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Harmful legislation would silence local voices on sand and gravel mining

Bills go against public sentiments supporting local say in aggregate operations in Michigan communities

Lansing, Mich.—Legislation newly introduced under the guise of solving aggregate supply chain issues will eliminate all local authority over sand and gravel mines and silence communities and residents over these high-impact operations. Organizations representing Michigan’s local governments urge lawmakers to oppose this legislative attack that preempts all local zoning, administration and ordinances over an industry that can have lasting, detrimental effects on Michigan communities, the environment, property and quality of life.

House Bills 4526-4528 usurp all local authority and allow a sand and gravel mine, crushing facility or storage facility to operate *anywhere* in a community—regardless of zoning—undermining the ability of local officials to balance the needs of all property owners in the borders of their jurisdiction. Under the three-bill package, *no* local regulations could apply to operation issues that are inherently local in nature, including hours of operation, truck routes, noise, dust control and fencing. The far-reaching legislation jeopardizes existing relationships between mine operators and local governments, shifting all new and expanding operations to state oversight—under a to-be-created permitting and regulatory system within the Michigan Department of Environment, Great Lakes, and Energy (EGLE). This would allow existing local government-permitted operations to move under state oversight without any consent of the local unit that approved and oversees the original permit.

“Residents elect their local leaders to act on their behalf for the best interests of the community and the people they serve,” said Neil Sheridan, executive director of the Michigan Townships Association (MTA). “This legislation is a solution in search of a non-existent problem. The truth is that the vast majority of sand and gravel permits are timely approved by local governments, and local officials and mining operators report decades-long positive working relationships. When an issue or concern arises, residents turn to their local leaders for assistance and action. This legislation eliminates that ability for officials to advocate for and safeguard their community. Michigan communities and residents deserve a better voice in their quality of life.”

“Cities and villages in Michigan are responsible for maintaining over 21,000 miles of roads. They understand as well as anyone the importance of controlling costs and maximizing available resources. They also understand the importance of building strong communities, protecting public health and

safety, improving quality of life, and are not intimidated by political campaigns that attempt to silence the voice of their residents and elected officials,” said Dan Gilmartin, CEO and executive director for the Michigan Municipal League. “Local leaders must balance the responsibility of being good stewards of public resources, the needs of their residents, and the business that support strong local economies. We encourage the Legislature to take that same inclusive approach and find a compromise that balances the needs of local communities and maintaining the infrastructure that supports them. We stand ready to work with all sides to meet that objective.”

These legislative efforts are counter to the desires of Michigan residents, according to responses to MTA-commissioned questions in the spring MRG Michigan Poll, in which a majority of respondents support local governments having the final say in how, when and where sand and gravel mining operations operate in Michigan communities. Additional recent polling showed that the vast majority of residents—almost 80%—opposed eliminating limitations on where mining operations can locate, and nearly three-quarters opposed eliminating a community’s ability to regulate certain aspects of mining operations or eliminating the ability to require an annual review of these operations.

“The legislation may be ‘new,’ but the problems it would create have long been known,” said Stephan Currie, executive director of the Michigan Association of Counties. “Local governments are best equipped to determine what is best for their communities, so state preemption, as envisioned by these bills, would be the opposite of good governance—and set a dangerous precedent on preemption of local control in other policy areas.”

While touted as a compromise that protects the environment, communities and residents, the opposite is in fact true. The one-sided bills put profit over people, ignoring local governments, residents and property owners. The legislation:

- Prohibits municipalities and affected residents or businesses from requesting any permit modifications, silencing the community from issues impacting their daily lives and livelihood, but allows EGLE to grant modifications requested by the mine operator only.
- Allows 70-foot-high aggregate stockpiles just 50 feet from property lines—an obvious impact on neighboring property owners.
- Holds neighboring properties hostage for years by allowing mines to bank sites for up to a decade.
- Artificially limits required financial assurances at levels that do not provide for proper protections for amounts needed for land reclamation.
- Codifies operation hours for activities such as truck loading, blasting and crushing to begin by at least at 6 a.m. six days per week—and allows for hours beyond that time for state or county contracts.
- Limits local government and resident input only through public comment periods and removes any right of referendum by impacted residents.
- Prescribes noise levels required for worker safety hearing protection only and weighted over eight hours—with no considerations for the impact of noise to nearby homes, businesses, schools and property.
- Vacates previous judicial and administration opinions related to all mining permit applications—including those previously submitted to a local unit of government.

Local governments support access to aggregate materials necessary to fix Michigan's roads. However, the current process allows for local governments to balance those needs along with those of their community. This legislation eliminates that ability for local governments to protect the interests and safety of their residents, students, businesses and property owners.

"As a regional transportation planning agency, we appreciate the vital role of sand and gravel in infrastructure projects, particularly roads," said Amy O'Leary, executive director of SEMCOG, the Southeast Michigan Council of Governments. "However, we are also acutely aware of the disruptive impacts of new and existing mining operations on sustainable environments in neighboring properties. Local planning and zoning laws are used to balance the needs and rights of all property owners, and mining operations are among the most challenging issues to deal with."

Michigan lawmakers are asked to stand with Michigan communities and oppose this legislation and these harmful efforts.