintain records which record the full cost
14 accounting of providing local exchange service. The records
15 shall show the amount and source of capital for initial
16 construction or acquisition of the local exchange system or
17 facilities. This section shall not prohibit a municipal
18 utility from utilizing capital from any lawful source,
19 provided that the reasonable cost of such capital is accounted
20 for as a cost of providing the service.

21 b. Adopt rates for the provision of local exchange
22 services that reflect the actual cost of providing the local
23 exchange service. However, this paragraph shall not prohibit
24 the municipal utility from establishing market-based prices
25 for competitive local exchange services.

26 c. Be subject to all requirements of the city which would
27 apply to any other provider of local exchange services in the
28 same manner as such requirements would apply to such other
29 provider.

30 3. This section shall not prohibit the marketing or
31 bundling of other products or services, in addition to local
32 exchange services. However, a city shall include on a billing
33 statement sent to a person receiving services from the city, a
34 separate charge for each service provided to the person. This
35 subsection does not prohibit the city from also including on

1 the billing statement a total amount to be paid by the person.
2 Sec. 5. Section 427.1, subsection 2, Code 1999, is amended
3 to read as follows:

4 2. MUNICIPAL AND MILITARY PROPERTY. The property of a
5 county, township, city, school corporation, levee district,
6 drainage district or military company of the state of Iowa,
7 when devoted to public use and not held for pecuniary profit,
8 except property of a municipally owned electric utility held
9 under joint ownership and property of an electric power
10 facility financed under chapter 28F which shall be subject to
11 taxation under chapter 437A and facilities of a municipal
12 utility that are used for the provision of local exchange
13 services pursuant to chapter 476, but only to the extent such
14 facilities are used to provide such services, which shall be
15 subject to taxation under chapter 433, except that section
16 433.11 shall not apply. The exemption for property owned by a
17 city or county also applies to property which is operated by a
18 city or county as a library, art gallery or museum,
19 conservatory, botanical garden or display, observatory or
20 science museum, or as a location for holding athletic
21 contests, sports or entertainment events, expositions,
22 meetings or conventions, or leased from the city or county for
23 any such purposes. Food and beverages may be served at the
24 events or locations without affecting the exemptions, provided
25 the city has approved the serving of food and beverages on the
26 property if the property is owned by the city or the county
27 has approved the serving of food and beverages on the property
28 if the property is owned by the county.

29 Sec. 6. Section 433.12, Code 1999, is amended to read as
30 follows:

31 433.12 "COMPANY" DEFINED.

32 "Company" as used in this chapter means any person,
33 copartnership, association, corporation, or syndicate that
34 owns or operates, or is engaged in operating, any telegraph or
35 telephone line, whether formed or organized under the laws of

1 this state or elsewhere. "Company" includes a city that owns
2 or operates a municipal utility providing local exchange
3 services pursuant to chapter 476.

4 Sec. 7. Section 476.1B, subsection 3, Code 1999, is
5 amended to read as follows:

6 3. Unless otherwise specifically provided by statute, a
7 municipally owned utility providing local exchange services is
8 not subject to regulation by the board under this chapter
9 except for regulatory action pertaining to the enforcement of
10 sections 476.11, 476.29, 476.95, 476.96, 476.100, 476.101, and
11 476.102.

12 Sec. 8. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

13 This Act, being deemed of immediate importance, takes effect
14 upon enactment, and applies retroactively to July 1, 1993.
15 City elections held after June 30, 1993, for the purpose of
16 voting on the question of offering communications or
17 telecommunications systems or services offered separately or
18 combined with any system or service specified under section
19 362.2, subsection 6, are deemed to have been held in
20 accordance with this Act and are valid for the purpose of
21 offering such systems or services. Actions of the utilities
22 board taken in reliance on the results of the city elections
23 held as specified in this section are deemed to have been
24 taken in accordance with this Act and are valid. Financing
25 measures taken by a city prior to January 1, 1999, are not a
26 violation of this Act.

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SENATE FILE 392

H-1336

- 1 Amend Senate File 392, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, line 5, by striking the words "systems
- 4 and services" and inserting the following: "that
- 5 portion of a system or service".

By COMMITTEE ON COMMERCE
AND REGULATION
METCALF of Polk, Chairperson

Adopted 4/6/99 (P.1069)

H-1336 FILED MARCH 31, 1999

HOUSE AMENDMENT TO
SENATE FILE 392

S-3277

- 1 Amend Senate File 392, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 3, line 5, by striking the words "systems
- 4 and services" and inserting the following: "that
- 5 portion of a system or service".

RECEIVED FROM THE HOUSE

Senate Concurred 4/12/99 (P.1059)

S-3277 FILED APRIL 6, 1999

SENATE FILE 392

H-1438

- 1 Amend Senate File 392, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 2, line 29, by striking the word "cost"
- 4 and inserting the following: "price".

By JENKINS of Black Hawk

H-1438 FILED APRIL 6, 1999

*out of order 4/6/99
(P.1068)*

AN ACT

RELATING TO TELECOMMUNICATIONS SYSTEMS OR SERVICES WHICH MAY BE PROVIDED BY A CITY UTILITY, ESTABLISHING CERTAIN REQUIREMENTS ON SUCH CITY, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

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

Section 1. LEGISLATIVE INTENT. It is the intent of the general assembly to specifically provide that cities of Iowa which create city utilities in the manner provided by law are authorized to provide on a competitively neutral basis with existing local exchange carriers separate or combined cable communications or television, telephone, telecommunications systems or services, including wireless systems or services, through the ownership of systems or offering of the services.

Sec. 2. Section 362.2, subsection 6, Code 1999, is amended to read as follows:

6. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, heating plant, cable communication or television system, telephone or telecommunications systems or services offered separately or combined with any system or service specified in this subsection or authorized by other law, any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Sec. 3. NEW SECTION. 388.9 COMPETITIVE INFORMATION.

1. Notwithstanding section 21.5, subsection 1, the governing body of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in section 384.80, by a vote of two-thirds of the members of the body or all of the members present at the meeting, may hold a closed session to discuss marketing and pricing strategies or proprietary information if its competitive position would be harmed by public disclosure not required of potential or actual competitors, and if no public purpose would be served by such disclosure. The minutes and a tape recording of a session closed under this subsection shall be available for public examination at that point in time when the public disclosure would no longer harm the utility's competitive position.

2. Notwithstanding section 22.2, subsection 1, public records of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in section 384.80, which shall not be examined or copied as of right, include proprietary information, records of customer names and accounts, records associated with marketing or pricing strategies, preliminary working papers, spreadsheet scenarios, and cost data, if the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise would be harmed by public disclosure not required of a potential or actual competitor, and if no public purpose would be served by such disclosure. A public record not subject to examination or copying under this subsection shall be available for public examination and copying at that point in time when public disclosure would no longer harm the competitive position of the city utility, combined utility system, city enterprise, or combined city enterprise.

Sec. 4. NEW SECTION. 388.10 MUNICIPAL UTILITY PROVIDING LOCAL EXCHANGE SERVICES.

1. a. A city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 or the municipal utility shall not do, directly or indirectly, any of the following:

(1) Use general fund moneys for the ongoing support or subsidy of a telecommunications system.

(2) Provide any city facilities, equipment, or services to provide telecommunications systems or services at a cost for such facilities, equipment, or services which is less than the reasonable cost of providing such city facilities, equipment, or services.

(3) Provide any other city service, other than a communications service, to a telecommunications customer at a cost which is less than would be paid by the same person receiving such other city service if the person was not a telecommunications customer.

(4) Use funds or revenue generated from electric, gas, water, sewage, or garbage services provided by the city for the ongoing support of that portion of a system or service used to provide local exchange services.

b. For purposes of this section, "telecommunications system" means only that portion of a system or facilities which is used to provide local exchange services.

2. A city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 or the municipal utility shall do the following:

a. Prepare and maintain records which record the full cost accounting of providing local exchange service. The records shall show the amount and source of capital for initial construction or acquisition of the local exchange system or facilities. This section shall not prohibit a municipal utility from utilizing capital from any lawful source, provided that the reasonable cost of such capital is accounted for as a cost of providing the service.

b. Adopt rates for the provision of local exchange services that reflect the actual cost of providing the local exchange service. However, this paragraph shall not prohibit the municipal utility from establishing market-based prices for competitive local exchange services.

c. Be subject to all requirements of the city which would apply to any other provider of local exchange services in the same manner as such requirements would apply to such other provider.

3. This section shall not prohibit the marketing or bundling of other products or services, in addition to local exchange services. However, a city shall include on a billing statement sent to a person receiving services from the city, a separate charge for each service provided to the person. This subsection does not prohibit the city from also including on the billing statement a total amount to be paid by the person.

Sec. 5. Section 427.1, subsection 2, Code 1999, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F which shall be subject to taxation under chapter 437A and facilities of a municipal utility that are used for the provision of local exchange services pursuant to chapter 476, but only to the extent such facilities are used to provide such services, which shall be subject to taxation under chapter 433, except that section 433.11 shall not apply. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic

contests, sports or entertainment events, expositions, meetings or conventions, or leased from the city or county for any such purposes. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Sec. 6. Section 433.12, Code 1999, is amended to read as follows:

433.12 "COMPANY" DEFINED.

"Company" as used in this chapter means any person, copartnership, association, corporation, or syndicate that owns or operates, or is engaged in operating, any telegraph or telephone line, whether formed or organized under the laws of this state or elsewhere. "Company" includes a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476.

Sec. 7. Section 476.1B, subsection 3, Code 1999, is amended to read as follows:

3. Unless otherwise specifically provided by statute, a municipally owned utility providing local exchange services is not subject to regulation by the board under this chapter except for regulatory action pertaining to the enforcement of sections 476.11, 476.29, 476.95, 476.96, 476.100, 476.101, and 476.102.

Sec. 8. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

This Act, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to July 1, 1993. City elections held after June 30, 1993, for the purpose of voting on the question of offering communications or telecommunications systems or services offered separately or combined with any system or service specified under section 362.2, subsection 6, are deemed to have been held in accordance with this Act and are valid for the purpose of

offering such systems or services. Actions of the utilities board taken in reliance on the results of the city elections held as specified in this section are deemed to have been taken in accordance with this Act and are valid. Financing measures taken by a city prior to January 1, 1999, are not a violation of this Act.

MARY E. KRAMER

President of the Senate

RON J. CORBETT

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 392, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL

Secretary of the Senate

Approved April 26, 1999

THOMAS J. VILSACK

Governor