

Legislative Analysis



NEW FUNDS FOR MINING RESEARCH AND RECLAMATION

Phone: (517) 373-8080
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House Bills 6254, 6255, and 6257 as introduced
Sponsor: Rep. Sara Cambensy
Committee: Natural Resources and Outdoor Recreation
Complete to 9-27-22

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

SUMMARY:

House Bill 6254 would amend 1951 PA 77, which provides for a specific tax related to low-grade iron ore, to direct the first \$250,000 collected under the act into the Metallic Mineral Mine Reclamation Fund proposed by House Bill 6257, and the next \$200,000 to the Ferrous Mining Research and Design Fund described below. These allocations would begin October 1, 2023. The allocation to the Ferrous Mining Research and Design Fund would apply through September 30, 2033.

The bill would create the Ferrous Mining Research and Design Fund in the state treasury. The state treasurer could receive money or other assets from any source for deposit into the fund. The state treasurer would have to direct the investment of the fund and credit to the fund interest and earnings from those investments. Money in the fund at the close of the fiscal year would not lapse to the general fund. The Department of Environment, Great Lakes, and Energy (EGLE) would serve as the fund administrator for audit purposes.

EGLE could expend money from the fund, upon appropriation, only for grants under the Ferrous Mining Research and Design Grant Program, which the bill would direct EGLE to create and operate. EGLE would have to create and post on its website a grant application process, selection criteria, and a grant dispersal process. Both of the following would apply to grants under the program:

- Grants could only be made to public colleges and universities in Michigan that have a focus on mining and geology and would have to be used to encourage 21st century mining research and innovation in Michigan iron ore bodies to facilitate the reopening of a closed or idled mine, the expansion of an existing mine, or the development of future mine locations.
- Grants would have to be matched on a one-to-one basis by owners of low-grade iron ore mining property that is subject to the specific tax under 1951 PA 77.

Grant recipients would have to work with EGLE and the low-grade iron ore mining property owners providing the matching funds as described above to identify 21st century mining research projects.

At the close of any fiscal year, if the fund had a balance of more than \$2.0 million, any amount over \$2.0 million in the fund would have to be disbursed as provided in section 4 of the act.

House Bill 6254 could only take effect if HB 6257 were also enacted into law.

MCL 211.621 and 211.624 and proposed MCL 211.624a and 211.624b

House Bill 6255 would amend the Nonferrous Metallic Minerals Extraction Severance Tax Act to direct the first \$250,000 collected from the minerals severance tax imposed under the act into the Metallic Mineral Mine Reclamation Fund proposed by House Bill 6257, and the next \$250,000 to EGLE to perform the department's duties as prescribed in Part 629 (Mine Inspection) of the Natural Resources and Environmental Protection Act (NREPA), as proposed by House Bill 6258.

House Bill 6255 could only take effect if HBs 6257 and 6258 were also enacted into law.

MCL 211.789

House Bill 6257 would amend NREPA by adding a new Part 636, which among other things would create the Metallic Mineral Mine Reclamation Fund in the state treasury.

The state treasurer would have to deposit all of the following into the Metallic Mineral Mine Reclamation Fund:

- Grants from the U.S. Secretary of the Interior from the federal Abandoned Mine Reclamation Fund established in 30 USC 1231.
- Revenue as provided under section 4 of 1951 PA 77 (which would be amended by HB 6254).
- Revenue as provided under section 9 of the Nonferrous Metallic Minerals Extraction Severance Tax Act (which would be amended by HB 6255).
- Money and other assets received from any other source.

The state treasurer would have to direct the investment of the fund and credit to the fund interest and earnings from those investments. EGLE would serve as the fund administrator for audit purposes.

EGLE could expend money in the fund, upon appropriation, only for one or more of the following purposes, prioritized based on the risk to public health, public safety, general welfare, and property from past *mining* practices:

- Acquisition and filling of voids and sealing of tunnels, shafts, and entryways of lands affected by past mining practices.
- Reclamation of land and water resources and the environment adversely affected by past mining and remediation of adverse effects of past mining.
- Acquisition of land as described below.
- Administrative expenses incurred in accomplishing the purposes of the bill.
- Any other necessary expenses to accomplish the purposes of the bill.
- Any other purposes related to mining for which a federal Abandoned Mine Reclamation Fund grant may be used under federal law.

Under the bill, *mining* would mean metallic mineral mining.

Acquisition of land

The bill would allow EGLE to acquire by purchase, donation, or otherwise any interest in property that the director of EGLE determines is necessary to fill voids, seal abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or strip mines. If mine waste piles were being reworked for conservation purposes, the incremental costs of disposing

of the wastes from those operations by filling voids and sealing tunnels could be eligible for funding if the disposal of the wastes met the purposes of the bill.

Entry upon property

The bill would allow EGLE or its contractors to enter upon property to do either of the following:

- Conduct studies or exploratory work to determine the existence of adverse effects of past mining practices.
- Determine the feasibility of action to restore or reclaim land or water resources or otherwise abate, control, or prevent the adverse effects of past mining practices.

In addition, the bill would allow EGLE or its contractors to enter upon property adversely affected by past mining practices, and any other property that provides necessary access to the adversely affected property, to take action to restore or reclaim land or water resources or otherwise abate, control, or prevent the adverse effects of past mining practices, if both of the following conditions are met:

- The director of EGLE determines that all of the following apply:
 - Public health, public safety, the general welfare, or property are at risk from or have been adversely affected by past mining practices.
 - The risks or adverse effects are at a stage when, in the public interest, actions described in these provisions should be taken.
 - The owners of the land or water resources that must be entered are not known or are not readily available or will not give permission for EGLE or its contractor to enter upon the property.
- EGLE or its contractor has given notice of the intended entry to the owners by mail, if the owners are known, or, if not known, by posting notice on the premises and advertising once in a newspaper of general circulation in the municipality where the property is located.

The money expended for the work described above and the benefits accruing to the property entered upon would be chargeable against the property and would offset any claim in or any action brought by an owner of any interest in the property for damages allegedly caused by the entry. This provision would not create new rights of action or eliminate existing immunities.

In addition, the bill would provide that entry as described above is an exercise of the police power for the protection of the public health, public safety, and general welfare and not an act of condemnation of property or trespass.

Other provisions

The bill would also allow the director of EGLE to report to the Secretary of the Interior on operations paid for with revenue from the fund, if required as a condition of federal grants to the Metallic Mineral Mine Reclamation Fund. The report could include recommendations as to future uses of the fund.

In addition, EGLE could contract for work to be performed under the bill, with or without advertising for bids, if the director of EGLE determines that a condition exists that can reasonably be expected to cause substantial physical harm to individuals, property, or the environment and to which individuals or improvements on real property are currently exposed.

EGLE also could engage in cooperative projects under the bill with any agency of the United States, any other state, or their governmental agencies or with any state university or community college described in or established under sections 4, 5, 6, or 7 of article VIII of the state constitution.

EGLE could promulgate rules to implement the bill.

House Bill 6257 could only take effect if HBs 6254 and 6255 were also enacted into law.

Proposed MCL 324.63601 to 324.63615

FISCAL IMPACT:

House Bills 6254, 6255, and 6257 would increase revenue for DNR and EGLE while decreasing revenue for local governments and the School Aid Fund by redirecting minerals severance tax revenue to the former that is presently earmarked for the latter beginning in October 2023. The bills would annually earmark \$250,000 of this tax revenue for the Metallic Mineral Mine Reclamation Fund to be used by DNR for remediation and reclamation of natural resources affected by past mining activities, and annually (until 2033) earmark \$200,000 of this tax revenue for the Ferrous Mining Research and Design Fund to be used by EGLE for grants to public colleges and universities in Michigan focused on mining and geology for iron ore mining-related inquiry and activities. The FY 2022-23 budgets for DNR and EGLE total \$535.5 million Gross (\$94.4 million) and \$728.7 million Gross (\$98.8 GF/GP), respectively.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Austin Scott

■ 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.