

Act No. 130  
Public Acts of 2008  
Approved by the Governor  
May 8, 2008  
Filed with the Secretary of State  
May 9, 2008  
EFFECTIVE DATE: May 9, 2008

**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

**Introduced by Senator Basham**

# **ENROLLED SENATE BILL No. 108**

AN ACT to amend 2002 PA 48, entitled "An act to create a telecommunication rights-of-way oversight authority; to provide for fees; to prescribe the powers and duties of municipalities and certain state agencies and officials; to provide for penalties; and to repeal acts and parts of acts," by amending section 13 (MCL 484.3113).

*The People of the State of Michigan enact:*

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

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

(a) The provider may deduct the fees paid from the fee required to be paid under section 8 for those rights-of-way.

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

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

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

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

(6) To be eligible to receive fee-sharing payments under this act, a municipality shall not hold a cable television operator in default or seek any remedy for failure to satisfy an obligation, if any, to pay after the effective date of this

act a franchise fee or other similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(7) If a municipality adopts a resolution as required under this section but adopts it after the distribution of funds under sections 11 and 12 for 2007, the municipality shall be eligible to receive funds for 2007 from funds available after the 2007 distribution date.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor