

# SENATE BILL No. 894

March 7, 2018, Introduced by Senator NOFS and referred to the Committee on Energy and Technology.

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, and by adding section 515.

**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           (c) **THE SMALL WIRELESS COMMUNICATIONS FACILITIES DEPLOYMENT**  
8 **ACT.**

9           (2) A county or township shall not regulate or control the  
10 drilling, completion, or operation of oil or gas wells or other

1 wells drilled for oil or gas exploration purposes and shall not  
2 have jurisdiction with reference to the issuance of permits for the  
3 location, drilling, completion, operation, or abandonment of such  
4 wells.

5 (3) An ordinance shall not prevent the extraction, by mining,  
6 of valuable natural resources from any property unless very serious  
7 consequences would result from the extraction of those natural  
8 resources. Natural resources shall be considered valuable for the  
9 purposes of this section if a person, by extracting the natural  
10 resources, can receive revenue and reasonably expect to operate at  
11 a profit.

12 (4) A person challenging a zoning decision under subsection  
13 (3) has the initial burden of showing that there are valuable  
14 natural resources located on the relevant property, that there is a  
15 need for the natural resources by the person or in the market  
16 served by the person, and that no very serious consequences would  
17 result from the extraction, by mining, of the natural resources.

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

23 (a) The relationship of extraction and associated activities  
24 with existing land uses.

25 (b) The impact on existing land uses in the vicinity of the  
26 property.

27 (c) The impact on property values in the vicinity of the

1 property and along the proposed hauling route serving the property,  
2 based on credible evidence.

3 (d) The impact on pedestrian and traffic safety in the  
4 vicinity of the property and along the proposed hauling route  
5 serving the property.

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

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

10 (6) Subsections (3) to (5) do not limit a local unit of  
11 government's reasonable regulation of hours of operation, blasting  
12 hours, noise levels, dust control measures, and traffic, not  
13 preempted by part 632 of the natural resources and environmental  
14 protection act, 1994 PA 451, MCL 324.63201 to 324.63223. However,  
15 such regulation shall be reasonable in accommodating customary  
16 mining operations.

17 (7) This act does not limit state regulatory authority under  
18 other statutes or rules.

19 **SEC. 515. THIS ACT IS SUBJECT TO THE SMALL WIRELESS**  
20 **COMMUNICATIONS FACILITIES DEPLOYMENT ACT.**

21 Enacting section 1. This amendatory act takes effect 90 days  
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect  
24 unless Senate Bill No. 637 of the 99th Legislature is enacted into  
25 law.