

The Commission 4/1/92 Amend (S 164) to S.B. 213 (p. 296)

FILED MAR 23 1992

SENATE FILE **S11**  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 213.2)

Passed Senate, Date 3/27/91 (p. 917) Passed House, Date 3/5/92 (p. 460)  
Vote: Ayes 48 Nays 1 Vote: Ayes 95 Nays 0

Approved April 13, 1992 (p. 1318)  
4/6/92 (p. 1225)  
aye 41, nay 0

A BILL FOR

1 An Act relating to certified exchange boundaries for local  
2 exchange utilities.

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

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SF 511

1 Section 1. NEW SECTION. 476.29 CERTIFICATES FOR  
2 PROVIDING LOCAL TELECOMMUNICATIONS SERVICES.

3 1. A utility must have a certificate of public convenience  
4 and necessity issued by the board before furnishing land-line  
5 local telephone service in this state. No lines or equipment  
6 shall be constructed, installed, or operated for the purpose  
7 of furnishing the service before a certificate has been  
8 issued.

9 2. A certificate shall be issued by the board, after  
10 notice and opportunity for hearing, if the board determines  
11 that the service proposed to be rendered will promote the  
12 public convenience and necessity. The board may establish  
13 reasonable conditions or restrictions on the certificate at  
14 the time of issuance.

15 3. A certificate is transferable, subject to approval of  
16 the board pursuant to section 476.20, subsection 1, and for  
17 purposes of a rate-regulated local exchange utility shall be  
18 treated by the board in the same manner as a reorganization  
19 pursuant to sections 476.76 and 476.77.

20 4. Each certificate shall define the service territory in  
21 which land-line local telephone service will be provided. The  
22 service territory shall be shown on maps and other  
23 documentation as the board may require to be filed with the  
24 board. The board shall, by rule, specify the style, size, and  
25 kind of map or other documentation, and the information to be  
26 shown.

27 5. Each local exchange utility has an obligation to serve  
28 all eligible customers within the utility's service territory,  
29 unless explicitly excepted from this requirement by the board.

30 6. The certificate and tariffs approved by the board are  
31 the only authority required for the utility to furnish land-  
32 line local telephone service. However, to the extent not  
33 inconsistent with this section, the power to regulate the  
34 conditions required and manner of use of the highways,  
35 streets, rights-of-way, and public grounds remains in the

1 appropriate public authority.

2 7. The inclusion of any facilities or service territory of  
3 a local exchange utility within the boundaries of a city does  
4 not impair or affect the rights of the utility to provide  
5 land-line local telephone service in the utility's service  
6 territory.

7 8. An agreement between local exchange utilities to  
8 designate service territory boundaries and customers to be  
9 served by the utilities, or for exchange of customers between  
10 utilities, when approved by the board after notice to affected  
11 persons and opportunity for hearing, is valid and enforceable  
12 and shall be incorporated into the appropriate certificates.  
13 The board shall approve an agreement if the board finds the  
14 agreement will result in adequate service to all areas and  
15 customers affected and is in the public interest.

16 9. A certificate may, after notice and opportunity for  
17 hearing, be revoked by the board for failure of a utility to  
18 furnish reasonably adequate telephone service and facilities.  
19 The board may also order a revocation affecting less than the  
20 entire service territory, or may place appropriate conditions  
21 on a utility to ensure reasonably adequate telephone service.  
22 Prior to revocation proceedings, the board shall notify the  
23 utility of any inadequacies in its service and facilities and  
24 allow the utility a reasonable time to eliminate the  
25 inadequacies.

26 10. In the event that eighty percent or more of the  
27 subscribers in a community served by a local exchange utility  
28 sign a petition indicating they are adversely affected by  
29 school reorganization or economic dislocation and prefer to  
30 have their local telephone service provided by a different  
31 local exchange utility and file that petition with the board,  
32 the board, after notice and opportunity for hearing, shall  
33 determine whether the certificate held by the local exchange  
34 utility shall be revoked or conditioned as provided in  
35 subsection 9.

1 11. The board shall assure that all territory in the state  
2 is served by a local exchange utility. If at any time due to  
3 certificate revocation proceedings, discontinuance of service  
4 proceedings, or any other reason, it appears that a particular  
5 territory may not be served by any local exchange utility, the  
6 board may, after notice to interested persons and opportunity  
7 for hearing, include all or part of the territory in the  
8 certificate of another local exchange utility or utilities.  
9 In determining the local exchange utility or utilities to be  
10 authorized or required to serve, the board shall consider the  
11 willingness and ability of the utilities to serve, the  
12 location of existing service facilities, the community of  
13 interest of the customers involved, and any other factors  
14 deemed relevant to the public interest.

15 12. The board shall issue to each local exchange utility  
16 in the state, without a contested case proceeding, a  
17 nonexclusive certificate to serve the area included within the  
18 utility's service territory boundaries as shown by the service  
19 territory boundary maps on record with the board on July 1,  
20 1990. The board shall adopt rules pursuant to chapter 17A to  
21 implement the issuance of certificates.

22 a. A customer served by a local exchange utility, but  
23 outside the service territory of that utility when the  
24 utility's certificate is issued, shall continue to be served  
25 by that utility for as long as that customer remains eligible  
26 to receive and requests service.

27 b. If more than one utility has on file maps indicating  
28 service in the same territory, the board shall request the  
29 involved utilities to resolve the overlap. If the overlap is  
30 not resolved in a reasonable time, the board, after notice to  
31 interested persons and opportunity for hearing, shall  
32 determine the boundary, taking into consideration the criteria  
33 listed in subsection 11.

34 13. This section does not prevent the board from adopting  
35 rules requiring or allowing local exchange utilities to

1 provide extended area service or adjacent exchange service.

2 EXPLANATION

3 The bill authorizes the utilities board to issue  
4 certificates of public convenience and necessity for the  
5 service territory boundaries of local exchange telephone  
6 companies. Maps currently on file with the utilities board  
7 are to be used for issuance of initial certificates.

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## SENATE FILE 511

H-5166

1 Amend Senate File 511 as follows:

A 2 1. Page 1, line 3, by striking the words "A  
3 utility" and inserting the following: "After  
4 September 30, 1992, a utility".

5 2. Page 1, line 9, by striking the word "A" and  
6 inserting the following: "Except as provided in  
7 subsection 12, a".

8 3. Page 3, line 15, by inserting after the word  
9 "board" the following: ", on or prior to September  
10 30, 1992,".

11 4. Page 3, lines 19 and 20, by striking the word  
12 and figures "July 1, 1990" and inserting the  
13 following: "January 1, 1992".

14 5. Page 3, by striking line 34 and inserting the  
15 following:

16 "13. Whenever the board or the consumer advocate  
17 deems it necessary to carry out duties related to the  
18 implementation of this section, the board or consumer  
19 advocate may contract for necessary services with  
20 persons who are not state employees including, but not  
21 limited to, cartographers, engineers, and surveyors.  
22 The cost of services contracted for shall not be paid  
23 from appropriated funds, but shall be assessed pro  
24 rata to all utilities receiving certificates based on  
25 the number of each utility's access lines.

26 14. This section does not prevent the board from  
27 adopting".

A 28 6. Page 4, by inserting after line 1 the  
29 following:

30 "15. The board shall provide a written report to  
31 the general assembly no later than January 20, 2005,  
32 describing the current status of local telephone  
33 service in this state. The report shall include at a  
34 minimum the number of certificates of convenience  
35 issued, the number of current providers of local  
36 telephone service, and any other information deemed  
37 appropriate by the board.

38 Sec. \_\_\_\_\_. REPEAL. Section 476.29, subsection 13,  
39 is amended by striking the subsection effective July  
40 1, 1995.

41 Sec. \_\_\_\_\_. REPEAL. Section 476.29 is repealed  
42 effective July 1, 2007.

43 Sec. \_\_\_\_\_. EFFECTIVE DATE. This Act, being deemed  
44 of immediate importance, is effective upon enactment."

45 7. Title page, line 2, by inserting after the  
46 word "utilities" the following: "and providing an  
47 effective date".

By COMMITTEE ON COMMERCE  
HANSEN of Woodbury, Chairperson

H-5166 FILED FEBRUARY 28, 1992

*Adopted 3/5 (p 459)*

SENATE FILE 511

H-3433

1 Amend Senate File 511, as passed by the Senate, as  
2 follows:

3 1. Page 3, line 20, by striking the figure "1990"  
4 and inserting the following: "1991".

By MAULSBY of Calhoun

H-3433 FILED APRIL 1, 1991

*Class-8010 3/5*

HOUSE AMENDMENT TO  
SENATE FILE 511

S-5145

- 1 Amend Senate File 511 as follows:
- 2 1. Page 1, line 3, by striking the words "A
- 3 utility" and inserting the following: "After
- 4 September 30, 1992, a utility".
- 5 2. Page 1, line 9, by striking the word "A" and
- 6 inserting the following: "Except as provided in
- 7 subsection 12, a".
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- 15 following:
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- 17 deems it necessary to carry out duties related to the
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- 43 Sec. \_\_\_\_\_. EFFECTIVE DATE. This Act, being deemed
- 44 of immediate importance, is effective upon enactment."
- 45 7. Title page, line 2, by inserting after the
- 46 word "utilities" the following: "and providing an
- 47 effective date".

RECEIVED FROM THE HOUSE

S-5145 FILED MARCH 6, 1992

*Senate concurred 4/6 (p. 1221)*



DELUHERY, CH.  
PALMER  
NYSTROM

SSB 213.2  
COMMERCE

SENATE FILE 511  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON DELUHERY)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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SENATE FILE 511

AN ACT  
RELATING TO CERTIFIED EXCHANGE BOUNDARIES FOR LOCAL EXCHANGE  
UTILITIES AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 476.29 CERTIFICATES FOR  
PROVIDING LOCAL TELECOMMUNICATIONS SERVICES.

1. After September 30, 1992, a utility must have a certificate of public convenience and necessity issued by the board before furnishing land-line local telephone service in this state. No lines or equipment shall be constructed, installed, or operated for the purpose of furnishing the service before a certificate has been issued.
2. Except as provided in subsection 12, a certificate shall be issued by the board, after notice and opportunity for hearing, if the board determines that the service proposed to be rendered will promote the public convenience and necessity. The board may establish reasonable conditions or restrictions on the certificate at the time of issuance.
3. A certificate is transferable, subject to approval of the board pursuant to section 476.20, subsection 1, and for purposes of a rate-regulated local exchange utility shall be treated by the board in the same manner as a reorganization pursuant to sections 476.76 and 476.77.
4. Each certificate shall define the service territory in which land-line local telephone service will be provided. The service territory shall be shown on maps and other

documentation as the board may require to be filed with the board. The board shall, by rule, specify the style, size, and kind of map or other documentation, and the information to be shown.

5. Each local exchange utility has an obligation to serve all eligible customers within the utility's service territory, unless explicitly excepted from this requirement by the board.

6. The certificate and tariffs approved by the board are the only authority required for the utility to furnish land-line local telephone service. However, to the extent not inconsistent with this section, the power to regulate the conditions required and manner of use of the highways, streets, rights-of-way, and public grounds remains in the appropriate public authority.

7. The inclusion of any facilities or service territory of a local exchange utility within the boundaries of a city does not impair or affect the rights of the utility to provide land-line local telephone service in the utility's service territory.

8. An agreement between local exchange utilities to designate service territory boundaries and customers to be served by the utilities, or for exchange of customers between utilities, when approved by the board after notice to affected persons and opportunity for hearing, is valid and enforceable and shall be incorporated into the appropriate certificates. The board shall approve an agreement if the board finds the agreement will result in adequate service to all areas and customers affected and is in the public interest.

9. A certificate may, after notice and opportunity for hearing, be revoked by the board for failure of a utility to furnish reasonably adequate telephone service and facilities. The board may also order a revocation affecting less than the entire service territory, or may place appropriate conditions on a utility to ensure reasonably adequate telephone service. Prior to revocation proceedings, the board shall notify the

utility of any inadequacies in its service and facilities and allow the utility a reasonable time to eliminate the inadequacies.

10. In the event that eighty percent or more of the subscribers in a community served by a local exchange utility sign a petition indicating they are adversely affected by school reorganization or economic dislocation and prefer to have their local telephone service provided by a different local exchange utility and file that petition with the board, the board, after notice and opportunity for hearing, shall determine whether the certificate held by the local exchange utility shall be revoked or conditioned as provided in subsection 9.

11. The board shall assure that all territory in the state is served by a local exchange utility. If at any time due to certificate revocation proceedings, discontinuance of service proceedings, or any other reason, it appears that a particular territory may not be served by any local exchange utility, the board may, after notice to interested persons and opportunity for hearing, include all or part of the territory in the certificate of another local exchange utility or utilities. In determining the local exchange utility or utilities to be authorized or required to serve, the board shall consider the willingness and ability of the utilities to serve, the location of existing service facilities, the community of interest of the customers involved, and any other factors deemed relevant to the public interest.

12. The board, on or prior to September 30, 1992, shall issue to each local exchange utility in the state, without a contested case proceeding, a nonexclusive certificate to serve the area included within the utility's service territory boundaries as shown by the service territory boundary maps on record with the board on January 1, 1992. The board shall adopt rules pursuant to chapter 17A to implement the issuance of certificates.

a. A customer served by a local exchange utility, but outside the service territory of that utility when the utility's certificate is issued, shall continue to be served by that utility for as long as that customer remains eligible to receive and requests service.

b. If more than one utility has on file maps indicating service in the same territory, the board shall request the involved utilities to resolve the overlap. If the overlap is not resolved in a reasonable time, the board, after notice to interested persons and opportunity for hearing, shall determine the boundary, taking into consideration the criteria listed in subsection 11.

13. Whenever the board or the consumer advocate deems it necessary to carry out duties related to the implementation of this section, the board or consumer advocate may contract for necessary services with persons who are not state employees including, but not limited to, cartographers, engineers, and surveyors. The cost of services contracted for shall not be paid from appropriated funds, but shall be assessed pro rata to all utilities receiving certificates based on the number of each utility's access lines.

14. This section does not prevent the board from adopting rules requiring or allowing local exchange utilities to provide extended area service or adjacent exchange service.

15. The board shall provide a written report to the general assembly no later than January 20, 2005, describing the current status of local telephone service in this state. The report shall include at a minimum the number of certificates of convenience issued, the number of current providers of local telephone service, and any other information deemed appropriate by the board.

Sec. 2. REPEAL. Section 476.29, subsection 13, is amended by striking the subsection effective July 1, 1995.

Sec. 3. REPEAL. Section 476.29 is repealed effective July 1, 2007.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

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MICHAEL E. GRONSTAL  
President of the Senate

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ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 511, Seventy-fourth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved Sept 13, 1992

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TERRY E. BRANSTAD  
Governor

SF 511