

# Senate File 554 - Enrolled

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1 1 SENATE FILE 554  
1 2  
1 3 AN ACT  
1 4 RELATING TO FRANCHISES FOR THE PROVISION OF CABLE SERVICE OR  
1 5 VIDEO SERVICE INCLUDING PROVIDING FOR FEES AND PROVIDING  
1 6 AN EFFECTIVE DATE.  
1 7  
1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 9  
1 10 Section 1. PURPOSE. It is the purpose of this Act to  
1 11 encourage competition in the provision of cable service and  
1 12 video service in this state, to encourage new providers of  
1 13 cable service and video service, and to provide consumers  
1 14 additional choices in cable service and video service.  
1 15 Sec. 2. NEW SECTION. 477A.1 DEFINITIONS.  
1 16 As used in this chapter, unless the context otherwise  
1 17 requires:  
1 18 1. "Board" means the utilities board within the utilities  
1 19 division of the department of commerce.  
1 20 2. "Cable operator" means the same as defined in 47 U.S.C.  
1 21 } 522.  
1 22 3. "Cable service" means the same as defined in 47 U.S.C.  
1 23 } 522.  
1 24 4. "Cable system" means the same as defined in 47 U.S.C. }  
1 25 522.  
1 26 5. "Competitive cable service provider" means a person who  
1 27 provides cable service over a cable system in an area other  
1 28 than the incumbent cable provider providing service in the  
1 29 same area.  
1 30 6. "Competitive video service provider" means a person who  
1 31 provides video service other than a cable operator.  
1 32 7. "Franchise" means an initial authorization, or renewal  
1 33 of an authorization, issued by the board or a municipality,  
1 34 regardless of whether the authorization is designated as a  
1 35 franchise, permit, license, resolution, contract, certificate,  
2 1 agreement, or otherwise, that authorizes the construction and  
2 2 operation of a cable system or video service provider's  
2 3 network in a public right-of-way.  
2 4 8. "Franchise fee" means the fee imposed under section  
2 5 477A.7.  
2 6 9. a. "Gross revenues" means all consideration of any  
2 7 kind or nature, including but not limited to cash, credits,  
2 8 property, and in-kind contributions received from subscribers  
2 9 for the provision of cable service over a cable system by a  
2 10 competitive cable service provider or for the provision of  
2 11 video service by a competitive video service provider within a  
2 12 municipality's jurisdiction. Gross revenues are limited to  
2 13 the following:  
2 14 (1) Recurring charges for cable service or video service.  
2 15 (2) Event-based charges for cable service or video  
2 16 service, including but not limited to pay-per-view and  
2 17 video-on-demand charges.  
2 18 (3) Rental of set-top boxes and other cable service or  
2 19 video service equipment.  
2 20 (4) Service charges related to the provision of cable  
2 21 service or video service, including but not limited to  
2 22 activation, installation, and repair charges.  
2 23 (5) Administrative charges related to the provision of  
2 24 cable service or video service, including but not limited to  
2 25 service order and service termination charges.  
2 26 (6) A pro rata portion of all revenue derived, less  
2 27 refunds, rebates, or discounts, by a cable service provider or  
2 28 a video service provider for advertising over the cable  
2 29 service or video service network to subscribers within the  
2 30 franchise area where the numerator is the number of  
2 31 subscribers within the franchise area, and the denominator is  
2 32 the total number of subscribers reached by such advertising.  
2 33 This subparagraph applies only to municipalities that include  
2 34 this provision in their franchise agreements as of January 1,  
2 35 2007.  
3 1 b. "Gross revenues" does not include any of the following:  
3 2 (1) Revenues not actually received, even if billed,  
3 3 including bad debt.

3 4 (2) Revenues received by any affiliate or any other person  
3 5 in exchange for supplying goods or services used by the person  
3 6 providing cable service or video service.

3 7 (3) Refunds, rebates, or discounts made to third parties,  
3 8 including subscribers, leased access providers, advertisers,  
3 9 or any municipality or other unit of local government.

3 10 (4) Regardless of whether the services are bundled,  
3 11 packaged, or functionally integrated with cable service or  
3 12 video service, any revenues derived by the holder of a  
3 13 certificate of franchise authority from services not  
3 14 classified as cable service or video service, including,  
3 15 without limitation, revenue received from telecommunications  
3 16 services, revenue received from information services, revenue  
3 17 received in connection with home-shopping services, or any  
3 18 other revenues attributed by the competitive cable service  
3 19 provider or competitive video service provider to noncable  
3 20 service or nonvideo service in accordance with the holder's  
3 21 books and records kept in the regular course of business and  
3 22 any applicable rules, regulations, standards, or orders.

3 23 (5) Revenues paid by subscribers to home-shopping  
3 24 programmers directly from the sale of merchandise through any  
3 25 home-shopping channel offered as part of the cable services or  
3 26 video services.

3 27 (6) Revenues from the sale of cable services or video  
3 28 services for resale in which the purchaser is required to  
3 29 collect the franchise fee from the purchaser's customer.

3 30 (7) Revenues from any tax of general applicability imposed  
3 31 upon the competitive cable service provider or competitive  
3 32 video service provider or upon subscribers by a city, state,  
3 33 federal, or any other governmental entity and required to be  
3 34 collected by the competitive cable service provider or  
3 35 competitive video service provider and remitted to the taxing  
4 1 entity, including but not limited to sales or use tax, gross  
4 2 receipts tax, excise tax, utility users tax, public service  
4 3 tax, and communication taxes, and including the franchise fee  
4 4 imposed under section 477A.7.

4 5 (8) Revenues forgone from the provision of cable services  
4 6 or video services to public institutions, public schools, or  
4 7 governmental entities at no charge.

4 8 (9) Revenues foregone from the competitive cable service  
4 9 provider's or competitive video service provider's provision  
4 10 of free or reduced-cost video service to any person,  
4 11 including, without limitation, any municipality and other  
4 12 public institutions or other institutions.

4 13 (10) Revenues from sales of capital assets or sales of  
4 14 surplus equipment.

4 15 (11) Revenues from reimbursements by programmers of  
4 16 marketing costs incurred by the competitive cable service  
4 17 provider or competitive video service provider for the  
4 18 introduction or promotion of new programming.

4 19 (12) Directory or internet advertising revenues including  
4 20 but not limited to yellow page, white page, banner  
4 21 advertisement, and electronic publishing.

4 22 (13) Copyright fees paid to the United States copyright  
4 23 office.

4 24 (14) Late payment charges.

4 25 (15) Maintenance charges.

4 26 10. "Incumbent cable provider" means the cable operator  
4 27 serving the largest number of cable subscribers in a  
4 28 particular franchise service area on January 1, 2007.

4 29 11. "Institutional network" means the system of dedicated  
4 30 fibers, coaxial cables, or wires constructed and maintained by  
4 31 an incumbent cable provider which is reserved and dedicated by  
4 32 the municipality for noncommercial purposes.

4 33 12. "Municipality" means a county or city.

4 34 13. "Percentage of gross revenues" means the percentage  
4 35 set by the municipality and identified in a written request  
5 1 made under section 477A.7, subsection 1, which shall be not  
5 2 greater than five percent. However, if the incumbent cable  
5 3 provider is a municipal utility providing telecommunications  
5 4 services under section 388.10, "percentage of gross revenues"  
5 5 means the percentage set by the municipality and identified in  
5 6 a written request made under section 477A.7, subsection 1,  
5 7 which shall not be greater than an equitable apportionment of  
5 8 the services and fees that the municipal utility pays to the  
5 9 municipality, or five percent, whichever is less.

5 10 14. "Public right-of-way" means the area on, below, or  
5 11 above a public roadway, highway, street, bridge, cartway,  
5 12 bicycle lane, or public sidewalk in which the municipality has  
5 13 an interest, including other dedicated rights-of-way for  
5 14 travel purposes and utility easements. "Public right-of-way"

5 15 does not include the airwaves above a public right-of-way with  
5 16 regard to cellular or other nonwire telecommunications or  
5 17 broadcast services or utility poles owned by a municipality or  
5 18 a municipal utility.

5 19 15. "Video programming" means the same as defined in 47  
5 20 U.S.C. } 522.

5 21 16. "Video service" means video programming services  
5 22 provided through wireline facilities located at least in part  
5 23 in the public right-of-way without regard to delivery  
5 24 technology, including internet protocol technology. "Video  
5 25 service" does not include any video programming provided by a  
5 26 provider of commercial mobile service as defined in 47 U.S.C.  
5 27 } 332, or cable service provided by an incumbent cable  
5 28 provider or a competitive cable service provider or any video  
5 29 programming provided solely as part of, and via, a service  
5 30 that enables users to access content, information, electronic  
5 31 mail, or other services offered over the public internet.

5 32 Sec. 3. NEW SECTION. 477A.2 CERTIFICATE OF FRANCHISE  
5 33 AUTHORITY REQUIREMENT.

5 34 1. After July 1, 2007, a person providing cable service or  
5 35 video service in this state shall not provide such service  
6 1 without a franchise. The franchise may be issued by either  
6 2 the board pursuant to section 477A.3 or by a municipality  
6 3 pursuant to section 364.2.

6 4 2. a. A person providing cable service or video service  
6 5 under a franchise agreement with a municipality prior to July  
6 6 1, 2007, is not subject to this section with respect to such  
6 7 municipality until the franchise agreement expires or is  
6 8 converted pursuant to subsection 6.

6 9 b. Upon expiration of a franchise, a person may choose to  
6 10 renegotiate a franchise agreement with a municipality or may  
6 11 choose to obtain a certificate of franchise authority under  
6 12 this chapter.

6 13 c. A municipal utility that provides cable service or  
6 14 video service in this state is not subject to this section and  
6 15 shall not be required to obtain a certificate of franchise  
6 16 authority pursuant to this chapter in the municipality in  
6 17 which the provision of cable service or video service by that  
6 18 municipality was originally approved.

6 19 3. For purposes of this section, a person providing cable  
6 20 service or video service is deemed to have executed a  
6 21 franchise agreement to provide cable service or video service  
6 22 with a specific municipality if an affiliate or predecessor of  
6 23 the person providing cable service or video service has or had  
6 24 executed an unexpired franchise agreement with that  
6 25 municipality as of the effective date of this Act.

6 26 4. A competitive cable service provider or competitive  
6 27 video service provider shall provide at least thirty days'  
6 28 notice to each municipality with authority to grant a  
6 29 franchise in the service area, and to the incumbent cable  
6 30 provider, in which the competitive cable service provider or  
6 31 competitive video service provider is granted authority to  
6 32 provide service under a certificate of franchise authority  
6 33 that the competitive cable service provider or competitive  
6 34 video service provider will offer cable services or video  
6 35 services within the jurisdiction of the municipality, and  
7 1 shall not provide service without having provided such thirty  
7 2 days' notice.

7 3 5. As used in this section, "affiliate" includes but is  
7 4 not limited to a person that directly, or indirectly through  
7 5 one or more intermediaries, controls, is controlled by, or is  
7 6 under common control with a person receiving, obtaining, or  
7 7 operating under a franchise agreement with a municipality to  
7 8 provide cable service or video service through merger, sale,  
7 9 assignment, restructuring, or any other type of transaction.

7 10 6. If a competitive cable service provider or a  
7 11 competitive video service provider applies for a certificate  
7 12 of franchise authority to operate within a municipality, the  
7 13 incumbent cable provider may, at its discretion, apply for a  
7 14 certificate of franchise authority for that same municipality.  
7 15 Such application shall be automatically granted on the same  
7 16 day as a competitive cable service provider or competitive  
7 17 video service provider files a thirty days' notice of offering  
7 18 service as required pursuant to subsection 4. The franchise  
7 19 agreement with the municipality is terminated on the date the  
7 20 board issues the certificate of franchise authority to an  
7 21 incumbent cable provider. The terms and conditions of the  
7 22 certificate of franchise authority shall be the same as the  
7 23 terms and conditions of a competitive cable service provider  
7 24 or a competitive video service provider pursuant to this  
7 25 chapter and shall replace the terms and conditions of the

7 26 franchise agreement previously granted by the municipality.

7 27 Sec. 4. NEW SECTION. 477A.3 APPLICATION REQUIREMENTS ==

7 28 CERTIFICATE OF FRANCHISE AUTHORITY.

7 29 1. The board shall issue a certificate of franchise  
7 30 authority under this chapter within fifteen business days  
7 31 after receipt of a completed application and affidavit  
7 32 submitted by the applicant and signed by an officer or general  
7 33 partner of the applicant. The application and affidavit shall  
7 34 provide all of the following information:

7 35 a. That the applicant has filed or will timely file with  
8 1 the federal communications commission all forms required by  
8 2 the commission in advance of offering cable service or video  
8 3 service in this state.

8 4 b. That the applicant agrees to comply with all applicable  
8 5 federal and state statutes, regulations, and rules.

8 6 c. That the applicant agrees to comply with all applicable  
8 7 state laws and nondiscriminatory municipal ordinances and  
8 8 regulations regarding the use and occupation of a public  
8 9 right-of-way in the delivery of the cable service or video  
8 10 service, to the extent consistent with this chapter, including  
8 11 the police powers of the municipalities in which the service  
8 12 is delivered.

8 13 d. A description of the service area to be served and the  
8 14 municipalities to be served by the applicant which may include  
8 15 certain designations of unincorporated areas. This  
8 16 description shall be updated by the applicant prior to the  
8 17 expansion of cable service or video service to a previously  
8 18 undesignated service area and, upon such expansion, notice  
8 19 shall be given to the board of the service area to be served  
8 20 by the applicant.

8 21 e. The address of the applicant's principal place of  
8 22 business and the names of the applicant's principal executive  
8 23 officers.

8 24 2. The failure of the board to notify the applicant of the  
8 25 completeness of the applicant's affidavit or issue a  
8 26 certificate of franchise authority before the fifteenth  
8 27 business day after receipt of a completed affidavit shall  
8 28 constitute issuance of the certificate of franchise authority  
8 29 applied for by the applicant without further action by the  
8 30 applicant.

8 31 3. The certificate of franchise authority issued by the  
8 32 board shall contain all of the following:

8 33 a. A grant of authority to provide cable service or video  
8 34 service in the service area designated in the application.

8 35 b. A grant of authority to use and occupy the public  
9 1 right-of-way in the delivery of cable service or video  
9 2 service, subject to the laws of this state, including the  
9 3 police powers of the municipalities in which the service is  
9 4 delivered.

9 5 c. A statement that the grant of authority provided by the  
9 6 certificate is subject to the lawful operation of the cable  
9 7 service or video service by the applicant or the applicant's  
9 8 successor.

9 9 d. A statement that the franchise is for a term of ten  
9 10 years, is renewable under the terms of this section, and is  
9 11 nonexclusive.

9 12 4. A certificate of franchise authority issued by the  
9 13 board is fully transferable to any successor of the applicant  
9 14 to which the certificate was initially issued. A notice of  
9 15 transfer shall be filed by the holder of the certificate of  
9 16 franchise authority with the board and the affected  
9 17 municipality and shall be effective fourteen business days  
9 18 after submission. The notice of transfer shall include the  
9 19 address of the successor's principal place of business and the  
9 20 names of the successor's principal executive officers. The  
9 21 successor shall assume all regulatory rights and  
9 22 responsibilities of the holder of the certificate. Neither  
9 23 the board nor an affected municipality shall have authority to  
9 24 review or require approval of such transfer.

9 25 5. The certificate of franchise authority issued by the  
9 26 board may be terminated by a person providing cable service or  
9 27 video service by submitting written notice to the board and  
9 28 any affected municipality. Neither the board nor an affected  
9 29 municipality shall have authority to review or require  
9 30 approval of such termination.

9 31 6. The board shall only have the authorization to issue a  
9 32 certificate of franchise authority as provided in this  
9 33 section, and shall not impose any additional requirements or  
9 34 regulations upon an applicant.

9 35 Sec. 5. NEW SECTION. 477A.4 APPLICABILITY TO FEDERAL

10 2 To the extent required by applicable law, a certificate of  
10 3 franchise authority issued under this chapter shall constitute  
10 4 a "franchise" for the purposes of 47 U.S.C. } 541(b)(1). To  
10 5 the extent required for the purposes of 47 U.S.C. } 521==561,  
10 6 only the state of Iowa shall constitute the exclusive  
10 7 franchising authority for competitive cable service providers  
10 8 and competitive video service providers in this state.

10 9 Sec. 6. NEW SECTION. 477A.5 MUNICIPALITY RESTRICTIONS.

10 10 1. A municipality shall not require a holder of a  
10 11 certificate of franchise authority to do any of the following:

- 10 12 a. Comply with a mandatory build-out provision.
- 10 13 b. Obtain a separate franchise.
- 10 14 c. Pay any additional fees, except as provided in this  
10 15 chapter.

10 16 d. Be subject to any additional franchise requirement by  
10 17 the municipality, except as provided in this chapter.

10 18 2. For purposes of this section, a "franchise requirement"  
10 19 includes any provision regulating rates or requiring build-out  
10 20 requirements to deploy any facilities or equipment.

10 21 3. Section 364.2 shall not apply to a holder of a  
10 22 certificate of franchise authority issued pursuant to this  
10 23 chapter.

10 24 Sec. 7. NEW SECTION. 477A.6 PUBLIC, EDUCATIONAL, AND  
10 25 GOVERNMENTAL ACCESS CHANNELS.

10 26 1. Not later than one hundred eighty days after a request  
10 27 by a municipality in which a competitive cable service  
10 28 provider or a competitive video service provider is providing  
10 29 cable service or video service, the holder of the certificate  
10 30 of authority for that municipality shall designate a  
10 31 sufficient amount of capacity on the certificate holder's  
10 32 communications network to allow the provision of a comparable  
10 33 number of public, educational, and governmental channels that  
10 34 the incumbent cable provider in the municipality has activated  
10 35 and provided in the municipality under the terms of a

11 1 franchise agreement with a municipality prior to July 1, 2007.

11 2 If no such channels are active, the municipality may request a  
11 3 maximum of three public, educational, and governmental  
11 4 channels for a municipality with a population of at least  
11 5 fifty thousand, and a maximum of two public, educational, and  
11 6 governmental channels for a municipality with a population of  
11 7 less than fifty thousand.

11 8 a. The public, educational, and governmental content to be  
11 9 provided pursuant to this section and the operation of the  
11 10 public, educational, and governmental channels shall be the  
11 11 responsibility of the municipality receiving the benefit of  
11 12 such capacity. The holder of a certificate of franchise  
11 13 authority shall be responsible only for the transmission of  
11 14 such content, subject to technological restraints.

11 15 b. The municipality receiving capacity under this section  
11 16 shall ensure that all transmissions, content, or programming  
11 17 to be transmitted by the holder of the certificate of  
11 18 franchise authority are provided or submitted to the  
11 19 competitive cable service provider or competitive video  
11 20 service provider in a manner or form that is capable of being  
11 21 accepted and transmitted by the competitive cable service  
11 22 provider or competitive video service provider, without  
11 23 requirement for additional alteration or change in the  
11 24 content, over the particular network of the competitive cable  
11 25 service provider or competitive video service provider, which  
11 26 is compatible with the technology or protocol utilized by the  
11 27 competitive cable service provider or competitive video  
11 28 service provider to deliver services. At its election the  
11 29 municipality may reasonably request any cable service provider  
11 30 or video service provider to make any necessary change to the  
11 31 form of any programming, furnished for transmission, which  
11 32 shall be charged to the municipality, not to exceed the  
11 33 provider's incremental costs. The municipality shall have up  
11 34 to twelve months to reimburse the cable service provider or  
11 35 video service provider. The provision of such transmissions,  
12 1 content, or programming to the competitive cable service  
12 2 provider or competitive video service provider shall  
12 3 constitute authorization for such holder to carry such  
12 4 transmissions, content, or programming, at the holder's  
12 5 option, beyond the jurisdictional boundaries stipulated in any  
12 6 franchise agreement.

12 7 2. Where technically feasible, a competitive cable service  
12 8 provider or competitive video service provider that is a  
12 9 holder of a certificate of franchise authority and an  
12 10 incumbent cable provider shall use reasonable efforts to  
12 11 interconnect the cable or video communications network systems  
12 12 of the certificate holder and incumbent cable provider for the

12 13 purpose of providing public, educational, and governmental  
12 14 programming. Interconnection may be accomplished by direct  
12 15 cable, microwave link, satellite, or other reasonable method  
12 16 of connection. A holder of a certificate of franchise  
12 17 authority and an incumbent cable provider shall negotiate in  
12 18 good faith and an incumbent cable provider shall not withhold  
12 19 interconnection of public, educational, or governmental  
12 20 channels.

12 21 3. A court of competent jurisdiction shall have exclusive  
12 22 jurisdiction to enforce any requirement under this section.

12 23 Sec. 8. NEW SECTION. 477A.7 FEES == FINANCIAL SUPPORT.

12 24 1. a. In any service area in which a competitive cable  
12 25 service provider or a competitive video service provider  
12 26 holding a certificate of franchise authority offers or  
12 27 provides cable service or video service, the competitive cable  
12 28 service provider or competitive video service provider shall  
12 29 calculate and pay a franchise fee to the municipality with  
12 30 authority to grant a certificate of franchise authority in  
12 31 that service area upon the municipality's written request. If  
12 32 the municipality makes such a request, the franchise fee shall  
12 33 be due and paid to the municipality on a quarterly basis, not  
12 34 later than forty-five days after the close of the quarter, and  
12 35 shall be calculated as a percentage of gross revenues. The  
13 1 municipality shall not demand any additional franchise fees  
13 2 from the competitive cable service provider or competitive  
13 3 video service provider, and shall not demand the use of any  
13 4 other calculation method for the franchise fee.

13 5 b. All cable service providers and video service providers  
13 6 shall pay a franchise fee at the same percent of gross  
13 7 revenues as had been assessed on the incumbent cable provider  
13 8 by the municipality as of January 1, 2007, and such percentage  
13 9 shall continue to apply for the period of the remaining term  
13 10 of the existing franchise agreement with the municipality.  
13 11 Upon expiration of the period of the remaining term of the  
13 12 agreement with the incumbent cable service provider, a  
13 13 municipality may request an increase in the franchise fee up  
13 14 to five percent of gross revenues.

13 15 c. A provider who is both a competitive cable service  
13 16 provider and a competitive video service provider shall be  
13 17 subject to and only be required to pay one franchise fee to a  
13 18 municipality under this subsection regardless of whether the  
13 19 provider provides both cable service and video service.

13 20 d. At the request of a municipality and not more than once  
13 21 per year, an independent auditor may perform reasonable audits  
13 22 of the competitive cable service provider's or competitive  
13 23 video service provider's calculation of the franchise fee  
13 24 under this subsection. The municipality shall bear the costs  
13 25 of any audit requested pursuant to this subsection, unless the  
13 26 audit discloses that the competitive cable service provider or  
13 27 competitive video service provider has underpaid franchise  
13 28 fees by more than five percent, in which case the competitive  
13 29 cable service provider or competitive video service provider  
13 30 shall pay all of the reasonable and actual costs of the audit.

13 31 e. A competitive cable service provider or competitive  
13 32 video service provider may identify and collect the amount of  
13 33 the franchise fee as a separate line item on the regular bill  
13 34 of each subscriber.

13 35 2. If an incumbent cable provider pays any fee to a  
14 1 municipality for public, educational, and governmental access  
14 2 channels, any subsequent holder of a certificate of franchise  
14 3 authority that includes that municipality shall pay this fee  
14 4 at the same rate during the remaining term of the existing  
14 5 franchise agreement with the municipality, even if the  
14 6 incumbent cable provider elects to convert to a certificate of  
14 7 franchise authority pursuant to section 477A.2. All fees  
14 8 collected pursuant to this subsection shall be used only for  
14 9 the support of the public, educational, and governmental  
14 10 access channels.

14 11 3. a. If an incumbent cable provider is required by a  
14 12 franchise agreement as of January 1, 2007, to provide  
14 13 institutional network capacity to a municipality for use by  
14 14 the municipality for noncommercial purposes, the incumbent  
14 15 cable provider and any subsequent holder of a certificate of  
14 16 franchise authority shall provide support only for the  
14 17 existing institutional network on a pro rata basis per  
14 18 customer. Any financial support provided for an institutional  
14 19 network shall be limited to ongoing maintenance and support of  
14 20 the existing institutional network. This subsection shall be  
14 21 applicable only to a cable service provider's or video service  
14 22 provider's first certificate of franchise authority issued  
14 23 under this chapter, and shall not apply to any subsequent

14 24 renewals. For the purposes of this subsection, maintenance  
14 25 and support shall only include the reasonable incremental cost  
14 26 of moves, changes, and restoring connectivity of the fiber or  
14 27 coaxial cable lines up to a demarcation point at the building.

14 28 b. For purposes of this subsection, the number of  
14 29 customers of a cable service provider or video service  
14 30 provider shall be determined based on the relative number of  
14 31 subscribers in that municipality at the end of the prior  
14 32 calendar year as reported to the municipality by all incumbent  
14 33 cable providers and holders of a certificate of franchise  
14 34 authority. Any records showing the number of subscribers  
14 35 shall be considered confidential records pursuant to section  
15 1 22.7. The incumbent cable provider shall provide to the  
15 2 municipality, on an annual basis, the maintenance and support  
15 3 costs of the institutional network, subject to an independent  
15 4 audit. A municipality acting under this subsection shall  
15 5 notify and present a bill to competitive cable service  
15 6 providers or competitive video service providers for the  
15 7 amount of such support on an annual basis, beginning one year  
15 8 after issuance of the certificate of franchise authority. The  
15 9 annual institutional network support shall be due and paid by  
15 10 the providers to the municipality in four quarterly payments,  
15 11 not later than forty-five days after the close of each  
15 12 quarter. The municipality shall reimburse the incumbent cable  
15 13 provider for the amounts received from competitive cable  
15 14 service providers or competitive video service providers.

15 15 c. This subsection shall not apply if the incumbent cable  
15 16 service provider is a municipal utility providing  
15 17 telecommunications services under section 388.10.

15 18 4. A franchise fee may be assessed or imposed by a  
15 19 municipality without regard to the municipality's cost of  
15 20 inspecting, supervising, or otherwise regulating the  
15 21 franchise, and the fees collected may be credited to the  
15 22 municipality's general fund and used for municipal general  
15 23 fund purposes.

15 24 5. To the extent that any amount of franchise fees  
15 25 assessed by and paid to a municipality prior to the effective  
15 26 date of this Act, pursuant to a franchise agreement between a  
15 27 municipality and any person to erect, maintain, and operate  
15 28 plants and systems for cable television, exceeds the  
15 29 municipality's reasonable costs of inspecting, supervising, or  
15 30 otherwise regulating the franchise, such amount is deemed and  
15 31 declared to be authorized and legally assessed by and paid to  
15 32 the municipality.

15 33 Sec. 9. NEW SECTION. 477A.8 CUSTOMER SERVICE STANDARDS.

15 34 1. The holder of a certificate of franchise authority  
15 35 shall comply with customer service requirements consistent  
16 1 with those contained in 47 C.F.R. } 76.309, and shall maintain  
16 2 a local or toll-free telephone number for customer service  
16 3 contact.

16 4 2. The holder of a certificate of franchise authority  
16 5 shall implement an informal process for handling inquiries  
16 6 from municipalities and customers concerning billing events,  
16 7 service issues, and other complaints. If an issue is not  
16 8 resolved through this informal process, a municipality may  
16 9 request a confidential nonbinding mediation with the holder of  
16 10 a certificate of franchise authority, with the costs of such  
16 11 mediation to be shared equally between the municipality and  
16 12 the holder of a certificate of franchise authority.

16 13 Sec. 10. NEW SECTION. 477A.9 NONDISCRIMINATION BY  
16 14 MUNICIPALITY.

16 15 1. A municipality shall allow the holder of a certificate  
16 16 of franchise authority to install, construct, and maintain a  
16 17 communications network within a public right-of-way and shall  
16 18 provide the holder of a certificate of franchise authority  
16 19 with open, comparable, nondiscriminatory, and competitively  
16 20 neutral access to the public right-of-way.

16 21 2. A municipality shall not discriminate against the  
16 22 holder of a certificate of franchise authority in providing  
16 23 access to a municipal building or through a municipal utility  
16 24 pole attachment term.

16 25 Sec. 11. NEW SECTION. 477A.10 PROVIDER DISCRIMINATION  
16 26 PROHIBITED.

16 27 1. The purpose of this section is to prevent  
16 28 discrimination among potential residential subscribers.

16 29 2. A competitive cable service provider or competitive  
16 30 video service provider holding a certificate of franchise  
16 31 authority shall not deny access to any group of potential  
16 32 residential subscribers because of the income of residents in  
16 33 the local area in which such group resides.

16 34 3. A video service provider operating under a certificate

16 35 of franchise authority that is using telecommunication  
17 1 facilities to provide video services and has more than five  
17 2 hundred thousand telecommunication access lines in this state  
17 3 shall extend its system to a potential subscriber, at no cost  
17 4 to the potential subscriber, if all of the following criteria  
17 5 are met:

17 6 a. The potential subscriber is located within its  
17 7 authorized service area.

17 8 b. At least two hundred fifty dwelling units are located  
17 9 within two thousand five hundred feet of a remote terminal.

17 10 c. These dwelling units do not have cable or video service  
17 11 available from another cable service provider or video service  
17 12 provider.

17 13 This subsection shall be applicable only after the first  
17 14 date on which the video service provider operating under a  
17 15 certificate of franchise authority is providing cable service  
17 16 or video service to more than fifty percent of all cable and  
17 17 video subscribers receiving cable or video service from the  
17 18 holders of certificates of franchise authority and any other  
17 19 providers of cable or video services operating under franchise  
17 20 agreements with a municipality.

17 21 Sec. 12. NEW SECTION. 477A.11 APPLICABILITY OF OTHER  
17 22 LAW.

17 23 1. This chapter is intended to be consistent with the  
17 24 federal Cable Act, 47 U.S.C. } 521 et seq.

17 25 2. Except as otherwise stated in this chapter, this  
17 26 chapter shall not be interpreted to prevent a competitive  
17 27 cable service provider, competitive video service provider,  
17 28 municipality, or other provider of cable service or video  
17 29 service from seeking clarification of any rights and  
17 30 obligations under federal law or to exercise any right or  
17 31 authority under federal or state law.

17 32 Sec. 13. NEW SECTION. 477A.12 RULES.

17 33 The board shall adopt rules necessary to administer this  
17 34 chapter.

17 35 Sec. 14. FRANCHISES FOR PROVISION OF CABLE SERVICE OR  
18 1 VIDEO SERVICE == SEVERABILITY. If any provision of this Act,  
18 2 or its application thereof to any person or circumstance is  
18 3 held invalid, the invalidity shall not affect other provisions  
18 4 or applications of this Act which can be given effect without  
18 5 the invalid provision or application, and to this end the  
18 6 provisions of this Act are severable as provided in section  
18 7 4.12.

18 8 Sec. 15. EFFECTIVE DATE. This Act, being deemed of  
18 9 immediate importance, takes effect upon enactment.

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JOHN P. KIBBIE  
President of the Senate

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PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and  
is known as Senate File 554, Eighty-second General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2007

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CHESTER J. CULVER  
Governor