



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 221 (Substitute S-2 as passed by the Senate)
Senate Bill 222 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Michelle A. McManus (S.B. 221)
Senator Jim Barcia (S.B. 222)
Committee: Agriculture, Forestry and Tourism

Date Completed: 6-3-05

RATIONALE

People who use cell phones are familiar with the experience of losing service during telephone calls or being unable to make calls. This can happen when callers travel between cells, or service areas, and find themselves out of range of the equipment that transmits the calls. Since the equipment typically is placed on towers, the reliability of cell phone service often depends on the number of towers located in a geographic area. Because the placement of towers appears to follow population centers, rural areas tend to have relatively fewer towers and, therefore, less reliable cell phone service. In order to encourage the placement of cell towers and improve telecommunications service throughout the State, it has been suggested that tax credits be offered to property owners who allow the placement of cell towers on their land, and to firms that place the towers, in rural areas.

CONTENT

Senate Bills 221 (S-2) and 222 (S-1) would amend the Income Tax Act and the Single Business Tax Act, respectively, to allow a taxpayer to claim a credit against the income tax or the single business tax for the placement of a cellular tower in an "rural area" (a county with a population of 70,000 or less).

Under Senate Bill 221 (S-2), a \$250 credit could be claimed in the year during which a tower was placed on property that the taxpayer owned. Under Senate Bill 222 (S-1), a \$500 credit could be claimed in the tax year during which the taxpayer placed a tower. If either credit exceeded the

taxpayer's tax liability for the tax year, the excess portion of the credit could not be refunded or carried forward.

The bills would define "cellular tower" as any newly constructed or newly adapted telecommunication facilities that include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide Federally licensed commercial mobile service as defined in the Federal Communications Act (47 USC 332), and further defined as commercial mobile radio service in Federal regulations (47 CFR 20.3), and service provided by any wireless, two-way communication device. For purposes of the bill, a cellular tower would have to be registered with the Federal Communications Commission.

Proposed MCL 206.262 (S.B. 221)
Proposed MCL 208.35c (S.B. 222)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In 2004, only 44 new cell towers were placed in Michigan counties with a population of 70,000 or less, according to registrations with the Federal Communications Commission. Those 44 towers are located in only 32 counties, including five counties that received 16 of

the new towers. This means that many of the 57 counties with a population of 70,000 or less received no new cell towers last year, while the others received only a very limited number.

The absence of reliable cell phone service can have negative consequences for rural areas. For example, if a business depends on the use of cell phones, particularly by personnel who travel and must communicate en route, the firm might choose not to locate or expand in an area without enough cell towers. Also, individuals who vacation in rural areas or along the Great Lakes may be discouraged when they lose cell service on the road or at their destination.

The proposed tax credits would create an incentive for individuals to allow cell towers to be placed on their rural property, and for firms to place towers in rural areas. By encouraging the placement of additional towers in underserved areas, the bills would help improve the State's telecommunications infrastructure.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have no effect on local unit revenue or expenditures but would reduce both General Fund and School Aid Fund revenue. According to data on antennas registered with the Federal Communications Commission (FCC), approximately 3,100 antennas, for all purposes, are currently constructed in Michigan and approximately 150 new antennas are constructed each year. Of the antennas constructed in 2004, approximately 30% were located in counties with a population of 70,000 or less.

The effect the bills would have on the construction of new towers is unknown and likely to be negligible. Many property owners that have antennas located upon their property, such as local schools and government buildings, are not subject to the individual income tax or the single business tax and do not actually place the towers. Similarly, many towers are constructed and maintained by entities other than those who own the property upon which the antenna is located or those who use the services of the antenna. The credit in Senate Bill 221 (S-2) would be available only to the entity that owns the property upon which the antenna

is located, and thus is unlikely to affect the costs or benefits to the entity that constructs the antenna or the entity that would use the tower. Similarly, the credit in Senate Bill 222 (S-1) would be available only to the entity that places the antenna, so this credit is unlikely to affect the costs or benefits to the entity that has the antenna placed on its property or the entity that would use the tower. The bills are not tie-barred to each other, but even if both bills were enacted and both the placing entity and the property owner were to claim the credits, the credits still would be largely irrelevant to the entities that would potentially use the tower to transmit signals. Furthermore, compared with the average cost of a tower, the credit would represent a negligible amount.

Regardless of the effect of the bills on construction, the expected fiscal impact is also minimal. While 470 applications have been approved for antennas in Michigan that have yet to be constructed, assuming that approximately 30% would be located in qualifying counties, that the taxpayers would be able to claim the full amount of the credit, and that all taxpayers would be subject to the individual income tax, even if all 470 of the towers were constructed during fiscal year (FY) 2005-06, the impact from those antennas under Senate Bill 221 (S-2) would lower FY 2005-06 revenue by \$35,250. Generally, given an average of 50 antennas per year, the ongoing cost would lower revenue by approximately \$12,500 per year, of which approximately \$10,000 would be General Fund revenue and the remainder would be School Aid Fund revenue. Similarly, under Senate Bill 222 (S-1), the 470 towers would lower FY 2005-06 single business tax revenue by \$70,500 if they were all placed during FY 2005-06; and, given an average of 50 antennas per year, the ongoing cost would reduce General Fund revenue by approximately \$25,000 per year.

The credit under Senate Bill 222 (S-1) would be in addition to the investment tax credit, which the taxpayer would receive for placing the tower. Furthermore, if the characteristics of the equipment were sufficient, the credit under the bill also would be in addition to any credits allowed under Public Acts 48 and 50 of 2002.

The fiscal impact of the bills could be larger than estimated above because the bills would not require that the towers actually be used. Therefore, particularly under Senate Bill 221 (S-2), taxpayers could have an incentive to place a small, inexpensive antenna on their property and claim the credit, although no carrier would likely ever use the equipment. The registration requirements would potentially discourage such behavior, although the impact is unknown.

On the other hand, the bills, particularly Senate Bill 222 (S-1), could likely have a smaller impact than indicated above. The analysis above essentially assumes that each tower is placed by a different taxpayer, or equivalently, that a taxpayer could receive a credit for each tower. However, the language of the bills would allow a credit only if *a* tower were placed—not a \$500 credit *per tower*. To the extent that most towers are placed by a limited number of firms that build and manage towers, one firm or property owner might place 10 towers in a year but would be entitled to claim only the same credit that would be received if only one tower were placed.

Fiscal Analyst: David Zin

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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.