Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 108 (as introduced 1-30-07) *(as enacted)*
Sponsor: Senator Raymond E. Basham
Committee: Energy Policy and Public Utilities

Date Completed: 3-25-08

CONTENT

The bill would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act to revise the deadline by which a municipality could opt to receive funds under the Act.

The Act establishes the METRO Authority within the Department of Labor and Economic Growth to coordinate public right-of-way matters with municipalities and assess fees required under the Act. The Authority has the exclusive power to assess fees on telecommunication providers owning facilities in public rights-of-way within a municipality in a metropolitan area to recover the costs of the providers' use of the rights-of-way. Except as otherwise provided, a telecommunication provider must pay to the METRO Authority an annual maintenance fee of five cents per linear foot of public right-of-way occupied by the provider's facilities. A provider that provides cable services within a metropolitan area is subject to an annual maintenance fee of one cent per linear foot, in addition to fees paid by the provider under a cable franchise or consent agreement.

Except as described below, the Authority must allocate the annual maintenance fees to fund the fee-sharing mechanism under Section 11, which requires the funding to be allocated as follows:

-- Seventy-five percent to be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under Public Act 51 of 1951, the Michigan Transportation Fund (MTF) law, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under that law for the most recent year.
-- Twenty-five percent to be disbursed to townships in a metropolitan area on the basis of each township's proportionate share of the total linear feet of public rights-of-way occupied by providers within all townships located in metropolitan areas.

To the extent that fees exceed $30.0 million in any year and are from fees for linear feet of rights-of-way in which telecommunication facilities are constructed by a provider after November 1, 2002, the Authority must allocate that amount to fund the fee-sharing mechanism under Section 12, which requires the funding to be allocated as follows:

-- The amount available multiplied by the percentage of weighted linear feet attributable to cities and villages, as compared to the total weighted linear feet attributable to cities, villages, and townships, must be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under the MTF law for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under that law for the most recent year.

-- The amount available multiplied by the percentage of weighted linear feet attributable to townships, as compared to the total weighted linear feet attributable to cities, villages, and townships, must be disbursed to townships on the basis of each township's proportionate share of the total unweighted linear feet of public rights-of way in or on which providers' facilities are located within all townships located in metropolitan areas.

Under the METRO Act, a municipality is not eligible to receive funds under Sections 11 and 12 unless by December 31, 2003, it modified to the extent necessary any fees charged to providers after the Act's effective date (November 1, 2002) relating to access to and usage of the rights-of-way to an amount not exceeding the amounts of fees and charges required under the Act. Under the bill, a municipality would have until December 31, 2007, to modify the fees.

Currently, a municipality is considered to have modified the fees if it adopted a resolution or ordinance, effective no later than January 1, 2004, approving the modification so that providers with telecommunication facilities in rights-of-way within the municipality's boundaries pay only the required annual maintenance fee. Under the bill, the ordinance would have to be effective by January 1, 2008.

Also, under the bill, if a municipality adopted a resolution after the distribution of funds under Sections 11 and 12 for 2007, it would be eligible to receive funds for 2007 from funds available after the 2007 distribution date.

MCL 484.3113 Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate effect on State expenditures and local unit revenue. The bill would change the distribution of fees received by the State under the Act to local units. Fees paid by providers to the State can be reduced by fees paid to local units that have not passed the necessary resolutions or ordinances by December 31, 2003. Passage of the resolutions or ordinances would result in the State's receipt of more revenue, which would increase the amount available for distribution to local units. However, the revenue is distributed to local units on a prorated basis and inclusion of additional local units under the distribution mechanism could change individual local units' shares of the total. As a result, distributions to the additional local units would increase and, depending on the additional fees received by the State, could reduce or increase the revenue distributed to other local units already receiving distributions.

Fiscal Analyst: David Zin

S0708\s108sa