

# PROTEC

## Proposed Legislative Agenda

4/7/2023

Locals Have a Friendly Majority in Lansing across all branches of state government for the 1<sup>st</sup> Time in 38 years, including our: Governor, Supreme Court, Both Chambers of our Legislature, The Attorney General and Secretary of State. The mountain of industry friendly and local community unfriendly legislation passed over those 38 years dramatically reduced both local control and revenues, all to the detriment of Michigan communities, residents and neighborhoods, state wide. We now have 2 years to fix 38+ years of damage and return Michigan to its role as a local community friendly and progressive State.

These laws passed over the last 38 years are each contrary to the Michigan Constitution of 1963 Article 7 Sec 29, Etc. and the broad authority and right of self-governance local communities enjoyed for a century. Our new Legislature has begun reversing the damage done. And our newly constituted Michigan Supreme and Appellate Courts have begun enforcing those Constitutional guarantees for the 1<sup>st</sup> time in 4 decades. See Lansing Prevailing Wage Case, UPPCO v Village of L'anse, Etc. So we also have an opportunity to pursue Judicial review of these laws ultimately, though we are 1<sup>st</sup> pursuing legislative corrections.

### PROTEC 2023/24 LEGISLATIVE AGENDA

#### AMEND/REPEAL/APPEAL:

##### i. Metro Act – 2002 PA 48

1. **We need to improve local revenue:**
  - a. **5 cents/ft** for Telecom ROW Access vs Market:
  - b. Oregon Munis at **\$5+ Dollars/ft**
  - c. N. Mexico at **35 cents/ft rural and \$1.81 Urban**
2. We need to reassert **local control over lines and large Boxes in our ROW**

##### ii. Video Service Act – 2006 PA 480

1. No Local Control of Rates or Service and
2. Last Bastion of Local Video Programming – PEG - Being Squeezed Out
  - a. See FCC Sec 621 Order and 9<sup>th</sup> Cir Appeal Opinion
3. Proof of the problem: Have you looked at your cable bill lately? Have you tried to find good local programming?

##### iii. “Not so” Small Cell Act – 2018 PA 365

1. These front yard Cell Towers were never small and now they are growing
2. There are legitimate RF Radiation issues
3. Industry issues: AT&T going back to fiber and Verizon Wireless “5G” slammed by Wall Street for lack of reliability and financial viability
  - a. See FCC Orders and 9<sup>th</sup> Cir Appeal Opinion
4. We need to reassert control over our neighborhoods and street ROW

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**iv. Broadband: State Laws (arguably) barring local eligibility for \$1.5 Billion in BB Grants**

1. 2020 PA 224
2. 2022 PA 53 sec 359
3. See Fed ARPA and BEAD Law promoting govt eligibility
4. We must bring State law in line with Federal law and local authority

**v. 2012 PA 143; MCL 125.3514 which eliminated local review of significant additions and growth of existing Macro Cell Towers:**

1. See also the Fed Telecom Act Sec 6409
2. This law must be amended or repealed allowing local zoning to address these significant expansions

**vi. 2013 PA 174 Sec 12 eliminated local government immunity for Miss Dig Operations. See MCL 691.1407(7)**

1. WHY? Because the Gas Pipeline Industry sought to avoid liability for its 80 year old gas lines, one of which blew up the City of San Bruno on September 9, 2010



[https://en.wikipedia.org/wiki/San\\_Bruno\\_pipeline\\_explosion#:~:text=The%20loud%20roar%20and%20shaking,death%20toll%20was%20eight%20people](https://en.wikipedia.org/wiki/San_Bruno_pipeline_explosion#:~:text=The%20loud%20roar%20and%20shaking,death%20toll%20was%20eight%20people)

2. The law must re-establish governmental immunity so the pipeline industry cannot deflect its own responsibility to uninvolved local government.

**vii. 1995 PA 30 Electric Transmission Line Certification Act**

1. Allows ITC and MPSC to unilaterally rewrite/ignore duly authorized Local Zoning and install 150' towers right down Main street.
2. This law must be amended to re-establish local zoning

**viii. Continue pushing back on new Anti-Local Legislation**

1. HB 6449 attempting to bar Netflix OTT franchise litigation; and
2. HB 4207 and 4208 seeking to exempt Broadband infrastructure from taxation, thus gutting local and school funding
3. PROTEC has opposed both

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**ix. Promote Regulation of BB at State and Local Levels**

1. Like our unregulated cable bills, Michigan BB Bills keep climbing while service remains largely 3<sup>rd</sup> worldly
2. Regulation of the Monopoly BB industry is critical for customer protection

**x. Reverse DTE v City of Taylor**

1. In this 2006 Opinion, the “Strict constructionist” Michigan Supreme Court reversed 100 years of precedent and ignored clear Constitutional language granting local communities control over local ROW
2. This opinion must be legislatively or judicially reversed

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