

**House Study Bill 137 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
COMMERCE/UTILITIES DIVISION  
BILL)

**A BILL FOR**

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

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DIVISION I  
ADMINISTRATION

Section 1. Section 476.2, Code 2021, is amended by adding the following new subsection:

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

Sec. 2. Section 476.10, subsection 1, paragraph b, Code 2021, is amended to read as follows:

b. The board shall ascertain the total of the division's expenses incurred during each fiscal year in the performance of its duties under law. The board shall add to the total of the division's expenses the certified expenses of the consumer advocate as provided under [section 475A.6](#). The board shall deduct all amounts charged directly to any person from the total expenses of the board and the consumer advocate. The board may assess the amount remaining after the deduction to all persons providing service over which the board has jurisdiction in proportion to the respective gross operating revenues of such persons from intrastate operations during the last calendar year over which the board has jurisdiction. For purposes of determining gross operating revenues under this section, the board shall not include gross receipts received by a cooperative corporation or association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such a member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only

1 to the entities providing that type of service over which the  
2 board has jurisdiction. The board may make the remainder  
3 assessments under this paragraph ~~on a quarterly basis to some~~  
4 or all persons providing service over which the board has  
5 jurisdiction, based upon estimates of the expenditures for  
6 the fiscal year for the utilities division and the consumer  
7 advocate. Not more than ninety days following the close of the  
8 fiscal year, the utilities division shall conform the amount  
9 of the prior fiscal year's assessments to the requirements of  
10 this paragraph. For gas and electric public utilities exempted  
11 from rate regulation pursuant to [this chapter](#), the remainder  
12 assessments under this paragraph shall be computed at one-half  
13 the rate used in computing the assessment for other persons.

14 DIVISION II

15 PIPELINE

16 Sec. 3. Section 479.31, subsection 1, Code 2021, 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. 4. Section 479A.7, Code 2021, 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 that  
4 is directly attributable to the costs of conducting annual  
5 inspections pursuant to this chapter. The annual inspection  
6 fee shall be paid for the calendar year in advance between  
7 January 1 and February 1 of each year.

8 DIVISION III

9 TELECOMMUNICATIONS SERVICES

10 Sec. 5. Section 34A.2, subsections 8 and 14, Code 2021, are  
11 amended to read as follows:

12 8. "*Competitive local exchange service provider*" means the  
13 same as defined in ~~section 476.96~~ any person, including a  
14 municipal utility, that provides local exchange services, other  
15 than a local exchange carrier or a non-rate-regulated wireline  
16 provider of local exchange services.

17 14. "*Local exchange carrier*" means the same as defined in  
18 ~~section 476.96~~ any person that was the incumbent and historical  
19 rate-regulated wireline provider of local exchange services  
20 or any successor to such person that provides local exchange  
21 services.

22 Sec. 6. Section 423.3, subsection 47A, Code 2021, is amended  
23 to read as follows:

24 47A. a. The sales price from the sale or rental of central  
25 office equipment or transmission equipment primarily used  
26 by local exchange carriers and competitive local exchange  
27 service providers as defined in ~~section 476.96~~, Code 2017;  
28 by franchised cable television operators, mutual companies,  
29 municipal utilities, cooperatives, and companies furnishing  
30 communications services that are not subject to rate regulation  
31 as provided in ~~chapter 476~~; by long distance companies as  
32 defined in ~~section 477.10~~; or for a commercial mobile radio  
33 service as defined in 47 C.F.R. §20.3 in the furnishing of  
34 telecommunications services on a commercial basis.

35 b. For the purposes of ~~this subsection~~, "*central*":

1     (1) "Central office equipment" means equipment utilized  
2 in the initiating, processing, amplifying, switching, or  
3 monitoring of telecommunications services. "Central office  
4 equipment" also includes ancillary equipment and apparatus  
5 which support, regulate, control, repair, test, or enable such  
6 equipment to accomplish its function.

7     (2) "Competitive local exchange service provider" means  
8 any person, including a municipal utility, that provides  
9 local exchange services, other than a local exchange carrier  
10 or a non-rate-regulated wireline provider of local exchange  
11 services.

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

16     (4) "Transmission equipment" means equipment utilized  
17 in the process of sending information from one location to  
18 another location. ~~"Central office equipment"~~ and ~~"transmission~~  
19 ~~"Transmission equipment"~~ also ~~include~~ includes ancillary  
20 equipment and apparatus which support, regulate, control,  
21 repair, test, or enable such equipment to accomplish its  
22 function.

23     Sec. 7. Section 477C.7, subsection 2, Code 2021, is amended  
24 to read as follows:

25     2. The entities subject to assessment shall remit the  
26 assessed amounts quarterly, as determined by the board, to a  
27 special fund, as defined under section 8.2, subsection 9. The  
28 moneys in the fund are appropriated solely to plan, establish,  
29 administer, and promote the relay service and equipment  
30 distribution programs.

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#### EXPLANATION

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

34     This bill relates to matters under the purview of the  
35 utilities division of the department of commerce.

1 The bill provides the Iowa utilities board with authority  
2 to employ or appoint an independent administrative law judge  
3 to preside over any hearing or proceeding before the board.  
4 Certain provisions applicable to the employment or appointment  
5 of administrative law judges by state agencies do not apply to  
6 appointments by the board.

7 Current law requires the board to deduct all amounts charged  
8 directly to any person subject to the jurisdiction of the  
9 board for providing utility services from the total annual  
10 expenses of the board and the consumer advocate. The board may  
11 assess the remaining amount on a quarterly basis to all persons  
12 providing service over which the board has jurisdiction in  
13 proportion to their respective gross operating revenues. The  
14 bill strikes the requirement that these assessments be made on  
15 a quarterly basis and allows the board to make the assessments  
16 to some or all persons providing service over which the board  
17 has jurisdiction.

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

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

33 The bill removes cross references in Code section 34A.2  
34 to repealed Code section 476.96, which included definitions  
35 for "competitive local exchange service provider" and "local

1 exchange carrier", and provides new definitions for such terms.  
2 "Competitive local exchange service provider" is defined as  
3 any person, including a municipal utility, that provides  
4 local exchange services, other than a local exchange carrier  
5 or a non-rate-regulated wireline provider of local exchange  
6 services. "Local exchange carrier" is defined as any person  
7 that was the incumbent and historical rate-regulated wireline  
8 provider of local exchange services or any successor to such  
9 person that provides local exchange services.

10 The bill amends Code section 423.3, subsection 47A, to  
11 modify the definitions of "central office equipment" and  
12 "transmission equipment". The bill provides "central office  
13 equipment" includes ancillary equipment and apparatus which  
14 enable central office equipment to accomplish its function.  
15 Additionally, the bill provides "transmission equipment",  
16 including ancillary equipment and apparatus which enable  
17 transmission equipment, to accomplish its function.

18 The bill defines "competitive local exchange service  
19 provider", for purposes of Code section 423.3, subsection 47A,  
20 as any person, including a municipal utility, that provides  
21 local exchange services, other than a local exchange carrier  
22 or a non-rate-regulated wireline provider of local exchange  
23 services. The bill defines "local exchange carrier", for  
24 purposes of Code section 423.3, subsection 47A, as any person  
25 that was the incumbent and historical rate-regulated wireline  
26 provider of local exchange services or any successor to such  
27 person that provides local exchange services.

28 Current law requires wireless carriers and wireline local  
29 exchange carriers providing telecommunications service in the  
30 state to remit the amounts assessed to fund the dual party  
31 relay service to a special fund on a quarterly basis. The bill  
32 provides that these remittances will be made as determined by  
33 the board.