

HOUSE BILL NO. 4527

May 04, 2023, Introduced by Reps. Tyrone Carter, Filler, Brenda Carter, Snyder, Witwer, O'Neal, Outman, Beeler, Neeley, Posthumus, Scott, Kunse, Schuette, Meerman, Liberati and VanderWall and referred to the Committee on Regulatory Reform.

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) **As used in this section, "natural resources"**
2 **does not include sand or gravel.**

3 **(2)** A zoning ordinance is subject to all of the following:

4 (a) The electric transmission line certification act, 1995 PA
5 30, MCL 460.561 to 460.575.

6 (b) The regional transit authority act, 2012 PA 387, MCL

1 124.541 to 124.558.

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

4 (d) Part 639 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.63901 to 324.63923.

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

12 (4) ~~(3)~~—An ordinance ~~shall not~~**may** prevent the extraction, by
13 mining, of ~~valuable~~ natural resources from any property ~~unless~~**only**
14 **if** very serious consequences would result from the extraction of
15 those natural resources. ~~Natural resources shall be considered~~
16 ~~valuable for the purposes of this section if a person, by~~
17 ~~extracting the natural resources, can receive revenue and~~
18 ~~reasonably expect to operate at a profit.~~

19 (5) ~~(4)~~—A person challenging a zoning decision under
20 subsection ~~(3)~~**(4)** has the initial burden of showing ~~that there are~~
21 ~~valuable~~**both of the following:**

22 (a) **Valuable** natural resources **are** located on the relevant
23 property. ~~, that there is a need for the natural resources by the~~
24 ~~person or in the market served by the person, and that no~~**Natural**
25 **resources shall be considered valuable for the purposes of this**
26 **subdivision if a person, by extracting the natural resources,**
27 **expects to operate at a profit.**

28 (b) **No** very serious consequences ~~would~~**will** result from the
29 extraction, by mining, of the natural resources.

1 **(6)** ~~(5)~~—In determining under this section whether very serious
 2 consequences would result from the extraction, by mining, of
 3 natural resources, the standards set forth in *Silva v Ada Township*,
 4 416 Mich 153 (1982), shall be applied and all of the following
 5 factors may be considered, if applicable:

6 (a) The relationship of extraction and associated activities
 7 with existing land uses.

8 (b) The impact on existing land uses in the vicinity of the
 9 property.

10 (c) The impact on property values in the vicinity of the
 11 property and along the proposed hauling route serving the property,
 12 based on credible evidence.

13 (d) The impact on pedestrian and traffic safety in the
 14 vicinity of the property and along the proposed hauling route
 15 serving the property.

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

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

20 **(7)** ~~(6)~~—Subsections ~~(3) to (5)~~ **(4) to (6)** do not limit a local
 21 unit of government's reasonable regulation of hours of operation,
 22 blasting hours, noise levels, dust, ~~control measures, and or~~
 23 traffic, not preempted by part 632 of the natural resources and
 24 environmental protection act, 1994 PA 451, MCL 324.63201 to
 25 324.63223. However, such regulation shall be reasonable in
 26 accommodating customary mining operations.

27 **(8)** ~~(7)~~—This act does not limit state regulatory authority
 28 under other statutes or rules.

29 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 102nd Legislature are
2 enacted into law:

3 (a) Senate Bill No. _____ or House Bill No 4528 (request no.
4 01555'23 **).

5 (b) Senate Bill No. _____ or House Bill No. 4526 (request no.
6 01555'23 a **).