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BILL



ANALYSIS

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Senate Bill 1064 (as enacted)
Sponsor: Senator Mike Kowall
Senate Committee: Economic Development
House Committee: Energy and Technology

PUBLIC ACT 143 of 2012

Date Completed: 7-24-12

CONTENT**The bill amended the Michigan Zoning Enabling Act to do the following:**

- Provide that wireless communications equipment that meets certain conditions is a permitted use of property and is not subject to special land use approval or any other approval under the Act.
- Provide that equipment that does not meet all of the conditions is a permitted use if it receives special land use approval.
- Require a zoning body or local official to grant or deny special land use approval within 60 days after receiving an administratively complete application, or 90 days under certain circumstances.
- Provide that an application is considered approved if the zoning body or official does not act within the prescribed time period.
- Limit a special land use application fee to \$1,000 or the local unit's administrative costs, whichever is less.
- Limit the conditions that may be imposed on special land use approval.
- Allow a local unit to authorize wireless communications equipment as a permitted use not subject to special land use approval.

The bill took effect on May 24, 2012.

Specifically, under the bill, wireless communications equipment is a permitted use of property and is not subject to special

land use approval or any other approval under the Act if all of the following requirements are met:

- The equipment will 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 official for the local unit.
- The proposed collocation complies with the terms and conditions of any previous final approval of the structure or compound by the appropriate zoning body or official.

In addition, the proposed collocation may not do any of the following:

- Increase the overall height of the support structure by more than 20 feet or 10% 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 compound to greater than 2,500 square feet.

(The bill defines "wireless communications equipment" as the set of equipment and network components used in the provision of wireless communications services, including antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables,

and coaxial and fiber optic cables. The term excludes wireless communications support structures.

"Wireless communications support structure" means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building. "Equipment compound" means an area surrounding or adjacent to the base of a wireless communications support structure and within which the equipment is located.)

Wireless communications equipment that will be collocated on an existing support structure or in an existing compound or that is in compliance with the zoning ordinance or was properly approved, but does not meet the requirements regarding compliance with previous final approval or an increase in size, is a permitted use of property if it receives special land use approval.

An application for special land use approval for the equipment must include both of the following:

- A site plan, including a map of the property and existing and proposed buildings and other facilities.
- Any additional relevant information required specifically by a zoning ordinance provision regarding special land uses.

After an application is filed with the body or official responsible for approving special land uses, the body or official must determine whether the application is administratively complete. Unless the body or official proceeds as described below, the application must be considered administratively complete when the determination is made or 14 days after the application is received, whichever is first.

If the body or official notifies the applicant before the 14-day period expires that the application is not administratively complete, specifying the information necessary to make it complete, or notifies the applicant that a required application fee has not been paid, specifying the amount due, the running of the 14-day period will be tolled until the applicant submits the specified information or fee amount due. The notice must be given in writing or electronically. A

fee required to accompany the application may not exceed the local unit's actual, reasonable costs to review and process the application or \$1,000, whichever is less.

The body or official responsible for approving special land uses must approve or deny the application within 60 days after it is considered to be administratively complete. If the body or official fails to approve or deny the application in a timely manner, it will be considered approved and the body or official will be considered to have made any determination required for approval.

If a local unit requires special land use approval for a wireless communications support structure, or for equipment that does not meet the requirement of collocation on an existing support structure or in an existing compound, the period for approval or denial is 90 days.

Special land use approval of wireless communications equipment may be made expressly conditional only on the equipment's meeting the requirements of local ordinances and of Federal and State laws before the equipment begins operation.

MCL 125.3514

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill will increase both revenue and expenses for local units by an unknown amount, depending on the number of entities that file applications and the fees charged for applications. Because the bill limits fees to the lesser of \$1,000 or the local unit's actual costs, the bill potentially will increase costs by more than it increases revenue, although any differences likely will be minimal.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.