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BILL ANALYSIS

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Senate Bill 1211 (as introduced 4-19-06)
Sponsor: Senator Raymond E. Basham
Committee: Technology and Energy

Date Completed: 5-17-06

CONTENT

The bill would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight (METRO) Act to extend the deadline by which a municipality must modify fees charged to providers under the Act in order to be eligible for fee-sharing payments.

The Act establishes the METRO Authority and gives it the exclusive power to assess fees on telecommunication providers owning telecommunication facilities in a public right-of-way (the area on, below, or above a public roadway, highway, street, alley, easement, or waterway) within a metropolitan area. A provider must obtain a permit from a municipality for access to its public rights-of-way and pay the municipality a one-time $500 administrative fee. A provider also must pay to the Authority an annual maintenance fee per linear foot of public right-of-way occupied by the provider's facilities. Maintenance fee revenue must be distributed to municipalities in metropolitan areas. In order to receive fee-sharing payments, municipalities must comply with the Act and modify fees to the amount permitted under it.

Specifically, a municipality is not eligible to receive maintenance fee funds under Sections 11 and 12 (described in **BACKGROUND**) unless by December 31, 2003, it modified to the extent necessary any fees charged to providers after the Act's effective date 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 the Act. The bill would extend the deadline for a municipality to modify the fees and become eligible to receive the specified funds to December 31, 2006.

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 public rights-of-way within the municipality's boundaries pay only those fees required under Section 8 (which requires a provider to pay to the Authority an annual maintenance fee of five cents per linear foot of public right-of-way occupied by the provider's facilities within a metropolitan area). Under the bill, the resolution or ordinance would have to be effective no later than January 1, 2007.

Additionally, under the bill, if a municipality adopted a resolution but did so after the distribution of funds under Sections 11 and 12 for 2006, the municipality would be eligible to receive funds for 2006 from funds available after the 2006 distribution date.

MCL 484.3113

BACKGROUND

Section 11 of the METRO Act requires the Authority to allocate the annual maintenance fees collected under the Act as follows:

-- 75% to cities and villages in a metropolitan area on the basis of the distribution to each city or village under Section 13 of Public Act (PA) 51 of 1951, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under Section 13 of PA 51 for the most recent year.
-- 25% 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.

(Public Act 51 provides for the distribution of money from the Michigan Transportation Fund (MTF). Under Section 13, the State "returns" MTF funds to cities and villages for specific purposes in a particular order of priority.)

Section 12 of the METRO Act prescribes a fee-sharing mechanism for the distribution of maintenance fees 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 after the Act's effective date. Under Section 12, the Authority must allocate these funds as follows:

-- The amount available under Section 12 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 Section 13 of PA 51 for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under Section 13 of PA 51.
-- The amount available under Section 12 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.

The Act defines "metropolitan area" as one or more municipalities located entirely or partly in a county having a population of 10,000 or more, or a municipality that enacts an ordinance or resolution electing to be classified as part of a metropolitan area under the Act. "Municipality" means a city, village, or township.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would potentially increase State revenue and expenses by the same (and unknown) amount. Currently, 40 local units, mostly villages, have not opted into the payment distribution mechanism provided by the Act. It is unknown which local units would choose to take advantage of the extended deadline. Providers within local units that have not opted in under the Act are allowed to deduct the fees they pay to these local units from the fees they would pay the State on those rights-of-way. If those fees are higher than the fee the State would levy, the State receives no revenue from those rights-of-way.

The State redistributes all of the revenue it receives to local units and the effect on local units is indeterminate. By extending the deadline, the bill would enable more local units to meet the requirements to be eligible to receive redistributed funds. The inclusion of additional communities could change the share of revenue payable to local units that are already eligible to receive funds. The net effect of the change in the amount of money being redistributed combined with the effect of changed shares is unknown and could result in individual local units' receiving either more or less revenue than they receive currently. For the additional local units that could opt-in under the bill, the effect on revenue and expenditures would depend upon current fees and expenditures. For example, if a unit currently does not levy any fees, opting in would increase revenue (the expenditure of which would be restricted by statute).

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin