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## ASSESSMENT OF PROPERTY: TELEPHONE COMPANIES

Senate Bill 1238 as passed by the Senate  
First Analysis (12-4-02)

Sponsor: Sen. Joanne G. Emmons  
Senate Committee: Finance  
House Committee: Tax Policy

### ***THE APPARENT PROBLEM:***

Telephone and telegraph companies (and railroad companies) pay a utility property tax to the state under Public Act 282 of 1905. This is in lieu of general property taxes, which other kinds of companies pay to local units of government. Telecommunications industry spokespersons point out that telephone companies, under Public Act 282, "are taxed on their business value, both tangible and intangible assets". They say that other than the railroads they are the only industry taxed on their intangible assets. An industry spokesman has said, "Even worse is the fact that two major competitors within the industry are taxed locally and only on their tangible assets, namely wireless communications and cable television". (Cell phone companies, for example, are not considered telephone companies for the purpose of Public Act 282.) This, says the industry, is clearly discriminatory tax policy. Legislation has been introduced that would assess the property of telephone companies under Public Act 282 in the same way that the property of other companies is assessed under the General Property Tax Act.

### ***THE CONTENT OF THE BILL:***

The bill would amend Public Act 282 of 1905 to provide that the true cash value of property of telephone and telegraph companies is to be determined in the same manner as property assessed under the General Property Tax Act. Further, the bill would define "property" so that, for such companies, it would apply only to property that would be subject to the collection of taxes under the General Property Tax Act. The bill would specify that the companies are to be taxed on tangible property, real and personal, owned, used, and occupied by them within Michigan. (This is understood to remove "intangible" property from the tax base.)

The bill would apply to tax years that begin after December 31, 2005. The determination of true cash

value would be made by the State Board of Assessors (as it is now).

MCL 207.4 et al.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency says that the fiscal impact of the bill cannot be accurately determined due to a number of factors. The degree to which older property will be replaced with newer property is not known. In addition, says the HFA, the depreciation tables necessary to determine the value of the property subject to tax do not currently exist. (HFA committee analysis dated 12-3-02) A representative of the Telecommunications Association of Michigan has said the industry believes the bill to be revenue neutral. (Testimony before the House Tax Policy Committee on 12-4-03) The Senate Fiscal Agency has said the bill would affect state revenues "by an unknown and potentially significant amount". A lengthy preliminary analysis of the possible consequences of the bill (based on several scenarios) can be found in the SFA's revised committee summary of the bill dated 11-12-02. It should be noted that the tax rate for the utility property tax is established by the State Board of Assessors each year at the average statewide general property tax rate for other business property in the preceding calendar year. According to the House Fiscal Agency, the annual collections in the 2001-2002 fiscal year was estimated at \$152 million.

### ***ARGUMENTS:***

#### ***For:***

The bill aims at remedying the unequal tax treatment of the telecommunications industry. Telephone companies, such as Ameritech, do not pay local property taxes but are instead subject to Public Act 282 of 1905. Under this act, they pay a utility property tax to the state, but this tax is not paid on

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real and personal tangible property (as property taxes are typically) but on both tangible and intangible assets. The method used, says the industry, attempts to value a firm's business value rather than assessing each individual parcel of property. This tax structure stems from a time when there was a single phone company with regulated rates. Today, the local telephone market is very competitive. Senate Bill 1238 would change the property tax methodology, making it consistent with other states in the region, and creating an even playing field for all the competitors in the marketplace. Industry representatives say that cable television and cell phone companies are able to offer local phone service and high speed Internet access but are taxed differently from the traditional telephone company. Under the bill, telephone companies would continue to pay the state property tax, but their property would be assessed just as the property of other companies is assessed under the General Property Tax Act. The bill has a delayed effective date to give state tax officials time to develop the methodology for assessing telephone company property, including new depreciation tables.

***POSITIONS:***

The Telecommunications Association of Michigan supports the bill. (12-4-02)

The Michigan Chamber of Commerce has indicated support for the bill. (12-4-02)

The Department of Treasury has no position on the bill. (12-4-02)

Analyst: C. Couch

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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.