

CHAPTER 81**REGULATION OF MUNICIPAL TELECOMMUNICATIONS UTILITIES***H.F. 596*

AN ACT authorizing the utilities board to issue certificates of public convenience and necessity to municipal telecommunications utilities, regulating certain municipal utilities as competitive local exchange service providers, and including effective date and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.1B, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Unless otherwise specifically provided by statute, a municipally owned utility furnishing gas or electricity is not subject to regulation by the board under this chapter, except for regulatory action pertaining to:

Sec. 2. Section 476.1B, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Unless otherwise specifically provided by statute, a municipally owned utility providing local exchange services is not subject to regulation by the board under this chapter except for regulatory action pertaining to the enforcement of sections 476.11, 476.29, 476.95, 476.96, 476.101, and 476.102.

Sec. 3. Section 476.29, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 16. Notwithstanding other provisions of this section, approval by the voters of a city pursuant to section 388.2 of a proposal to establish or acquire a public utility providing communications services is conclusive evidence of the fact that the city has the technical, financial, and managerial ability to provide such service. Following the notice and opportunity for hearing in subsection 2, an applicant shall not be denied a certificate if the board finds the proposed service is consistent with the public interest.

Sec. 4. Section 476.96, subsection 3, Code 1997, is amended to read as follows:

3. "Competitive local exchange service provider" means any person, including a municipal utility, that provides local exchange services, other than a local exchange carrier or a nonrate-regulated wireline provider of local exchange services under an authorized certificate of public convenience and necessity within a specific geographic area described in maps filed with and approved by the board as of September 30, 1992.

Sec. 5. **APPLICABILITY.** A city that has made application to the board for issuance of a certificate of public convenience and necessity prior to the effective date of this Act shall not be deemed to be in violation of this Act for failure to comply with the provisions of chapter 476. The original application for a certificate shall be deemed refiled as of the effective date of the Act for purposes of issuance of the certificate in accordance with this Act.

Sec. 6. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to October 18, 1994.

Approved April 23, 1997