

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4746

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 205. (1) ~~An ordinance adopted under this act~~ **A ZONING**
2 **ORDINANCE** is subject to the electric transmission line
3 certification act, 1995 PA 30, MCL 460.561 to 460.575.

4 (2) A county or township shall not regulate or control the
5 drilling, completion, or operation of oil or gas wells or other
6 wells drilled for oil or gas exploration purposes and shall not
7 have jurisdiction with reference to the issuance of permits for the
8 location, drilling, completion, operation, or abandonment of such
9 wells.

1 (3) AN ORDINANCE SHALL NOT PREVENT THE EXTRACTION, BY MINING,
2 OF VALUABLE NATURAL RESOURCES FROM ANY PROPERTY UNLESS VERY SERIOUS
3 CONSEQUENCES WOULD RESULT FROM THE EXTRACTION OF THOSE NATURAL
4 RESOURCES. NATURAL RESOURCES SHALL BE CONSIDERED VALUABLE FOR THE
5 PURPOSES OF THIS SECTION IF A PERSON, BY EXTRACTING THE NATURAL
6 RESOURCES, CAN RECEIVE REVENUE AND REASONABLY EXPECT TO OPERATE AT
7 A PROFIT.

8 (4) A PERSON CHALLENGING A ZONING DECISION UNDER SUBSECTION
9 (3) HAS THE INITIAL BURDEN OF SHOWING THAT THERE ARE VALUABLE
10 NATURAL RESOURCES LOCATED ON THE RELEVANT PROPERTY, THAT THERE IS A
11 NEED FOR THE NATURAL RESOURCES BY THE PERSON OR IN THE MARKET
12 SERVED BY THE PERSON, AND THAT NO VERY SERIOUS CONSEQUENCES WOULD
13 RESULT FROM THE EXTRACTION, BY MINING, OF THE NATURAL RESOURCES.

14 (5) IN DETERMINING UNDER THIS SECTION WHETHER VERY SERIOUS
15 CONSEQUENCES WOULD RESULT FROM THE EXTRACTION, BY MINING, OF
16 NATURAL RESOURCES, THE STANDARDS SET FORTH IN SILVA V ADA TOWNSHIP,
17 416 MICH 153 (1982), SHALL BE APPLIED AND ALL OF THE FOLLOWING
18 FACTORS MAY BE CONSIDERED, IF APPLICABLE:

19 (A) THE RELATIONSHIP OF EXTRACTION AND ASSOCIATED ACTIVITIES
20 WITH EXISTING LAND USES.

21 (B) THE IMPACT ON EXISTING LAND USES IN THE VICINITY OF THE
22 PROPERTY.

23 (C) THE IMPACT ON PROPERTY VALUES IN THE VICINITY OF THE
24 PROPERTY AND ALONG THE PROPOSED HAULING ROUTE SERVING THE PROPERTY,
25 BASED ON CREDIBLE EVIDENCE.

26 (D) THE IMPACT ON PEDESTRIAN AND TRAFFIC SAFETY IN THE
27 VICINITY OF THE PROPERTY AND ALONG THE PROPOSED HAULING ROUTE

1 SERVING THE PROPERTY.

2 (E) THE IMPACT ON OTHER IDENTIFIABLE HEALTH, SAFETY, AND
3 WELFARE INTERESTS IN THE LOCAL UNIT OF GOVERNMENT.

4 (F) THE OVERALL PUBLIC INTEREST IN THE EXTRACTION OF THE
5 SPECIFIC NATURAL RESOURCES ON THE PROPERTY.

6 (6) SUBSECTIONS (3) TO (5) DO NOT LIMIT A LOCAL UNIT OF
7 GOVERNMENT'S REASONABLE REGULATION OF HOURS OF OPERATION, BLASTING
8 HOURS, NOISE LEVELS, DUST CONTROL MEASURES, AND TRAFFIC, NOT
9 PREEMPTED BY PART 632 OF THE NATURAL RESOURCES AND ENVIRONMENTAL
10 PROTECTION ACT, 1994 PA 451, MCL 324.63201 TO 324.63223. HOWEVER,
11 SUCH REGULATION SHALL BE REASONABLE IN ACCOMMODATING CUSTOMARY
12 MINING OPERATIONS.

13 (7) THIS ACT DOES NOT LIMIT STATE REGULATORY AUTHORITY UNDER
14 OTHER STATUTES OR RULES.