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BILL ANALYSIS

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Senate Bill 551 (as reported without amendment)  
Sponsor: Senator Bruce Patterson  
Committee: Technology and Energy

### **CONTENT**

The bill would amend the Michigan Telecommunications Act (MTA) to eliminate a July 1, 2005, sunset on the Public Service Commission's (PSC's) authority to promulgate rules.

Section 213 of the MTA authorizes the PSC to promulgate rules under the Administrative Procedures Act (APA). Previously, however, the section also prohibited the PSC from promulgating rules if the Michigan Supreme Court ruled that Sections 45 and 46 of the APA were unconstitutional and a statute requiring legislative review of administrative rules were not enacted within 90 days of the ruling. (The Supreme Court ruled in 2000 in *Blank v Department of Corrections* that Sections 45 and 46 of the APA were unconstitutional. In 2004, the Court of Appeals cited that opinion in *Verizon v Michigan Public Service Commission* in determining that the PSC did not have the authority to promulgate quality-of-service rules concerning out-of-service telephone repairs.)

Public Act 591 of 2004 amended Section 213 to provide that rules promulgated by the PSC after January 1, 1996, are considered to have been promulgated under the rule-making authority granted to the PSC by the MTA. Section 213 states that specific rules may not be enforced until a court determines that the rules do not exceed the PSC's authority under the MTA, and that it is the Legislature's intent that providers voluntarily comply with the rules until a court makes a determination. Under this section, a provider that agrees voluntarily to abide by the rules does not relinquish its rights to challenge the rules' legality.

Section 213 also requires a proceeding to promulgate rules under the MTA to be concluded within 180 days from the date that the proceeding is initiated.

Under Public Act 591, Section 213 is to be repealed on July 1, 2005. The bill would repeal this provision.

MCL 484.2213

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 6-1-05

Fiscal Analyst: Maria Tyszkiewicz