

SENATE FILE 2244
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3037)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to municipal utilities that provide
2 telecommunications services, including the examination and
3 confidentiality of certain accounting records.

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

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SENATE FILE 2244

S-5039

1 Amend Senate File 2244 as follows:
2 1. Page 4, by striking lines 9 through 13.
3 2. Page 4, by inserting after line 13 the
4 following:
5 "Sec. ____ . VALIDITY OF ACTIONS. Except for an
6 action that violates section 364.3, subsection 7,
7 actions taken prior to July 1, 2004, by a city or
8 municipal utility regarding the provision of cable,
9 internet, or long distance service including financing
10 are deemed valid."

By RON WIECK

S-5039 FILED MARCH 8, 2004

SF 2244
COMMERCE

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

4 The financial condition and transactions of all cities and
5 city offices, counties, county hospitals organized under
6 chapters 347 and 347A, memorial hospitals organized under
7 chapter 37, entities organized under chapter 28E having gross
8 receipts in excess of one hundred thousand dollars in a fiscal
9 year, merged areas, area education agencies, and all school
10 offices in school districts, shall be examined at least once
11 each year, except that cities having a population of seven
12 hundred or more but less than two thousand shall be examined
13 at least once every four years, and cities having a population
14 of less than seven hundred may be examined as otherwise
15 provided in this section. The examination shall cover the
16 fiscal year next preceding the year in which the audit is
17 conducted. The examination of school offices shall include an
18 audit of all school funds, the certified annual financial
19 report, and the certified enrollment as provided in section
20 257.6. Differences in certified enrollment shall be reported
21 to the department of management. The examination of a city
22 that owns or operates a municipal utility providing
23 telecommunications services pursuant to section 388.10 shall
24 include an audit of the city's compliance with section 388.10.

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

27 388.10 MUNICIPAL UTILITY PROVIDING ~~LOCAL-EXCHANGE~~
28 TELECOMMUNICATIONS SERVICES.

29 1. a. A city that owns or operates a municipal utility
30 providing ~~local-exchange~~ telecommunications services pursuant
31 ~~to-chapter-476~~ or the such a municipal utility shall not do,
32 directly or indirectly, any of the following:

33 (1) Use general fund moneys for the ongoing support or
34 subsidy of a telecommunications system.

35 (2) Provide any city facilities, equipment, or services to

1 provide telecommunications systems or services at a cost for
2 such facilities, equipment, or services which is less than the
3 reasonable cost of providing such city facilities, equipment,
4 or services.

5 (3) Provide any other city service, other than a
6 communications service, to a telecommunications customer at a
7 cost which is less than would be paid by the same person
8 receiving such other city service if the person was not a
9 telecommunications customer.

10 (4) Use funds or revenue generated from electric, gas,
11 water, sewage, or garbage services provided by the city for
12 the ongoing support of ~~that-portion-of-a-system-or-service~~
13 ~~used-to-provide-local-exchange-services~~ any city
14 telecommunications system.

15 b. For purposes of this section, "telecommunications:

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

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

21 (a) Local exchange telephone services.

22 (b) Long distance telephone services.

23 (c) Internet access services.

24 (d) Cable television services.

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

29 a. Prepare and maintain records which record the full cost
30 accounting of providing ~~local-exchange-service~~
31 telecommunications services. The records shall show the
32 amount and source of capital for initial construction or
33 acquisition of the ~~local-exchange~~ telecommunications system or
34 facilities. The records shall be public records subject to
35 the requirements of chapter 22. Information in the records

1 provider of telecommunications services.

2 The bill requires a city that owns or operates a municipal
3 utility to make an annual certification of compliance with the
4 requirements of Code section 388.10 through either the auditor
5 of state or a certified public accountant. The certification
6 report shall be a public record under Code chapter 22.

7 The bill provides that actions taken by a city or municipal
8 utility prior to July 1, 2004, are considered valid except for
9 those which violate Code section 343.3, subsection 7.

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SENATE FILE 2244
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3037)

(AS AMENDED AND PASSED BY THE SENATE MARCH 9, 2004)

~~_____~~ - New Language by the Senate
* - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to municipal utilities that provide
2 telecommunications services, including the examination and
3 confidentiality of certain accounting records.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 2244

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

4 The financial condition and transactions of all cities and
5 city offices, counties, county hospitals organized under
6 chapters 347 and 347A, memorial hospitals organized under
7 chapter 37, entities organized under chapter 28E having gross
8 receipts in excess of one hundred thousand dollars in a fiscal
9 year, merged areas, area education agencies, and all school
10 offices in school districts, shall be examined at least once
11 each year, except that cities having a population of seven
12 hundred or more but less than two thousand shall be examined
13 at least once every four years, and cities having a population
14 of less than seven hundred may be examined as otherwise
15 provided in this section. The examination shall cover the
16 fiscal year next preceding the year in which the audit is
17 conducted. The examination of school offices shall include an
18 audit of all school funds, the certified annual financial
19 report, and the certified enrollment as provided in section
20 257.6. Differences in certified enrollment shall be reported
21 to the department of management. The examination of a city
22 that owns or operates a municipal utility providing
23 telecommunications services pursuant to section 388.10 shall
24 include an audit of the city's compliance with section 388.10.

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

27 388.10 MUNICIPAL UTILITY PROVIDING LOCAL-EXCHANGE
28 TELECOMMUNICATIONS SERVICES.

29 1. a. A city that owns or operates a municipal utility
30 providing ~~local-exchange~~ telecommunications services pursuant
31 ~~to chapter-476~~ or such a municipal utility shall not do,
32 directly or indirectly, any of the following:

33 (1) Use general fund moneys for the ongoing support or
34 subsidy of a telecommunications system.

35 (2) Provide any city facilities, equipment, or services to

1 provide telecommunications systems or services at a cost for
2 such facilities, equipment, or services which is less than the
3 reasonable cost of providing such city facilities, equipment,
4 or services.

5 (3) Provide any other city service, other than a
6 communications service, to a telecommunications customer at a
7 cost which is less than would be paid by the same person
8 receiving such other city service if the person was not a
9 telecommunications customer.

10 (4) Use funds or revenue generated from electric, gas,
11 water, sewage, or garbage services provided by the city for
12 the ongoing support of ~~that-portion-of-a-system-or-service~~
13 ~~used-to-provide-local-exchange-services~~ any city
14 telecommunications system.

15 b. For purposes of this section, "telecommunications:

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

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

21 (a) Local exchange telephone services.

22 (b) Long distance telephone services.

23 (c) Internet access services.

24 (d) Cable television services.

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

29 a. Prepare and maintain records which record the full cost
30 accounting of providing ~~local-exchange-service~~
31 telecommunications services. The records shall show the
32 amount and source of capital for initial construction or
33 acquisition of the ~~local-exchange~~ telecommunications system or
34 facilities. The records shall be public records subject to
35 the requirements of chapter 22. Information in the records

1 that is not subject to examination or copying as provided in
2 section 388.9, subsection 2, may be expunged from the records
3 prior to public disclosure. This section shall not prohibit a
4 municipal utility from utilizing capital from any lawful
5 source, provided that the reasonable cost of such capital is
6 accounted for as a cost of providing the service. In
7 accounting for the cost of use of any city employees,
8 facilities, equipment, or services, a city or municipal
9 utility may make a reasonable allocation of the cost of use of
10 any city employees, facilities, equipment, or services used by
11 the municipal utility based upon reasonable criteria for the
12 distribution of the cost of use in any manner which is not
13 inconsistent with generally accepted accounting principles.

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

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

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

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

1 exchange telecommunications services. However, a city shall
2 include on a billing statement sent to a person receiving
3 services from the city, a separate charge for each service
4 provided to the person. This subsection does not prohibit the
5 city from also including on the billing statement a total
6 amount to be paid by the person.

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

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

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Witek
Behn
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McCoy
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Succeeded By
SF/HF 2244

SSB# 3037

SENATE FILE Commerce
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON BEHN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to municipal utilities that provide
2 telecommunications services, including the examination and
3 confidentiality of certain accounting records and provision of
4 property tax exemptions.

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

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

4 The financial condition and transactions of all cities and
5 city offices, counties, county hospitals organized under
6 chapters 347 and 347A, memorial hospitals organized under
7 chapter 37, entities organized under chapter 28E having gross
8 receipts in excess of one hundred thousand dollars in a fiscal
9 year, merged areas, area education agencies, and all school
10 offices in school districts, shall be examined at least once
11 each year, except that cities having a population of seven
12 hundred or more but less than two thousand shall be examined
13 at least once every four years, and cities having a population
14 of less than seven hundred may be examined as otherwise
15 provided in this section. The examination shall cover the
16 fiscal year next preceding the year in which the audit is
17 conducted. The examination of school offices shall include an
18 audit of all school funds, the certified annual financial
19 report, and the certified enrollment as provided in section
20 257.6. Differences in certified enrollment shall be reported
21 to the department of management. The examination of a city
22 utility shall include a report of the utility's compliance
23 with section 388.10.

24 Sec. 2. Section 388.9, Code 2003, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 3. Notwithstanding subsections 1 and 2,
27 if, pursuant to section 11.6, subsection 1, paragraph "a", the
28 auditor of state or a certified public accountant reports that
29 the city utility is not in compliance with section 388.10, all
30 records submitted to the auditor of state or certified public
31 accountant or required to be submitted pursuant to section
32 388.10, subsection 2, paragraph "a", relating to compliance,
33 shall be public records subject to chapter 22.

34 Sec. 3. Section 388.10, Code 2003, is amended to read as
35 follows:

1 388.10 MUNICIPAL UTILITY PROVIDING LOCAL-EXCHANGE
2 TELECOMMUNICATIONS SERVICES.

3 1. a. A city that owns or operates a municipal utility
4 providing local-exchange telecommunications services pursuant
5 to chapter-476 or the such a municipal utility shall not do,
6 directly or indirectly, any of the following:

7 (1) Use general fund moneys for the ongoing support or
8 subsidy of a telecommunications system.

9 (2) Provide any city facilities, equipment, or services to
10 provide telecommunications systems or services at a cost for
11 such facilities, equipment, or services which is less than the
12 reasonable cost of providing such city facilities, equipment,
13 or services.

14 (3) Provide any other city service, other than a
15 communications service, to a telecommunications customer at a
16 cost which is less than would be paid by the same person
17 receiving such other city service if the person was not a
18 telecommunications customer.

19 (4) Use funds or revenue generated from electric, gas,
20 water, sewage, or garbage services provided by the city for
21 the ongoing support of that-portion-of-a-system-or-service
22 used-to-provide-local-exchange-services any city
23 telecommunications system.

24 b. For purposes of this section,--"telecommunications:

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

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

- 30 (a) Local exchange telephone services.
- 31 (b) Long distance telephone services.
- 32 (c) Internet access services.
- 33 (d) Cable television services.

34 2. A city that owns or operates a municipal utility
35 providing local-exchange telecommunications services pursuant

1 ~~to chapter-476~~ or the such a municipal utility shall do the
2 following:

3 a. Prepare and maintain records which record the full cost
4 accounting of providing ~~local-exchange-service~~
5 telecommunications services. The records shall show the
6 amount and source of capital for initial construction or
7 acquisition of the ~~local-exchange~~ telecommunications system or
8 facilities. The records shall be provided for any
9 examinations or audits performed pursuant to section 11.6,
10 subsection 1, paragraph "a". This section shall not prohibit
11 a municipal utility from utilizing capital from any lawful
12 source, provided that the reasonable cost of such capital is
13 accounted for as a cost of providing the service.

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

20 c. Be subject to all requirements of the city which would
21 apply to any other provider of ~~local-exchange~~
22 telecommunications services in the same manner as such
23 requirements would apply to such other provider.

24 3. This section shall not prohibit the marketing or
25 bundling of other products or services, in addition to ~~local~~
26 ~~exchange~~ telecommunications services. However, a city shall
27 include on a billing statement sent to a person receiving
28 services from the city, a separate charge for each service
29 provided to the person. This subsection does not prohibit the
30 city from also including on the billing statement a total
31 amount to be paid by the person.

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

34 Sec. 4. Section 427.1, subsection 2, Code Supplement 2003,
35 is amended to read as follows:

1 "telecommunications services" where it appears in Code
2 sections 388.10 and 427.1 and provides a definition for what
3 services constitute "telecommunications services". Municipal
4 airports providing telecommunications services are exempted by
5 the bill from compliance with Code section 388.10.

6 The bill requires the examination of a city utility by the
7 auditor of state or certified public accountant to include a
8 report of whether the utility is in compliance with Code
9 section 388.10. In preparation for the examination, the
10 utility must provide all accounting records to the auditor of
11 state or certified public accountant. If it is reported that
12 the utility is not in compliance with Code section 388.10, all
13 accounting records provided or which were required to have
14 been provided become public records under Code chapter 22.

15 The bill specifies that property of a city or municipal
16 utility used to provide telecommunications services is not
17 exempt from taxation under Code chapters 433 and 441.

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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 by 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 _____, 2004

THOMAS J. VILSACK
Governor