

CHAPTER 62

SALES AND USE TAX EXEMPTION FOR HOSPICES

S.F. 231

AN ACT providing a sales and use tax exemption for hospices.

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

Section 1. Section 422.45, Code 1999, is amended by adding the following new subsection: **NEW SUBSECTION.** 54A. The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to a freestanding nonprofit hospice facility which operates a hospice program as defined in 42 C.F.R., ch. IV, § 418.3, which property or services are to be used in the hospice program.

Approved April 26, 1999

CHAPTER 63

TELECOMMUNICATIONS — CITY UTILITIES

S.F. 392

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.

Approved April 26, 1999