

Act No. 487
Public Acts of 2014
Approved by the Governor
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Senators Smith, Young, Casperson, Ananich, Moolenaar and Richardville

ENROLLED SENATE BILL No. 696

AN ACT to amend 1867 PA 35, entitled "An act to provide for the formation of nonprofit street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies; to prescribe powers and duties of certain state and local agencies and officials; to provide remedies and penalties; to provide for the establishment of a transit development finance zone; and to authorize the use of tax increment financing," 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:

Sec. 13. (1) A street railway may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in and upon the streets and highways of a road authority with the approval of the road authority, on terms and conditions imposed by the road authority. The approval shall be embodied in an operating license agreement between a street railway and each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system, including, but not limited to, a city, village, or township road authority located in the city, village, or township in which the street railway system operates or seeks to operate. An operating license agreement shall include the terms and conditions for operation of the street railway system. An operating license agreement may require the street railway to pay the direct administrative costs incurred by the road authority in administering the operating license agreement. An operating license agreement shall not require a street railway to acquire, accept responsibility for, or obligate itself to assume liability for or pay for any legacy costs of a public transportation provider. Before approving a proposed operating license agreement, a road authority shall hold a public hearing on the proposed operating license agreement. The hearing shall be held in the city, village, or township in which the street railway seeks to operate a street railway system and shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the public hearing shall be provided not less than 20 days before the date of the hearing. One or more road authorities may conduct a joint public hearing under this section. At a public hearing, a street railway and a road authority may present information regarding the proposed operating licensing agreement. When operating in and upon the streets and highways of a road authority, a street railway is subject to rules, regulations, or ordinances imposed by the road authority. A street railway shall not construct a street railway system in and upon the streets and highways of a road authority until the street railway accepts in writing any terms and conditions imposed by the road authority, the operating license agreement is approved under this section, and the agreement is filed with each road authority with jurisdiction over public streets and highways upon which the street railway will operate. A road authority may approve or disapprove an operating license agreement. A decision of a road authority regarding an operating license agreement is final and binding upon a street railway and other interested persons. The street railway shall pay a road authority for all of the road authority's costs incurred in constructing the street railway system, mitigating the impact of the street railway system on road users, the environment, and the surrounding neighborhoods, and modifying the streets or highways impacted by construction of the street

railway system, as provided in the operating license agreement. As a condition to obtaining or holding an operating license agreement, a road authority shall not require a street railway to obtain any other license or franchise, assess any other fee or charge, or impose any other licensing, regulatory, or franchise requirement, including a provision regulating schedules or fares of a street railway, unless expressly authorized under this act.

(2) A street railway may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system upon public or private rights of way, and obtain easements when necessary for a street railway to acquire and use private property for acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

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

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

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

(b) Take, transport, or carry and convey individuals and property on a street railway system and receive just and fair compensation from users of the street railway system for that purpose.

(c) Erect and maintain all necessary and convenient buildings, structures, stations, depots, fixtures, and machinery for the accommodation and use of individuals and property transported by the street railway.

(d) Regulate the time and manner in which individuals and property are transported by the street railway and fares or other compensation are paid for that purpose. A street railway may charge just and fair compensation for the use of its street railway system.

(e) Borrow money and issue bonds and notes for any indebtedness incurred and mortgage street railway property and rights to secure the payment of bonds, notes, money borrowed, and any and all debts and liabilities incurred by the street railway. A street railway shall not use tax increments to repay bonds and notes.

(f) Transfer a street railway system to a public entity operating a public transportation system, with the consent of the public entity, if the transfer is authorized by a law enacted after January 12, 2009.

(5) As used in this section, "public transportation provider" means that term as defined in section 2 of the regional transit authority act, 2012 PA 387, MCL 124.542.

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

(2) For a street railway that constructs, expands, or modifies a street railway system outside of a qualified city, if the street railway requests a public utility to modify or relocate facilities of the public utility that lie within a public street or highway right of way, or if, in response to the construction, expansion, or modification of a street railway system a public utility determines that the public utility should modify or relocate the public utility's facilities, consistent with law, regulation, or sound utility practice and unless the street railway and the public utility agree otherwise, the street railway shall pay all costs of the relocation and modification of the facilities to the public utility.

(3) A street railway that constructs, expands, or modifies a street railway system in a qualified city shall protect and keep in place the facilities of a public utility affected by the construction, expansion, or modification of the street railway system in a public highway, street, or right-of-way unless sound utility practice requires modification or relocation of the facilities. If sound utility practice requires modification or relocation of the facilities, the street railway shall pay the cost of the modification or relocation, unless 1 or both of the following apply:

(a) Modification or relocation of the public utility's facilities is required because the facilities are at an unauthorized location in the public highway, street, or right-of-way. If the facilities are located anywhere in a public highway, street, or right-of-way, there is a rebuttable presumption that the public utility's facilities are at an authorized location in the public highway, street, or right-of-way.

(b) The street railway and the public utility agree to an alternative cost allocation.

(4) Notwithstanding subsection (3), a qualified city and a street railway may agree that the street railway pay the cost of modifying or relocating a public utility's facilities in the qualified city if the modification or relocation is required by the modification or relocation of a street railway system by the street railway in a public highway, street, or right-of-way in the qualified city.

(5) The property of a street railway and its income and operations are exempt from all taxation by this state or a political subdivision of this state.

(6) A public utility or a street railway may bring an action in circuit court to enforce the provisions of this section. This remedy is in addition to any other remedy that may exist at law.

(7) As used in this section:

(a) "Public utility" includes a provider of communications, data, cable television, electricity, heat, natural or manufactured gas, steam, sewage, video, water, or other similar services. Public utility also includes a telecommunications provider and a video service provider.

(b) "Qualified city" means a city that has incorporated an authority under the municipal lighting authority act, 2012 PA 392, MCL 123.1261 to 123.1295.

(c) "Telecommunications provider" means that term as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(d) "Video service provider" means that term as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor