

SENATE BILL No. 1211

April 19, 2006, Introduced by Senators BASHAM, JACOBS and CLARK-COLEMAN and referred to the Committee on Technology and Energy.

A bill to amend 2002 PA 48, entitled
"Metropolitan extension telecommunications rights-of-way oversight
act,"
by amending section 13 (MCL 484.3113).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) A municipality is not eligible to receive funds
2 under sections 11 and 12 unless by December 31, ~~2003~~ 2006 the
3 municipality has modified to the extent necessary any fees charged
4 to providers after the effective date of this act relating to
5 access to and usage of the public rights-of-way to an amount not
6 exceeding the amounts of fees and charges required under this act.

7 (2) To the extent a telecommunications provider pays fees to a
8 municipality that have not been modified as required by this
9 section, both of the following apply:

1 (a) The provider may deduct the fees paid from the fee
2 required to be paid under section 8 for those rights-of-way.

3 (b) The amounts received shall be deducted from the amounts
4 the municipality is eligible to receive under sections 11 and 12.

5 (3) The authority may allow a municipality in violation of
6 this section to become eligible to receive funds under sections 11
7 and 12 if the authority determines that the violation occurred
8 despite good faith efforts and the municipality rebates to the
9 authority any fees received in excess of those required under
10 section 8, including any interest as determined by the authority.

11 (4) A municipality is considered to have modified the fees
12 under subsection (1) if it has adopted a resolution or ordinance,
13 effective no later than January 1, ~~2004~~ 2007, approving the
14 modification so that providers with telecommunication facilities in
15 public rights-of-way within the municipality's boundaries pay only
16 those fees required under section 8. The municipality shall provide
17 each provider affected by the fee a copy of the resolution or
18 ordinance passed under this subsection.

19 (5) Except as otherwise provided by a municipality, if section
20 8 is found to be invalid or unconstitutional, a modification of
21 fees under this section is void from the date the modification was
22 made.

23 (6) To be eligible to receive fee-sharing payments under this
24 act, a municipality shall not hold a cable television operator in
25 default or seek any remedy for failure to satisfy an obligation, if
26 any, to pay after the effective date of this act a franchise fee or
27 other similar fee on that portion of gross revenues from charges

1 the cable operator received for cable modem services provided
2 through broadband internet transport access services.

3 (7) IF A MUNICIPALITY ADOPTS A RESOLUTION AS REQUIRED UNDER
4 THIS SECTION BUT ADOPTS IT AFTER THE DISTRIBUTION OF FUNDS UNDER
5 SECTIONS 11 AND 12 FOR 2006, THE MUNICIPALITY SHALL BE ELIGIBLE TO
6 RECEIVE FUNDS FOR 2006 FROM FUNDS AVAILABLE AFTER THE 2006
7 DISTRIBUTION DATE.