

HOUSE BILL No. 4237

February 24, 2015, Introduced by Rep. Lucido and referred to the Committee on Energy Policy.

A bill to amend 2006 PA 110, entitled "Michigan zoning enabling act," by amending section 205 (MCL 125.3205), as amended by 2012 PA 389.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) A zoning ordinance is subject to all of the
2 following:

3 (a) The electric transmission line certification act, 1995 PA
4 30, MCL 460.561 to 460.575.

5 (b) The regional transit authority act, 2012 PA 387, MCL
6 124.541 TO 124.558.

7 ~~(2) A county or township shall not regulate or control the~~
8 ~~drilling, completion, or operation of oil or gas wells or other~~
9 ~~wells drilled for oil or gas exploration purposes and shall not~~

1 ~~have jurisdiction with reference to the issuance of permits for the~~
2 ~~location, drilling, completion, operation, or abandonment of such~~
3 ~~wells.~~

4 (2) ~~(3)~~—An ordinance shall not prevent the extraction, by
5 mining, of valuable natural resources from any property unless very
6 serious consequences would result from the extraction of those
7 natural resources. Natural resources shall be considered valuable
8 for the purposes of this section if a person, by extracting the
9 natural resources, can receive revenue and reasonably expect to
10 operate at a profit.

11 (3) ~~(4)~~—A person challenging a zoning decision under
12 subsection ~~(3)~~—(2) has the initial burden of showing that there are
13 valuable natural resources located on the relevant property, that
14 there is a need for the natural resources by the person or in the
15 market served by the person, and that no very serious consequences
16 would result from the extraction, by mining, of the natural
17 resources.

18 (4) ~~(5)~~—In determining under this section whether very serious
19 consequences would result from the extraction, by mining, of
20 natural resources, the standards set forth in Silva v Ada Township,
21 416 Mich 153 (1982), shall be applied and all of the following
22 factors may be considered, if applicable:

23 (a) The relationship of extraction and associated activities
24 with existing land uses.

25 (b) The impact on existing land uses in the vicinity of the
26 property.

27 (c) The impact on property values in the vicinity of the

1 property and along the proposed hauling route serving the property,
2 based on credible evidence.

3 (d) The impact on pedestrian and traffic safety in the
4 vicinity of the property and along the proposed hauling route
5 serving the property.

6 (e) The impact on other identifiable health, safety, and
7 welfare interests in the local unit of government.

8 (f) The overall public interest in the extraction of the
9 specific natural resources on the property.

10 (5) ~~(6)~~ Subsections ~~(3) to (5)~~ **(2) TO (4)** do not limit a local
11 unit of government's reasonable regulation of hours of operation,
12 blasting hours, noise levels, dust control measures, and traffic,
13 not preempted by part 632 of the natural resources and
14 environmental protection act, 1994 PA 451, MCL 324.63201 to
15 324.63223. However, such regulation shall be reasonable in
16 accommodating customary mining operations.

17 (6) ~~(7)~~ This act does not limit state regulatory authority
18 under other statutes or rules.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.