

SENATE BILL NO. 431

May 11, 2021, Introduced by Senators ANANICH and HOLLIER and referred to the Committee on Transportation and Infrastructure.

A bill to amend 2006 PA 110, entitled
"Michigan zoning enabling act,"
by amending section 205 (MCL 125.3205), as amended by 2018 PA 366.

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.

1 (c) The small wireless communications facilities deployment
2 act, **2018 PA 365, MCL 460.1301 to 460.1339.**

3 (2) A county or township shall not regulate or control the
4 drilling, completion, or operation of oil or gas wells or other
5 wells drilled for oil or gas exploration purposes and ~~shall~~**does**
6 not have jurisdiction with reference to the issuance of permits for
7 the location, drilling, completion, operation, or abandonment of
8 such wells.

9 (3) **A county or township shall not regulate or control**
10 **aggregate mining and does not have jurisdiction over the issuance**
11 **of a permit, approval, or other authorization for the location,**
12 **operation, abandonment, or reclamation of an aggregate mine unless**
13 **both of the following apply:**

14 (a) **Less than 1,000,000 tons of aggregate will be mined over**
15 **the life of the mine.**

16 (b) **The mining operator chooses to apply for the permit,**
17 **approval, or other authorization.**

18 (4) ~~(3) An~~ **Subject to subsection (3), an ordinance shall not**
19 **prevent the extraction, by mining, of valuable natural resources**
20 **from any property unless very serious consequences would result**
21 **from the extraction of those natural resources. Natural resources**
22 **shall be considered valuable for the purposes of this section if a**
23 **person, by extracting the natural resources, can receive revenue**
24 **and reasonably expect to operate at a profit.**

25 (5) ~~(4) A~~ **A person challenging a zoning decision under**
26 **subsection (3) (4) has the initial burden of showing ~~that there are~~**
27 **valuable ~~all of the following:~~**

28 (a) **Valuable natural resources are located on the relevant**
29 **property. ~~that there is a need for the~~**

1 **(b) The** natural resources **are needed** by the person or in the
2 market served by the person. ~~and that no~~

3 **(c) No** very serious consequences ~~would~~**will** result from the
4 extraction, by mining, of the natural resources.

5 **(6) (5)**—In determining under this section whether very serious
6 consequences would result from the extraction, by mining, of
7 natural resources, the standards set forth in *Silva v Ada Township*,
8 416 Mich 153 (1982), shall be applied and all of the following
9 factors may be considered, if applicable:

10 (a) The relationship of extraction and associated activities
11 with existing land uses.

12 (b) The impact on existing land uses in the vicinity of the
13 property.

14 (c) The impact on property values in the vicinity of the
15 property and along the proposed hauling route serving the property,
16 based on credible evidence.

17 (d) The impact on pedestrian and traffic safety in the
18 vicinity of the property and along the proposed hauling route
19 serving the property.

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

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

24 **(7) (6)**—Subsections ~~(3) to (5)~~**(4) to (6)** do not limit a local
25 unit of government's reasonable regulation of hours of operation,
26 blasting hours, noise levels, dust control measures, and traffic,
27 not preempted by part 632 of the natural resources and
28 environmental protection act, 1994 PA 451, MCL 324.63201 to
29 324.63223. However, such regulation shall be reasonable in

1 accommodating customary mining operations.

2 **(8)** ~~(7)~~—This act does not limit state regulatory authority

3 under other statutes or rules.