

# Legislative Analysis



## **NO LOCAL CONSENT NEEDED FOR PIPELINES, ETC. ON LIMITED ACCESS HIGHWAY RIGHTS-OF-WAY**

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**Senate Bill 522 with House committee amendment**

**Sponsor: Sen. Michelle A. McManus**

**House Committee: Energy and Technology**

**Senate Committee: Transportation**

**Complete to 6-23-05**

### **A SUMMARY OF SENATE BILL 522 AS REPORTED FROM HOUSE COMMITTEE**

The bill would amend Public Act 368 of 1925 to allow certain utilities to construct and maintain utility lines and structures, including pipelines, longitudinally within limited access highway rights-of-way and under any public road, street, or other subsurface that intersects any limited access highway at a different grade, without the consent of the governing body of the city, village, or township.

The utility would have to comply with standards approved by the State Transportation Commission and the Michigan Public Service Commission that conform to federal laws and regulations.

The bill cites the definition of "utility" in the federal Code of Federal Regulations [CFR 645.105(m)], which refers to a privately, publicly, or cooperatively owned line, facility or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term also includes any wholly owned or controlled subsidiary of the utility.

Currently, Public Act 368 allows for a reasonable charge to a utility by the Department of Transportation to offset a portion of the capital and maintenance expense of the limited access highway. (The bill would include permitting expense.) The charge is to reflect a one-time installation permit fee not to exceed \$1,000 per mile of longitudinal use of rights of way with a minimum fee of \$5,000 per permit. The bill would provide that if the one-time installation permit fee did not cover the reasonable and actual costs to the department in issuing the permit, the department could assess the utility for the remaining balance.

MCL 247.183

### **FISCAL IMPACT:**

There is potential, but indeterminate, additional litigation cost for both the State of Michigan and various local units of government whenever the local unit of government

opposes the construction of new pipelines, or other utility lines and structures. According to the Lansing State Journal, the City of Lansing has spent about \$162,000 in legal fees over a three-year period to prevent the Wolverine Pipeline Co. from constructing an oil pipeline along four miles of I-96 within its borders. The city contends that the proposed pipeline would endanger the water supply and residents' safety, and both the Michigan Court of Appeals and the Michigan Supreme Court have upheld Lansing's denial of pipeline construction approval. There may be other costs accruing to either the State of Michigan or local units of government for public water and safety, but these amounts are also impossible to estimate.

## **POSITIONS:**

The American Petroleum Institute testified in support of the bill. (6-15-05)

The Michigan Chamber of Commerce indicated support for the bill. (6-15-05)

Consumers Energy indicated support for the bill. (6-15-05)

The Michigan Manufacturers Association indicated support for the bill. (6-15-05)

Indiana Michigan Power indicated support for the bill. (6-15-05)

The Michigan Municipal League is opposed to the bill. (6-22-05)

The Michigan Townships Association is opposed to the bill. (6-22-05)

The Michigan Association of Counties is opposed to the bill. (6-22-05)

A representative of the Mayor of Lansing and several Lansing City Council members testified in opposition to the bill. (6-22-05)

Legislative Analyst: Chris Couch  
Fiscal Analyst: Richard Child

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■ 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.