

TELECOM FACILITIES ON RAIL-TRAILS

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Senate Bill 499 (Substitute S-2)

Sponsor: Sen. Tom Casperson

House Committee: Energy and Technology

Senate Committee: Energy and Technology

Complete to 2-13-12

A SUMMARY OF SENATE BILL 499 AS PASSED BY THE SENATE 2-1-12

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 (i.e., cell towers) on state-owned rail-trail land or under state control via a lease, upon application by a telecommunication provider and payment of a fee of not more than \$350. (The bill does not specify if this would be a one-time or annual fee.)
- Require the authorization to be granted by the DNR within 45 days.
- 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 space to be occupied by the telecom facility.
- Require the use fees to be deposited in the newly created Michigan Trailway Development Fund.
- Require the DNR to make expenditures from the Fund, upon appropriation, only for grants to local units of government and other organizations for the development and maintenance of rail-trails for motorized and nonmotorized recreational 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:

Senate Bill 499 would have an indeterminate fiscal impact on the State of Michigan. The bill would create a new fund, the Michigan Trailway Development Fund in Treasury, that is to be administered by the DNR. Revenue from application fees of up to \$350 and one-time use fees of five cents per linear foot (\$264 per linear mile) are to be deposited into the Fund. The amount of revenue received would depend upon how many easement applications were submitted to the Department 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.

The bill provides that revenue in the Fund may only be used for grants to local governments and organizations involved with the use of rail-trails for the development and maintenance of the trails. The Department may incur additional administrative costs related to the review and approval of applications and the administration of the Fund. The bill's provisions do not allow the revenues in the Fund to be used for these administrative costs, thus the Department would have to use current resources to cover these expenses.

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