

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6022

A bill to amend 2002 PA 48, entitled
"Metropolitan extension telecommunications rights-of-way oversight
act,"
by amending sections 2 and 3 (MCL 484.3102 and 484.3103).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Authority" means the metropolitan ~~extension~~
3 ~~telecommunications rights-of-way oversight~~ **AREAS METROPOLITAN**
4 ~~authority created in section 3.~~ **UNDER THE MICHIGAN METROPOLITAN**
5 **AREAS METROPOLITAN AUTHORITY ACT.**

6 (b) "Broadband internet access transport services" means the
7 broadband transmission of data between an end-user and the end-
8 user's internet service provider's point of interconnection at a
9 speed of 200 or more kilobits per second to the end-user's

1 premises.

2 (c) "Commission" means the Michigan public service commission
3 in the department of ~~consumer and industry services~~. **LICENSING AND**
4 **REGULATORY AFFAIRS.**

5 (d) "Exchange" means that term as defined under section 102 of
6 the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

7 (e) "Incumbent local exchange carrier" means that term as
8 defined under section 251(h) of title II of the communications act
9 of 1934, chapter 652, 110 Stat. 61, 47 ~~U.S.C.~~ **USC** 251.

10 (f) "Metropolitan area" means 1 or more municipalities **WITHIN**
11 **THIS STATE** located, in whole or in part, within a county having a
12 population of 10,000 or more or a municipality **WITHIN THIS STATE**
13 that enacts an ordinance or resolution electing to be classified as
14 part of a metropolitan area under this act.

15 (g) "Municipality" means a township, city, or village.

16 (h) "Person" means an individual, corporation, partnership,
17 **LIMITED PARTNERSHIP**, association, **LIMITED LIABILITY COMPANY**,
18 governmental entity, or any other legal entity.

19 (i) "Public right-of-way" means the area on, below, or above a
20 public roadway, highway, street, alley, easement, or waterway.
21 Public right-of-way does not include a federal, state, or private
22 right-of-way.

23 (j) "Telecommunication facilities" or "facilities" means the
24 equipment or personal property, such as copper and fiber cables,
25 lines, wires, switches, conduits, pipes, and sheaths, which are
26 used to or can generate, receive, transmit, carry, amplify, or
27 provide telecommunication services or signals. Telecommunication

1 facilities or facilities do not include antennas, supporting
2 structures for antennas, equipment shelters or houses, and any
3 ancillary equipment and miscellaneous hardware used to provide
4 federally licensed commercial mobile service as defined in section
5 332(d) of part I of title III of the communications act of 1934,
6 chapter 652, 48 Stat. 1064, 47 ~~U.S.C.—USC~~ 332 and further defined
7 as commercial mobile radio service in 47 ~~C.F.R.—CFR~~ 20.3, and
8 service provided by any wireless, 2-way communications device.

9 (k) "Telecommunication provider", "provider", and
10 "telecommunication services" mean those terms as defined in section
11 102 of the Michigan telecommunications act, 1991 PA 179, MCL
12 484.2102. Telecommunication provider does not include a person or
13 an affiliate of that person when providing a federally licensed
14 commercial mobile radio service as defined in section 332(d) of
15 part I of the communications act of 1934, chapter 652, 48 Stat.
16 1064, 47 ~~U.S.C.—USC~~ 332 and further defined as commercial mobile
17 radio service in 47 ~~C.F.R.—CFR~~ 20.3, or service provided by any
18 wireless, 2-way communication device. For the purposes of this act
19 only, a provider also includes all of the following:

20 (i) A cable television operator that provides a
21 telecommunication service.

22 (ii) Except as otherwise provided by this act, a person who
23 owns telecommunication facilities located within a public right-of-
24 way.

25 (iii) A person providing broadband internet transport access
26 service.

27 (iv) **AN INTERNET SERVICE PROVIDER THAT PROVIDES A**

1 **TELECOMMUNICATION SERVICE.**

2 Sec. 3. ~~(1) Pursuant to section 27 of article VII of the state~~
3 ~~constitution of 1963 and any other applicable law, the metropolitan~~
4 ~~extension telecommunications rights of way oversight authority is~~
5 ~~established as an autonomous agency within the department of~~
6 ~~consumer and industry services. The director of the authority shall~~
7 ~~be appointed by the governor for a 4 year term. The director of the~~
8 ~~authority shall report directly to the governor. The department of~~
9 ~~consumer and industry services shall provide the authority all~~
10 ~~budget, procurement, and management related functions. The~~
11 ~~department of consumer and industry services shall also provide~~
12 ~~suitable offices, facilities, equipment, staff, and supplies for~~
13 ~~the authority in the city of Lansing.~~

14 ~~—— (2) The director of the authority is responsible for carrying~~
15 ~~out the powers and duties of the authority under this act.~~

16 (1) ~~(3)~~ **THE METROPOLITAN AREAS METROPOLITAN AUTHORITY SHALL**
17 **EXERCISE THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES VESTED**
18 **IN THE AUTHORITY UNDER THIS ACT.** The authority shall coordinate
19 public right-of-way matters with municipalities, assess the fees
20 required under this act, and have the exclusive power to assess
21 fees on telecommunication providers owning telecommunication
22 facilities in public rights-of-way within a municipality in a
23 metropolitan area to recover the costs of using the rights-of-way
24 by the provider.

25 (2) ~~(4)~~ The authority shall file an annual report of its
26 activities for the preceding year with the governor and the members
27 of the legislative committees dealing with energy, technology, and

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1 telecommunications issues on or before March 1 of each year.

2 (3) ~~(5)~~—The authority may promulgate rules for the
3 implementation and administration of this act under the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328.

6 (4) ON OCTOBER 1, [2014], ALL OF THE FOLLOWING SHALL OCCUR:

7 (A) THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES VESTED
8 IN THE METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY
9 OVERSIGHT AUTHORITY BEFORE OCTOBER 1, [2014] ARE TRANSFERRED TO AND
10 VESTED IN THE AUTHORITY.

11 (B) ALL RECORDS, PROPERTY, GRANTS, AND UNEXPENDED BALANCES OF
12 APPROPRIATIONS, ALLOCATIONS, AND OTHER FUNDS USED, HELD, EMPLOYED,
13 AVAILABLE, OR TO BE MADE AVAILABLE TO THE METROPOLITAN EXTENSION
14 TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT AUTHORITY ARE
15 TRANSFERRED TO THE AUTHORITY.

16 (C) THE METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-
17 WAY OVERSIGHT AUTHORITY IS ABOLISHED.

18 (5) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY
19 AFFAIRS SHALL PROVIDE EXECUTIVE DIRECTION AND SUPERVISION FOR THE
20 IMPLEMENTATION OF THE TRANSFERS TO THE AUTHORITY UNDER SUBSECTION
21 (4).

22 (6) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY
23 AFFAIRS SHALL COORDINATE WITH THE EXECUTIVE DIRECTOR OF THE
24 METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT
25 AUTHORITY TO FACILITATE THE TRANSFERS TO THE AUTHORITY UNDER
26 SUBSECTION (4) AND SHALL DEVELOP AND ISSUE A MEMORANDUM OF RECORD
27 IDENTIFYING ANY PENDING SETTLEMENTS, ISSUES OF COMPLIANCE WITH

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1 APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS, OR OTHER
2 OBLIGATIONS RESOLVED BY THE METROPOLITAN EXTENSION
3 TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT AUTHORITY BEFORE THE
4 TRANSFERS UNDER SUBSECTION (4).

5 (7) STATE DEPARTMENTS, AGENCIES, OFFICERS, AND EMPLOYEES SHALL
6 FULLY AND ACTIVELY COOPERATE WITH AND ASSIST THE DIRECTOR OF THE
7 DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS IN THE
8 IMPLEMENTATION OF TRANSFERS UNDER SUBSECTION (4).

9 (8) THE STATE BUDGET DIRECTOR SHALL DETERMINE AND AUTHORIZE
10 THE MOST EFFICIENT MANNER POSSIBLE FOR HANDLING FINANCIAL
11 TRANSACTIONS AND RECORDS IN THIS STATE'S FINANCIAL MANAGEMENT
12 SYSTEM NECESSARY TO IMPLEMENT THE TRANSFERS UNDER SUBSECTION (4).

13 (9) ANY SUIT, ACTION, OR OTHER PROCEEDING LAWFULLY COMMENCED
14 BY, AGAINST, OR BEFORE ANY ENTITY AFFECTED BY THE TRANSFERS UNDER
15 SUBSECTION (4) SHALL NOT ABATE BY REASON OF THE TAKING EFFECT OF
16 THE TRANSFERS UNDER SUBSECTION (4). ANY SUIT, ACTION, OR OTHER
17 PROCEEDING MAY BE MAINTAINED BY, AGAINST, OR BEFORE THE APPROPRIATE
18 SUCCESSOR OF ANY ENTITY AFFECTED BY THE TRANSFERS UNDER SUBSECTION
19 (4).

20 (10) ALL RULES, REGULATIONS, ORDERS, CONTRACTS, AND AGREEMENTS
21 RELATING TO THE FORMER METROPOLITAN EXTENSION TELECOMMUNICATIONS
22 RIGHTS-OF-WAY OVERSIGHT AUTHORITY OR THE POWERS, DUTIES, FUNCTIONS,
23 AND RESPONSIBILITIES TRANSFERRED UNDER SUBSECTION (4) LAWFULLY
24 ADOPTED BEFORE OCTOBER 1, [2014] SHALL CONTINUE IN EFFECT UNTIL
25 REVISED, AMENDED, REPEALED, OR RESCINDED BY THE AUTHORITY UNLESS
26 PROHIBITED BY LAW.

27 [Enacting section 1. This amendatory act does not take effect

1 House Bill No. 6022 (S-1) as amended December 13, 2012
2 unless House Bill No. 6026 of the 96th Legislature is approved by a
3 majority of the qualified electors of this state voting on the question
at an election to be held on the August regular election date in 2014.]