

SENATE BILL No. 1342

August 4, 2004, Introduced by Senators SCHAUER and EMERSON and referred to the Committee on Technology and Energy.

A bill to amend 2002 PA 48, entitled
"Metropolitan extension telecommunications rights-of-way oversight act,"
by amending section 3 (MCL 484.3103).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 3. (1) Pursuant to section 27 of article VII of the
2 state constitution of 1963 and any other applicable law, the
3 metropolitan extension telecommunications rights-of-way oversight
4 authority is established as ~~an autonomous agency within the~~
5 ~~department of consumer and industry services~~ a metropolitan
6 authority, a local public body corporate and politic not within
7 the executive branch of state government. ~~The director of the~~
8 ~~authority shall be appointed by the governor for a 4 year term.~~
9 ~~The director of the authority shall report directly to the~~
10 ~~governor. The department of consumer and industry services shall~~
11 ~~provide the authority all budget, procurement, and~~

1 ~~management related functions. The department of consumer and~~
2 ~~industry services shall also provide suitable offices,~~
3 ~~facilities, equipment, staff, and supplies for the authority in~~
4 ~~the city of Lansing.~~

5 (2) **The authority shall be directed and governed by a board**
6 **of directors.** The ~~director of the authority~~ board is
7 responsible for carrying out the powers and duties of the
8 authority under this act. **The board shall have all the powers**
9 **and duties necessary to administer this act.**

10 (3) **The board of directors shall consist of 8 members.** The
11 **governor shall appoint as members of the board of directors 4**
12 **residents of this state representing municipalities and 4**
13 **residents of this state representing telecommunications**
14 **providers.** Of the initial board members appointed, the governor
15 shall appoint 3 members to serve for terms expiring on December
16 31, 2007, 3 members to serve for terms expiring on December 31
17 2006, and 2 members to serve for terms expiring on December 31,
18 2005. After the expiration of the initial terms, members of the
19 board shall be appointed for terms of 4 years.

20 (4) Upon appointment to the board of directors under
21 subsection (3) and taking the constitutional oath of office, the
22 member may exercise the duties of the office. A member of the
23 board shall hold office until a successor has been appointed and
24 qualified. A member of the authority board may be suspended or
25 removed from office by the governor for gross neglect of duty,
26 corrupt conduct in office, or any other misfeasance or
27 malfeasance in office.

1 (5) In case of a vacancy on the board of directors, the
2 governor shall fill a vacancy by appointment in the same manner
3 as under subsection (3). A vacancy shall be filled for the
4 balance of the unexpired term of the office.

5 (6) The board of directors shall elect a chairperson, a
6 vice-chairperson, and a secretary from among its members. If the
7 chairperson is a member of the board appointed to represent
8 municipalities, the vice-chairperson shall be a member appointed
9 to represent telecommunications providers. If the chairperson is
10 a member of the board appointed to represent telecommunications
11 providers, the vice-chairperson shall be a member appointed to
12 represent municipalities.

13 (7) Members of the authority board shall serve without
14 compensation, but shall be reimbursed for actual and necessary
15 expenses. A member of the board of directors shall discharge the
16 duties of his or her position in a nonpartisan manner, with good
17 faith, and with that degree of diligence, care, and skill that an
18 ordinarily prudent person would exercise under similar
19 circumstances in a like position.

20 (8) The board shall employ personnel and may enter into
21 contracts as necessary to carry out the functions of the board
22 under this act. The board shall appoint an executive director.
23 The executive director shall perform all duties that the board
24 assigns him or her. The executive director shall be reimbursed
25 for all actual and necessary expenses incurred in discharge of
26 his or her official duties. The executive director shall keep
27 records of all proceedings of the board and shall preserve all

1 records, books, documents, and other papers belonging to the
2 board or entrusted to its care. The executive director shall
3 devote his or her full time to the duties of the office and not
4 hold any other office or employment.

5 (9) ~~(3)~~ The authority shall coordinate public right-of-way
6 matters with municipalities, assess the fees required under this
7 act, and have the exclusive power to assess fees on
8 telecommunication providers owning telecommunication facilities
9 in public rights-of-way within a municipality in a metropolitan
10 area to recover the costs of using the rights-of-way by the
11 provider.

12 (10) ~~(4)~~ The authority shall file an annual report of its
13 activities for the preceding year ~~with the governor and the~~
14 ~~members of the legislative committees dealing with energy,~~
15 ~~technology, and telecommunications issues~~ on or before March 1
16 of each year ~~—~~ with all of the following:

17 (a) The governor.

18 (b) The chairpersons and minority vice-chairpersons of the
19 legislative committees dealing with energy, technology, and
20 telecommunications issues.

21 (c) The executive director of the Michigan municipal league.

22 (d) The executive director of the Michigan townships
23 association.

24 (11) The board shall establish policies and procedures
25 requiring periodic disclosure of relationships which may give
26 rise to conflicts of interest. The board shall establish
27 policies that are no less stringent than those provided for

1 public officers and employees by 1973 PA 196, MCL 15.341 to
2 15.348.

3 (12) ~~(5)~~ The ~~authority~~ board may ~~promulgate~~ adopt
4 bylaws and rules not inconsistent with this act for the
5 implementation and administration of this act. ~~under the~~
6 ~~administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to~~
7 ~~24.328.~~

8 (13) The business that the board may perform shall be
9 conducted at a public meeting of the board held in compliance
10 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
11 The board shall adopt rules consistent with the open meetings
12 act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures
13 and the holding of meetings.

14 (14) The authority shall comply with the uniform budgeting
15 and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.