

SUBSTITUTE FOR
SENATE BILL NO. 696

A bill to amend 1867 PA 35, entitled
"Nonprofit street railway act,"
by amending sections 13 and 15 (MCL 472.13 and 472.15), as amended
by 2008 PA 481.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) A street railway may acquire, own, construct,
2 furnish, equip, complete, operate, improve, and maintain a street
3 railway system in and upon the streets and highways of a road
4 authority with the approval of the road authority, on terms and
5 conditions imposed by the road authority. The approval shall be
6 embodied in an operating license agreement ~~by and among~~ **BETWEEN** a
7 street railway and each road authority with jurisdiction over
8 public streets and highways upon which the street railway operates

1 or seeks to operate a street railway system, including, but not
2 limited to, a city, village, or township road authority located in
3 the city, village, or township in which the street railway system
4 operates or seeks to operate. ~~The~~**AN** operating license agreement
5 shall include the terms and conditions for operation of the street
6 railway system. **AN OPERATING LICENSE AGREEMENT MAY REQUIRE THE**
7 **STREET RAILWAY TO PAY THE DIRECT ADMINISTRATIVE COSTS INCURRED BY**
8 **THE ROAD AUTHORITY IN ADMINISTERING THE OPERATING LICENSE**
9 **AGREEMENT. AN OPERATING LICENSE AGREEMENT SHALL NOT REQUIRE A**
10 **STREET RAILWAY TO ACQUIRE, ACCEPT RESPONSIBILITY FOR, OR OBLIGATE**
11 **ITSELF TO ASSUME LIABILITY FOR OR PAY FOR ANY LEGACY COSTS OF A**
12 **PUBLIC TRANSPORTATION PROVIDER.** Before approving ~~an~~**A PROPOSED**
13 **OPERATING LICENSE** agreement, a road authority shall hold a public
14 hearing on the proposed operating license agreement. The hearing
15 shall be held in the city, village, or township in which the street
16 railway seeks to operate a street railway system and shall be held
17 in compliance with the open meetings act, 1976 PA 267, MCL 15.261
18 to 15.275. Notice of the public hearing shall be provided not less
19 than 20 days before the date of the hearing. One or more road
20 authorities may conduct a joint public hearing under this section.
21 At a public hearing, a street railway and a road authority may
22 present information regarding the proposed operating licensing
23 agreement. ~~as the street railway or the road authority deems~~
24 ~~appropriate.~~ When operating in and upon the streets and highways of
25 a road authority, a street railway is subject to rules,
26 regulations, or ordinances imposed by the road authority. A street
27 railway shall not construct ~~any~~**A** street railway system in and upon

1 the streets and highways of a road authority until the street
2 railway accepts in writing any terms and conditions imposed by the
3 road authority, the operating license agreement is approved under
4 this section, and the agreement is filed with each road authority
5 with jurisdiction over public streets and highways upon which the
6 street railway will operate. A road authority ~~has the power in its~~
7 ~~discretion to~~ **MAY** approve or disapprove an operating license
8 agreement. A decision of a road authority regarding an operating
9 license agreement ~~shall be~~ **IS** final and binding upon a street
10 railway and other interested persons. The street railway shall pay
11 ~~the~~ **A** road authority for all of the road authority's costs incurred
12 in constructing the street railway system, mitigating the impact of
13 the street railway system on road users, the environment, and the
14 surrounding neighborhoods, and modifying the streets or highways
15 impacted by construction of the street railway system, **AS PROVIDED**
16 **IN THE OPERATING LICENSE AGREEMENT. AS A CONDITION TO OBTAINING OR**
17 **HOLDING AN OPERATING LICENSE AGREEMENT, A ROAD AUTHORITY SHALL NOT**
18 **REQUIRE A STREET RAILWAY TO OBTAIN ANY OTHER LICENSE OR FRANCHISE,**
19 **ASSESS ANY OTHER FEE OR CHARGE, OR IMPOSE ANY OTHER LICENSING,**
20 **REGULATORY, OR FRANCHISE REQUIREMENT, INCLUDING A PROVISION**
21 **REGULATING SCHEDULES OR FARES OF A STREET RAILWAY, UNLESS EXPRESSLY**
22 **AUTHORIZED UNDER THIS ACT.**

23 (2) A street railway may acquire, own, construct, furnish,
24 equip, complete, operate, improve, **AND** maintain a street railway
25 system upon public or private rights of way, and obtain easements
26 when necessary for a street railway to acquire and use private
27 property for acquiring, owning, constructing, furnishing,

1 equipping, completing, operating, improving, and maintaining a
2 street railway system.

3 (3) After a road authority consents to the acquiring, owning,
4 constructing, furnishing, equipping, completing, operating,
5 improving, and maintaining of a street railway system on the
6 streets or highways of the road authority or grants a right or
7 privilege to the street railway by entering into an operating
8 license agreement with the street railway, the road authority may
9 not revoke the consent or deprive the street railway of the rights
10 and privileges conferred without affording the street railway
11 procedural due process of law if and to the extent provided in the
12 operating license agreement. ~~for the street railway.~~

13 (4) A street railway may do 1 or more of the following:

14 (a) Acquire by gift, devise, transfer, exchange, purchase,
15 lease, or otherwise on terms and conditions and in a manner the
16 street railway considers proper property or rights or interests in
17 property relating to the operation of the street railway or street
18 railway system.

19 (b) Take, transport, or carry and convey ~~persons~~ **INDIVIDUALS**
20 and property on a street railway system and receive just and fair
21 compensation from users of the street railway system for that
22 purpose.

23 (c) Erect and maintain all necessary and convenient buildings,
24 structures, stations, depots, fixtures, and machinery for the
25 accommodation and use of ~~persons~~ **INDIVIDUALS** and property
26 transported by the street railway.

27 (d) Regulate the time and manner in which ~~persons~~ **INDIVIDUALS**

1 and property ~~may be~~ **ARE** transported by the street railway and fares
 2 or other compensation ~~may be~~ **ARE** paid for that purpose. A street
 3 railway may charge just and fair compensation for the use of its
 4 street railway system.

5 (e) Borrow money and issue bonds and notes for any
 6 indebtedness incurred and ~~may mortgage their~~ street railway
 7 property and rights to secure the payment of bonds, notes, money
 8 borrowed, and any and all debts and liabilities ~~which~~ **INCURRED BY**
 9 the street railway. ~~may incur.~~ A street railway shall not use tax
 10 increments to repay bonds and notes.

11 (f) Transfer a street railway system to a public entity
 12 operating a public transportation system, **WITH THE CONSENT OF THE**
 13 **PUBLIC ENTITY**, if the transfer is authorized by a law enacted after
 14 ~~the effective date of the amendatory act that added section~~
 15 ~~21.~~ **JANUARY 12, 2009.**

16 (5) **AS USED IN THIS SECTION, "PUBLIC TRANSPORTATION PROVIDER"**
 17 **MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE REGIONAL TRANSIT**
 18 **AUTHORITY ACT, 2012 PA 387, MCL 124.542.**

19 Sec. 15. (1) Subject to applicable law and applicable
 20 regulations of this state, a city, a township, or a village, a
 21 street railway may generate, store, transmit, distribute, dispense,
 22 furnish, or use electricity and electric power for use or
 23 consumption by the street railway and the street railway system.

24 (2) ~~If a~~ **FOR A STREET RAILWAY THAT CONSTRUCTS, EXPANDS, OR**
 25 **MODIFIES A STREET RAILWAY SYSTEM OUTSIDE OF A QUALIFIED CITY, IF**
 26 **THE** street railway requests a public utility to modify or relocate
 27 facilities of the public utility that lie within a public street or

1 highway right of way, or if, in response to the construction,
2 expansion, or modification of a street railway system a public
3 utility determines that the public utility should modify or
4 relocate the public utility's facilities, consistent with law,
5 regulation, or ~~good~~-SOUND utility practice and unless the street
6 railway and the public utility agree otherwise, the street railway
7 shall pay all costs of the relocation and modification of the
8 facilities to the public utility.

9 (3) A STREET RAILWAY THAT CONSTRUCTS, EXPANDS, OR MODIFIES A
10 STREET RAILWAY SYSTEM IN A QUALIFIED CITY SHALL PROTECT AND KEEP IN
11 PLACE THE FACILITIES OF A PUBLIC UTILITY AFFECTED BY THE
12 CONSTRUCTION, EXPANSION, OR MODIFICATION OF THE STREET RAILWAY
13 SYSTEM IN A PUBLIC HIGHWAY, STREET, OR RIGHT-OF-WAY UNLESS SOUND
14 UTILITY PRACTICE REQUIRES MODIFICATION OR RELOCATION OF THE
15 FACILITIES. IF SOUND UTILITY PRACTICE REQUIRES MODIFICATION OR
16 RELOCATION OF THE FACILITIES, THE STREET RAILWAY SHALL PAY THE COST
17 OF THE MODIFICATION OR RELOCATION, UNLESS 1 OR BOTH OF THE
18 FOLLOWING APPLY:

19 (A) MODIFICATION OR RELOCATION OF THE PUBLIC UTILITY'S
20 FACILITIES IS REQUIRED BECAUSE THE FACILITIES ARE AT AN
21 UNAUTHORIZED LOCATION IN THE PUBLIC HIGHWAY, STREET, OR RIGHT-OF-
22 WAY. IF THE FACILITIES ARE LOCATED ANYWHERE IN A PUBLIC HIGHWAY,
23 STREET, OR RIGHT-OF-WAY, THERE IS A REBUTTABLE PRESUMPTION THAT THE
24 PUBLIC UTILITY'S FACILITIES ARE AT AN AUTHORIZED LOCATION IN THE
25 PUBLIC HIGHWAY, STREET, OR RIGHT-OF-WAY.

26 (B) THE STREET RAILWAY AND THE PUBLIC UTILITY AGREE TO AN
27 ALTERNATIVE COST ALLOCATION.

1 (4) NOTWITHSTANDING SUBSECTION (3), A QUALIFIED CITY AND A
2 STREET RAILWAY MAY AGREE THAT THE STREET RAILWAY PAY THE COST OF
3 MODIFYING OR RELOCATING A PUBLIC UTILITY'S FACILITIES IN THE
4 QUALIFIED CITY IF THE MODIFICATION OR RELOCATION IS REQUIRED BY THE
5 MODIFICATION OR RELOCATION OF A STREET RAILWAY SYSTEM BY THE STREET
6 RAILWAY IN A PUBLIC HIGHWAY, STREET, OR RIGHT-OF-WAY IN THE
7 QUALIFIED CITY.

8 (5) THE PROPERTY OF A STREET RAILWAY AND ITS INCOME AND
9 OPERATIONS ARE EXEMPT FROM ALL TAXATION BY THIS STATE OR A
10 POLITICAL SUBDIVISION OF THIS STATE.

11 (6) A PUBLIC UTILITY OR A STREET RAILWAY MAY BRING AN ACTION
12 IN CIRCUIT COURT TO ENFORCE THE PROVISIONS OF THIS SECTION. THIS
13 REMEDY IS IN ADDITION TO ANY OTHER REMEDY THAT MAY EXIST AT LAW.

14 (7) AS USED IN THIS SECTION:

15 (A) "PUBLIC UTILITY" INCLUDES A PROVIDER OF COMMUNICATIONS,
16 DATA, CABLE TELEVISION, ELECTRICITY, HEAT, NATURAL OR MANUFACTURED
17 GAS, STEAM, SEWAGE, VIDEO, WATER, OR OTHER SIMILAR SERVICES. PUBLIC
18 UTILITY ALSO INCLUDES A TELECOMMUNICATIONS PROVIDER AND A VIDEO
19 SERVICE PROVIDER.

20 (B) "QUALIFIED CITY" MEANS A CITY THAT HAS INCORPORATED AN
21 AUTHORITY UNDER THE MUNICIPAL LIGHTING AUTHORITY ACT, 2012 PA 392,
22 MCL 123.1261 TO 123.1295.

23 (C) "TELECOMMUNICATIONS PROVIDER" MEANS THAT TERM AS DEFINED
24 IN SECTION 102 OF THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179,
25 MCL 484.2102.

26 (D) "VIDEO SERVICE PROVIDER" MEANS THAT TERM AS DEFINED IN
27 SECTION 1 OF THE UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006

1 PA 480, MCL 484.3301.