House
Legislative
Analysis
Section

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TELECOMMUNICATIONS ACT

House Bill 5721 as enrolled
Public Act 295 of 2000
Second Analysis (7-6-00)

Sponsor: Rep. Mary Ann Middaugh
House Committee: Energy and Technology
Senate Committee: Technology and Energy

THE APPARENT PROBLEM:

Telecommunication has become an all but unavoidable part of most people's daily existence. From telephones to answering machines to pagers to cellular phones, people are rarely far from a phone and thereby are rarely far from access to just about anyone, anywhere in the world. Further, recent years have seen rapid expansion of services which vastly increase the telephone's usefulness, including facsimile machines, teleconferencing, call forwarding, voice mail, and speed dialing, just to name a few.

In Michigan, the provision of telecommunications service is regulated under the provisions of the Michigan Telecommunications Act. However, the act will be repealed by a sunset provision within the act on January 1, 2001. Without legislation to regulate the telecommunications industry, many believe it is likely that chaos would ensue and consumers would be the ones to suffer the consequences.

At the time the most recent incarnation of the telecommunications act was enacted, it was expected to accelerate the introduction of new technology in both products and services, increase competition, and result in lower prices for customers. Some argue that many of the deregulation provisions in the 1995 amendments to the act have worked less well than was hoped or expected and the competition level in local telephone markets is such that further regulation is warranted to protect against abuses by existing monopolies. However, the extremely positive results of deregulation in the toll or long-distance markets, which have lowered long distance rates for most consumers, are evidence to some that continuing the path of deregulation will continue to have a positive impact on service to consumers, both in quality and cost.

As the deadline for the expiration of the act rapidly approaches, legislation has been proposed to provide a new framework for regulating the extremely important and very lucrative telecommunications industry.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Telecommunications Act (MTA) (MCL 484.2101et al.) to do all of the following:

Jurisdiction and Authority. Under current law the Public Service Commission (PSC) has the jurisdiction and authority to administer the act, but is limited to the powers and duties that are prescribed within it. The bill would give the commission the jurisdiction and authority to administer not only the act, but all federal telecommunications laws, rules, orders, and regulations that are delegated to the state. The commission's exercise of its jurisdiction and authority would have to be in accordance with the act and all federal telecommunications laws, rules, orders, and regulations. While current law requires the PSC to establish rules to implement the act, the bill would permit the commission to establish rules under the Administrative Procedures Act, subject to the above delineation of its jurisdiction and authority.

In addition, the bill would give the PSC the authority to regulate all directory assistance services until the commission determined that directory service was a competitive service (current law allows the PSC only to regulate local directory assistance). Further, the PSC would have the authority to approve or deny any proposed addition, elimination, or modification of an area code within the state. Before any changes were made to an area code, the commission would be required to give public notice and conduct a public hearing in the affected geographic area. To the extent technologically and economically feasible, the commission would be required to order that modification of all area code boundaries conform to county lines.

Competitiveness Report. The PSC would be required to submit an annual report on the status of competition in telecommunication services, including, but not limited to, toll and local exchange service markets in Michigan. The report would have to be submitted to the governor and the House and Senate standing committees that oversee telecommunications issues.

Emergency Relief. The bill would allow a complainant to request an emergency relief order, if a complaint filed under the MTA alleged facts that warranted emergency relief. A complaint and request for emergency relief would have to be hand delivered to the opposing party or respondent at its principal place of business in Michigan. That party would then have five business days to file a response to the request for emergency relief.

The PSC would have to review the complaint, the request for emergency relief, the response, and all supporting materials, and then determine whether the request should be denied or an initial evidentiary hearing should be conducted. If an initial evidentiary hearing was conducted, it would have to occur within five days after notice had been provided. After the hearing, an order granting or denying the request for emergency relief would have to be issued.

An order for emergency relief could require a party to act or refrain from action to protect competition. Any action required by an order for emergency relief would have to be technically feasible and economically reasonable, and the respondent would have to be given a reasonable period to comply. At a hearing for emergency relief, the respondent would have the burden of showing that the order was not technically feasible or economically reasonable.

If extraordinary circumstances existed that the PSC determined warranted expedited review before the PSC's final order would be issued, the PSC would have to set a schedule that would allow for the issuance of a partial final order as to all or part of the issues for which emergency relief was granted within 90 days from the issuance of the emergency relief order.

An order for emergency relief could be granted if the PSC found all of the following:

-- The party had demonstrated exigent circumstances that warranted emergency relief.

-- The party seeking relief would likely succeed on the merits.

-- The party would suffer irreparable harm in its ability to serve customers if emergency relief were not granted.

-- The order was not adverse to the public interest.

The PSC could require a complainant to post a bond in an amount that would be sufficient to make the respondent whole in the event that the order for emergency relief was later determined to have been erroneously granted.

An emergency relief order would expire upon the soonest of the following: 90 days after it was issued; when the PSC's partial order was issued; or an earlier date set by the PSC. The PSC could extend the emergency relief order up to the date on which a final order was issued in the proceeding.

The losing party would have the right to seek immediate review of an order granting or denying emergency relief. The review would have to comply with Michigan Court Rules on motions for immediate consideration and the review would be as a new case, rather than a review of the record of the prior hearing. The court of appeals could stay the emergency relief order upon posting of a bond or other security in an amount and on terms set by the court. Regardless of whether an appeal was made, the PSC would have to proceed with the case and issue a final order as otherwise required under the MTA.

Hearings. The bill would specify that an application or complaint would have to include all information, testimony, exhibits, or other documents and information within the applicant's or complaining party's possession. However, if that party needed information that was in the possession of the respondent, the PSC would have to allow that complainant or applicant a reasonable opportunity for discovery.

In addition to any other relief allowed in the act, the PSC or any other interested person could seek to compel compliance with a commission order by proceedings in mandamus, injunction, or by other appropriate civil remedies in the circuit court or other court of appropriate jurisdiction.

Finally, the bill would also provide that the changes to the hearings provisions and the emergency relief provisions would not amend, alter, or limit any case or proceeding that was commenced prior to the effective date of the bill.

Alternative Dispute Process. The MTA requires the use of an alternative dispute process for disputes involving an amount of $1,000 or less. Under the bill, the PSC would be required to compel parties in an interconnection dispute between telecommunications providers to use the act's alternative dispute resolution, unless there had been a request for emergency relief. In addition, unless there was a request for emergency relief, the PSC would have an additional 45 days past the usual deadline for issuing an order in a dispute involving $1,000 or less, or an interconnection dispute between providers.

Licensing Requirements. The MTA provides that, after notice and a hearing, the PSC must approve an application for a license as a basic local exchange provider if it finds that the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to "every person" within the geographic area of the license and that granting a license would not be contrary to the public interests. The bill would change "every person" in that requirement to "all residential and commercial customers", and would require the PSC to also find that the applicant intended to provide service within one year from the date the license was granted. The PSC could revoke a provider's license if it determined, within two years of the date the license was granted, that the provider had not marketed its services to all potential customers or had refused to provide service to certain customers.

End-User Line Charges. Basic local exchange service providers, except those with 250,000 or fewer customers in this state, would be prohibited from assessing or imposing an intrastate subscriber line charge or end-user line (or access) charge.

Toll access rates. Under the MTA, the PSC may not review or set the rates for toll access services. Except for the above provision against the imposition of intrastate end-user or subscriber access charges by basic local exchange providers, toll access services providers must set the rates for toll access. The MTA specifies that access rates that exceed those allowed for the same interstate services by the federal government are not just and reasonable, and that providers may agree to a rate less than that allowed by the federal government. The bill would provide that rates for end-user or subscriber line charges charged to basic local exchange customers could not exceed the rates allowed by the federal government as of May 1, 2000 for the same interstate services.

Further, if a toll access service rate is reduced, the MTA requires the provider receiving the reduced rate to reduce its rate to its customers by an equal amount. The bill would require that the PSC investigate and ensure that a provider had complied with the requirement to pass along rate reductions to its customers.

None of these provisions would apply to basic local exchange providers with 250,000 or fewer customers in this state, and neither would existing provisions requiring a provider of toll access service to offer services under the same rates, terms, and conditions, without unreasonable discrimination, to all providers, to make any technical interconnection arrangements available for intrastate access services, and allowing two or more providers with fewer than 250,000 access lines to agree to joint toll access service rates and pooling of revenues.

Mandatory Minimum Charge Prohibition. Unless otherwise approved by the commission, the bill would prohibit a toll service provider from charging a mandatory minimum monthly or mandatory flat-rate charge for toll calls, except in connection with an optional discount toll calling plan.

Toll Rates. Under the bill, a call made to a local calling area that is adjacent to the caller's local calling area could not be considered a toll call and would be have to be considered a local call and be billed as a local call. Providers of toll service would have to make adjacent exchange toll calling plans available to their customers, after review and approval of the PSC. All toll service providers would be required to inform their customers of the availability of these plans and the plans would remain in effect until altered by order of the PSC. However, this provision would not apply to those providers who met the requirements to be exempted from the act's provisions governing basic local exchange rate alteration (see below).

Basic Local Exchange Rate Alteration. The bill would require that the PSC exempt a provider from the MTA's provisions governing basic local exchange rate alteration and the setting of toll access rates if it found that the provider did all of the following:

-- Provided basic local exchange service or basic local exchange and toll service to fewer than 250,000 end-users.

-- Offered to end-users single-party basic local exchange service, tone dialing, toll access service, including end-user common line services and dialing

parity, at a total price of no more than the amount charged as of May 1, 2000.

-- Provided dialing parity access to operator, telecommunication relay, and emergency services to all basic local exchange end-users.

"Slamming" and "Cramming." Public Acts 259 and 260 of 1998 added slamming prohibitions and penalties to the MTA. ("Slamming" is the term commonly used to refer to the unauthorized switching of a telecommunications subscriber from one provider to another.) Under the slamming provisions, the PSC must issue orders to ensure that an end user is not switched to another provider without the end user's oral authorization, written confirmation, confirmation through an independent third party, or other verification procedures subject to PSC approval confirming the end user's intent to make a switch and that the end user has authorized the specific details of the switch. The PSC may conduct a contested case upon receiving a complaint alleging a slamming violation. If the PSC finds that a slamming violation has occurred, it must order remedies and penalties to protect and make whole end users and other persons who suffered damages as a result of the violation.

In addition to the existing "slamming" provisions, the bill would prohibit a telecommunications provider from including or adding optional services in an end-user's telecommunications service package without the express oral or written authorization of the end user (commonly referred to as "cramming"). Upon receiving a complaint filed by a person alleging a cramming violation or upon the PSC's own motion, the PSC could conduct a contested case hearing.

Slamming and Cramming Complaints and Hearings. The bill would require that the PSC create and, upon request, supply a form affidavit designed to enable an end-user to provide all the information needed to promote efficient resolution of slamming and cramming complaints. Hearings would have to be conducted in a manner that optimized expediency, convenience, and the ability of the end-user to bring and prosecute, without assistance of counsel, complaints alleging slamming or cramming while preserving the rights of the parties. If possible, the PSC would have to hold the hearing at a location near the end-user's residence or place of business.

Slamming and cramming penalties. If the PSC found that a slamming or cramming violation occurred, it would have to order remedies and penalties to protect and make whole end users and other persons who suffered damages as a result of the violation. Remedies could include fines (see below), refunds, reimbursement, revocation of licenses, and cease and desist orders.

Fines for slamming and cramming. Currently, a first offense of slamming is subject to a fine of at least $10,000 but not more than $20,000; a second or subsequent offense is subject to a fine of at least $25,000 but not more than $40,000. If the PSC finds that a second or subsequent slamming offense is made knowingly in violation of the prohibition, the maximum fine is $50,000. Each switch made in violation of the MTA is a separate offense.

The bill would increase the fines and apply them both to slamming and cramming. Under the bill, a first slamming or cramming offense would be punishable by a fine of at least $20,000 but not more than $30,000; a second or subsequent offense would be punishable by a fine of at least $30,000 but not more than $50,000. For a slamming or cramming offense committed knowingly in violation of the MTA, the maximum fine would be $70,000. Each switch or added service would be treated as a separate offense. In addition, the bill would allow the PSC to order between 10 and 50 percent of the fines assessed to be paid to the person who was the victim of the slamming or cramming violation.

The PSC could not impose a fine for slamming or cramming if the provider had otherwise complied with the provisions against slamming and cramming and was able to show that the violation was an unintentional and good faith error that occurred in spite of procedures that had been adopted to avoid such errors. (This exception already exists for slamming violations.)

Prohibited practices. In addition to the existing prohibitions, a provider of telecommunication services would be prohibited from the following:

• disparaging the services, business, or reputation of another by false or misleading representations of fact;

• representing that unrequested services are being supplied in response to a request made by or on behalf of the party receiving the services;

• causing a probability of confusion or a misunderstanding as to a party's legal rights, obligations or remedies;

• representing or implying that the subject of a transaction will be provided promptly or at a specified

time, or within a reasonable time, if the provider knew or has reason to know that it will not be so provided; and

• causing coercion and duress as a result of the time and nature of a sales presentation.

For alleged violations of these prohibitions, the PSC could accept an assurance that the accused provider would discontinue the allegedly unlawful method, act, or practice. Such an assurance would not be an admission of guilt nor could it be introduced in any other proceeding. An assurance could be enforced in the circuit court by the parties to the assurance, unless it had been rescinded by the parties or was voided by the court for good cause. An assurance could include stipulations for the voluntary payment of the costs of the investigation, an amount to be held in escrow pending the outcome of an action, or an amount for restitution to an aggrieved person.

Attorney Fees. If, after notice and a hearing, the PSC found that a violation of the act had occurred, the PSC could, in addition to the penalties already provided under the act, order attorney fees and actual costs of a person or a provider with fewer than 250,000 end-users, unless the case was an arbitration case under section 252 of part II of title II of the Communications Act of 1934, Chapter 622, 110 Stat. 66.

Intrastate Universal Service Fund. The PSC would be required to initiate an investigation to determine whether an intrastate universal service fund (a fund that would provide a subsidy to customers for supported telecommunications services) should be created. The investigation would have to be started no sooner than July 1, 2002 and be completed no sooner than December 1, 2002. All providers would have to be made respondents in the proceeding, and in addition any other interested party could participate and intervene in the proceeding. At some later date, upon request or on its own motion, the commission, after notice and hearing, could be required to determine if the findings made should be reviewed because of changes in technology or other factors. Unless otherwise approved by the commission, if an interstate universal service fund was created on the federal level, the interstate universal service fund would not need to be established.

For each provider, the PSC would determine whether and to what extent the affordable rate level (defined as, at a minimum, rates in effect on January 1, 2001 or as determined by the PSC) for the provision of supported telecommunications services (defined as primary residential lines and a minimum level of local usage on those lines, as determined by the PSC) would be below that provider's forward looking economic cost for the supported services. If the fund were created, it would be used to subsidize the difference between the affordable rate set by the PSC and the forward looking cost of the services, less any federal universal service support received.

Eligibility to receive intrastate universal service support would be consistent with the act and with the rules and regulations of the FCC. To the extent a fund was established, the PSC would have to require that the costs of the fund be recovered from all telecommunications providers on a competitively neutral basis. Providers who contributed to the fund could recover costs from end-users through billing surcharges. The PSC would be required to select an independent third party administrator to administer the fund.

Internet access report. The bill would require the PSC to study whether the state should require each wireline broadband internet access transport provider who is an internet service provider (or an affiliate of an internet service provider) to provide any other requesting internet service provider access to its broad band internet access transport services, unbundled from the provision of content, on rates, terms, and conditions that are at least as favorable as those on which it provides the access to itself, its affiliates, or any other person. The commission would be required to make a report on its findings to the governor and the legislature, no later than July 1, 2001.

2-1-1 Service. The PSC would be required to issue orders that assigned the telephone digits 2-1-1 only to community resource information and referral answering points established under the bill and prescribe appropriate interconnection orders to carry out the service. Each basic local exchange service in Michigan would have to assign those telephone numbers only to a community resource information referral answering point.

The PSC would have to designate a community resource information and referral entity to be the 2-1-1 answering point for various geographical areas within Michigan. In making its determination, the PSC would have to consider the recommendations of the Michigan Alliance for Information and Referral Systems; whether the relevant state-endorsed multipurpose collaborative bodies were in agreement; whether the entity had established a framework to assure the provision of coverage of the 2-1-1 telephone number

24 hours per day, seven days per week; and whether the entity met 2-1-1 standards adopted by the Michigan Alliance for Information and Referral Systems.

Each community resource information and referral entity designated to be a 2-1-1 answering point would have to establish the framework to provide sufficient resources to operate the system 24 hours per day, seven days per week.

Purposes of the act. The act includes a section that specifies the purposes of the act. The bill would amend that section to provide, among other items, that the act's purpose is to:

"Ensure that every person has access to *just, reasonable, and affordable* basic residential telecommunication service." [new language emphasized]

"Restructure regulation to focus on price and quality of service and not on the provider. *Supplement* existing state and federal law regarding antitrust, consumer protection, and fair trade to provide *additional* safeguards for competition and consumers".

"Streamline the process for setting and adjusting the rates for regulated services that will ensure effective rate review and reduce the costs and length of hearings associated with rate cases."

"*Authorize actions to encourage the development of a competitive telecommunications industry.*"

Telecommunications Service Rates. The bill would add a new article entitled "Telecommunications Service Rates". Notwithstanding any other provision of the act and except as allowed for certain exempt providers, for competitive services, and for rates charged under contract, when the bill took effect, the rate charged for every telecommunication service provided in the state would be required to be no higher than the rate charged for that service as of May 1, 2000. The rate for any new service not offered under a contract that is functionally equivalent or substantially similar to an existing service would be set at no higher than the rate allowed for that existing service. The rates set under these provisions would remain in effect until December 31, 2003, or until the PSC determined that a service was competitive for an identifiable class or group of customers in an exchange, group of exchanges, or other clearly defined geographical area, whichever is earlier. The PSC would have to issue its determination as to whether a service was competitive within 60 days from the date the application was filed or the service would be considered competitive. Any complaint that arose under this section would be determined by the PSC through a contested hearing.

Sunset and repeals. The act would be repealed effective December 31, 2005 and the provisions of act that repealed earlier sections of the act would be eliminated.

BACKGROUND INFORMATION:

In 1991, Michigan began its efforts towards turning from the traditional monopoly structure for phone service to a more competitive framework. The adoption of the Michigan Telecommunications Act in 1991 turned away from nearly 100 years of telephone service through the traditional public utility monopoly model. Under the traditional model telephone service was seen as a "natural monopoly" where the very nature of the service (like water or electric service) required a single provider. What generally occurred under this model, and what occurred in Michigan, was that an exclusive right to provide service in each local service area was granted to a local exchange carrier (LEC) which owned, among other things, the local loops (the wires connecting telephones to switches), the switches (equipment that directs calls to their destinations), and transport trunks (wires that carry calls between switches) that make up a local exchange network. In exchange for protection of the monopoly, the telephone company agreed be subjected to government regulation to assure the quality of service and to set rates in order allow a fair rate of return and to prevent monopoly pricing.

At the time it was enacted the MTA led the nation by replacing the traditional public utility model with a competitive model that would, it was hoped, encourage competition and use market forces, instead of regulations, to control prices and the quality of service. In 1995, the legislature amended the MTA to further reduce regulations on the monpoly providers and gave the PSC limited authority to encourage new providers to enter the market. Shortly after the 1995 MTA was enacted the federal government enacted the federal Telecommunications Act of 1996. The federal act provided a national policy framework to encourage a competitive telecommunications market.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill's elimination of the end-user common line charges would reduce use tax revenue in fiscal year 2000-2001 by between $17 and $18 million, thus reducing general

fund/general purpose revenues by between $11.4 and $12 million, and school aid revenues by between $5.6 and $6 million. In addition, general fund/general purpose revenues would be reduced by an estimated $4.6 million in fiscal year 2000-2001 through reductions in telephone and telegraph or utility property tax revenue. Finally, the bill would impose new administrative requirements on the Public Service Commission, which could increase state costs. (7-10-00)

ARGUMENTS:

For:

The latest revisions to the MTA, in 1995, have failed in their intended purpose of increasing competition for local phone services. Since 1995, competition in the local telephone service market, according to proponents of the bill, remains anemic, at best. By limiting the PSC's authority, the revisions have allowed the incumbent local providers to retain what amounts to an unrestricted monopoly in the local telephone market. Furthermore, the 1995 act will sunset on December 31, 2000 and needs to be extended before that date, lest chaos ensue.

According to proponents of the bill, Ameritech and GTE account for the vast majority (some estimates are as high as 97 percent for the areas they serve) of the local phone service market. Because these incumbent providers control the local phone network, proponents of the bill argue that the incumbent providers have used delaying tactics to freeze out would-be competitors, and have actually increased their market shares since the enactment of the 1995 amendments to the MTA. As evidence of the failure of the 1995 revisions to the MTA, they point out that since 1995, Ameritech has increased its rates for various services eight times. During that time, consumers' rates have been reduced in four other states where the company does business. They assert that Ameritech's residential basic line charges in Michigan are nearly double those in Illinois and Indiana, and more than 50 percent higher than those in Ohio and Wisconsin. They also point to FCC reports that indicate that Michigan customers spend the most per line on intrastate toll calls (long-distance calls within the state), $25.69 per month, well above the United States average of $14.41 per month. All this leads proponents to conclude that the current MTA is not helping to create a competitive local telephone market and should be amended to help enhance competition and prevent the incumbent local providers from using their monopoly positions to limit competition.

Not only would the bill help to encourage competition by leveling the playing field for competition, it will also provide immediate relief for consumers: first, by establishing a price cap that will freeze rates for many services at May 1, 2000 levels until at least December 31, 2003, and second, by eliminating the intrastate access fees charged by the two largest incumbent local service providers. Both Ameritech and GTE, the two largest incumbent local providers in Michigan, are currently levying a "state access charge" or "end user line charge" on Michigan customers that is not billed in any of the other states where either Ameritech or GTE does business. Further, language requiring the expansion of local calling areas will have a significant beneficial effect on consumers. In addition to the lowered costs of service, the bill will protect consumers from the types of "slamming" and "cramming" practices that have been a problem in the competitive long distance market by establishing significant penalties for providers who engage in such practices.

Furthermore, according to proponents, action is needed now. They point out that there is an opportunity cost for delaying action. According to estimates, each week of delay in introducing real competition into the local telephone market costs Michigan ratepayers approximately $1.6 million. Proponents further claim that it is not unreasonable to assume that the introduction of competition in local phone service would lead to a 15 percent reduction in prices within five years (according to a Hillsdale Policy Group, Ltd. report).

Proponents also argue that Michigan's economic growth in the current high-tech era depends upon having a competitive telecommunications market. Without that, high-tech industries will likely choose to set up their businesses in other states.

Against:

Incumbent local service providers argue that proponents are twisting the FCC figures – while the intrastate toll charges are higher than in other states, Michigan consumers pay less in local line charges ($23.09 per month compared to a national average of $28.14 per month). When added with other charges, they argue, Michigan customers are paying a total of about $73.46 per month for their phone service, while the national average for similar service is $75.00 per month. The reason Michigan consumers pay more for intrastate toll calls is that Michigan customers make more intrastate toll calls (2.7 million in 1998 compared to the next highest, Illinois, with 1.7 million).

Finally, the bill places proponents in the difficult position of arguing that in order to create a free market, more government regulation is needed. This doesn't make sense. By increasing regulation the bill will only serve to delay full competition. Looking only at local hardwired telephone service provides an inaccurate picture of competition for the average person's phone service. Many people are starting to use other communications devices and no longer look to their home phone as the means of basic telephone service. Cell phones, digital communications devices, and other such hand held communications devices have become the norm, rather than the exception. These devices, and other means of telecommunication, have flourished over the last few years and are providing very real competition for local phone service, and they have the advantage over other local service providers because they are not regulated by the state the way traditional phone companies are. Rather than increasing regulations, the bill should be removing the remaining barriers to full competition and allowing the market to work.

Against:

The bill will have the effect of slowing, rather than enhancing competition for the provision of local phone service. In particular, the provisions expanding local service areas and eliminating the end-user fees will serve to make the provision of local phone service more costly - this, in conjunction with the rate freeze will make local telephone service less profitable, thus discouraging rather than encouraging competition.

The expansion of the local calling areas is an all too simplistic attempt at dealing with a complicated problem. The provision requiring that all calls made to adjacent locations be treated as local calls will likely destroy the already competitive local toll market. That provision in particular gives no explanation as to how it would work, arguably it would appear to call for the elimination of current local calling areas and require that each and every phone have a separate local call area centered around its location, however, the bill doesn't even describe how large this adjacent area must be.

The rate freeze, in particular, is not only a clear interference with market forces, it begs the question – why not simply have the PSC set rates for the foreseeable future? Furthermore, capping rates could give customers less incentive to shop around and switch providers. If the local telephone market is made less attractive for the incumbent providers, how much less attractive will it be for would-be competitors?

The bill could also have a negative impact on the state's telecommunications network. Incumbent providers have invested hundreds of millions of dollars into maintaining and upgrading the state's network, and as a result, the state has one of the best telecommunications networks in the nation. If the changes made by the bill make these investments unprofitable, it is unlikely that these providers will continue to try to maintain and upgrade the state's network. Michigan's economic growth in the current high-tech era depends in part upon the quality of this network. Without the continued investment, Michigan could lose its competitive edge and high-tech industries could choose to set up their businesses in other states.

In addition, the bill fails to adequately protect consumers by continuing to allow local phone companies to make virtually automatic increases in their rates based on the rate of inflation as reflected in the consumer price index (CPI). Allowing the rates to be tied to the rate of inflation means that rates will continue to increase, even though the cost of providing these services is decreasing due to advances in technology.

Finally, opponents note that the changes to the MTA are once again being rushed through the process. By taking up and enacting a bill that was only introduced on May 2, 2000 (and has undergone significant revisions between then and now), the risk of once again doing more harm than good is magnified. Some opponents point out that the current pace has left little opportunity for the legislature to debate the bill's merits, much less for any public discussion to occur.

Analyst: W. Flory

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.