

# SENATE BILL No. 1367

November 8, 2012, Introduced by Senator WARREN 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~~ **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.