

Legislative Analysis



INSPECTORS OF METALLIC MINERAL MINES

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Senate Bill 119 (S-2) as passed by the Senate

Sponsor: Sen. Ed McBroom

House Committee: Natural Resources and Outdoor Recreation

Senate Committee: Natural Resources

Complete to 2-9-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 119 would amend 1911 PA 163, which regulates county inspectors of copper and iron mines, to reduce the mining experience required for a mine inspector in a county that has no active mines (only closed or abandoned ones) and to allow a mine inspector to be appointed to serve in more than one county under certain circumstances. The bill also would change the act's references to "iron or copper mines" to "metallic mineral mines," which would expressly bring mines for other metals (such as nickel, cobalt, zinc, etc.) within the scope of the act.

Inspector qualifications

The act requires a county where an iron or copper mine is located to hold an election for the office of inspector of mines every four years. An inspector must be "some suitable person who is a citizen of this state, who can read and write the English language, and who has had at least 10 years' actual experience in mining, or a person holding the degree of mining engineer, or an equivalent degree, and who shall have practiced his or her profession as a mining engineer for at least 2 years."

The bill would require an inspector of mines in a county where there is an operating metallic mineral mine to meet all of the following:

- Be a citizen of Michigan.
- Be able to read and write in English.
- Have at least 10 years' actual experience in mining *or* hold a mining engineer degree or an equivalent degree.
- Have practiced as a mining engineer for at least two years.

An inspector of mines in a county where, on the effective date of the bill, there was an abandoned, closed, or idled metallic mineral mine, but no operating metallic mineral mine, would have to meet all of the following:

- Be a citizen of Michigan.
- Be able to read and write in English.
- Have actual experience in mining *or* hold a mining engineer degree or an equivalent degree.
- Have practiced as a mining engineer for at least two years.

In other words, a specified amount of mining experience would not be required in a county that did not have an active mine on the effective date of the bill.¹

¹ While a county with an active mine on the effective date of the bill would fall under the first set of requirements, if that mine closed the county would not fall under either set. The first set would not apply because it has no active mine. The second set would not apply because it *did* have an active mine on the effective date of the bill.

Inspector serving in multiple counties

The bill also would allow a county to appoint another county's mine inspector to serve as its mine inspector if there is a vacancy in the office or there will be a vacancy because no candidate meets the qualifications described above. The appointment would have to be approved by the county board of commissioners of that other county. The appointment would be for the term or balance of the term, as applicable. The bill would add an exception allowing for such appointments to provisions that now prohibit a person elected to any other public office from being eligible to serve as an inspector of mines.

Other provisions

Currently under the act, before an individual assumes office as an inspector of mines, he or she must execute and file with the county clerk a bond in the amount of \$5,000, payable to the people of the state, with good and sufficient sureties to be approved by the circuit judge or probate judge of the county for the faithful performance of his or her duties. The bill would remove the requirement that the surety be approved by a judge and replace it with a requirement that the bond be issued by a surety company licensed to do business in Michigan.

Finally, the bill would repeal section 2 of the act, which prescribed measures applicable to the 1912 transition from appointed mine inspectors to elected ones.²

MCL 425.101 et seq. and MCL 425.102 (repealed)

BACKGROUND:

The Committee on Michigan's Mining Future was created by 2019 PA 47 as an advisory body in the Department of Environment, Great Lakes, and Energy.³ The committee was charged with evaluating relevant government policies, recommending actions to strengthen Michigan mining while protecting the environment, and recommending public policy strategies to enhance the growth of Michigan's minerals industry, including research into new technologies and the development of partnerships across economic and social sectors. The committee issued its final report on October 6, 2021.⁴ Among its recommendations was the following:

Michigan should amend Act 163 of 1911, Copper and Iron Mine Inspectors, to (1) make it apply to counties where any metallic mineral mine is located; (2) allow a mine inspector to serve in multiple counties when necessary; and (3) reduce the experience needed for mine inspector in a county with no active mines.⁵ Michigan should consider additional amendments to clarify applicability of the Act, particularly with respect to closed mines that may be used for other purposes and to address potential liability issues.

² <http://legislature.mi.gov/doc.aspx?mcl-425-102>

³ <https://www.legislature.mi.gov/documents/2019-2020/billanalysis/House/pdf/2019-HLA-4227-24B60E41.pdf>

⁴ https://www.michigan.gov/documents/egle/2021-10-20-mmfc-report_738870_7.pdf

⁵ In its review of the act, the committee says, "The qualifications for mine inspectors are quite stringent. This has made it difficult in some instances to find persons willing to run for election as mine inspector. The statutory qualifications may be appropriate for overseeing operating mines but are probably overly restrictive for closed mines."

As noted in the report, Senate Bill 119 would effectuate the three numbered recommendations above. The committee also identified the following additional recommended actions for legislation amending 1911 PA 163 (as quoted from the report):

- Add pertinent definitions to the Act, including a definition of “mines” to clarify that the Act applies only to metallic mines [e.g., not to aggregate mines], and to which associated features it should apply, such as haul roads, processing facilities, ore and waste rock storage facilities, etc.
- Clearly distinguish which provisions of the Act apply to operating mines versus inactive or closed mines.
- Exempt inspectors from responsibilities and liability for overseeing inactive mines except to provide for fencing or barriers at sites where there is a hazard due to steep slopes, open shafts, or sharp underwater drop-offs, etc. Minnesota’s mine inspector law (Chapter 180 [180.01-180.13] may be a model for such an exemption.

The report notes that, for active mines, 1911 PA 163 overlaps with and duplicates federal regulation under the Mine Safety and Health Act (MSHA), “except that the MSHA regulations are much more detailed, clear and concise.” However, as the report also notes, “County mine inspectors are also responsible for public safety at closed mines, whereas federal safety regulations do not apply to closed mines.”

Finally, according to the report, “Marquette is the only county that currently has an operating iron or copper mine (or other metallic mineral mine, for that matter).”

FISCAL IMPACT:

Senate Bill 119 is unlikely to affect costs or revenues for the Department of Natural Resources or the Department of Environment, Great Lakes, and Energy. The bill could affect costs for local governments with mines in their respective jurisdictions dependent upon the implementation of additional administrative processes. The extent of this potential cost increase is likely to vary by local government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.