



THOMAS J. VILSACK  
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR

April 8, 2004

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

**Senate File 2244**, an Act relating to municipal utilities that provide telecommunications services, including the examination and confidentiality of certain accounting records.

The above Senate File is hereby approved this date.

Sincerely,

Handwritten signature of Thomas J. Vilsack in black ink.  
Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House





SENATE FILE 2244

AN ACT

RELATING TO MUNICIPAL UTILITIES THAT PROVIDE TELE-  
COMMUNICATIONS SERVICES, INCLUDING THE EXAMINATION  
AND CONFIDENTIALITY OF CERTAIN ACCOUNTING RECORDS.

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

Section 1. Section 11.6, subsection 1, paragraph a,  
unnumbered paragraph 1, Code 2003, is amended to read as  
follows:

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, and the certified enrollment as provided in section 257.6. Differences in certified enrollment shall be reported to the department of management. The examination of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include an audit of the city's compliance with section 388.10.

Sec. 2. Section 388.10, Code 2003, is amended to read as follows:

388.10 MUNICIPAL UTILITY PROVIDING ~~LOCAL-EXCHANGE~~  
TELECOMMUNICATIONS SERVICES.

1. a. A city that owns or operates a municipal utility providing ~~local-exchange~~ telecommunications services pursuant to ~~chapter-476~~ or the such a 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~~ any city telecommunications system.

b. For purposes of this section, ~~telecommunications:~~

(1) "Telecommunications system" means ~~only-that-portion-of a system or-facilities-which-is-used-to-provide-local-exchange~~ that provides telecommunications services.

(2) "Telecommunications services" means the retail provision of any of the following services:

(a) Local exchange telephone services.

(b) Long distance telephone services.

(c) Internet access services.

(d) Cable television services.

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

a. Prepare and maintain records which record the full cost accounting of providing ~~local-exchange-service~~ telecommunications services. The records shall show the

amount and source of capital for initial construction or acquisition of the ~~local-exchange~~ telecommunications system or facilities. The records shall be public records subject to the requirements of chapter 22. Information in the records that is not subject to examination or copying as provided in section 388.9, subsection 2, may be expunged from the records prior to public disclosure. 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. In accounting for the cost of use of any city employees, facilities, equipment, or services, a city or municipal utility may make a reasonable allocation of the cost of use of any city employees, facilities, equipment, or services used by the municipal utility based upon reasonable criteria for the distribution of the cost of use in any manner which is not inconsistent with generally accepted accounting principles.

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

c. Be subject to all requirements of the city which would apply to any other provider of ~~local-exchange~~ telecommunications services in the same manner as such requirements would apply to such other provider. For purposes of cable television services, a city that is in compliance with section 364.3, subsection 7, shall be considered in compliance with this paragraph.

d. Make an annual certification of compliance with this section. For any year in which the city or municipal utility is not audited in accordance with section 11.6, the city or municipal utility shall contract with or employ the auditor of state or a certified public accountant certified in the state of Iowa to attest to the certification. The attestation report shall be a public record for purposes of chapter 22.

3. This section shall not prohibit the marketing or bundling of other products or services, in addition to ~~local exchange~~ telecommunications 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

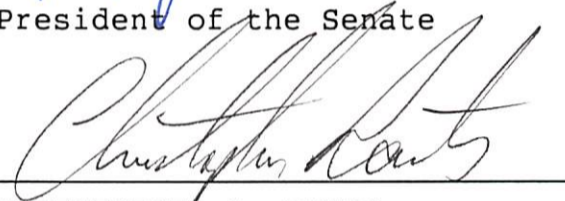
provided to the person. This subsection does not prohibit the city from also including on the billing statement a total amount to be paid by the person.

4. This section shall not apply to telecommunications services provided directly by a municipal airport.

Sec. 3. VALIDITY OF ACTIONS. Except for an action that violates section 364.3, subsection 7, actions taken prior to July 1, 2004, by a city or municipal utility regarding the provision of cable, internet, or long distance service including financing are deemed valid.



JEFFREY M. LAMBERTI  
President of the Senate



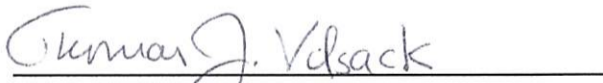
CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2244, Eightieth General Assembly.



MICHAEL E. MARSHALL  
Secretary of the Senate

Approved April 8, 2004



THOMAS J. VILSACK  
Governor