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H.575

Introduced by Representatives Patt of Worcester, Andrews of Westford,
Austin of Colchester, Bongartz of Manchester, Burke of
Brattleboro, Clifford of Rutland City, Dodge of Essex, Dolan of
Waitsfield, Farlice-Rubio of Barnet, Krasnow of South
Burlington, Morris of Springfield, Ode of Burlington,
Rachelson of Burlington, Rice of Dorset, Satcowitz of
Randolph, Stebbins of Burlington, and Stone of Burlington

Referred to Committee on

Date:

Subject: Communications; utility poles; attachment charge; Community Media
Public Benefit Fund

Statement of purpose of bill as introduced: This bill proposes to establish the
Community Media Public Benefit Fund to support the operational costs of
Vermont's 24 access management organizations. Revenue for the Fund shall
be generated by an annual utility pole attachment charge imposed on
communications service providers.

An act relating to the Community Media Public Benefit Fund

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. FINDINGS AND INTENT

3 (a) The General Assembly finds:

4 (1) Public, educational, and government (PEG) access is an essential
5 service for Vermont, providing ongoing access to public meetings and
6 emergency information, connecting communities, and preserving local
7 identity.

8 (2) PEG providers, also known as access management organizations
9 (AMOs), provide internet-based services that serve whole communities, not
10 merely those portions covered by cable television systems.

11 (3) AMOs have been funded principally by a surcharge on cable
12 television service, which is paid directly from cable companies to AMOs.
13 AMO funding streams have declined in recent years due to technological
14 changes as well as to consumer preference shifts away from cable
15 programming and towards internet-based streaming services.

16 (b) It is the intent of the General Assembly to affirm the continuing
17 importance of community media services in Vermont by providing a stable and
18 ongoing funding stream for Vermont's AMOs. Such funding shall be derived
19 from the communications industry through a competitively neutral and
20 nondiscriminatory charge paid by communications providers and imposed on
21 the principal facilities used to support modern communications, which are

1 heavily used by nearly all service providers on the modern network, including
2 wireless service.

3 Sec. 2. 30 V.S.A. chapter 88A is added to read:

4 CHAPTER 88A. COMMUNITY MEDIA PUBLIC BENEFIT FUND

5 § 7601. PURPOSE

6 This chapter establishes a financial structure to provide adequate financial
7 support to Vermont’s access management organizations so that public,
8 educational, and government (PEG) services are broadly available everywhere
9 in the State. It creates an annual utility pole attachment charge on
10 communications service providers to finance that structure.

11 § 7602. DEFINITIONS

12 As used in this chapter:

13 (1) “Access management organization” or “AMO” means a nonprofit
14 entity that is not a part of a cable company and that is designated to receive
15 public, educational, and government (PEG) access support through a cable
16 company and contracted to manage PEG channels and facilities for
17 noncommercial purposes, pursuant to Public Utility Commission Rule 8.000.

18 (2) “Cable company” means a company that operates a cable television
19 system, as defined in 30 V.S.A. chapter 13.

20 (3) “Communications facility” means a physical facility, including
21 copper cable, optical fiber, and antennas, that transmits and receives electrical

1 or light signals as part of a local, state, national, or international network used
2 primarily for communications.

3 (4) “Communications service provider” means an entity that directly
4 controls communications facilities by means of ownership, lease agreement, or
5 other arrangement. The term includes incumbent local exchange carriers,
6 competitive local exchange carriers, wireless communications providers, cable
7 television companies, and internet service providers.

8 (5) “Fund” means the Community Media Public Benefit Fund.

9 (6) “Pole attachment” means the physical attachment of a
10 communications facility to a utility pole.

11 (7) “Pole-owning utility” means a company, as defined in 30 V.S.A.
12 § 201(1), that is subject to regulation by the Public Utility Commission and has
13 an ownership interest in one or more utility poles.

14 (8) “Utility pole” means a structure used to support one or more
15 communications facilities above ground, without regard to ownership and
16 without regard to whether the pole is used to transmit electric power. “Utility
17 pole” does not include a structure outside the public rights-of-way constructed
18 for the sole or primary purpose of supporting wireless antennas or any building
19 on which one or more wireless antennas have been deployed.

20 (9) “Vermont Access Network” means the nonprofit organization that
21 represents Vermont’s access management organizations in matters of mutual

1 concern, including the effective operation and advancement of PEG access
2 throughout the State, and includes any successor organization.

3 § 7603. COMMUNITY MEDIA PUBLIC BENEFIT FUND

4 The Community Media Public Benefit Fund is created as a special fund
5 within the State Treasury. The Fund shall be composed of all receipts from the
6 pole attachment charge imposed in this chapter, as well as any other funds so
7 appropriated by the General Assembly and any funds received as grants or
8 gifts and approved according to the provisions of 32 V.S.A. § 5. Unexpended
9 balances shall remain in the Fund from year to year.

10 § 7604. POLE ATTACHMENT CHARGE

11 (a) Charge imposed. A charge is imposed on each pole attachment in this
12 State that exists on April 1 of each year. The charge is imposed on a
13 communications service provider for each pole attachment owned or controlled
14 by that communications service provider.

15 (b) Multiple attachments. Where multiple communications facilities exist
16 on a single utility pole, one charge is imposed for each attachment point.
17 However, if two or more facilities are attached to a single attachment point,
18 such as over-lashed cables or wires, those facilities are subject to a single
19 charge if and only if all facilities at that attachment point are owned or
20 controlled by a single provider.

1 (c) Rate of charge. The rate of charge shall be \$15.00 per year for each
2 pole attachment.

3 (d) Exemption. The charge does not apply to pole attachments of publicly
4 owned communications facilities.

5 (e) Cable deduction. A cable company may deduct from amounts due
6 under this section any amounts paid to AMOs, as required by Public Utility
7 Commission Rule 8.000, during the previous calendar year. Nothing in this
8 chapter reduces or eliminates the obligation of any cable company to provide
9 funding to AMOs pursuant to State or federal law or rule.

10 § 7605. DISTRIBUTION OF FUNDS

11 (a) The General Assembly shall annually appropriate amounts from the
12 Fund to the Office of the Secretary of State for the purpose of making grants
13 for the operational costs of AMOs pursuant to this section.

14 (b) The Secretary of State shall administer those grants by making a single
15 disbursement to the Vermont Access Network on or before October 1 of each
16 year, beginning in 2024. On or before September 1 of each year, the Vermont
17 Access Network shall submit a plan to the Secretary of State with a schedule of
18 proposed subgrants to AMOs. The distribution under this subsection shall
19 occur only if the Secretary approves that plan.

20 (c) After receiving its annual grant, the Vermont Access Network shall
21 promptly distribute all of the funds to AMOs pursuant to the plan approved by

1 the Secretary. An AMO that is not in substantial compliance with the annual
2 reporting requirements of Public Utility Commission Rule 8.000 is ineligible
3 for the grant.

4 (d) The General Assembly shall annually appropriate amounts from the
5 Fund to the Department of Taxes and the Office of the Secretary of State for
6 administrative expenses incurred under this chapter. The total appropriation to
7 the Department and the Office shall not exceed five percent of the total annual
8 appropriation under this section.

9 § 7606. PAYMENT AND REPORTING

10 (a) Beginning on July 1, 2024, and annually thereafter, pole attachment
11 charges shall be paid to the Department of Taxes, along with a return that
12 describes the number of pole attachments that the communications service
13 provider owned or controlled in the State on April 1 of the same calendar year.

14 (b) Within 60 days following any request from the Commissioner of Taxes,
15 a pole-owning utility shall report the number of utility poles it owns or controls
16 and submit an inventory of the attachments to those poles, classified according
17 to the communications service provider who owns or controls the attached
18 facilities.

19 § 7607. RULEMAKING

20 The Commissioner of Taxes may adopt rules to the extent necessary to
21 effectuate the purpose of this chapter. No rules or rulemaking process shall in

1 any way delay the effective date of the pole attachment charge or the annual
2 payment of such charge.

3 Sec. 3. EFFECTIVE DATE

4 This act shall take effect on passage.