

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5121

A bill to amend 2006 PA 110, entitled
"Michigan zoning enabling act,"
by amending section 205 (MCL 125.3205), as amended by 2018 PA 366.

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, 2018 PA 365, MCL 460.1301 to 460.1339.

9 (d) **Part 8 of the clean and renewable energy and energy waste**

1 **reduction act, 2008 PA 295, MCL 460.1221 to 460.1232.**

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

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

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

21 (5) In determining under this section whether very serious
22 consequences would result from the extraction, by mining, of
23 natural resources, the standards set forth in *Silva v Ada Township*,
24 416 Mich 153 (1982), shall be applied and all of the following
25 factors may be considered, if applicable:

26 (a) The relationship of extraction and associated activities
27 with existing land uses.

28 (b) The impact on existing land uses in the vicinity of the
29 property.

1 (c) The impact on property values in the vicinity of the
2 property and along the proposed hauling route serving the property,
3 based on credible evidence.

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

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

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

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

18 **(7) A renewable energy project that received special land use**
19 **approval under section 502 on or after January 1, 2021 is**
20 **considered to be a prior nonconforming use and the special land use**
21 **approval shall not be revoked or modified if substantial**
22 **construction has occurred or if an expenditure equal to 10% of the**
23 **project construction costs or \$10,000.00, whichever is less, has**
24 **been made.**

25 **(8) ~~(7)~~**—This act does not limit state regulatory authority
26 under other statutes or rules.

27 Enacting section 1. This amendatory act does not take effect
28 unless House Bill No. 5120 of the 102nd Legislature is enacted into
29 law.