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BILL



ANALYSIS

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House Bill 4727 (Substitute H-1 as passed by the House)
Sponsor: Representative Triston Cole
House Committee: Local Government
Senate Committee: Transportation

Date Completed: 1-27-16

CONTENT

The bill would amend the Tall Structure Act to do the following:

- **Establish regulations for meteorological towers, including physical features and requirements for the reporting of information to the Michigan Aeronautics Commission.**
- **Expand provisions regarding lighting on structures.**
- **Increase from 20 to 30 days the period of time after notification of the final determination of an application that the applicant has to request a hearing before the Commission.**
- **Require an applicant for a permit to obtain a variance from an ordinance adopted under the Airport Zoning Act, if a structure would violate the ordinance.**
- **Revise existing terms used in the Act.**

The bill would take effect 90 days after its enactment.

(The Tall Structure Act regulates the height, location, and visual and aural identification characteristics of certain structures. "Structure" means an object constructed or installed, including, but not limited to, a building, tower, antenna, smokestack, or overhead transmission line.)

Meteorological Towers

The bill would define "meteorological tower" as a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting wind resources for the operation of a wind turbine generator. "Anemometer" would mean an instrument for measuring and recording the speed of wind.

The bill would require a meteorological tower that was 50 feet in height above the ground or higher and whose appearance was not otherwise regulated by State or Federal law to comply with all of the following:

- Be painted in equal, alternating bands of orange and white, beginning with orange at the top of the tower and ending with orange at the bottom.
- Have one or more seven-foot safety sleeves placed at each anchor point that extended from the anchor point along each guy wire attached to the anchor point.
- Have at least one orange marker ball attached to each guy wire at the highest point that did not affect the stability of the tower and the measurement of wind speed.

An owner of an existing meteorological tower erected in Michigan would have to comply with the physical and marking requirements listed above within one year after the bill's effective date.

Within 60 days after the bill's effective date, an owner of any existing meteorological tower erected in Michigan would be required to provide the Commission with all of the following:

- The global positioning system coordinates of the center of the meteorological tower.
- The elevation of the site, in feet.
- The structure's height above ground level, in feet.
- The owner's or lessee's name, address, telephone number, and electronic mail address, if any.
- The name of any owner's representative.

At least 10 days before the erection of a new meteorological tower, an owner of the tower would be required to give to the Commission the information listed above and certification by the owner that the tower had been marked as described above.

Within 10 days after the removal of a meteorological tower, an owner of the tower would be required to notify the Commission of the removal. The Commission could establish, maintain, and publish a database that contained locations of all existing meteorological towers.

Lighting Requirements

The Act prohibits a person from constructing certain structures without a permit issued by the Commission. A permit must specify the obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure, if any. The identification characteristics required must conform to Federal laws and regulations. The bill would allow a permit to require lighting to be operational during daylight hours, notwithstanding any Federal guidelines, and on consideration of the relevant facts.

Unless waived by the Commission due to Federal permit requirements or other valid reasons, the obstruction lights for a structure more than 800 feet above the ground elevation at the structure's site must be high intensity white obstruction lights. Additionally, the bill would require obstruction lights to be operational during daylight hours, in addition to any nighttime lighting requirement.

Appeal Extension

After receiving an application for a permit, the Commission must investigate as necessary to process the application properly. If, during the investigation, the Commission determines that a permit should not be issued or that the height or location should be other than as applied for, the Commission must notify the applicant in writing of its determination. The determination is final 20 days after notification of the determination is served, unless the applicant, within the 20-day period, requests in writing that a hearing be held before the Commission with reference to the application.

The bill would extend the period to request a hearing from 20 days to 30 days after notification of the determination is served.

Zoning Ordinance Variance

The Act prohibits the Commission from issuing a permit allowing the construction of certain structures unless the Commission has made an airspace study resulting in a finding of noninterference with air navigation. The Commission also may not issue a permit for the replacement or increase in height of a structure that would create any of the listed structures.

These include a structure that violates a zoning ordinance adopted by a political subdivision under the Airport Zoning Act, except to the extent permitted by the ordinance.

Under the bill, the Commission could not issue a permit allowing construction, replacement, or an increase in height of a structure that violated the requirements of an applicable zoning ordinance adopted by a political subdivision under the Airport Zoning Act, unless the applicant had obtained the approval of a variance from the ordinance, and the Commission had conducted an airspace study as currently required.

Other Structures

The structures subject to the Act's permit requirements include a structure that is, or that increases the height of an existing structure, higher than 200 feet above the ground elevation or higher than an imaginary plane extending outward and upward at a specified slope. The Act specifies the slope for an airport with at least one runway that is more than 3,200 feet in length, for an airport whose longest runway is 3,200 feet or less in length, and for a heliport.

"Runway" means the portion of an airport designated as the area used for the landing or takeoff of aircraft. Under the bill, "runway" would mean the portion of an airport designated as either of the following:

- An area used for the landing or takeoff of aircraft.
- An area proposed, and approved by the Commission, to be used for the landing or takeoff of aircraft.

In addition, the Act specifies that a runway's transitional surface extends to the intersection of the transitional surface with the conical surface, except for a runway that has a precision instrument approach. (For a runway that has a precision instrument approach, the transitional surface beginning at the side of a runway's approach surface extends for 5,000 feet measured horizontally from the side of the approach surface.) Under the bill, a runway's transitional surface would extend to the intersection of the transitional surface with the horizontal surface, except as provided for a runway that has a precision instrument approach.

In addition, the structures for which the Commission may not issue a permit, without making an airspace study resulting in a finding of noninterference with air navigation, include a structure that would encroach into a runway's primary surface and a structure of a height that would penetrate a runway's approach surface, transitional surface, horizontal surface, or conical surface.

"Conical surface" means an imaginary plane extending outward and upward from the perimeter of a runway's horizontal surface at a slope 50 to 1. The bill instead would define the term as an imaginary plane extending outward and upward from the perimeter of a runway's horizontal surface at one of the following slopes, as applicable:

- If the airport at which the runway is located has a published instrument approach procedure, at a slope of 50 to 1.
- If the above is not applicable, at a slope of 20 to 1.

MCL 259.481 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Glenn Steffens

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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.