

House Bill 5904

Sponsor: Rep. Julie Dennis

**Committee: Conservation and Outdoor
Recreation**

Complete to 10-25-00

A SUMMARY OF HOUSE BILL 5904 AS INTRODUCED 6-20-00

House Bill 5904 would amend provisions of the Natural Resources and Environmental Protection Act (NREPA) concerning sand dune protection and management and sand dune mining to -- among other provisions -- prohibit sand dune mining in critical dune areas; prohibit sand dune mining in Great Lakes sand dunes areas after December 31, 2005; expand the list of activities that cause an application for a sand dune mining permit to be denied; establish a Sand Dune Protection Fund; and to clarify current language.

Removal of less than 3,000 tons of sand. Currently, under the act, the removal of sand from sand dune areas in volumes of less than 3,000 tons is not considered sand dune mining (and thus does not require a permit) if the removal is a one-time occurrence and the sand is not being removed for industrial or commercial purposes. The act also specifies that the DEQ may authorize in writing the removal of more than 3,000 tons of sand without issuing a permit. House Bill 5904 would delete these provisions.

Definition of critical dune area. This term is currently defined under Part 353 of the act to mean a geographic area designated in the DEQ's "atlas of critical dune areas" dated February 1989, that was prepared by the DEQ. The bill would amend the definition to add that the atlas was modified by the document entitled "Evaluation of critical dune areas designated under Part 353 (sand dune protection and management) of the Natural Resources and Environmental Protection Act 1994 PA 451: final report." *Center for Remote Sensing, Michigan State University, East Lansing, Michigan. June 1996.*

Mining in Critical Dune Areas. Currently the act specifies that, after July 5, 1989, the DEQ may not issue a permit for sand dune mining, except in circumstances where an operator seeks renew or amend a permit issued prior to July 5, 1989, or where an operator holds a permit issued after July 1, 1977, which he or she seeks to amend to include land adjacent to the property for which the permit is held, and the operator owned the land, or rights to mine dune sand on the land for which he or she seeks an amended permit, before July 5, 1989. House Bill 5904 would delete these provisions. Instead, the bill would specify that the DEQ could not issue a sand dune mining permit within a critical dune area, as defined in Part 353 of the act. (*See above.*)

Mining in Great Lakes Sand Dunes. The act currently allows sand dune mining within Great Lakes sand dune areas with a permit issued by the DEQ. The bill would amend this provision to prohibit sand dune mining within Great Lakes sand dune areas after December 31, 2005.

Expiration of Permits. The act currently specifies that a sand dune mining permit is valid for up to five years. Under the bill, if mining had not occurred during a one-year period, the permit would expire, and, upon expiration, the landowner or operator would be required to begin reclamation activities, as provided under the act.

Denial of Permits. At present, under the act, the Department of Environmental Quality (DEQ) must deny a permit if the proposed mining activity is likely to pollute, impair, or destroy the natural resources, or the public trust in those resources. House Bill 5904 would extend the grounds for denial to include the following:

- The proposed mining activity was incompatible with adjacent existing land uses.
- The proposed mining activity would adversely affect adjacent surface resources, such as flora and fauna, wildlife habitats, and groundwater supply and air quality within 1,00 feet of the proposed mining.
- The proposed sand dune mining activity would be located within 1,000 feet of a residence, 2,000 feet of a school, or 500 feet of a commercial development.

Sand Dune Protection Fund. The fund would be established under the bill to receive administrative fees, and penalties collected for late payment of these fees, together with money or other assets from any source. Interest and earnings from the fund's investments would be credited to the fund by the state treasurer. Money in the fund at the close of the fiscal year would remain in the fund and would not lapse to the general fund. The DEQ would spend appropriations from the fund only for one or more of the following purposes:

- At least 20 percent for more surveillance, monitoring, administration, and enforcement of the provisions of Part 637, which regulates sand dune mining.
- At least 80 percent to acquire land containing critical dune areas, to be held in public ownership for the protection of the critical dune areas.

Administrative Fees. The act currently specifies that a surveillance fee of not more than 10 cents per ton of sand mined from a sand dune per calendar year is to be assessed on each operator. The fee must not exceed actual costs to the DEQ for implementing the sand dune mining provisions of the act. In addition, a penalty is assessed against an operator if the fee is not paid when due. House Bill 5904 would delete these provisions and require, instead, that each operator be assessed an administrative fee of \$5.00 per ton of sand mined. The bill states that fees and penalties collected under this provision would be deposited into the Sand Dune Protection Fund.

MCL 324.35301 et al.

Analyst: R. Young

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