

HOUSE BILL No. 5939

June 16, 1998, Introduced by Rep. Anthony and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding section 61505a and part 620.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61505A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS
2 PART OR THE RULES PROMULGATED UNDER THIS PART, NEITHER THE SUPER-
3 VISOR NOR THE DEPARTMENT SHALL ISSUE A PERMIT FOR DRILLING, OR
4 AUTHORIZE THE DRILLING OF, AN OIL OR GAS WELL THAT EXTENDS UNDER
5 THE GREAT LAKES OR THEIR CONNECTING WATERWAYS UNLESS ALL DRILLING
6 OPERATIONS ARE IN COMPLIANCE WITH AN APPLICABLE HYDROCARBON
7 DEVELOPMENT PLAN PREPARED UNDER PART 620.

PART 620 HYDROCARBON DEVELOPMENT PLANS

SEC. 62001. AS USED IN THIS PART:

(A) "COUNCIL" MEANS A CITIZENS ADVISORY COUNCIL APPOINTED TO ASSIST IN THE PREPARATION OF A PLAN FOR A WATERSHED OR A REGION PURSUANT TO SECTION 62004.

(B) "DEPARTMENTS" MEANS THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DEPARTMENT OF NATURAL RESOURCES, AND THE PUBLIC SERVICE COMMISSION IN THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES.

(C) "PLAN" MEANS A HYDROCARBON DEVELOPMENT PLAN PREPARED UNDER THIS PART.

(D) "LAKE MICHIGAN COASTAL ZONE" MEANS THE AREA 3 MILES INLAND FROM THE ORDINARY HIGH-WATER MARK, EXTENDING TO ALL SUB-MERGED LANDS UNDER THE JURISDICTION OF THE STATE OF MICHIGAN.

(E) "CITIZENS COMMITTEE" MEANS THE CITIZENS COMMITTEE APPOINTED PURSUANT TO SECTION 62002.

(F) "WATERSHEDS" MEANS THE FOLLOWING 9 WATERSHEDS LOCATED IN THE NORTHERN LOWER PENINSULA: THE AUSABLE RIVER WATERSHED, THE BETSIE RIVER WATERSHED, THE BLACK RIVER WATERSHED, THE PIGEON RIVER WATERSHED, THE STURGEON RIVER WATERSHED, THE BOARDMAN RIVER WATERSHED, THE JORDAN RIVER WATERSHED, THE MANISTEE RIVER WATERSHED, AND THE THUNDER BAY RIVER WATERSHED.

SEC. 62002. (1) THE COMMISSION OF NATURAL RESOURCES SHALL APPOINT A CITIZENS COMMITTEE TO CARRY OUT THE RESPONSIBILITIES PROVIDED IN THIS PART. THE CITIZENS COMMITTEE SHALL CONSIST OF 1 PERSON REPRESENTING A PUBLIC INTEREST GROUP, 1 PERSON

1 REPRESENTING TOWNSHIP GOVERNMENT, AND 1 PERSON REPRESENTING
2 COUNTY GOVERNMENT.

3 (2) WITHIN 12 MONTHS AFTER THE EFFECTIVE DATE OF THIS SEC-
4 TION, THE DEPARTMENTS IN COOPERATION WITH THE CITIZENS COMMITTEE
5 SHALL CONDUCT AN EVALUATION OF THE EXISTING PROCEDURES FOR LEAS-
6 ING STATE OWNED MINERALS AND THE PERMITTING OF WELLS, PIPELINES,
7 AND PROCESSING FACILITIES. THE EVALUATION SHALL INCLUDE ALL OF
8 THE FOLLOWING:

9 (A) AN ASSESSMENT OF THE ENVIRONMENTAL STANDARDS CURRENTLY
10 IN PLACE AND, WHERE NECESSARY, RECOMMENDATIONS FOR IMPROVEMENT.

11 (B) AN ASSESSMENT OF THE EXISTING OPPORTUNITIES FOR PUBLIC
12 INPUT AND, WHERE NECESSARY, RECOMMENDATIONS FOR IMPROVEMENT.

13 (C) AN EVALUATION OF PLANNING MECHANISMS THAT CAN BE USED TO
14 INCREASE THE COORDINATION BETWEEN STATE LEASING AND WELL PERMIT-
15 TING AND LOCAL PLANNING EFFORTS.

16 (3) THE RESULTS OF THE EVALUATION CONDUCTED UNDER SUBSECTION
17 (2) SHALL BE COMPILED IN A SUMMARY DOCUMENT. AT LEAST 2 PUBLIC
18 HEARINGS SHALL BE HELD TO ALLOW THE PUBLIC TO COMMENT ON THE
19 REVIEW. AFTER THE PUBLIC HEARINGS HAVE BEEN HELD, THE FINAL
20 REPORT SHALL BE SUBMITTED TO THE LEGISLATURE AND TO THE COMMIS-
21 SION OF NATURAL RESOURCES FOR REVIEW. UPON ADOPTION BY THE COM-
22 MISSION OF NATURAL RESOURCES, THE RECOMMENDATIONS, WHERE POSSI-
23 BLE, SHALL BE INCORPORATED INTO THE APPROPRIATE STATE OIL AND GAS
24 POLICIES.

25 SEC. 62003. THE DEPARTMENTS SHALL DEVELOP HYDROCARBON
26 DEVELOPMENT PLANS FOR EACH OF THE WATERSHEDS AND GREAT LAKES
27 COASTAL REGIONS. THE INITIAL PLAN PREPARED UNDER THIS SECTION

1 SHALL BE FOR THAT SECTION OF THE LAKE MICHIGAN COASTAL ZONE THAT
2 THE DEPARTMENTS DETERMINE TO HAVE A REASONABLE LIKELIHOOD OF
3 HYDROCARBON DEVELOPMENT IN THE NEXT 50 YEARS. THE LAKE MICHIGAN
4 COASTAL ZONE PLAN SHALL BE COMPLETED WITHIN 18 MONTHS AFTER THE
5 EFFECTIVE DATE OF THIS SECTION. UPON COMPLETION OF THE LAKE
6 MICHIGAN COASTAL ZONE PLAN, THE DEPARTMENTS SHALL DEVELOP A PLAN
7 FOR THE JORDAN RIVER WATERSHED. FOLLOWING THE COMPLETION OF THE
8 JORDAN RIVER WATERSHED PLAN, THE DEPARTMENTS SHALL IDENTIFY AND
9 PRIORITIZE ADDITIONAL WATERSHEDS AND REGIONS IN THE STATE FOR
10 PREPARATION OF PLANS UNDER THIS PART.

11 SEC. 62004. THE DEPARTMENTS SHALL ASSIGN STAFF MEMBERS FROM
12 THE DEPARTMENTS OR SUBCONTRACTORS TO ASSIST IN THE DEVELOPMENT OF
13 THE PLANS UNDER THIS PART. ADDITIONALLY, FOR EACH WATERSHED OR
14 REGION FOR WHICH A PLAN IS BEING PREPARED, THE DEPARTMENTS SHALL
15 APPOINT A CITIZENS ADVISORY COUNCIL TO ASSIST THE DEPARTMENTS IN
16 THE PREPARATION OF THE PLAN FOR THAT WATERSHED OR REGION. THE
17 COUNCIL SHALL BE COMPOSED OF THE FOLLOWING MEMBERS:

18 (A) 4 INDIVIDUALS REPRESENTING LOCAL UNITS OF GOVERNMENT
19 WITHIN THE WATERSHED OR REGION.

20 (B) 1 INDIVIDUAL REPRESENTING THE OIL OR GAS INDUSTRY.

21 (C) 1 INDIVIDUAL REPRESENTING A SOIL CONSERVATION DISTRICT
22 WITHIN THE WATERSHED OR REGION.

23 (D) 2 INDIVIDUALS REPRESENTING PUBLIC INTEREST GROUPS.

24 (E) 4 INDIVIDUALS FROM THE GENERAL PUBLIC WHO BROADLY REPRESENT
25 INTERESTS IN RECREATION, FORESTRY, AGRICULTURE, AND SMALL
26 BUSINESS.

1 SEC. 62005. (1) THE DEPARTMENTS SHALL WORK WITH THE COUNCIL
2 TO DEVELOP A DRAFT PLAN FOR THE WATERSHED OR REGION FOR WHICH THE
3 COUNCIL WAS APPOINTED. THE PLAN SHALL COVER ASPECTS SUCH AS
4 LEASING, PERMITTING, ENVIRONMENTAL STANDARDS, AND OVERSIGHT OF
5 OIL AND GAS DEVELOPMENT WITHIN THE WATERSHED OR REGION. HOWEVER,
6 FINAL AUTHORITY ON THE CONTENT OF THE PLAN WILL REMAIN WITH THE
7 DEPARTMENTS.

8 (2) A PLAN PREPARED UNDER SUBSECTION (1) SHALL DO ALL OF THE
9 FOLLOWING:

10 (A) IDENTIFY AREAS OF SPECIAL ENVIRONMENTAL VALUE.

11 (B) IDENTIFY APPROPRIATE AREAS FOR SURFACE FACILITIES.

12 (C) ESTABLISH SPECIFIC CRITERIA TO GUIDE DEVELOPMENT IN SEN-
13 SITIVE ENVIRONMENTAL AREAS AND IN AREAS OF SPECIAL COMMUNITY
14 CONCERN.

15 (D) ESTABLISH MINIMUM SETBACKS FOR ALL SURFACE FACILITIES
16 INCLUDING WELLHEADS, PIPELINES, PROCESSING FACILITIES, AND SERV-
17 ICE ROADS FROM CRITICAL DUNES, WETLANDS, SURFACE WATERS, PUBLIC
18 RECREATIONAL AREAS AND FACILITIES, SCHOOLS, HOSPITALS, AND OTHER
19 PUBLIC FACILITIES.

20 (E) IN SENSITIVE AREAS IDENTIFIED BY THE DEPARTMENTS,
21 REQUIRE ALL OF THE FOLLOWING:

22 (i) THE USE OF DIRECTIONAL DRILLING WHEN POSSIBLE TO AVOID
23 SURFACE DISRUPTION.

24 (ii) INCREASES IN WELL SPACING WHEN POSSIBLE.

25 (iii) THE PROHIBITION OF ON-SITE WASTE PITS USED TO BURY
26 DRILLING MUDS AND ROCK CUTTINGS, BY JANUARY 1, 2000.

1 (F) REQUIRE OIL AND GAS DEVELOPERS TO SUBMIT TO THE
2 DEPARTMENTS COMPLETE DEVELOPMENT PLAN PROPOSALS THAT INCLUDE ALL
3 FACILITIES NECESSARY TO EXTRACT, PROCESS, AND DELIVER GAS AND OIL
4 TO MARKET. THE DEPARTMENTS SHALL COORDINATE THEIR REVIEW WITH
5 LOCAL GOVERNMENTS.

6 (G) MINIMIZE THE NUMBER OF SURFACE FACILITIES CONSTRUCTED IN
7 ALL SENSITIVE AREAS AND ALONG THE SHORELINE. IN THESE AREAS, ALL
8 SURFACE FACILITIES, PROCESSING PLANTS, ROADS, AND PIPELINES SHALL
9 BE SHARED BY PRIVATE OIL AND GAS DEVELOPERS, WHENEVER POSSIBLE.
10 APPLICANTS FOR NEW FACILITIES SHALL DEMONSTRATE NEED, INCLUDING A
11 LACK OF AVAILABLE CAPACITY.

12 SEC. 62006. (1) FOLLOWING PREPARATION OF A DRAFT PLAN UNDER
13 SECTION 62005, THE DEPARTMENTS SHALL SUBMIT THE DRAFT PLAN TO
14 EACH COUNTY WITHIN THE GEOGRAPHIC AREA COVERED BY THE DRAFT PLAN
15 FOR ITS REVIEW. WITHIN 60 DAYS OF ITS RECEIPT OF THE DRAFT PLAN,
16 THE COUNTY SHALL PROVIDE COMMENT ON THE DRAFT PLAN. FOR COUNTIES
17 THAT HAVE AN ADOPTED LAND USE PLAN, THE DRAFT HYDROCARBON DEVEL-
18 OPMENT PLAN SHALL INCLUDE AN ANALYSIS OF THE COMPATIBILITY
19 BETWEEN THE DRAFT HYDROCARBON DEVELOPMENT PLAN AND THE LAND USE
20 PLAN, INCLUDING AN EXPLANATION OF WHERE THE PLANS ARE CONSISTENT
21 AND WHERE THEY ARE NOT. FOLLOWING REVIEW BY THE COUNTIES, THE
22 DEPARTMENTS SHALL ORGANIZE PUBLIC HEARINGS IN THE GEOGRAPHIC AREA
23 COVERED BY THE DRAFT PLAN TO RECEIVE PUBLIC COMMENT. NOTICE OF
24 THE PUBLIC HEARING SHALL BE PROVIDED IN THE SAME MANNER AS IS
25 REQUIRED FOR PUBLIC HEARINGS UNDER THE ADMINISTRATIVE PROCEDURES
26 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. THE DEPARTMENTS
27 SHALL CONSIDER ALL COMMENTS RECEIVED FOR INCORPORATION INTO THE

1 FINAL PLAN, AND SHALL PREPARE A WRITTEN SUMMARY OF THE PUBLIC
2 HEARING.

3 (2) FOLLOWING THE PUBLIC HEARINGS HELD UNDER SUBSECTION (1)
4 AND CONSIDERING THE COMMENTS RECEIVED, THE DEPARTMENTS AND THE
5 COUNCIL SHALL PREPARE A FINAL PLAN FOR APPROVAL OF THE COMMISSION
6 OF NATURAL RESOURCES.

7 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART, AFTER
8 COMPLETION OF THE FINAL PLAN UNDER SUBSECTION (2), ALL OIL AND
9 GAS EXPLORATION AND DEVELOPMENT WITHIN THE GEOGRAPHIC AREA COV-
10 ERED BY A FINAL PLAN SHALL BE CONDUCTED IN COMPLIANCE WITH THE
11 FINAL PLAN.

12 (4) AFTER COMPLETION OF A FINAL PLAN UNDER THIS SECTION, THE
13 COUNCIL SHALL MEET AT LEAST ANNUALLY TO REVIEW COMPLIANCE WITH
14 THE PLAN, TO RECEIVE PUBLIC COMMENT, AND TO REVISE THE PLAN, IF
15 NECESSARY.

16 (5) ANY PROPOSED VARIANCES TO THE PLAN SHALL BE SUBMITTED IN
17 WRITING BY THE PERSON TO THE DEPARTMENTS AND THE COUNCIL FOR
18 THEIR REVIEW AND APPROVAL. THE DEPARTMENTS SHALL MAKE RECOMMEN-
19 DATIONS TO THE COMMISSION OF NATURAL RESOURCES. THE COMMISSION
20 OF NATURAL RESOURCES WILL MAKE A DETERMINATION ON THE PROPOSED
21 VARIANCE.