

HOUSE BILL No. 6022

November 8, 2012, Introduced by Rep. Gilbert and referred to the Committee on Tax Policy.

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
10 premises.

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

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

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

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

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

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

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

22 (j) "Telecommunication facilities" or "facilities" means the
23 equipment or personal property, such as copper and fiber cables,
24 lines, wires, switches, conduits, pipes, and sheaths, which are
25 used to or can generate, receive, transmit, carry, amplify, or
26 provide telecommunication services or signals. Telecommunication
27 facilities or facilities do not include antennas, supporting

1 structures for antennas, equipment shelters or houses, and any
2 ancillary equipment and miscellaneous hardware used to provide
3 federally licensed commercial mobile service as defined in section
4 332(d) of part I of title III of the communications act of 1934,
5 chapter 652, 48 Stat. 1064, 47 ~~U.S.C.~~ **USC** 332 and further defined
6 as commercial mobile radio service in 47 ~~C.F.R.~~ **CFR** 20.3, and
7 service provided by any wireless, 2-way communications device.

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

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

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

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

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

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

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

15 **(1) ~~(3)~~THE METROPOLITAN AREAS METROPOLITAN AUTHORITY SHALL**
16 **EXERCISE THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES VESTED**
17 **IN THE AUTHORITY UNDER THIS ACT.** The authority shall coordinate
18 public right-of-way matters with municipalities, assess the fees
19 required under this act, and have the exclusive power to assess
20 fees on telecommunication providers owning telecommunication
21 facilities in public rights-of-way within a municipality in a
22 metropolitan area to recover the costs of using the rights-of-way
23 by the provider.

24 **(2) ~~(4)~~**The authority shall file an annual report of its
25 activities for the preceding year with the governor and the members
26 of the legislative committees dealing with energy, technology, and
27 telecommunications issues on or before March 1 of each year.

1 (3) ~~(5)~~—The authority may promulgate rules for the
2 implementation and administration of this act under the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328.

5 (4) ON OCTOBER 1, 2013, ALL OF THE FOLLOWING SHALL OCCUR:

6 (A) THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES VESTED
7 IN THE METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY
8 OVERSIGHT AUTHORITY BEFORE OCTOBER 1, 2013 ARE TRANSFERRED TO AND
9 VESTED IN THE AUTHORITY.

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

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

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

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

1 OBLIGATIONS RESOLVED BY THE METROPOLITAN EXTENSION
2 TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT AUTHORITY BEFORE THE
3 TRANSFERS UNDER SUBSECTION (4).

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

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

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

19 (10) ALL RULES, REGULATIONS, ORDERS, CONTRACTS, AND AGREEMENTS
20 RELATING TO THE FORMER METROPOLITAN EXTENSION TELECOMMUNICATIONS
21 RIGHTS-OF-WAY OVERSIGHT AUTHORITY OR THE POWERS, DUTIES, FUNCTIONS,
22 AND RESPONSIBILITIES TRANSFERRED UNDER SUBSECTION (4) LAWFULLY
23 ADOPTED BEFORE OCTOBER 1, 2013 SHALL CONTINUE IN EFFECT UNTIL
24 REVISED, AMENDED, REPEALED, OR RESCINDED BY THE AUTHORITY UNLESS
25 PROHIBITED BY LAW.