

# SENATE BILL No. 824

February 25, 2014, Introduced by Senators PAPPAGEORGE, BRANDENBURG, WARREN and MOOLENAAR and referred to the Committee on Finance.

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~~ authority created in  
4 ~~section 3.~~ **UNDER THE LOCAL COMMUNITY STABILIZATION AUTHORITY ACT.**

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

10           (c) "Commission" means the Michigan public service commission

1 in the department of ~~consumer and industry services~~. **LICENSING AND**  
2 **REGULATORY AFFAIRS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 3. ~~(1) Pursuant to section 27 of article VII of the state~~

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

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

14 (1) ~~(3)~~ **THE LOCAL COMMUNITY STABILIZATION AUTHORITY SHALL**  
15 **EXERCISE THE POWERS, DUTIES, FUNCTIONS, AND RESPONSIBILITIES VESTED**  
16 **IN THE AUTHORITY UNDER THIS ACT AND MAY CONTRACT WITH THE**  
17 **DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS FOR 1 OR MORE**  
18 **EMPLOYEES OF THE DEPARTMENT TO ASSIST IN EXERCISING THE POWERS,**  
19 **DUTIES, FUNCTIONS, AND RESPONSIBILITIES.** The authority shall  
20 coordinate public right-of-way matters with municipalities, assess  
21 the fees required under this act, and have the exclusive power to  
22 assess fees on telecommunication providers owning telecommunication  
23 facilities in public rights-of-way within a municipality in a  
24 metropolitan area to recover the costs of using the rights-of-way  
25 by the provider.

26 (2) ~~(4)~~ The authority shall file an annual report of its  
27 activities for the preceding year with the governor and the members

1 of the legislative committees dealing with energy, technology, and  
2 telecommunications issues on or before March 1 of each year.

3 (3) ~~(5)~~—The authority may promulgate rules for the  
4 implementation and administration of this act ~~under~~ **IN A MANNER**  
5 **THAT COMPLIES WITH THE REQUIREMENTS OF** the administrative  
6 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

7 (4) ON OCTOBER 1, 2014, ALL OF THE FOLLOWING SHALL OCCUR:

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

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

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

19 (5) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY  
20 AFFAIRS SHALL PROVIDE EXECUTIVE DIRECTION AND SUPERVISION FOR THE  
21 IMPLEMENTATION OF THE TRANSFERS TO THE AUTHORITY UNDER SUBSECTION  
22 (4).

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

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

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

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

14 (9) ANY SUIT, ACTION, OR OTHER PROCEEDING LAWFULLY COMMENCED  
15 BY, AGAINST, OR BEFORE ANY ENTITY AFFECTED BY THE TRANSFERS UNDER  
16 SUBSECTION (4) SHALL NOT ABATE BY REASON OF THE TAKING EFFECT OF  
17 THE TRANSFERS UNDER SUBSECTION (4). ANY SUIT, ACTION, OR OTHER  
18 PROCEEDING MAY BE MAINTAINED BY, AGAINST, OR BEFORE THE APPROPRIATE  
19 SUCCESSOR OF ANY ENTITY AFFECTED BY THE TRANSFERS UNDER SUBSECTION  
20 (4).

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

1           Enacting section 1. This amendatory act takes effect October  
2 1, 2014.

3           Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No.822

5                   of the 97th Legislature is approved by a majority of the  
6 qualified electors of this state voting on the question at an  
7 election to be held on the August regular election date in 2014.