

Introduction

With the passage of the Metropolitan Extension Telecommunication Rights-of-Way Oversight (METRO) Act (2002 PA 48), Michigan entered a new era in regard to deployment of telecommunications services, management of public rights-of-way, and compensation to local units of government.

The act is designed to bring substantial funds to assist in managing and maintaining your public rights-of-way and reduce conflicts with telecommunications providers. All providers will be subject to the fee. When fully implemented, providers will pay an annual maintenance fee of five cents per linear foot. These funds – estimated at between \$25 and \$30 million per year – will be distributed to local governments on a formula basis.

The METRO Act went into effect November 1, 2002. The deadline for cities and villages to opt in – and thereby receive funding – is December 31, 2003. However, the changes it will bring need to be understood much sooner. City and village officials will have the opportunity to learn more about the new act and what they need to do to implement it through the League's web site (www.mml.org) and Michigan Municipal League seminars.

Essential elements include:

- An annual maintenance fee will be assessed each year on all telecommunications providers. The fee will be two cents per linear foot of public right-of-way used for the first five months and five cents thereafter.
- Municipalities may decide to either “opt in” or “opt out” of the distribution provisions. A municipality that chooses to opt out may be able to continue to enforce its existing permit agreements with telecom providers. The choice to opt out, however, may be permanent. Those that elect to opt in must amend their existing permits/franchise agreements by December 31, 2003.
- Municipalities may use fees generated under the provisions of the act only for right-of-way purposes.
- Traditional cable franchise fees remain in place. (The Federal Communications Commission (FCC) recently ruled that cable modem service revenue should not be subject to a municipal cable franchise fee.)
- Standardized “safe harbor” permit and application forms must be used. Municipalities must act on a permit application within 45 days of application, as opposed to the previous 90-day limit. There is a one-time \$500 application fee that telecom providers who apply for a permit must pay. (This does not apply to SBC/Ameritech and some other phone companies.)
- Of the first \$30 million in fee revenue collected annually, 75 percent will be distributed to cities and villages using a distribution formula based on the same formula used for state trunk line highway funds (Act 51). The other 25 percent will be distributed to townships based on linear feet of public rights-of-way in each township. Revenues in excess of \$30 million per year, including as a result of construction of new facilities, will be distributed to local governments on the basis of new linear feet of rights-of-way used, but weighted to recognize underground lines and lines in population centers.
- Municipalities will have to implement financial systems to track the use and application of funds received from the METRO Authority, and be prepared to file an annual report.