



Senate Fiscal Agency
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House Bill 4266 (Substitute H-2 as reported without amendment)
House Bill 5266 (as reported without amendment)
Sponsor: Representative Triston Cole
House Committee: Communications and Technology
Ways and Means
Senate Committee: Energy and Technology

CONTENT

House Bill 5266 would amend the Electric Cooperative Member-Regulation Act to do the following:

- Require a cooperative electric utility that was member-regulated under the Act to provide a video service provider, broadband provider, wireless provider, or other telecommunication provider with nondiscriminatory access to its poles upon just reasonable rates, terms, and conditions for their attachments.
- Specify circumstances under which a cooperative electric utility could deny a telecommunication provider access to its poles on a nondiscriminatory basis.
- Require attachment or facilities on poles to comply with the most recent nondiscriminatory safety and reliability standards adopted by the cooperative electric utility.
- Require the costs of modifying a facility to be borne by all parties that obtained access to the facility as a result of the modification and by all parties that directly benefitted from the modification.
- Require an attaching party to obtain any necessary authorization before occupying public ways or private rights-of-way with its attachment.
- Specify the courts that would have jurisdiction to determine all disputes arising from the bill's provisions and to grant remedies.
- Specify the circumstances under which a cooperative electric utility would be liable for damages in law or equity.
- Specify the circumstances under which a complainant or a cooperative electric utility would have the burden of establishing a prima facie case related to the legality of a rate, term, or condition.
- Specify the actions a court could take if it determined that a rate, term, or condition complained of was not just and reasonable.

House Bill 4266 (H-2) would amend the Revised Judicature Act to do the following:

- Specify, in a trespass, unjust enrichment, or other action relating to an easement held by a Michigan electric cooperative, the circumstances under which there would be a rebuttable presumption that there was no unreasonable or material increase in the burden on a property subjected to an easement.
- Specify the circumstances under which a Michigan electric cooperative would not be liable in a trespass, unjust enrichment, or other action relating to an easement held by the cooperative.

- Specify that evidence of revenue realized from services using a new or additional facility would be inadmissible for purposes of providing damages in a trespass, unjust enrichment, or other action relating to an easement held by the cooperative.
- Limit damages awarded in a trespass, unjust enrichment, or other action relating to an easement held by a cooperative to \$3 per linear foot.

The bills are tie-barred.

Proposed MCL 600.2979 (H.B. 4266)
Proposed MCL 460.38a & 460.38b (H.B. 5266)

Legislative Analyst: Tyler VanHuysse

FISCAL IMPACT

House Bill 5266 would not have a significant fiscal impact on State government or local units of government. The bill could result in an increase in litigation activities, but the associated administrative costs to court systems likely would be funded sufficiently by existing appropriations.

House Bill 4266 (H-2) would have no fiscal impact on State or local government.

Date Completed: 2-19-20

Fiscal Analyst: Elizabeth Raczkowski