

Senate Study Bill 1128 - 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.