



**House  
Legislative  
Analysis  
Section**

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**SAND DUNE REGULATION**

**Senate Bill 179** as passed by the House  
First Analysis (6-15-89)

**Sponsor: Sen. Connie Binsfield**  
**Senate Committee: Natural Resources & Environmental  
Affairs**  
**House Committee: Conservation, Recreation, &  
Environment**

***THE APPARENT PROBLEM:***

Sand dunes are one of the state's most valuable resources. They are irreplaceable, fragile resources and home to many rare ecological wonders. However, continued mining of the dunes coupled with increased recreational use and commercial development has led to a dramatic decrease in the number of dunes in the state. Some dunes have virtually disappeared while others have suffered irreparable damage. In addition, because there is not careful regulation of residential development in dune areas, property damage has also occurred to homes built on dunes. A Natural Resources Commission study initiated in 1984 found that the dunes are not managed in a comprehensive manner and that local zoning ordinances to protect the dune areas are not consistent. Since the dunes are interconnected sand formations, inconsistent levels of protection will eventually lead to the depletion of sand dune resources. Legislation has been proposed in both the House (House Bill 4296) and Senate to ensure consistent regulation of dune areas by the adoption of minimum protection standards in a comprehensive zoning ordinance.

***THE CONTENT OF THE BILL:***

The bill would amend the Sand Dune Protection and Management Act to establish standards for the zoning of sand dunes. The bill would provide that after consulting with the local soil conservation district, a local unit of government that had one or more critical dune area within its jurisdiction could formulate a zoning ordinance according to the following:

- a county could zone as provided in the County Rural Zoning Enabling Act;
- a city or village could zone as provided in current city or village zoning laws; and
- townships could zone as provided in the Township Rural Zoning Act.

Under the bill, a sand dune zoning ordinance would require that all applications for permits for the use of a critical dune area included the following:

- that the county enforcing agency for soil erosion and sedimentation found that the project was in compliance with the Soil Erosion and Sedimentation Control Act and any applicable soil erosion and sedimentation control ordinance that was in effect in the local unit of government;
- that a proposed sewage treatment or disposal system on the site had been approved by the county health department or the Department of Natural Resources;
- assurances that the cutting and removing of trees and other vegetation would be performed according to the instruction or plans of the local soil conservation district;

- a site plan that contained data required by the planning commission, the body or entity responsible for planning for the zoning or land use for the local unit, concerning the physical development of the site and extent of disruption of the site by the proposed development; and
- an environmental assessment prepared as detailed under the bill for special use projects. Detailed environmental impact statements would be included in an environmental assessment if additional information was needed.

Zoning ordinances would consist of all of the provisions of the model zoning plan or comparable provisions that were at least as protective of critical dune areas as the model zoning plan. The bill would detail other practical information to be provided for by zoning ordinances and would require each ordinance to ensure that proposed subdivision developments would be reviewed by the local unit to assure compliance with all of the provisions of the model zoning plan. Local units could regulate additional lands as critical dune areas under the act as considered appropriate by the planning commission if the lands were determined by the local unit to be essential to the hydrology, ecology, topography, or integrity of a critical dune area. Local units would provide for the protection of lands that were within 250 feet of a critical dune area if the lands were determined to be essential to the critical dune area. The department could regulate additional lands if a local unit did not have an approved zoning ordinance and as long as the lands did not extend more than 250 feet from the landward boundary of a critical dune area, unless the local unit authorized an extension.

The bill would prohibit uses in a critical dune area that involved the disposal of sewage on-site unless the standards of applicable sanitary codes were met, and uses that did not comply with the minimum setback requirements required by rules under the Shorelands Protection and Management Act. Unless a variance was granted the bill would not permit uses in a critical dune area that provided for a structure on a slope within a critical dune area that was 18 percent to 25 percent unless certain standards detailed in the bill were met. In addition, the bill would prohibit a use on a slope within a critical dune area that was greater than 25 percent or a structure that was not in compliance with the bill unless a variance was granted. Further, uses that involved contour changes likely to increase erosion or other practices that were likely to increase erosion or involved vegetation removal would also be prohibited unless a variance was granted. The bill would also prohibit the granting of variances for uses that were not in the public interest, except under certain circumstances. Local units could issue variances under a zoning ordinance, or the department could issue special exceptions under the model zoning plan if a local unit did not have an approved zoning ordinance, if an

**OVER**

unreasonable hardship would occur to an owner of property if the variance or special exception was not granted. Prior to permitting a special use project within a critical dune area, a local unit of government would submit the special use project application and plan and its proposed decision to the department. The department would have 60 days to review the plan and could affirm, modify, or reverse the proposed decision of the local unit.

The bill would require structures to be constructed behind the crest of the first landward ridge of a critical dune area that was not a foredune and would detail certain measures to be taken if construction occurred within 100 feet from the crest of the first landward ridge that was not a foredune. Structures or uses located in a critical dune area that were destroyed by fire or an act of nature, except for erosion, would be exempt from the operation of the act or a zoning ordinance under the act for the purpose of rebuilding or replacing the structure or use if the structure was lawful at the time it was constructed or commenced and the structure did not exceed in size or scope that which was destroyed and did not vary from its prior use. Federally and state owned land would be managed in a manner that was consistent with the model zoning plan. The bill would allow a planning commission or local unit to purchase lands or interests in lands in order to maintain or improve critical dune areas in conformance with zoning ordinances or the model zoning plan.

The bill would require the legislature to appropriate to the Departments of Agriculture, Natural Resources, and Attorney General funds sufficient to assure the full implementation and enforcement of critical dune use procedures (detailed in House Bill 4296) and provisions under the bill. Appropriations to the Department of Agriculture would be sufficient to assure adequate funding for the soil conservation districts to fulfill their responsibilities under the bill.

The bill is tie-barred to House Bill 4296 and would expire June 15, 1995.

### **HOUSE COMMITTEE ACTION:**

The House Conservation, Recreation, and Environment Committee amended the bill to make construction standards more stringent and to clarify the bill's provisions.

### **FISCAL IMPLICATIONS:**

The Department of Natural Resources estimates that the bill's implementation costs would amount to approximately \$200,000, including costs for staff and studies. However, the estimate does not take into account the possibility that communities will not take regulation under their control. (6-14-89)

### **ARGUMENTS:**

#### **For:**

Coastal sand dunes are a rare resource of the state and deserve the protection and care of its citizens. The bill is part of the governor's efforts to improve state policies that affect coastal dunes by regulating acceptable dune uses and prohibiting unacceptable uses. The dunes are one of the major tourist attractions in the state. If the state effectively protects this resource it will increase tourist attraction to the state and development of jobs in industries serving tourists. The bill will help ensure effective protection of the state's coastal dunes. In addition, the bill will also protect property owners' investments in dune areas.

### **POSITIONS:**

The Department of Natural Resources supports the bill. (6-13-89)

The Michigan United Conservation Clubs supports the bill. (6-13-89)

The Michigan Oil and Gas Association opposes the bill. (6-13-89)