

TELECOM FACILITIES ON RAIL-TRAILS

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Senate Bill 499 (Floor Substitute H-5)

Sponsor: Sen. Tom Casperson

(Enacted as Public Act 138 of 2012)

House Committee: Energy and Technology

Senate Committee: Energy and Technology

Complete to 5-2-12

A SUMMARY OF SENATE BILL 499 (FLOOR SUBSTITUTE H-5)

The bill would add a new section to Part 721 (Michigan Trailways) of the Natural Resources and Environmental Protection Act to do the following:

- Require the Department of Natural Resources (DNR) to authorize the installation of telecommunication facilities (e.g., underground cables) on state-owned rail-trail land or under state control via a lease, upon application by a telecommunication provider and payment of fees of not more than \$500.
- Require the authorization to be granted by the DNR within 45 days. However, an authorization does not have to be granted if the installation would be inconsistent with or prohibited by the lease, easement, or other arrangement.
- Revenue from the application fees could be used by the department for administrative costs.
- Require the authorization to include the following conditions: (1) the telecom facilities must be installed underground or attached to existing aboveground structures; (2) written notification by the telecom provider regarding the installation and anticipated completion date must be provided to the DNR within time frames established in the bill; (3) the use of the land for the telecom facilities, installation, and repair must not unreasonably interfere with the use or uses of the rail-trail; and, (4) following installation or repairs of the telecom facility, the land must be reasonably restored to its condition prior to the installation or repairs.
- The authorization would also require the telecom provider to pay the DNR a one-time use fee of five cents per longitudinal linear foot of the space to be occupied by the telecom facility.
- However, the fee would not be required beginning six years after the bill's effective date. During and after the six-year period, no additional fee could be charged to a telecommunications provider for the use of the land for telecommunication facilities.

- Require the use fees to be forward to the State Treasurer for deposit as follows:
 - If the land where facilities are installed was purchased with money from the Natural Resources Trust Fund, money would be deposited in that fund.
 - All other money would be deposited into the Michigan Trailways Fund.
- Require the DNR to make expenditures from the Trailways Fund, upon appropriation, only as specified in the bill, as follows:
 - Money collected from application fees paid by telecommunication providers would be used by the DNR for administrative costs to implement the bill's provisions.
 - In each county where use fees are collected for the installation of telecommunication facilities on rail-trails used for motorized use, the department would spend the money for grants to organizations in the county involved in the motorized use of rail-trails, if such organizations exist. Monies are to be used for the development and maintenance of rail-trails within the county for motorized recreational uses.
 - In each county where use fees are not spent as described above, the department would use the money for grants to local units of government or other organizations operating in the county involved with the use of rail-trails, and the money could be used for the development and maintenance of rail-trails for both motorized and non-motorized uses.
- Specify that the bill's provisions would not affect the rights and duties set forth in any agreements or arrangements for the installation of telecom facilities in a rail-trail between the DNR and a telecom provider entered into before the bill's effective date. The bill would not create a right for either party to terminate any preexisting arrangements or agreements.

FISCAL IMPACT:

The amount of revenue received would depend upon how many easement applications were submitted to the DNR from telecommunication companies and how many miles of trail would be granted easements. Over the years, the state has acquired over 1,400 miles of abandoned railroad corridors that have been converted into multi-use trails.

Senate Bill 499 (H-5) provides that revenue from application fees may be used by the DNR for the administrative costs of the program. The revenue collected from the 5 cent per longitudinal foot use fee shall be distributed to the county or counties within which the telecommunication facilities are installed - if the county agrees to use the funding for maintenance and/or development of trails. If a county does not agree to receive a distribution of the one-time use fee revenue, the DNR may distribute the money as grants

to local governments and other organizations involved with the use of rail-trails for the development and maintenance of the trails. However, if the land where facilities are installed was purchased with money from the Natural Resources Trust Fund, money would be deposited in that fund rather than the Trailways Fund.

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