

COLLOCATION ON MPSCS TOWERS

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House Bill 4237 (Substitute H-4)

Sponsor: Rep. Gail Haines

Committee: Energy and Technology

First Analysis (12-8-14)

BRIEF SUMMARY: The bill would allow the Department of Technology, Management, and Budget (DTMB) to lease space to any public safety agency or person for collocation on towers operated as part of the Michigan Public Safety Communications System (MPSCS). Briefly, the bill would do the following:

- ❖ Transfer the statutory operation of the MPSCS from the Department of State Police to the DTMB.
- ❖ Allow DTMB to authorize any public safety or person (legal entity) to use the MPSCS for collocations.
- ❖ Make costs to collocate on an MPSCS tower the responsibility of the entity.
- ❖ Allow governmental entities to collocate on the MPSCS.
- ❖ Allow, three years after the bill's effective date, a governmental entity that is not a public safety agency to collocate on the MPSCS for a commercial or business purpose but only in an unserved area as specified in the bill.
- ❖ Require DTMB to use money collected from leases for construction or maintenance or to repay bonds used to finance the construction and maintenance of the MPSCS.
- ❖ Require DTMB to deny an entity permission to collocate if the equipment would interfere with current or planned public safety communications.

The term "collocate" would mean to place or install wireless communications equipment or network components used in the provision of wireless communications services on or in the real or personal property, or towers used in the operation and maintenance of the MPSCS. Equipment and components would include, but not be limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cabling, and coaxial and fiber optic cable.

FISCAL IMPACT: The bill would have an indeterminate impact on state government. There would not be any costs to the department to plan, install, or maintain private equipment that used the MPSCS for collocations. It is unknown how many parties would be interested in leasing the MPSCS for collocations, what the fees would be to lease space, and how much potential revenue would be gained as a result. Any revenue gained would be used by the department for debt service and/or maintenance of the MPSC system.

THE APPARENT PROBLEM:

Anyone living or driving in certain rural areas in Michigan, in particular the Upper Peninsula, is aware of the gaps in cell phone and data coverage. Available connections in rural areas are slow compared with that available to more populous communities. Reportedly, this is due in part to there being little economic incentive for telecommunication companies to invest in expensive equipment to expand broadband service to areas where customers are so few as to make such an expansion unprofitable.

Some believe that one solution would be to allow certain entities to hang equipment on existing towers used by the state police and other public service agencies (known as "collocation"). Towers that are part of the Michigan Public Safety Communications System (MPSCS) already reach almost all areas of the state. For example, a college or other entity with available equipment that could expand broadband access may be willing to bear the cost of placement and maintenance of that equipment if it could lawfully hang that equipment on existing MPSCS towers. However, use of the MPSCS radio system is regulated by statute and executive order, and under current laws may only be used by nonprofit public safety agencies. A for-profit company, even a for-profit public safety company or service, may not currently collocate on an MPSCS tower. Likewise, collocation for non-public safety purposes is prohibited.

The Michigan Public Safety Communications System was originally created as an 800-megahertz radio system and telecommunication network within the Department of State Police. Regulation of the MPSCS was transferred over a decade ago by executive order to the Department of Technology and Management and Budget (DTMB). It provides interoperable voice and data communications to over 1,400 federal, state, local, and private public safety agencies across the state for the purpose of delivering public and emergency services and now includes a 700-megahertz bandwidth. The system integrates with other bordering states and Canada.

Legislation has been offered to allow the DTMB to allow, within specified safety parameters, to allow collocation on MPSCS towers by entities currently prohibited from doing so.

THE CONTENT OF THE BILL:

House Bill 4237 would amend Public Act 152 of 1929, which governs the Michigan Public Safety Communications System (MPSCS), to specify that the MPSCS is a 700-megahertz and an 800-megahertz radio system and telecommunication network within the Department of Technology, Management, and Budget (DTMB). Currently, the statute places MPSCS, including all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary to operate and maintain the system, within the Department of State Police (MSP). The bill would transfer all listed property to the Department of Technology, Management, and Budget (DTMB). The DTMB, instead of the MSP, would be responsible in statute for the construction, implementation, operation, and maintenance of the MPSCS. Responsibility for siting buildings and equipment necessary to implement the MPSCS would also be transferred from the MSP to the DTMB.

Currently, the director of the MSP may authorize any *governmental public safety agency* to utilize the MPSCS. Instead, the bill would specify that the director of the DTMB may authorize *any public safety agency or person* to utilize the MPSCS for communications consistent with federal rules and regulations or to utilize the MPSCS for collocations. "Person" would mean an individual, corporation, partnership, association, governmental entity, or any other legal entity. "Public safety agency" would mean a functional division of a public agency, county, or Michigan that provides firefighting, law enforcement, ambulance, medical, or other emergency services.

All costs associated with planning, installing, and maintaining collocation equipment would be the responsibility of the public safety agency or person requesting permission for collocation. The costs would have to be comparable to the costs charged to other public safety agencies or persons requesting to collocate on the MPSCS.

A governmental entity could collocate on the MPSCS. For a period of three years after the bill's effective date, a governmental entity that is not a public safety agency could not collocate on the MPSCS for any commercial or business purpose, but could do so after that time period but only in a service needs area. "Commercial or business purpose" would not include those uses the MPSCS approved before the bill's effective date or uses consistent with federal rules and regulations in connection with the allocation of wireless spectrum for public safety communication. "Service needs area" would be defined to mean an area determined to be unserved by the Connect Michigan broadband service industry survey for the state of Michigan regarding advertised speeds of at least three megabits per second downstream and 768 kilobits per second upstream as of October 1, 2014.

Revenue collected from collocation leasing by the MPSCS would have to be used by the DTMB for the construction or maintenance of the MPSCS, including the payment of debt service for bonds that finance the construction or maintenance of the MPSCS.

The director of the MPSCS could deny a public safety agency or person permission to install, attach, or continue to collocate equipment to a tower constructed under the MPSCS act if the director (or designee) determines that the installation, attachment, or continued collocation will interfere with the optimum operation of the MPSCS or any current or planned public safety communications collocated on a tower.

MCL 28.281, 28.282, and 28.283

ARGUMENTS:

For:

Perhaps the biggest benefit the bill could provide is enabling residents and tourists in rural and underserved areas to finally have access to broadband cell and Internet services. Apparently, it is too cost prohibitive to build up the infrastructure to serve a few dozen residents. Since the MPSCS towers already are placed to provide communication services throughout the state, allowing approved entities to hang equipment on them could resolve this seemingly unresolvable situation. Reportedly, some local governments, community colleges, and universities are willing to bear the cost of the

equipment and maintenance in order to improve services to residents and students and to attract businesses, tourists, and new residents to the area.

According to committee testimony, the DTMB, which currently regulates the MPSCS, would not authorize any activity that the State Police felt would compromise public safety and the operation of the MPSCS. Only the towers, and not the emergency communication system itself, would be used by an approved entity. Though the DTMB could charge an entity a fee to lease space on a MPSCS tower, the department stated that the point of the legislation was not to raise revenue; therefore, early estimates were projected at around \$500,000 in total. Thus, revenue would be earmarked to make improvements to the system or pay off bonds.

Lastly, allowing additional equipment to be collated on the towers is expected to be compatible with both the 800- and 700-megahertz bandwidths currently used by emergency services.

POSITIONS:

Representatives of the Department of Management and Budget testified in support of the bill. (12-2-14)

AT&T indicated support for the bill. (12-4-14)

Highland Copper indicated support for the bill. (12-4-14)

The Sault Ste. Marie Tribe of Chippewa Indians indicated support for the bill. (12-4-14)

Northern Michigan University indicated support for the bill. (12-4-14)

The Traverse City Area Chamber Alliance indicated support for the bill. (12-4-14)

The Department of State Police indicated a neutral position on the bill. (12-4-14)

The Telecom Association of Michigan indicated a neutral position on the bill. (12-2-14)

The Michigan Cable Telecommunications Association indicated a neutral position on the bill. (12-2-14)

The Michigan Association of Counties indicated a neutral position on the bill. (12-2-14)

The Michigan Municipal League indicated opposition to the bill. (12-2-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.