

**Senate File 509 - Introduced**

SENATE FILE 509  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1174)

(COMPANION TO HF 355 BY  
COMMITTEE ON COMMERCE)

**A BILL FOR**

1 An Act relating to matters under the purview of the utilities  
2 division of the department of commerce, and making penalties  
3 applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 34A.2, subsections 8 and 14, Code 2019,  
2 are amended to read as follows:

3 8. "*Competitive local exchange service provider*" means the  
4 ~~same as defined in section 476.96~~ any person, including a  
5 municipal utility, that provides local exchange services, other  
6 than a local exchange carrier or a non-rate-regulated wireline  
7 provider of local exchange services.

8 14. "*Local exchange carrier*" means the ~~same as defined in~~  
9 ~~section 476.96~~ any person that was the incumbent and historical  
10 rate-regulated wireline provider of local exchange services  
11 or any successor to such person that provides local exchange  
12 services.

13 Sec. 2. Section 423.3, subsection 47A, Code 2019, is amended  
14 to read as follows:

15 47A. a. The sales price from the sale or rental of central  
16 office equipment or transmission equipment primarily used by  
17 local exchange carriers and competitive local exchange service  
18 providers ~~as defined in section 476.96~~; by franchised cable  
19 television operators, mutual companies, municipal utilities,  
20 cooperatives, and companies furnishing communications services  
21 that are not subject to rate regulation as provided in chapter  
22 476; by long distance companies as defined in [section 477.10](#);  
23 or for a commercial mobile radio service as defined in 47  
24 C.F.R. §20.3 in the furnishing of telecommunications services  
25 on a commercial basis.

26 b. For the purposes of [this subsection](#),

27 (1) "*central office equipment*" means equipment utilized  
28 in the initiating, processing, amplifying, switching, or  
29 monitoring of telecommunications services. "*Central office*  
30 equipment" also includes ancillary equipment and apparatus  
31 which support, regulate, control, repair, test, or enable such  
32 equipment to accomplish its function.

33 (2) "*Competitive local exchange service provider*" means  
34 any person, including a municipal utility, that provides  
35 local exchange services, other than a local exchange carrier

1 or a non-rate-regulated wireline provider of local exchange  
2 services.

3 (3) "Local exchange carrier" means any person that was the  
4 incumbent and historical rate-regulated wireline provider of  
5 local exchange services or any successor to such person that  
6 provides local exchange services.

7 (4) "Transmission equipment" means equipment utilized  
8 in the process of sending information from one location to  
9 another location. ~~"Central office equipment" and "transmission~~  
10 "Transmission equipment" also ~~include~~ includes ancillary  
11 equipment and apparatus which support, regulate, control,  
12 repair, test, or enable such equipment to accomplish its  
13 function.

14 Sec. 3. Section 476.2, Code 2019, is amended by adding the  
15 following new subsection:

16 NEW SUBSECTION. 4A. The board shall have the authority  
17 to employ or appoint an independent administrative law judge  
18 to preside over any hearing or proceeding before the board.  
19 Sections 10A.801 and 17A.11 do not apply to the employment or  
20 appointment of an administrative law judge pursuant to this  
21 subsection.

22 Sec. 4. Section 476.10, subsection 1, paragraph b, Code  
23 2019, is amended to read as follows:

24 b. The board shall ascertain the total of the division's  
25 expenses incurred during each fiscal year in the performance  
26 of its duties under law. The board shall add to the total of  
27 the division's expenses the certified expenses of the consumer  
28 advocate as provided under [section 475A.6](#). The board shall  
29 deduct all amounts charged directly to any person from the  
30 total expenses of the board and the consumer advocate. The  
31 board may assess an estimate of the amount remaining after  
32 the estimated deduction for direct charges to some or all  
33 persons providing service over which the board has jurisdiction  
34 in proportion to the respective gross operating revenues  
35 of such persons from intrastate operations during the last

1 calendar year over which the board has jurisdiction. For  
2 purposes of determining gross operating revenues under this  
3 section, the board shall not include gross receipts received  
4 by a cooperative corporation or association for wholesale  
5 transactions with members of the cooperative corporation  
6 or association, provided that the members are subject to  
7 assessment by the board based upon the members' gross operating  
8 revenues, or provided that such a member is an association  
9 whose members are subject to assessment by the board based upon  
10 the members' gross operating revenues. If any portion of the  
11 remainder can be identified with a specific type of utility  
12 service, the board shall assess an estimate of those expenses  
13 only to the entities providing that type of service over which  
14 the board has jurisdiction. The board may make the remainder  
15 assessments under this paragraph on a quarterly basis, based  
16 upon estimates of the expenditures for the fiscal year for  
17 the utilities division and the consumer advocate. Not more  
18 than ninety days following the close of the fiscal year, the  
19 utilities division shall conform the amount of the prior fiscal  
20 year's assessments to the requirements of this paragraph. For  
21 gas and electric public utilities exempted from rate regulation  
22 pursuant to [this chapter](#), the remainder assessments under  
23 this paragraph shall be computed at one-half the rate used in  
24 computing the assessment for other persons.

25 Sec. 5. Section 476.55, subsection 2, paragraph a,  
26 unnumbered paragraph 1, Code 2019, is amended to read as  
27 follows:

28 Notwithstanding [section 476.1D](#), the board may receive  
29 a complaint from a local exchange carrier that another  
30 local exchange carrier has engaged in an activity that is  
31 inconsistent with antitrust laws and the policies which  
32 underlie them. For purposes of [this subsection](#), "*local exchange*  
33 *carrier*" means ~~the same as defined in section 476.96~~ any person  
34 that was the incumbent and historical rate-regulated wireline  
35 provider of local exchange services or any successor to such

1 person that provides local exchange services, and includes a  
2 city utility authorized pursuant to [section 388.2](#) to provide  
3 local exchange services. If, after notice and opportunity for  
4 hearing, the board finds that a local exchange carrier has  
5 engaged in an activity that is inconsistent with antitrust laws  
6 and the policies which underlie them, the board may order any  
7 of the following:

8 Sec. 6. Section 477C.7, subsection 2, Code 2019, is amended  
9 to read as follows:

10 2. The entities subject to assessment shall remit the  
11 assessed amounts ~~quarterly~~ to a special fund, as defined under  
12 section 8.2, subsection 9, at intervals as directed by the  
13 board. The moneys in the fund are appropriated solely to  
14 plan, establish, administer, and promote the relay service and  
15 equipment distribution programs.

16 Sec. 7. Section 479.31, subsection 1, Code 2019, is amended  
17 to read as follows:

18 1. A person who violates [this chapter](#) or any rule or  
19 order issued pursuant to [this chapter](#) shall be subject to a  
20 civil penalty levied by the board ~~not to exceed one hundred~~  
21 ~~thousand dollars for each violation~~ in accordance with 49  
22 C.F.R. §190.223. Each day that the violation continues shall  
23 constitute a separate offense. ~~However, the maximum civil~~  
24 ~~penalty shall not exceed one million dollars for any related~~  
25 ~~series of violations~~. Civil penalties collected pursuant to  
26 this section shall be forwarded by the chief operating officer  
27 of the board to the treasurer of state to be credited to the  
28 general fund of the state and appropriated to the division of  
29 community action agencies of the department of human rights for  
30 purposes of the low income home energy assistance program and  
31 the weatherization assistance program.

32 Sec. 8. Section 479A.7, Code 2019, is amended to read as  
33 follows:

34 **479A.7 Annual inspection fee.**

35 A The board may, in accordance with section 476.10, charge

1 a pipeline company shall pay with an annual inspection fee of  
2 fifty cents per mile of pipeline or fraction thereof for each  
3 inch of diameter of the pipeline located in this state. The  
4 annual inspection fee shall be paid for the calendar year in  
5 advance between January 1 and February 1 of each year that  
6 is directly attributable to the costs of conducting annual  
7 inspections pursuant to this chapter.

8

EXPLANATION

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The inclusion of this explanation does not constitute agreement with  
the explanation's substance by the members of the general assembly.

11 This bill modifies provisions relating to the utilities  
12 division of the department of commerce.

13 The bill removes cross references throughout the Code to  
14 repealed Code section 476.96, which included definitions for  
15 "competitive local exchange service provider" and "local  
16 exchange carrier", and provides new definitions for such terms  
17 in those Code sections. "Competitive local exchange service  
18 provider" is defined as any person, including a municipal  
19 utility, that provides local exchange services, other than  
20 a local exchange carrier or a non-rate-regulated wireline  
21 provider of local exchange services. "Local exchange carrier"  
22 is defined as any person that was the incumbent and historical  
23 rate-regulated wireline provider of local exchange services  
24 or any successor to such person that provides local exchange  
25 services.

26 The bill provides the Iowa utilities board with authority  
27 to employ or appoint an independent administrative law judge  
28 to preside over any hearing or proceeding before the board.  
29 Certain provisions applicable to the employment or appointment  
30 of administrative law judges by state agencies do not apply to  
31 appointments by the board.

32 Current law requires the board to deduct all amounts charged  
33 directly to any person subject to the jurisdiction of the  
34 board for providing utility services from the total annual  
35 expenses of the board and the consumer advocate. The board may

1 assess the remaining amount to all persons providing service  
2 over which the board has jurisdiction in proportion to their  
3 respective gross operating revenues. The bill allows the board  
4 to charge such assessments based on estimated amounts, and to  
5 be assessed to some or all persons providing service over which  
6 the board has jurisdiction.

7 Current law requires telecommunications carriers subject to  
8 assessments under Code chapter 477C to remit the assessments  
9 to a special fund quarterly. The bill removes the requirement  
10 that assessments under Code chapter 477C be remitted quarterly  
11 and instead allows the board to direct the intervals of when  
12 such assessments are to be remitted.

13 Current law allows the board to impose a civil penalty of up  
14 to \$100,000 for each violation of Code chapter 479, relating  
15 to pipelines and underground gas storage, or any rule or order  
16 issued pursuant to the Code chapter, provided that the maximum  
17 penalty does not exceed \$1 million for any related series of  
18 violations. The bill removes these maximum amounts and instead  
19 provides that a civil penalty levied by the board shall be in  
20 accordance with specified federal law.

21 Current law requires pipeline companies operating pipelines  
22 or underground storage under Code chapter 479A to pay the board  
23 an annual inspection fee of 50 cents for each mile of pipeline  
24 located in Iowa. The bill removes this set fee and instead  
25 allows the board to charge pipeline companies with annual  
26 inspection fees that are directly attributable to the costs of  
27 conducting inspections.