

Rep. Horn offered the following substitute (H-5):

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 499

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 72116.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 72116. (1) IF THE STATE OWNS THE LAND ON WHICH A RAIL-
2 TRAIL IS LOCATED OR IF THE LAND IS UNDER THE LONG-TERM CONTROL OF
3 THE STATE OR A STATE GOVERNMENTAL AGENCY THROUGH A LEASE, EASEMENT,
4 OR OTHER ARRANGEMENT, THE DEPARTMENT SHALL, UPON APPLICATION OF A
5 TELECOMMUNICATION PROVIDER AND PAYMENT OF NOT MORE THAN \$500.00 IN
6 APPLICATION FEES, AUTHORIZE THE INSTALLATION OF TELECOMMUNICATION
7 FACILITIES ON THAT LAND UNLESS THE INSTALLATION IS INCONSISTENT
8 WITH OR PROHIBITED BY THE LEASE, EASEMENT, OR OTHER ARRANGEMENT.
9 THE AUTHORIZATION GRANTED UNDER THIS SUBSECTION SHALL BE GRANTED
10 WITHIN 45 DAYS AND SHALL REQUIRE ALL OF THE FOLLOWING:

1 (A) ALL TELECOMMUNICATION FACILITIES SHALL BE INSTALLED
2 UNDERGROUND OR SHALL BE ATTACHED TO EXISTING ABOVEGROUND STRUCTURES
3 CONSISTENT WITH SUBDIVISION (C) .

4 (B) THE TELECOMMUNICATION PROVIDER SHALL NOTIFY THE
5 DEPARTMENT, IN WRITING, OF THE INSTALLATION OF THE FACILITIES AND
6 THE ANTICIPATED COMPLETION DATE OF THE INSTALLATION NOT LESS THAN
7 30 DAYS PRIOR TO BEGINNING THE INSTALLATION. WITHIN 5 DAYS AFTER
8 ITS RECEIPT OF THE NOTIFICATION, THE DEPARTMENT SHALL NOTIFY THE
9 TELECOMMUNICATION PROVIDER, IN WRITING, OF ANY USE OF THE RAIL-
10 TRAIL FOR WHICH A PERMIT HAS BEEN ISSUED BY THE DEPARTMENT.

11 (C) THE USE OF THE LAND FOR TELECOMMUNICATION FACILITIES AND
12 THE INSTALLATION OF THE FACILITIES OR ANY REPAIRS TO THE FACILITIES
13 SHALL NOT UNREASONABLY INTERFERE WITH THE USE OR USES OF THE RAIL-
14 TRAIL.

15 (D) FOLLOWING INSTALLATION OF THE TELECOMMUNICATION FACILITIES
16 OR ANY REPAIRS TO THE FACILITIES, THE LAND SHALL BE REASONABLY
17 RESTORED TO ITS CONDITION PRIOR TO THE INSTALLATION OR REPAIR.

18 (E) THE TELECOMMUNICATION PROVIDER SHALL PAY TO THE DEPARTMENT
19 A 1-TIME USE FEE OF 5 CENTS PER LONGITUDINAL LINEAR FOOT OF THE
20 SPACE TO BE OCCUPIED BY THE TELECOMMUNICATION FACILITIES. THE FEE
21 REQUIRED UNDER THIS SUBDIVISION SHALL NOT BE REQUIRED BEGINNING 6
22 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
23 THIS SECTION. AT NO TIME DURING OR AFTER THIS 6-YEAR TIME PERIOD
24 SHALL A TELECOMMUNICATIONS PROVIDER THAT PAYS THE FEE BE CHARGED
25 WITH ANY ADDITIONAL FEE FOR THE USE OF THE LAND FOR
26 TELECOMMUNICATION FACILITIES.

27 (2) THE DEPARTMENT SHALL FORWARD USE FEES COLLECTED UNDER THIS

1 SECTION TO THE STATE TREASURER FOR DEPOSIT AS FOLLOWS:

2 (A) IF THE LAND OR RIGHTS IN LAND ON WHICH THE
3 TELECOMMUNICATIONS FACILITIES ARE INSTALLED WAS PURCHASED WITH
4 MONEY FROM THE MICHIGAN NATURAL RESOURCES TRUST FUND, MONEY
5 RECEIVED UNDER SUBSECTION (1) (E) SHALL BE DEPOSITED INTO THE
6 MICHIGAN NATURAL RESOURCES TRUST FUND.

7 (B) ALL MONEY NOT DESCRIBED IN SUBDIVISION (A) SHALL BE
8 DEPOSITED INTO THE FUND.

9 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, MONEY
10 FROM THE FUND THAT IS COLLECTED UNDER THIS SECTION SHALL BE
11 EXPENDED, UPON APPROPRIATION, AS FOLLOWS:

12 (A) MONEY COLLECTED FROM APPLICATION FEES UNDER SUBSECTION (1)
13 SHALL BE USED BY THE DEPARTMENT FOR THE ADMINISTRATIVE COSTS OF
14 IMPLEMENTING THIS SECTION.

15 (B) IN EACH COUNTY IN WHICH MONEY IS COLLECTED UNDER
16 SUBSECTION (1) (E) FOR THE INSTALLATION OF TELECOMMUNICATION
17 FACILITIES ON RAIL-TRAILS THAT ARE USED FOR MOTORIZED USE, THE
18 DEPARTMENT SHALL EXPEND THE MONEY FOR GRANTS TO ORGANIZATIONS
19 OPERATING IN THAT COUNTY THAT ARE INVOLVED WITH THE MOTORIZED USE
20 OF RAIL-TRAILS IF SUCH ORGANIZATIONS EXIST. MONEY PROVIDED UNDER
21 THIS SUBDIVISION TO ORGANIZATIONS INVOLVED WITH THE MOTORIZED USE
22 OF RAIL-TRAILS SHALL BE USED FOR THE DEVELOPMENT AND MAINTENANCE OF
23 RAIL-TRAILS LOCATED WITHIN THE COUNTY FOR MOTORIZED RECREATIONAL
24 USES.

25 (C) IN EACH COUNTY IN WHICH MONEY IS COLLECTED UNDER
26 SUBSECTION (1) (E) FOR THE INSTALLATION OF TELECOMMUNICATION
27 FACILITIES, BUT WHICH IS NOT EXPENDED PURSUANT TO SUBDIVISION (B),

1 THE DEPARTMENT SHALL EXPEND THE MONEY FOR GRANTS TO LOCAL UNITS OF
2 GOVERNMENT OR OTHER ORGANIZATIONS OPERATING IN THAT COUNTY THAT ARE
3 INVOLVED WITH THE USE OF RAIL-TRAILS. MONEY PROVIDED UNDER THIS
4 SUBDIVISION TO LOCAL UNITS OF GOVERNMENT OR ORGANIZATIONS INVOLVED
5 WITH THE USE OF RAIL-TRAILS SHALL BE USED FOR THE DEVELOPMENT AND
6 MAINTENANCE OF RAIL-TRAILS LOCATED WITHIN THE COUNTY FOR MOTORIZED
7 AND NONMOTORIZED RECREATIONAL USES.

8 (4) THIS SECTION DOES NOT AFFECT THE RIGHTS AND DUTIES SET
9 FORTH IN ANY ARRANGEMENTS OR AGREEMENTS FOR THE INSTALLATION OF
10 TELECOMMUNICATION FACILITIES IN A RAIL-TRAIL DESCRIBED IN
11 SUBSECTION (1) BETWEEN THE DEPARTMENT AND A TELECOMMUNICATION
12 PROVIDER ENTERED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT
13 THAT ADDED THIS SECTION. THIS SECTION DOES NOT CREATE A RIGHT FOR
14 EITHER THE DEPARTMENT OR A TELECOMMUNICATION PROVIDER TO TERMINATE
15 ANY PREEXISTING ARRANGEMENTS OR AGREEMENTS.

16 (5) AS USED IN THIS SECTION:

17 (A) "MICHIGAN NATURAL RESOURCES TRUST FUND" MEANS THE MICHIGAN
18 NATURAL RESOURCES TRUST FUND ESTABLISHED IN SECTION 35 OF ARTICLE
19 IX OF THE STATE CONSTITUTION OF 1963, AND PROVIDED FOR IN PART 19.

20 (B) "TELECOMMUNICATION FACILITIES" MEANS EITHER OR BOTH OF THE
21 FOLLOWING:

22 (i) TELECOMMUNICATION FACILITIES AS DEFINED IN SECTION 2 OF THE
23 METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT
24 ACT, 2002 PA 48, MCL 484.3102.

25 (ii) FACILITIES USED BY A VIDEO SERVICE PROVIDER AS DEFINED IN
26 SECTION 1 OF THE UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006
27 PA 480, MCL 484.3301.

1 (C) "TELECOMMUNICATION PROVIDER" MEANS EITHER OR BOTH OF THE
2 FOLLOWING:

3 (i) A TELECOMMUNICATION PROVIDER AS DEFINED IN SECTION 2 OF THE
4 METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT
5 ACT, 2002 PA 48, MCL 484.3102.

6 (ii) A VIDEO SERVICE PROVIDER AS DEFINED IN SECTION 1 OF THE
7 UNIFORM VIDEO SERVICES LOCAL FRANCHISE ACT, 2006 PA 480, MCL
8 484.3301.