

House File 2405 - Introduced

HOUSE FILE 2405
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 628)

A BILL FOR

1 An Act relating to the confidentiality of information disclosed
2 pursuant to applications for broadband technology project
3 grants, and projects undertaken pursuant thereto, and
4 including effective date and applicability provisions.

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

1 Section 1. 2009 Iowa Acts, chapter 173, section 13,
2 subsection 5, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. (1) In establishing the competitive
4 process as provided in paragraph "c", subparagraph (2), the
5 governance board shall give due regard to the confidentiality
6 of certain information disclosed during the application process
7 and completion of the project for which funding is disbursed.

8 (2) All information contained in an application for a grant
9 submitted to the governance board shall remain confidential
10 while the governance board is engaged in any of the following:

11 (a) Reviewing the application.

12 (b) Processing a request for confidentiality.

13 (c) Negotiating with the applicant.

14 (d) Preparing the application for consideration by the
15 governance board.

16 (3) The governance board may release certain information
17 in an application to a third party for technical review. If
18 the governance board releases such information to a third
19 party, the governance board shall ensure that the third party
20 protects the information from public disclosure. After the
21 governance board has considered a request for confidentiality,
22 any information not deemed confidential by the governance
23 board shall be made publicly available. Any information
24 deemed confidential by the governance board shall also be kept
25 confidential during and following the completion of the project
26 for which funding was disbursed by the governance board.

27 (4) The governance board shall consider the written request
28 of an applicant or grant recipient to keep confidential
29 certain details of an application, a project, or the materials
30 submitted in support of an application or project. If the
31 request includes a sufficient explanation as to why public
32 disclosure of such details would give an unfair advantage to
33 competitors, the governance board shall keep such details
34 confidential. If the governance board elects to keep certain
35 details confidential, the governance board shall release only

1 the nonconfidential details in response to a request for
2 records pursuant to chapter 22. If confidential details are
3 withheld from a request for records pursuant to chapter 22,
4 the governance board shall release an explanation of why the
5 information was deemed confidential and a summary of the nature
6 of the information withheld and the reasons for withholding
7 it. In considering requests for confidential treatment, the
8 governance board shall narrowly construe the provisions of this
9 subsection in order to appropriately balance an applicant's
10 need for confidentiality against the public's right to
11 information about the governance board's activities.

12 (5) If a request for confidentiality is denied by the
13 governance board, an applicant may withdraw an application and
14 any supporting materials, and the governance board shall not
15 retain any copies of the application or supporting materials.
16 Upon notice that an application has been withdrawn, the
17 governance board shall not release a copy of the application
18 or of any supporting materials in response to a request for
19 records pursuant to chapter 22.

20 (6) Rules shall be adopted by the telecommunications and
21 technology commission, in consultation with the utilities board
22 and the economic development board, establishing a process for
23 considering requests to keep information confidential pursuant
24 to this subsection. The commission may adopt emergency
25 rules pursuant to chapter 17A to implement this subsection.
26 The rules shall include criteria for guiding the governance
27 board's decisions about the confidential treatment of applicant
28 information. The criteria may include but are not limited to
29 the following:

30 (a) The nature and extent of competition in the applicant's
31 industry sector or service territory.

32 (b) The likelihood of adverse financial impact to the
33 applicant if the information were to be released.

34 (c) Any other factor the governance board reasonably
35 considers relevant.

1 the bill provides that the board shall release a summary of the
2 nature of the information withheld and a statement explaining
3 the reasons the information was deemed confidential. In
4 considering requests for confidentiality, the bill directs
5 the board to narrowly construe the bill's provisions to
6 appropriately balance an applicant's need for confidentiality
7 against the public's right to information.

8 The bill allows an applicant to withdraw an application and
9 supporting materials in the event a request for confidentiality
10 is denied, and prohibits the board from retaining any copies of
11 the application or supporting materials. Upon notice that an
12 application has been withdrawn, the bill prohibits the board
13 from releasing a copy of the application or of any supporting
14 materials in response to a request for records pursuant to Code
15 chapter 22.

16 The board directs the commission, in consultation with
17 the Iowa utilities board and the economic development
18 board, to adopt administrative rules regarding requests for
19 confidentiality, which shall include criteria for guiding the
20 governance board's decisions about the confidentiality of
21 applicant information.

22 The bill is applicable to requests for confidentiality in
23 relation to applications that have been submitted to the board
24 and are in process on the bill's effective date. The bill
25 takes effect upon enactment.