

PSC RULEMAKING

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 551

Sponsor: Sen. Bruce Patterson

House Committee: Energy and Technology

Senate Committee: Technology and Energy

Complete to 6-13-05

A SUMMARY OF SENATE BILL 551 AS PASSED BY THE SENATE 6-9-05

Section 213 of the Michigan Telecommunications Act grants the Michigan Public Service Commission rulemaking authority. The section is set to be repealed effective July 1, 2005. Senate Bill 551 would eliminate the repealer, meaning that Section 213 would stay in effect beyond July 1. However, the entire Michigan Telecommunications Act is itself scheduled to be repealed as of December 31, 2005.

Prior to the passage of Public Act 591 of 2004 (House Bill 6337), Section 213 contained a provision that said the PSC could not promulgate rules if the Michigan Supreme Court found two sections of the Administrative Procedures Act dealing with legislative review of rules to be unconstitutional and a new statute requiring legislative review was not enacted within 90 days of the ruling. The state supreme court did find the two sections unconstitutional (in 2000), and no statute was enacted within the required 90 days. Based on that earlier court ruling, the Michigan Court of Appeals found in a 2004 case (*Verizon v Public Service Commission*) that the PSC did not have the authority to promulgate quality of service rules.

Public Act 591 of 2004 struck the provision tying rulemaking authority to the court decision, but it also repealed all of Section 213 as of July 1, 2005. In other words, Public Act 591 granted the PSC temporary authority to promulgate rules under the MTA. Public Act 591 also legitimized rules that had been promulgated after January 1, 1996, but the act specified that certain quality of service rules could not be enforced until a court determined they did not exceed the PSC's authority under the MTA. However, the bill also said, *"It is the legislature's intent that [telecommunications] providers voluntarily comply with the rules until a court makes a determination. A provider that voluntarily agrees to abide by the rules does not relinquish its rights to challenge the legality of the rules."*

The quality of service rules specified, generally speaking, cover the areas of customer repair requests, out-of-service repairs, repair appointments and commitments, and installation commitments. Typically, they require customer credits when specified telecommunications problems are not addressed satisfactorily.

MCL 484.2213

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local governments.

Legislative Analyst: Chris Couch
Fiscal Analyst: Richard Child

■ 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.