

## LAND USE: WIRELESS COMMUNICATIONS EQUIPMENT

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**Senate Bill 1064 (Substitute S-3)**

**Sponsor: Sen. Mike Kowall**

**House Committee: Energy and Technology**

**Senate Committee: Economic Development**

**Complete to 4-30-12**

## A SUMMARY OF SENATE BILL 1064 AS PASSED BY THE SENATE 4-24-12

The bill would provide that wireless communications equipment would be a permitted use of property and would not be subject to special land use approval or any other approval by local governments, if certain requirements were met.

The Michigan Zoning Enabling Act authorizes local units of government to enact zoning ordinances that regulate land development and establish districts in which land and structures may be used for particular purposes. The legislative body of a local unit also may provide for special land uses in a zoning district, subject to approval by a local body or official as provided in the zoning ordinance.

Senate Bill 1064 would add a new section to the Michigan Zoning Enabling Act (MCL 125.3514) to specify that wireless communications equipment is a permitted use of property and therefore not subject to special land use approval, or any other approval under the act, if all of the following requirements are met:

- The equipment would be collocated on an existing wireless communications support structure or in an existing equipment compound.
- The existing structure or compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or local official.
- The proposed collocation would not do any of the following:
  - Increase the overall height of the support structure by more than 20 feet or 10 percent of its original height, whichever is greater.
  - Increase the width of the support structure by more than the minimum necessary to permit collocation.
  - Increase the area of the existing equipment compound to greater than 2,500 square feet.
- The proposed collocation complies with the terms and conditions of any previous final approval of the support structure or compound by the appropriate zoning body or local official.

In addition, the bill would do the following:

- Provide that equipment that meets the first two conditions above but not the last two would be a permitted use of property if it received a special land use approval.

- Require an application for special land use approval to include a site plan (plus a map of the property and existing and proposed buildings) and any additional relevant information specifically required by a zoning ordinance provision described in Sections 502(1) or 504 of the act.
- Require the zoning body or local official to determine whether an application is administratively complete within 14 business days after receiving the application. If no determination is made within the time period, the application will be considered as being complete. The 14-day period will be tolled if the applicant is notified (in writing or electronically) that the application is not administratively complete as well as the information necessary to make it complete, and also if the applicant is notified that the required fee has not been paid and the amount due.
- Establish an application fee not to exceed the local unit of government's actual, reasonable costs to review and process the application, or \$1,000, whichever is less.
- Require the zoning body or local official to approve or deny the application within 60 days of determining the application to be administratively complete. Failure to timely approve or deny an application will result in the application being considered approved.
- Provide that special land use approval of wireless communications equipment could be made expressly conditional only on the equipment's meeting the requirements of federal and state laws and other local ordinances before the equipment begins operation.
- Allow a 90-day application approval process if a local unit of government requires special land use approval for equipment that does not meet the requirements for a wireless communications support structure or that is not collocated on an existing wireless communications support structure or in an existing equipment compound.
- Allow a local unit of government to authorize wireless communications equipment as a permitted use of property not subject to special land use approval.
- Define "collocate," "equipment compound," "wireless communications equipment," and "wireless communications support structure."

## **FISCAL IMPACT:**

Senate Bill 1064 would have an indeterminate overall fiscal impact on local governments. Local governments would realize certain administrative cost increases under the provisions of the bill, which would include a review of the application and accompanying materials to ensure that it is administratively complete and a final determination on the special land use application. To offset the cost increases, the bill authorizes the local unit to collect a fee not to exceed the actual, reasonable costs of reviewing and processing the application or \$1,000, whichever is less. The net impact to any local unit would depend on whether they are able to fully recoup the costs associated with the review and processing of the application.

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