



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 12, 2010

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 2324, an Act modifying provisions relating to franchises for the provision of cable service or video service, and including effective date provisions.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Culver", written over the printed name and title.

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





Senate File 2324

AN ACT

MODIFYING PROVISIONS RELATING TO FRANCHISES FOR THE PROVISION OF CABLE SERVICE OR VIDEO SERVICE, AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

Section 1. Section 477A.2, subsection 4, Code 2009, is amended to read as follows:

4. A competitive cable service provider or competitive video service provider shall provide at least thirty days' notice to each municipality with authority to grant a franchise in the service area, and to the incumbent cable provider, in which the competitive cable service provider or competitive video service provider is granted authority to provide service under a certificate of franchise authority that the competitive cable service provider or competitive video service provider will offer cable services or video services within the jurisdiction of the municipality, and shall not provide service without having provided such thirty days' notice. A copy of the notice shall be filed with the board on the date that the notice is provided. All notices required by this subsection shall be sent by certified mail.

Sec. 2. Section 477A.3, Code 2009, is amended to read as follows:

477A.3 Application requirements — certificate of franchise authority.

1. The board shall issue a certificate of franchise authority under this chapter within ~~fifteen-business~~ thirty calendar days after receipt of a completed application and affidavit submitted by the applicant and signed by an officer or general partner of the applicant, subject to subsection 3.

The application and affidavit shall provide all of the following information:

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

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

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

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

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

f. Documentation that the applicant possesses sufficient managerial, technical, and financial capability to provide the cable service or video service proposed in the service area. An applicant or its subsidiary which has been issued a certificate of public convenience and necessity to provide telephone service pursuant to section 476.29 shall be exempt from the provisions of this paragraph.

g. Copies of advertisements or news releases announcing the applicant's intent to provide cable service or video service in the service area intended for release if the certificate of franchise authority is granted.

h. A schedule of dates by which the applicant intends to commence operation in each municipality proposed to be served within the service area. This schedule shall be timely updated by the applicant as necessary to maintain accuracy.

2. In addition to the notice requirements in section 477A.2, subsection 4, an applicant shall provide notice to each municipality with authority to grant a franchise in the service

area on the date that the application is submitted that the applicant has submitted an application to the board pursuant to subsection 1.

3. a. The board shall not issue a certificate of franchise authority to an applicant unless the board finds that all of the requirements specified in subsection 1 have been met.

b. The board may take up to an additional sixty calendar days, beyond the thirty-day period for issuance of a certificate of franchise authority specified in subsection 1, if the board determines that additional information will be required to make a determination regarding whether the requirements specified in subsection 1, paragraphs "f" through "h" have been met, and that the determination cannot be made within the thirty-day period.

c. The board may assess its costs associated with an application or a certificate of franchise authority pursuant to the assessment authority contained in section 476.10, subsection 1, paragraph "a".

~~2.~~ 4. The failure of the board to notify the applicant of the completeness of the applicant's affidavit or issue a certificate of franchise authority before the ~~fifteenth business~~ ninetieth calendar day after receipt of a completed affidavit shall constitute issuance of the certificate of franchise authority applied for by the applicant without further action by the applicant.

~~3.~~ 5. The certificate of franchise authority issued by the board shall contain all of the following:

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

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

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

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

6. a. If the holder of a certificate of franchise authority fails to commence operation of a cable system or video service network within twelve months from the date the application is

granted, the board may determine that the applicant is not in compliance with the certificate of franchise authority and may revoke the certificate.

b. If a certificate is revoked pursuant to this subsection, and if the franchise agreement previously in effect between an incumbent cable provider and the municipality would have remained in effect for at least a sixty-day period prior to expiration, the previous franchise agreement shall be reinstated for the remaining duration of the previous agreement. The incumbent cable provider shall comply with the terms of the prior franchise agreement within ninety days of notification by the board. This paragraph is applicable to an incumbent cable provider who has not been issued a certificate of franchise authority pursuant to section 477A.2, subsection 6, as of the effective date of this Act.

7. a. In the event that an applicant granted a certificate of franchise authority subsequently ceases to engage in construction or operation of a cable system or video service network and is no longer providing service, the applicant shall notify the municipality, the board, and the incumbent cable provider on the date that construction or service is terminated.

b. If the franchise agreement previously in effect between an incumbent cable provider and the municipality would have remained in effect for at least a sixty-day period prior to expiration, the previous franchise agreement shall be reinstated for the remaining duration of the previous agreement. The incumbent cable provider shall comply with the terms of the prior franchise agreement within ninety days of notification by the applicant. This paragraph is applicable to an incumbent cable provider who has not been issued a certificate of franchise authority pursuant to section 477A.2, subsection 6, as of the effective date of this Act.

4. 8. A certificate of franchise authority issued by the board is fully transferable to any successor of the applicant to which the certificate was initially issued. A notice of transfer shall be filed by the holder of the certificate of franchise authority with the board and the affected municipality and shall be effective fourteen business days after submission. The notice of transfer shall include the address of the successor's principal place of business and the names of the successor's principal executive officers. The successor shall assume all regulatory rights and responsibilities of the holder of the certificate. Neither

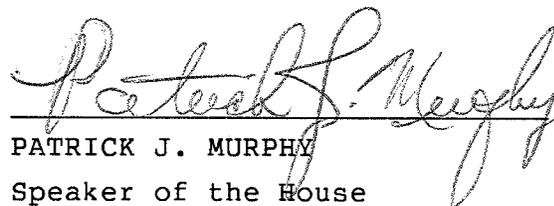
the board nor an affected municipality shall have authority to review or require approval of such transfer.

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

~~6.~~ 10. The board shall only have the authorization to issue a certificate of franchise authority as provided in this section, and shall not impose any additional requirements or regulations upon an applicant.

Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

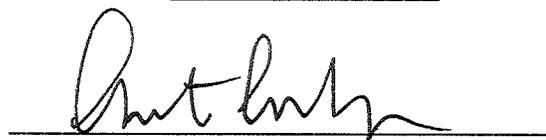

JOHN P. KIBBIE
President of the Senate


PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2324, Eighty-third General Assembly.


MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 12th, 2010


CHESTER J. CULVER
Governor