

# Legislative Analysis



## UTILITY EQUIPMENT: INCREASE PENALTIES FOR UNLAWFUL ACTIVITIES

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**House Bills 5361 and 5362**  
**Sponsor: Rep. Chuck Moss**  
**Committee: Judiciary**

**Complete to 3-11-08**

### **A SUMMARY OF HOUSE BILLS 5361 & 5362 AS INTRODUCED 10-24-08**

Currently, it is against the law to willfully cut, break, obstruct, injure, destroy, tamper with or manipulate various kinds of property of a utility company, including any machinery; tools; equipment; a telephone line or post; electric line; a post, tower, or supporting structure; electric wire, insulator, switch, or signal; or a natural gas pipeline, water pipeline, or steam heat pipeline with the intention and without authority to interrupt or disrupt communications or electric, gas, water, or steam heat service, or to curtail or impair the utilization of those services. A violation is an unspecified felony; under the penal code, a felony for which a penalty is not fixed by statute is punishable by imprisonment for not more than four years and/or a fine of not more than \$5,000.

House Bill 5361 would amend the Michigan Penal Code (MCL 750.383a) to do the following:

- Prohibit, in addition to the current prohibited acts, defacing or stealing the listed property of a utility or component of the electric or natural gas infrastructure that is the property of a utility.
- Prohibit damaging (in addition to the current prohibitions against intentionally interrupting or disrupting) communications or electric, steam heat, gas, or water service and remove the element of intent from the prohibited conduct.
- Make numerous editorial revisions to enhance clarity, including specifying that the term "utility" includes both publicly and privately owned systems operated for the public use. (The term is currently defined to include any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication, or other system)
- Specify that a violation would be punishable by imprisonment for not more than five years and/or a fine of not more than \$5,000.

Further, the penalty for the prohibited conduct also currently applies to anyone who conspires, aids, abets in or causes to be done any of the unlawful acts; this provision would be deleted.

House Bill 5362 would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.16s) to specify that malicious destruction of utility equipment or utility infrastructure component would be a Class E felony punishable by a maximum

term of imprisonment of five years. Currently, it is a Class F felony, punishable by a maximum of four years.

**FISCAL IMPACT:**

The bills' fiscal impact on state and local correctional systems would depend on how they affected the number of criminal convictions and the severity of sentences. There are no data to indicate how many offenders might be affected by the bills. Changing the maximum sentence from 4 to 5 years would move the offense from a Class F to a Class E felony. Exclusive of sentences for habitual offenders, sentencing guidelines ranges for the minimum sentence for a Class E offense vary from 0-3 months (for which a nonprison sanction is required) to 24-38 months (for which a prison term is mandated). For Class F offenses, recommended minimums vary from 0-3 months to 17-30 months.

To the extent that more offenders were sentenced to jail, counties could incur increased costs of jail incarceration; those costs vary by county. To the extent that more offenders were sentenced to prison, the state could incur increased costs averaging about \$32,000 per prisoner per year. To the extent that more offenders were sentenced to felony probation, the state could incur increased costs of probation supervision; parole and probation supervision cost about \$2,000 per supervised offender per year.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

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