

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Casperson, Walker, Colbeck, Caswell and Green

ENROLLED SENATE BILL No. 499

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 72116.

The People of the State of Michigan enact:

Sec. 72116. (1) If the state owns the land on which a rail-trail is located or if the land is under the long-term control of the state or a state governmental agency through a lease, easement, or other arrangement, the department shall, upon application of a telecommunication provider and payment of not more than \$500.00 in application fees, authorize the installation of telecommunication facilities on that land unless the installation is inconsistent with or prohibited by the lease, easement, or other arrangement. The authorization granted under this subsection shall be granted within 45 days and shall require all of the following:

(a) All telecommunication facilities shall be installed underground or shall be attached to existing aboveground structures consistent with subdivision (c).

(b) The telecommunication provider shall notify the department, in writing, of the installation of the facilities and the anticipated completion date of the installation not less than 30 days prior to beginning the installation. Within 5 days after its receipt of the notification, the department shall notify the telecommunication provider, in writing, of any use of the rail-trail for which a permit has been issued by the department.

(c) The use of the land for telecommunication facilities and the installation of the facilities or any repairs to the facilities shall not unreasonably interfere with the use or uses of the rail-trail.

(d) Following installation of the telecommunication facilities or any repairs to the facilities, the land shall be reasonably restored to its condition prior to the installation or repair.

(e) The telecommunication provider shall pay to the department a 1-time use fee of 5 cents per longitudinal linear foot of the space to be occupied by the telecommunication facilities. The fee required under this subdivision shall not be required beginning 6 years after the effective date of the amendatory act that added this section. At no time during or after this 6-year time period shall a telecommunications provider that pays the fee be charged with any additional fee for the use of the land for telecommunication facilities.

(2) The department shall forward use fees collected under this section to the state treasurer for deposit as follows:

(a) If the land or rights in land on which the telecommunications facilities are installed was purchased with money from the Michigan natural resources trust fund, money received under subsection (1)(e) shall be deposited into the Michigan natural resources trust fund.

(b) All money not described in subdivision (a) shall be deposited into the fund.

(3) Notwithstanding any other provision of this part, money from the fund that is collected under this section shall be expended, upon appropriation, as follows:

(a) Money collected from application fees under subsection (1) shall be used by the department for the administrative costs of implementing this section.

(b) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities on rail-trails that are used for motorized use, the department shall expend the money for grants to organizations operating in that county that are involved with the motorized use of rail-trails if such organizations exist. Money provided under this subdivision to organizations involved with the motorized use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized recreational uses.

(c) In each county in which money is collected under subsection (1)(e) for the installation of telecommunication facilities, but which is not expended pursuant to subdivision (b), the department shall expend the money for grants to local units of government or other organizations operating in that county that are involved with the use of rail-trails. Money provided under this subdivision to local units of government or organizations involved with the use of rail-trails shall be used for the development and maintenance of rail-trails located within the county for motorized and nonmotorized recreational uses.

(4) This section does not affect the rights and duties set forth in any arrangements or agreements for the installation of telecommunication facilities in a rail-trail described in subsection (1) between the department and a telecommunication provider entered before the effective date of the amendatory act that added this section. This section does not create a right for either the department or a telecommunication provider to terminate any preexisting arrangements or agreements.

(5) As used in this section:

(a) "Michigan natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963, and provided for in part 19.

(b) "Telecommunication facilities" means either or both of the following:

(i) Telecommunication facilities as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

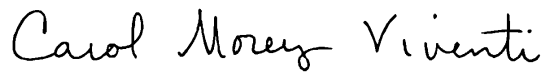
(ii) Facilities used by a video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

(c) "Telecommunication provider" means either or both of the following:

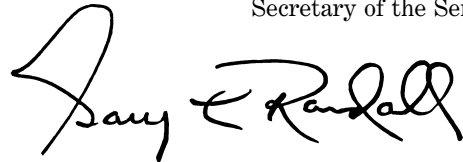
(i) A telecommunication provider as defined in section 2 of the metropolitan extension telecommunications rights-of-way oversight act, 2002 PA 48, MCL 484.3102.

(ii) A video service provider as defined in section 1 of the uniform video services local franchise act, 2006 PA 480, MCL 484.3301.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor