

HOUSE BILL No. 5684

February 6, 2008, Introduced by Reps. Espinoza, Brown and Proos and referred to the Committee on Energy and Technology.

A bill to amend 2002 PA 48, entitled

"Metropolitan extension telecommunications rights-of-way oversight act,"

by amending section 13 (MCL 484.3113).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) A municipality is not eligible to receive funds
2 under sections 11 and 12 unless by December 31, ~~2003~~2007 the
3 municipality has modified to the extent necessary any fees charged
4 to providers after the effective date of this act relating to
5 access to and usage of the public rights-of-way to an amount not
6 exceeding the amounts of fees and charges required under this act.

7 (2) To the extent a telecommunications provider pays fees to a
8 municipality that have not been modified as required by this
9 section, both of the following apply:

10 (a) The provider may deduct the fees paid from the fee

1 required to be paid under section 8 for those rights-of-way.

2 (b) The amounts received shall be deducted from the amounts
3 the municipality is eligible to receive under sections 11 and 12.

4 (3) The authority may allow a municipality in violation of
5 this section to become eligible to receive funds under sections 11
6 and 12 if the authority determines that the violation occurred
7 despite good faith efforts and the municipality rebates to the
8 authority any fees received in excess of those required under
9 section 8, including any interest as determined by the authority.

10 (4) A municipality is considered to have modified the fees
11 under subsection (1) if it has adopted a resolution or ordinance,
12 effective no later than January 1, ~~2004~~2008, approving the
13 modification so that providers with telecommunication facilities in
14 public rights-of-way within the municipality's boundaries pay only
15 those fees required under section 8. The municipality shall provide
16 each provider affected by the fee a copy of the resolution or
17 ordinance passed under this subsection.

18 (5) Except as otherwise provided by a municipality, if section
19 8 is found to be invalid or unconstitutional, a modification of
20 fees under this section is void from the date the modification was
21 made.

22 (6) To be eligible to receive fee-sharing payments under this
23 act, a municipality shall not hold a cable television operator in
24 default or seek any remedy for failure to satisfy an obligation, if
25 any, to pay after the effective date of this act a franchise fee or
26 other similar fee on that portion of gross revenues from charges
27 the cable operator received for cable modem services provided

1 through broadband internet transport access services.

2 (7) IF A MUNICIPALITY ADOPTS A RESOLUTION AS REQUIRED UNDER
3 THIS SECTION BUT ADOPTS IT AFTER THE DISTRIBUTION OF FUNDS UNDER
4 SECTIONS 11 AND 12 FOR 2007, THE MUNICIPALITY SHALL BE ELIGIBLE TO
5 RECEIVE FUNDS FOR 2007 FROM FUNDS AVAILABLE AFTER THE 2007
6 DISTRIBUTION DATE.