

# HOUSE BILL No. 5898

November 6, 2014, Introduced by Reps. Driskell, Faris, Irwin, Barnett, Dianda and Hovey-Wright and referred to the Committee on Natural Resources.

A bill to amend 2006 PA 110, entitled  
"Michigan zoning enabling act,"  
by amending section 205 (MCL 125.3205), as amended by 2012 PA 389.

## 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.

7       (2) A county or township shall not regulate or control the  
8 drilling, completion, or operation of oil or gas wells or other  
9 wells drilled for oil or gas exploration purposes and ~~shall~~ DOES

1 not have jurisdiction with reference to the issuance of permits for  
2 the location, drilling, completion, operation, or abandonment of  
3 ~~such~~ **THOSE** wells.

4 (3) An ordinance **MAY PROHIBIT THE EXTRACTION, BY MINING, OF**  
5 **SAND OR GRAVEL FROM 1 OR MORE PROPERTIES IF THE LOCAL UNIT OF**  
6 **GOVERNMENT EITHER HAS DESIGNATED AND PLANNED FOR OTHER AREAS WITHIN**  
7 **ITS JURISDICTION WHERE EXTRACTING THE NATURAL RESOURCE IS FEASIBLE**  
8 **AND REASONABLE OR HAS DETERMINED THAT IT IS NOT FEASIBLE AND**  
9 **REASONABLE TO EXTRACT THE NATURAL RESOURCE ANYWHERE IN ITS**  
10 **JURISDICTION. AN ORDINANCE UNDER THIS SUBSECTION SHALL BE BASED ON**  
11 **THE LOCAL UNIT OF GOVERNMENT'S REASONABLE ASSESSMENT, PURSUANT TO**  
12 **SECTION 203, OF ALL OF THE FOLLOWING:**

13 (A) THE PRESENCE AND QUALITY OF THE NATURAL RESOURCE WITHIN  
14 ITS JURISDICTION.

15 (B) MARKET DEMAND FOR THE NATURAL RESOURCE.

16 (C) CURRENT AND PLANNED-FOR NATURAL AND MAN-MADE CONDITIONS  
17 WITHIN THE JURISDICTION.

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

25 (5) ~~(4)~~ A person challenging a zoning decision under  
26 subsection ~~(3)~~ **(4)** has the initial burden of showing that there are  
27 valuable natural resources located on the relevant property, that

1 there is a need for the natural resources by the person or in the  
2 market served by the person, and that no very serious consequences  
3 would result from the extraction, by mining, of the natural  
4 resources.

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

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

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

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

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

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

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

25 (7) ~~(6)~~—Subsections (3) to ~~(5)~~ **(6)** do not limit a local unit  
26 of government's reasonable regulation of **MINING OPERATIONS,**  
27 **INCLUDING, BUT NOT LIMITED TO,** hours of operation, blasting hours,

1 noise levels, dust control measures, and traffic, not preempted by  
2 part 632 of the natural resources and environmental protection act,  
3 1994 PA 451, MCL 324.63201 to 324.63223. However, ~~such~~**THE**  
4 regulation shall be reasonable in accommodating customary mining  
5 operations.

6 (8) ~~(7)~~—This act does not limit state regulatory authority  
7 under other statutes or rules.