

1 S.181

2 Introduced by Senator Baruth

3 Referred to Committee on

4 Date:

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

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

12 An act relating to the Community Media Public Benefit Fund

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

14 Sec. 1. FINDINGS AND INTENT

15 (a) The General Assembly finds:

16 (1) Public, educational, and government (PEG) access is an essential
17 service for Vermont, providing ongoing access to public meetings and
18 emergency information, connecting communities, and preserving local
19 identity.

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

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

9 (b) It is the intent of the General Assembly to affirm the continuing
10 importance of community media services in Vermont by providing a stable and
11 ongoing funding stream for Vermont's AMOs. Such funding shall be derived
12 from the communications industry through a competitively neutral and
13 nondiscriminatory charge paid by communications providers and imposed on
14 the principal facilities used to support modern communications, which are
15 heavily used by nearly all service providers on the modern network, including
16 wireless service.

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

18 CHAPTER 88A. COMMUNITY MEDIA PUBLIC BENEFIT FUND

19 § 7601. PURPOSE

20 This chapter establishes a financial structure to provide adequate financial
21 support to Vermont's access management organizations so that public,

1 educational, and government (PEG) services are broadly available everywhere
2 in the State. It creates an annual utility pole attachment charge on
3 communications service providers to finance that structure.

4 § 7602. DEFINITIONS

5 As used in this chapter:

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

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

13 (3) “Communications facility” means a physical facility, including
14 copper cable, optical fiber, and antennas, that transmits and receives electrical
15 or light signals as part of a local, state, national, or international network used
16 primarily for communications.

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

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

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

4 (7) “Pole-owning utility” means a company, as defined in 30 V.S.A.
5 § 201(1), that is subject to regulation by the Public Utility Commission and has
6 an ownership interest in one or more utility poles.

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

13 (9) “Vermont Access Network” means the nonprofit organization that
14 represents Vermont’s access management organizations in matters of mutual
15 concern, including the effective operation and advancement of PEG access
16 throughout the State, and includes any successor organization.

17 § 7603. COMMUNITY MEDIA PUBLIC BENEFIT FUND

18 The Community Media Public Benefit Fund is created as a special fund
19 within the State Treasury. The Fund shall be composed of all receipts from the
20 pole attachment charge imposed in this chapter, as well as any other funds so
21 appropriated by the General Assembly and any funds received as grants or

1 gifts and approved according to the provisions of 32 V.S.A. § 5. Unexpended
2 balances shall remain in the Fund from year to year.

3 § 7604. POLE ATTACHMENT CHARGE

4 (a) Charge imposed. A charge is imposed on each pole attachment in this
5 State that exists on April 1 of each year. The charge is imposed on a
6 communications service provider for each pole attachment owned or controlled
7 by that communications service provider.

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

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

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

18 (e) Cable deduction. A cable company may deduct from amounts due
19 under this section any amounts paid to AMOs, as required by Public Utility
20 Commission Rule 8.000, during the previous calendar year. Nothing in this

1 chapter reduces or eliminates the obligation of any cable company to provide
2 funding to AMOs pursuant to State or federal law or rule.

3 § 7605. DISTRIBUTION OF FUNDS

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

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

13 (c) After receiving its annual grant, the Vermont Access Network shall
14 promptly distribute all of the funds to AMOs pursuant to the plan approved by
15 the Secretary. An AMO that is not in substantial compliance with the annual
16 reporting requirements of Public Utility Commission Rule 8.000 is ineligible
17 for the grant.

18 (d) The General Assembly shall annually appropriate amounts from the
19 Fund to the Department of Taxes and the Office of the Secretary of State for
20 administrative expenses incurred under this chapter. The total appropriation to

1 the Department and the Office shall not exceed five percent of the total annual
2 appropriation under this section.

3 § 7606. PAYMENT AND REPORTING

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

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

13 § 7607. RULEMAKING

14 The Commissioner of Taxes may adopt rules to the extent necessary to
15 effectuate the purpose of this chapter. No rules or rulemaking process shall in
16 any way delay the effective date of the pole attachment charge or the annual
17 payment of such charge.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on passage.