

# Senate File 554 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 368)  
(SUCCESSOR TO SSB 1208)

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

## A BILL FOR

1 An Act relating to franchises for the provision of cable service  
2 or video service including providing for fees and providing an  
3 effective date.

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

5 TLSB 2128SZ 82

6 rn/cf/24

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1 1 Section 1. PURPOSE. It is the purpose of this Act to  
1 2 encourage competition in the provision of cable service and  
1 3 video service in this state, to encourage new providers of  
1 4 cable service and video service, and to provide consumers  
1 5 additional choices in cable service and video service.

1 6 Sec. 2. NEW SECTION. 477A.1 DEFINITIONS.

1 7 As used in this chapter, unless the context otherwise  
1 8 requires:

1 9 1. "Board" means the utilities board within the utilities  
1 10 division of the department of commerce.

1 11 2. "Cable operator" means the same as defined in 47 U.S.C.  
1 12 } 522.

1 13 3. "Cable service" means the same as defined in 47 U.S.C.  
1 14 } 522.

1 15 4. "Cable system" means the same as defined in 47 U.S.C. }  
1 16 522.

1 17 5. "Competitive cable service provider" means a person who  
1 18 provides cable service over a cable system in an area other  
1 19 than the incumbent cable provider providing service in the  
1 20 same area.

1 21 6. "Competitive video service provider" means a person who  
1 22 provides video service other than a cable operator.

1 23 7. "Franchise" means an initial authorization, or renewal  
1 24 of an authorization, issued by the board or a municipality,  
1 25 regardless of whether the authorization is designated as a  
1 26 franchise, permit, license, resolution, contract, certificate,  
1 27 agreement, or otherwise, that authorizes the construction and  
1 28 operation of a cable system or video service provider's  
1 29 network in a public right-of-way.

1 30 8. a. "Gross revenues" means all consideration of any  
1 31 kind or nature, including but not limited to cash, credits,  
1 32 property, and in-kind contributions received from subscribers  
1 33 for the provision of cable service over a cable system by a  
1 34 competitive cable service provider or for the provision of  
1 35 video service by a competitive video service provider within a  
2 1 municipality's jurisdiction.

2 2 b. "Gross revenues" does not include any of the following:

2 3 (1) Revenues not actually received, even if billed,  
2 4 including bad debt.

2 5 (2) Revenues received by any affiliate or any other person  
2 6 in exchange for supplying goods or services used by the person  
2 7 providing cable service or video service.

2 8 (3) Refunds, rebates, or discounts made to third parties,  
2 9 including subscribers, leased access providers, advertisers,  
2 10 or any municipality or other unit of local government.

2 11 (4) Revenues derived by the holder of a certificate of  
2 12 franchise authority from services not classified as cable  
2 13 service or video service, including, without limitation,  
2 14 revenue received from telecommunications services, revenue  
2 15 received from information services, revenue received in  
2 16 connection with advertising, revenue received in connection

2 17 with home-shopping services, or any other revenues attributed  
2 18 by the competitive cable service provider or competitive video  
2 19 service provider to noncable service or nonvideo service in  
2 20 accordance with any federal communications commission rules,  
2 21 regulations, standards, or orders.

2 22 (5) Revenues paid by subscribers to home-shopping  
2 23 programmers directly from the sale of merchandise through any  
2 24 home-shopping channel offered as part of the cable services or  
2 25 video services.

2 26 (6) Revenues from the sale of cable services or video  
2 27 services for resale in which the purchaser is required to  
2 28 collect the franchise fee from the purchaser's customer.

2 29 (7) Revenues from any tax of general applicability imposed  
2 30 upon the competitive cable service provider or competitive  
2 31 video service provider or upon subscribers by a city, state,  
2 32 federal, or any other governmental entity and required to be  
2 33 collected by the competitive cable service provider or  
2 34 competitive video service provider and remitted to the taxing  
2 35 entity, including but not limited to sales or use tax, gross  
3 1 receipts tax, excise tax, utility users tax, public service  
3 2 tax, and communication taxes, and including the franchise fee  
3 3 imposed under section 477A.7.

3 4 (8) Revenues forgone from the provision of cable services  
3 5 or video services to public institutions, public schools, or  
3 6 governmental entities at no charge.

3 7 (9) Revenues foregone from the competitive cable service  
3 8 provider's or competitive video service provider's provision  
3 9 of free or reduced-cost video service to any person,  
3 10 including, without limitation, any municipality and other  
3 11 public institutions or other institutions.

3 12 (10) Revenues from sales of capital assets or sales of  
3 13 surplus equipment.

3 14 (11) Revenues from reimbursements by programmers of  
3 15 marketing costs incurred by the competitive cable service  
3 16 provider or competitive video service provider for the  
3 17 introduction or promotion of new programming.

3 18 (12) Directory or internet advertising revenues including  
3 19 but not limited to yellow page, white page, banner  
3 20 advertisement, and electronic publishing.

3 21 (13) Copyright fees paid to the United States copyright  
3 22 office.

3 23 9. "Incumbent cable provider" means the cable operator  
3 24 serving the largest number of cable subscribers in a  
3 25 particular franchise service area on July 1, 2007.

3 26 10. "Municipality" means a county or city.

3 27 11. "Percentage of gross revenues" means the percentage  
3 28 set by the municipality and identified in a written request  
3 29 made under section 477A.7, subsection 1, which shall be not  
3 30 greater than the most recent percentage paid by the incumbent  
3 31 cable provider as a franchise fee or five percent, whichever  
3 32 is less. However, if the incumbent cable provider is a  
3 33 municipal utility providing telecommunications services under  
3 34 section 388.10, "percentage of gross revenues" means the  
3 35 percentage set by the municipality and identified in a written  
4 1 request made under section 477A.7, subsection 1, which shall  
4 2 not be greater than an equitable apportionment of the services  
4 3 and fees that the municipal utility pays to the municipality,  
4 4 or five percent, whichever is less.

4 5 12. "Public right-of-way" means the area on, below, or  
4 6 above a public roadway, highway, street, bridge, cartway,  
4 7 bicycle lane, or public sidewalk in which the municipality has  
4 8 an interest, including other dedicated rights-of-way for  
4 9 travel purposes and utility easements. "Public right-of-way"  
4 10 does not include the airwaves above a public right-of-way with  
4 11 regard to cellular or other nonwire telecommunications or  
4 12 broadcast services or utility poles owned by a municipality or  
4 13 a municipal utility.

4 14 13. "Video programming" means the same as defined in 47  
4 15 U.S.C. } 522.

4 16 14. "Video service" means video programming services  
4 17 provided through wireline facilities located at least in part  
4 18 in the public right-of-way without regard to delivery  
4 19 technology, including internet protocol technology. "Video  
4 20 service" does not include any video programming provided by a  
4 21 provider of commercial mobile service as defined in 47 U.S.C.  
4 22 } 332, or cable service provided by an incumbent cable  
4 23 provider or a competitive cable service provider.

4 24 Sec. 3. NEW SECTION. 477A.2 CERTIFICATE OF FRANCHISE  
4 25 AUTHORITY REQUIREMENT.

4 26 1. After July 1, 2007, a person providing cable service or  
4 27 video service in this state shall not provide such service

4 28 without a franchise. The franchise may be issued by either  
4 29 the board pursuant to section 477A.3 or by a municipality  
4 30 pursuant to section 364.2.

4 31 2. a. A person providing cable service or video service  
4 32 under a franchise agreement with a municipality prior to July  
4 33 1, 2007, is not subject to this section with respect to such  
4 34 municipality until the franchise agreement expires or is  
4 35 converted pursuant to subsection 6.

5 1 b. Upon expiration of a franchise, a person may choose to  
5 2 renegotiate a franchise agreement with a municipality or may  
5 3 choose to obtain a certificate of franchise authority under  
5 4 this chapter.

5 5 c. A municipal utility that provides cable service or  
5 6 video service in this state is not subject to this section and  
5 7 shall not be required to obtain a certificate of franchise  
5 8 authority pursuant to this chapter in the municipality in  
5 9 which the provision of cable service or video service by that  
5 10 municipality was originally approved.

5 11 3. For purposes of this section, a person providing cable  
5 12 service or video service is deemed to have executed a  
5 13 franchise agreement to provide cable service or video service  
5 14 with a specific municipality if an affiliate or predecessor of  
5 15 the person providing cable service or video service has  
5 16 executed a franchise agreement with that municipality.

5 17 4. A competitive cable service provider or competitive  
5 18 video service provider shall provide at least thirty days'  
5 19 notice to each municipality with authority to grant a  
5 20 franchise in the service area in which the competitive cable  
5 21 service provider or competitive video service provider is  
5 22 granted authority to provide service under a certificate of  
5 23 franchise authority that the competitive cable service  
5 24 provider or competitive video service provider offers or  
5 25 intends to offer cable services or video services within the  
5 26 jurisdiction of the municipality.

5 27 5. As used in this section, "affiliate" includes but is  
5 28 not limited to a person that directly, or indirectly through  
5 29 one or more intermediaries, controls, is controlled by, or is  
5 30 under common control with a person receiving, obtaining, or  
5 31 operating under a franchise agreement with a municipality to  
5 32 provide cable service or video service through merger, sale,  
5 33 assignment, restructuring, or any other type of transaction.

5 34 6. If a competitive cable service provider or competitive  
5 35 video service provider applies for a certificate of franchise  
6 1 authority to operate within a municipality, an incumbent cable  
6 2 provider with an existing franchise agreement with the  
6 3 municipality, upon written notification to the municipality,  
6 4 may convert the franchise under the agreement with the  
6 5 municipality into a certificate of franchise authority under  
6 6 the board. The certificate of franchise authority shall  
6 7 supersede the terms and conditions of the franchise previously  
6 8 granted by the municipality. The franchise agreement with the  
6 9 municipality is terminated on the date the board issues the  
6 10 certificate of franchise authority to the incumbent cable  
6 11 operator converting the franchise.

6 12 Sec. 4. NEW SECTION. 477A.3 APPLICATION REQUIREMENTS ==  
6 13 CERTIFICATE OF FRANCHISE AUTHORITY.

6 14 1. The board shall issue a certificate of franchise  
6 15 authority under this chapter within fifteen business days  
6 16 after receipt of a completed application and affidavit  
6 17 submitted by the applicant and signed by an officer or general  
6 18 partner of the applicant. The application and affidavit shall  
6 19 provide all of the following information:

6 20 a. That the applicant has filed or will timely file with  
6 21 the federal communications commission all forms required by  
6 22 the commission in advance of offering cable service or video  
6 23 service in this state.

6 24 b. That the applicant agrees to comply with all applicable  
6 25 federal and state statutes, regulations, and rules.

6 26 c. That the applicant agrees to comply with all applicable  
6 27 state laws and municipal ordinances and regulations regarding  
6 28 the use and occupation of a public right-of-way in the  
6 29 delivery of the cable service or video service, including the  
6 30 police powers of the municipalities in which the service is  
6 31 delivered.

6 32 d. A description of the service area to be served and the  
6 33 municipalities to be served by the applicant which may include  
6 34 certain designations of unincorporated areas. This  
6 35 description shall be updated by the applicant prior to the  
7 1 expansion of cable service or video service to a previously  
7 2 undesignated service area and, upon such expansion, notice  
7 3 shall be given to the board of the service area to be served

7 4 by the applicant.

7 5 e. The address of the applicant's principal place of  
7 6 business and the names of the applicant's principal executive  
7 7 officers.

7 8 2. The failure of the board to notify the applicant of the  
7 9 completeness of the applicant's affidavit or issue a  
7 10 certificate of franchise authority before the fifteenth  
7 11 business day after receipt of a completed affidavit shall  
7 12 constitute issuance of the certificate of franchise authority  
7 13 applied for by the applicant without further action by the  
7 14 applicant.

7 15 3. The certificate of franchise authority issued by the  
7 16 board shall contain all of the following:

7 17 a. A grant of authority to provide cable service or video  
7 18 service in the service area designated in the application.

7 19 b. A grant of authority to use and occupy the public  
7 20 right-of-way in the delivery of cable service or video  
7 21 service, subject to the laws of this state, including the  
7 22 police powers of the municipalities in which the service is  
7 23 delivered.

7 24 c. A statement that the grant of authority provided by the  
7 25 certificate is subject to the lawful operation of the cable  
7 26 service or video service by the applicant or the applicant's  
7 27 successor.

7 28 d. A statement that the franchise is for a term of ten  
7 29 years, is renewable under the terms of this section, and is  
7 30 nonexclusive.

7 31 4. A certificate of franchise authority issued by the  
7 32 board is fully transferable to any successor of the applicant  
7 33 to which the certificate was initially issued. A notice of  
7 34 transfer shall be filed by the holder of the certificate of  
7 35 franchise authority with the board and the affected  
8 1 municipality within fourteen business days of the completion  
8 2 of the transfer of the certificate of franchise authority.

8 3 5. The certificate of franchise authority issued by the  
8 4 board may be terminated by a person providing cable service or  
8 5 video service by submitting written notice to the board.

8 6 6. The board shall only have the authorization to issue a  
8 7 certificate of franchise authority as provided in this  
8 8 section, and shall not impose any additional requirements or  
8 9 regulations upon an applicant.

8 10 Sec. 5. NEW SECTION. 477A.4 APPLICABILITY TO FEDERAL  
8 11 LAW.

8 12 To the extent required by applicable law, a certificate of  
8 13 franchise authority issued under this chapter shall constitute  
8 14 a "franchise" for the purposes of 47 U.S.C. } 541(b)(1). To  
8 15 the extent required for the purposes of 47 U.S.C. } 521==561,  
8 16 only the state of Iowa shall constitute the exclusive  
8 17 franchising authority for competitive cable service providers  
8 18 and competitive video service providers in this state.

8 19 Sec. 6. NEW SECTION. 477A.5 MUNICIPALITY RESTRICTIONS.

8 20 1. A municipality shall not require a holder of a  
8 21 certificate of franchise authority to do any of the following:

8 22 a. Comply with a mandatory build-out provision.

8 23 b. Obtain a separate franchise.

8 24 c. Pay any additional fees, except as provided in this  
8 25 chapter.

8 26 d. Be subject to any additional franchise requirement by  
8 27 the municipality, except as provided in this chapter.

8 28 2. For purposes of this section, a "franchise requirement"  
8 29 includes any provision regulating rates or requiring build-out  
8 30 requirements to deploy any facilities or equipment.

8 31 3. Section 364.2 shall not apply to a holder of a  
8 32 certificate of franchise authority issued pursuant to this  
8 33 chapter.

8 34 Sec. 7. NEW SECTION. 477A.6 PUBLIC, EDUCATIONAL, AND  
8 35 GOVERNMENTAL ACCESS CHANNELS.

9 1 1. Not later than one hundred eighty days after a request  
9 2 by a municipality in which a competitive cable service  
9 3 provider or a competitive video service provider is providing  
9 4 cable service or video service, the holder of the certificate  
9 5 of authority for that municipality shall designate a  
9 6 sufficient amount of capacity on the certificate holder's  
9 7 communications network to allow the provision of a comparable  
9 8 number of public, educational, and governmental channels that  
9 9 the incumbent cable provider in the municipality has activated  
9 10 and provided in the municipality under the terms of a  
9 11 franchise agreement with a municipality prior to July 1, 2007.  
9 12 If no such channels are active, the municipality may request a  
9 13 maximum of three public, educational, and governmental  
9 14 channels for a municipality with a population of at least

9 15 fifty thousand, and a maximum of two public, educational, and  
9 16 governmental channels for a municipality with a population of  
9 17 less than fifty thousand.

9 18 a. The public, educational, and governmental content to be  
9 19 provided pursuant to this section and the operation of the  
9 20 public, educational, and governmental channels shall be the  
9 21 responsibility of the municipality receiving the benefit of  
9 22 such capacity. The holder of a certificate of franchise  
9 23 authority shall be responsible only for the transmission of  
9 24 such content, subject to technological restraints.

9 25 b. The municipality receiving capacity under this section  
9 26 shall ensure that all transmissions, content, or programming  
9 27 to be transmitted by the holder of the certificate of  
9 28 franchise authority are provided or submitted to the  
9 29 competitive cable service provider or competitive video  
9 30 service provider in a manner or form that is capable of being  
9 31 accepted and transmitted by the competitive cable service  
9 32 provider or competitive video service provider, without  
9 33 requirement for additional alteration or change in the  
9 34 content, over the particular network of the competitive cable  
9 35 service provider or competitive video service provider, which  
10 1 is compatible with the technology or protocol utilized by the  
10 2 competitive cable service provider or competitive video  
10 3 service provider to deliver services. The provision of such  
10 4 transmissions, content, or programming to the competitive  
10 5 cable service provider or competitive video service provider  
10 6 shall constitute authorization for such holder to carry such  
10 7 transmissions, content, or programming, at the holder's  
10 8 option, beyond the jurisdictional boundaries stipulated in any  
10 9 franchise agreement.

10 10 2. Where technically feasible, a competitive cable service  
10 11 provider or competitive video service provider that is a  
10 12 holder of a certificate of franchise authority and an  
10 13 incumbent cable provider shall use reasonable efforts to  
10 14 interconnect the cable or video communications network systems  
10 15 of the certificate holder and incumbent cable provider for the  
10 16 purpose of providing public, educational, and governmental  
10 17 programming. Interconnection may be accomplished by direct  
10 18 cable, microwave link, satellite, or other reasonable method  
10 19 of connection. A holder of a certificate of franchise  
10 20 authority and an incumbent cable provider shall negotiate in  
10 21 good faith and an incumbent cable provider shall not withhold  
10 22 interconnection of public, educational, or governmental  
10 23 channels.

10 24 3. A court of competent jurisdiction shall have exclusive  
10 25 jurisdiction to enforce any requirement under this section.

10 26 Sec. 8. NEW SECTION. 477A.7 FEES.

10 27 1. a. In any service area in which a competitive cable  
10 28 service provider or a competitive video service provider  
10 29 holding a certificate of franchise authority offers or  
10 30 provides cable service or video service, the competitive cable  
10 31 service provider or competitive video service provider shall  
10 32 calculate and pay a franchise fee to the municipality with  
10 33 authority to grant a certificate of franchise authority in  
10 34 that service area upon the municipality's written request. If  
10 35 the municipality makes such a request, the franchise fee shall  
11 1 be due and paid to the municipality on a quarterly basis, not  
11 2 later than forty-five days after the close of the quarter, and  
11 3 shall be calculated as a percentage of gross revenues. The  
11 4 municipality shall not demand any additional franchise fees  
11 5 from the competitive cable service provider or competitive  
11 6 video service provider, and shall not demand the use of any  
11 7 other calculation method for the franchise fee.

11 8 b. Upon the expiration of an existing franchise agreement,  
11 9 if the incumbent cable provider elects to possess a  
11 10 certificate of franchise authority, the incumbent cable  
11 11 provider shall pay a franchise fee to the municipality in an  
11 12 amount equal to the same percent of gross revenues as had been  
11 13 assessed immediately prior to the termination of the incumbent  
11 14 cable operator's franchise.

11 15 c. A provider who is both a competitive cable service  
11 16 provider and a competitive video service provider shall be  
11 17 subject to and only be required to pay one franchise fee to a  
11 18 municipality under this subsection regardless of whether the  
11 19 provider provides both cable service and video service.

11 20 d. At the request of a municipality and not more than once  
11 21 per year, an independent auditor may perform reasonable audits  
11 22 of the competitive cable service provider's or competitive  
11 23 video service provider's calculation of the franchise fee  
11 24 under this subsection. The municipality shall bear the costs  
11 25 of any audit requested pursuant to this subsection, unless the

11 26 audit discloses that the competitive cable service provider or  
11 27 competitive video service provider has underpaid franchise  
11 28 fees by more than eight percent, in which case the competitive  
11 29 cable service provider or competitive video service provider  
11 30 shall pay all of the reasonable and actual costs of the audit.  
11 31 e. A competitive cable service provider or competitive  
11 32 video service provider may identify and collect the amount of  
11 33 the franchise fee as a separate line item on the regular bill  
11 34 of each subscriber.

11 35 2. A municipality may require a competitive cable service  
12 1 provider or competitive video service provider to pay a permit  
12 2 fee for the purpose of the construction of facilities within  
12 3 public rights-of-way if the municipality imposes the same  
12 4 permit fee on the incumbent cable provider, and any permit fee  
12 5 shall not exceed the actual, direct costs incurred by the  
12 6 municipality for issuing the relevant permit. In no event may  
12 7 a permit fee under this subsection be levied under any of the  
12 8 following circumstances:

12 9 a. If the competitive cable service provider or  
12 10 competitive video service provider already has paid a permit  
12 11 fee of any kind in connection with the same activity that  
12 12 would otherwise be covered by the permit fee under this  
12 13 subsection or is otherwise authorized by law or contract to  
12 14 place the facilities used by the competitive cable service  
12 15 provider or competitive video service provider in the public  
12 16 right-of-way.

12 17 b. For general revenue purposes.

12 18 3. If an incumbent cable provider pays any fee to a  
12 19 municipality for public, educational, and governmental access  
12 20 channels, any subsequent holder of a certificate of franchise  
12 21 authority that includes that municipality shall pay this fee  
12 22 at the same rate during the remaining term of the existing  
12 23 franchise agreement with the municipality. All fees collected  
12 24 pursuant to this subsection shall be used only for the support  
12 25 of the public, educational, and governmental access channels.

12 26 Sec. 9. NEW SECTION. 477A.8 CUSTOMER SERVICE STANDARDS.

12 27 1. The holder of a certificate of franchise authority  
12 28 shall comply with customer service requirements consistent  
12 29 with those contained in 47 C.F.R. } 76.309.

12 30 2. The holder of a certificate of franchise authority  
12 31 shall implement an informal process for handling inquiries  
12 32 from municipalities and customers concerning billing events,  
12 33 service issues, and other complaints. If an issue is not  
12 34 resolved through this informal process, a municipality may  
12 35 request a confidential nonbinding mediation with the holder of  
13 1 a certificate of franchise authority, with the costs of such  
13 2 mediation to be shared equally between the municipality and  
13 3 the holder of a certificate of franchise authority.

13 4 Sec. 10. NEW SECTION. 477A.9 NONDISCRIMINATION BY  
13 5 MUNICIPALITY.

13 6 1. A municipality shall allow the holder of a certificate  
13 7 of franchise authority to install, construct, and maintain a  
13 8 communications network within a public right-of-way and shall  
13 9 provide the holder of a certificate of franchise authority  
13 10 with open, comparable, nondiscriminatory, and competitively  
13 11 neutral access to the public right-of-way.

13 12 2. A municipality shall not discriminate against the  
13 13 holder of a certificate of franchise authority in providing  
13 14 access to a municipal building or through a municipal utility  
13 15 pole attachment term.

13 16 Sec. 11. NEW SECTION. 477A.10 PROVIDER DISCRIMINATION  
13 17 PROHIBITED.

13 18 1. The purpose of this section is to prevent  
13 19 discrimination among potential residential subscribers.

13 20 2. A competitive cable service provider or competitive  
13 21 video service provider holding a certificate of franchise  
13 22 authority shall not deny access to any group of potential  
13 23 residential subscribers because of the income of residents in  
13 24 the local area in which such group resides.

13 25 Sec. 12. NEW SECTION. 477A.11 APPLICABILITY OF OTHER  
13 26 LAW.

13 27 1. This chapter is intended to be consistent with the  
13 28 federal Cable Act, 47 U.S.C. } 521 et seq.

13 29 2. Except as otherwise stated in this chapter, this  
13 30 chapter shall not be interpreted to prevent a competitive  
13 31 cable service provider, competitive video service provider,  
13 32 municipality, or other provider of cable service or video  
13 33 service from seeking clarification of any rights and  
13 34 obligations under federal law or to exercise any right or  
13 35 authority under federal or state law.

14 1 Sec. 13. NEW SECTION. 477A.12 RULES.

14 2 The board shall adopt rules necessary to administer this  
14 3 chapter.

14 4 Sec. 14. EFFECTIVE DATE. This Act, being deemed of  
14 5 immediate importance, takes effect upon enactment.

14 6 EXPLANATION

14 7 This bill relates to franchises for the provision of cable  
14 8 service or video service.

14 9 Under current law, each city has the authority to grant a  
14 10 franchise for the provision of cable television service under  
14 11 Code section 364.2. The bill requires a person providing  
14 12 cable service or video service, as defined by the bill, to  
14 13 apply for and receive a certificate of franchise authority  
14 14 from the Iowa utilities board or a municipality to provide  
14 15 cable service or video service in a specified service area.  
14 16 Persons providing cable service or video service under a  
14 17 franchise agreement with a municipality prior to July 1, 2007,  
14 18 are not required to apply for a certificate of franchise  
14 19 authority until the franchise agreement expires or is  
14 20 converted as provided by the bill. The bill provides that  
14 21 upon expiration of a franchise, a franchise agreement may be  
14 22 renegotiated with a municipality or obtained from the board,  
14 23 and that a municipal utility providing cable service or video  
14 24 services shall not be required to obtain a certificate of  
14 25 franchise authority in the municipality in which provision of  
14 26 the services was originally approved. A competitive cable  
14 27 service provider or competitive video service provider shall  
14 28 provide at least 30 days' notice to each municipality in the  
14 29 service area granted under the certificate of franchising  
14 30 authority that the provider offers or intends to offer cable  
14 31 service or video service. The bill specifies procedures  
14 32 whereby incumbent cable providers, as defined in the bill, may  
14 33 request to convert an existing franchise agreement with a  
14 34 municipality into a certificate of franchise authority issued  
14 35 by the board.

15 1 The bill provides for certain application requirements to  
15 2 receive a certificate of franchise authority, including an  
15 3 affirmation of compliance with certain federal requirements,  
15 4 agreement to comply with municipal right-of-way ordinances, a  
15 5 description of the service area, and the address of the  
15 6 applicant's principal place of business. The bill provides  
15 7 for the certificate of franchise authority to contain certain  
15 8 information, including an explicit grant of authority to the  
15 9 holder of the certificate to provide cable service or video  
15 10 service in a specific service area described by the  
15 11 certificate that the franchise is for a term of 10 years, is  
15 12 renewable, and is nonexclusive. A certificate of franchise  
15 13 authority is transferable. The bill requires a holder of a  
15 14 certificate of franchise authority to file a notice of  
15 15 transfer with the board within 14 days of the completion of  
15 16 the transfer. The holder of a certificate of authority may  
15 17 terminate the certificate by providing written notice to the  
15 18 board.

15 19 The bill provides that a certificate of franchise authority  
15 20 shall be considered a "franchise" within the meaning of  
15 21 certain federal laws and that only the state of Iowa shall be  
15 22 considered the franchising authority for competitive cable  
15 23 service providers and competitive video service providers in  
15 24 this state.

15 25 The bill prohibits municipalities from requiring a holder  
15 26 of a certificate of franchise authority to comply with  
15 27 mandatory build-out provisions, obtain a separate franchise,  
15 28 pay additional fees other than as provided in the bill, and  
15 29 comply with additional franchise requirements other than as  
15 30 provided in the bill. The bill provides that Code section  
15 31 364.2, relating to the powers of cities to grant franchises,  
15 32 shall not apply to a holder of a certificate of franchise  
15 33 authority.

15 34 Upon request by a municipality, the bill requires a holder  
15 35 of a certificate of franchise authority granted by the  
16 1 municipality to designate capacity on the certificate holder's  
16 2 communications network to allow for the provision of channels  
16 3 or capacity for public, educational, or governmental  
16 4 programming by a competitive cable service provider or  
16 5 competitive video service provider. The bill requires a  
16 6 holder of a certificate of authority and an incumbent cable  
16 7 service provider to use reasonable efforts to interconnect the  
16 8 cable or video network of the certificate holder and incumbent  
16 9 provider to provide public, educational, and governmental  
16 10 programming.

16 11 The bill requires a competitive cable service provider and  
16 12 a competitive video service provider to calculate and pay a

16 13 franchise fee to a municipality in which the provider is  
16 14 offering cable service or video service. The franchise fee  
16 15 must be requested by the municipality and paid not later than  
16 16 45 days after each quarter. The franchise fee shall be  
16 17 calculated as a percentage of gross revenues as defined by the  
16 18 bill. The municipality may not demand any additional  
16 19 franchise fees or another method of calculation of the  
16 20 franchise fee. The municipality may only charge one franchise  
16 21 fee per competitive provider regardless of whether the  
16 22 provider provides both cable service and video service, and  
16 23 may request an independent audit of the franchise fees paid.  
16 24 The municipality may charge a permit fee to a competitive  
16 25 cable service provider or competitive video service provider  
16 26 if the municipality imposes the same fee on the incumbent  
16 27 cable provider of the municipality.

16 28 The bill provides the holder of a certificate of franchise  
16 29 authority to comply with customer services requirements  
16 30 consistent with federal regulation, and to implement an  
16 31 informal process for handling inquiries from municipalities  
16 32 and customers concerning billing events, service issues, and  
16 33 other complaints, leading to mediation if not resolved.

16 34 The bill provides for nondiscrimination with respect to  
16 35 holders of certificates of franchise authority by a  
17 1 municipality regarding the installation, construction, and  
17 2 maintenance of a communications network in the municipality's  
17 3 right-of-way. The municipality cannot discriminate against a  
17 4 holder of a certificate of authority regarding access to a  
17 5 municipal building and a municipal utility pole attachment  
17 6 term.

17 7 The bill prohibits a competitive cable service provider and  
17 8 competitive video service provider with a certificate of  
17 9 franchise authority from denying access to the provider's  
17 10 services to any group of potential residential subscribers due  
17 11 to the residents' income.

17 12 The bill contains a general applicability clause for  
17 13 consistency with the federal Cable Act. The bill provides  
17 14 authority for the board to adopt rules necessary to administer  
17 15 new Code chapter 477A.

17 16 The bill is effective upon enactment.

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