

Senate File 2324 - Introduced

SENATE FILE 2324
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2113)

A BILL FOR

1 An Act modifying provisions relating to franchises for the
2 provision of cable service or video service, and including
3 effective date provisions.

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

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

3 4. A competitive cable service provider or competitive
4 video service provider shall provide at least thirty days'
5 notice to each municipality with authority to grant a franchise
6 in the service area, and to the incumbent cable provider, in
7 which the competitive cable service provider or competitive
8 video service provider is granted authority to provide service
9 under a certificate of franchise authority that the competitive
10 cable service provider or competitive video service provider
11 will offer cable services or video services within the
12 jurisdiction of the municipality, and shall not provide service
13 without having provided such thirty days' notice. A copy of
14 the notice shall be filed with the board on the date that the
15 notice is provided.

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

18 **477A.3 Application requirements — certificate of franchise**
19 **authority.**

20 1. The board shall issue a certificate of franchise
21 authority under this chapter within ~~fifteen~~ thirty business
22 days after receipt of a completed application and affidavit
23 submitted by the applicant and signed by an officer or general
24 partner of the applicant, subject to subsection 3. The
25 application and affidavit shall provide all of the following
26 information:

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

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

33 c. That the applicant agrees to comply with all applicable
34 state laws and nondiscriminatory municipal ordinances and
35 regulations regarding the use and occupation of a public

1 right-of-way in the delivery of the cable service or video
2 service, to the extent consistent with this chapter, including
3 the police powers of the municipalities in which the service
4 is delivered.

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

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

15 *f.* Documentation that the applicant possesses sufficient
16 managerial, technical, and financial capability to provide the
17 cable service or video service proposed in the service area.

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

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

26 2. In addition to the notice requirements in section
27 477A.2, subsection 4, an applicant shall provide notice to each
28 municipality with authority to grant a franchise in the service
29 area on the date that the application is submitted that the
30 applicant has submitted an application to the board pursuant to
31 subsection 1.

32 3. The board shall not issue a certificate of franchise
33 authority to an applicant unless the board is fully satisfied
34 that all of the requirements specified in subsection 1,
35 paragraphs "f" through "h" have been met.

1 ~~2.~~ 4. The failure of the board to notify the applicant
2 of the completeness of the applicant's affidavit or
3 issue a certificate of franchise authority before the
4 ~~fifteenth~~ thirtieth business day after receipt of a completed
5 affidavit shall constitute issuance of the certificate of
6 franchise authority applied for by the applicant without
7 further action by the applicant.

8 ~~3.~~ 5. The certificate of franchise authority issued by the
9 board shall contain all of the following:

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

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

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

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

23 6. If the holder of a certificate of franchise authority
24 fails to complete construction and commence operation of a
25 cable system or video service network within one year from the
26 date the application is submitted, the board may determine that
27 the applicant is not in compliance with the certificate of
28 franchise authority and may revoke the certificate, in which
29 case the franchise agreement previously in effect between
30 an incumbent cable provider and the municipality shall be
31 reinstated and honored by the incumbent. If the franchise
32 agreement with the incumbent cable provider has expired, the
33 franchise agreement previously in effect shall continue in
34 effect until a new franchise agreement between the incumbent
35 cable provider and the municipality is negotiated.

1 7. In the event that an applicant granted a certificate
2 of franchise authority subsequently ceases to engage in
3 construction or operation of a cable system or video service
4 network and is no longer providing service, the applicant
5 shall notify the municipality and the board on the date that
6 construction or service is terminated, in which case the
7 franchise agreement previously in effect between an incumbent
8 cable provider and the municipality shall be reinstated and
9 honored by the incumbent. If the franchise agreement with the
10 incumbent cable provider has expired, the franchise agreement
11 previously in effect shall continue in effect until a new
12 franchise agreement between the incumbent cable provider and
13 the municipality is negotiated.

14 ~~4.~~ 8. A certificate of franchise authority issued by
15 the board is fully transferable to any successor of the
16 applicant to which the certificate was initially issued.
17 A notice of transfer shall be filed by the holder of the
18 certificate of franchise authority with the board and
19 the affected municipality and shall be effective fourteen
20 business days after submission. The notice of transfer shall
21 include the address of the successor's principal place of
22 business and the names of the successor's principal executive
23 officers. The successor shall assume all regulatory rights and
24 responsibilities of the holder of the certificate. Neither
25 the board nor an affected municipality shall have authority to
26 review or require approval of such transfer.

27 ~~5.~~ 9. The certificate of franchise authority issued by the
28 board may be terminated by a person providing cable service or
29 video service by submitting written notice to the board and
30 any affected municipality. Neither the board nor an affected
31 municipality shall have authority to review or require approval
32 of such termination.

33 ~~6.~~ 10. The board shall only have the authorization to
34 issue a certificate of franchise authority as provided in this
35 section, and shall not impose any additional requirements or

1 regulations upon an applicant.

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

4 EXPLANATION

5 This bill modifies provisions relating to franchises for the
6 provision of cable service or video service.

7 The bill makes several changes to requirements concerning
8 providing notice of an intent to offer cable services or
9 video services, contents of applications to the utilities
10 board within the department of commerce for the issuance of a
11 certificate of franchise authority for the provision of such
12 services, and certificate issuance procedures.

13 The bill provides that a copy of the notice which a
14 competitive cable service provider or competitive video service
15 provider is required to provide to each municipality with
16 authority to grant a franchise in the service area, and to the
17 service area's incumbent cable provider, regarding an intent
18 to provide services in the service area must be filed with
19 the utilities board on the date that the notice is provided.
20 A requirement that the board issue a certificate within 15
21 business days is modified in the bill to 30 business days.

22 The bill adds to information requirements to be included
23 in an application and affidavit for a franchise, submission
24 of documentation that the applicant possesses sufficient
25 managerial, technical, and financial capability to provide
26 the cable service or video service proposed, copies of
27 advertisements or news releases announcing the applicant's
28 intent to provide cable service or video service in the service
29 area intended for release if the certificate is granted, and a
30 schedule of dates by which the applicant intends to commence
31 operation. The bill provides that these requirements must
32 be fully satisfied prior to issuance of a certificate. The
33 bill additionally requires an applicant for a certificate to
34 provide notice to each municipality with authority to grant a
35 franchise in the service area on the date that the application

1 is submitted that the applicant has submitted an application
2 to the utilities board.

3 The bill addresses circumstances in which an applicant who
4 is granted a certificate of franchise authority subsequently
5 fails to complete construction and commence operation within a
6 one-year period, or terminates construction and operation at
7 a subsequent point and no longer provides service. The bill
8 provides that failure to complete construction and commence
9 operation within one year from the granting of the franchise
10 may constitute noncompliance with the certificate, resulting in
11 possible revocation of the certificate by the board. In this
12 event, the bill states that a franchise agreement previously
13 in effect between the municipality and an incumbent cable
14 provider shall be reinstated, and renegotiated if expired. If
15 construction or operation ceases or service is terminated, the
16 bill requires an applicant to notify the municipality and the
17 board on the date that construction or services are terminated,
18 and the reinstatement and renegotiation provisions previously
19 described with an incumbent cable provider shall apply.

20 The bill takes effect upon enactment.