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BILL ANALYSIS

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House Bill 6243 (Substitute H-1 as passed by the House)
Sponsor: Representative Tom Casperson
House Committee: Agriculture and Resource Management
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 11-29-04

CONTENT

The bill would add Part 632, Nonferrous Metallic Mineral Mining, to the Natural Resources and Environmental Protection Act (NREPA) to do the following:

-- Require a person to obtain a mining permit from the Department of Environmental Quality (DEQ) in order to engage in the mining of nonferrous metallic minerals.
-- Require a mining permit applicant to submit to the DEQ a $5,000 application fee; an environmental impact assessment; and a mining, reclamation, and environmental protection plan.
-- Establish procedures for public hearings and comments on proposed mining operations.
-- Require a permittee to conduct reclamation activities and postclosure monitoring activities; and maintain financial assurance during the reclamation and postclosure monitoring periods.
-- Require a permittee to submit to the DEQ an annual mining and reclamation report.
-- Create the "Nonferrous Metallic Mineral Surveillance Fund" to reimburse the DEQ for its expenses in administering and enforcing proposed Part 632.
-- Impose an annual surveillance fee on material mined from a mining area of up to five cents per ton but not less than $5,000.
-- Allow the DEQ to require an operator in violation of Part 632 to take corrective action; and prescribe civil and criminal penalties for a violation.

The bill would define "nonferrous metallic mineral" as any ore or material to be excavated from the natural deposits on or in the earth for its metallic content, but not primarily for its iron or iron mineral content, to be used for commercial or industrial purposes.

DEQ Powers & Duties

The bill would require the DEQ to administer and enforce proposed Part 632. In addition to other powers granted to it, the DEQ would have to promulgate rules to implement and administer Part 632, including standards for construction, operation, closure, postclosure monitoring, reclamation, and remediation of a mine. The DEQ, however, could not promulgate rules under Part 632 after one year after the bill's effective date.

At all reasonable times, the DEQ could enter in or upon a mining area for the purpose of inspecting and investigating conditions related to the mining area's operation. The DEQ also could conduct research or enter into contracts related to mining areas and the reclamation of mining areas as necessary to implement Part 632.

The bill would define "mining" as excavating or removing more than 10,000 tons of earth material per year or distributing more than one acre of land per year in the regular operation of a business for the purpose of

extracting a nonferrous metallic mineral or minerals by either of the following:

-- Removing the overburden lying above natural deposits of a mineral and excavating directly from the exposed natural deposits or excavating directly from deposits lying exposed in their natural state.
-- Excavating from below the surface of the ground by means of shafts, tunnels, or other subsurface openings.

"Mining area" would mean an area of land from which earth material was removed in connection with nonferrous metallic mineral mining, the land on which material from that mining was stored or deposited, the land on which beneficiating or treatment plants and auxiliary facilities were located, the land on which water reservoirs used in the mining process were located, and auxiliary land that was used in connection with the mining.

Mining Permit

Under the bill, a person could not engage in the mining of nonferrous metallic minerals except as authorized in a mining permit issued by the Department of Environmental Quality.

An application for a mining permit would have to be accompanied by a permit application fee of $5,000, which the DEQ would have to forward to the State Treasurer for deposit in the Nonferrous Metallic Mineral Surveillance Fund. The applicant also would have to submit an environmental impact assessment for the proposed mining operation that described the natural and human-made features, including flora, fauna, hydrology, geology, and geochemistry, and baseline conditions in the proposed mining area and the affected area on which the mining could have an impact, and the potential impacts on those features. The assessment would have to define the affected area and address feasible and prudent alternatives.

("Affected area" would mean the area outside of the mining area where the land surface, surface water, groundwater, or air resources were determined through an environmental impact assessment potentially to be affected by mining operations within the proposed mining area.)

Additionally, a mining permit application would have to include a mining, reclamation, and environmental protection plan for the proposed mining operation, including beneficiation operations, that reasonably would minimize the actual and potential adverse impacts on natural resources, the environment, and public health and safety within the mining area and the affected area. The plan would have to address the unique issues associated with nonferrous metallic mining and include the following:

-- A description of materials, methods, and techniques that would be used.
-- Plans and schedules for interim and final reclamation of the mining area following cessation of mining operations.
-- A description of the geochemistry of the ore, waste, rock, overburden, peripheral rock, and tailings, including characterization of leachability and reactivity.
-- Provisions for the prevention, control, and monitoring or acid-forming waste products and other waste products from the mining process so as to prevent leaching into groundwater or runoff into surface water.
-- Financial assurance, as described below.
-- A list of other State and Federal permits that were anticipated to be required.

The plan also would have to include information demonstrating that all methods, materials, and techniques were capable of accomplishing their stated objectives in protecting the environment and public health, unless the methods, materials, and techniques were used widely in mining or other industries and were generally accepted as effective. The required information could consist of results of actual testing, modeling, documentation by credible independent testing and certification organizations, or documented applications in similar uses and settings.

In addition, the plan would have to contain a contingency plan that included an assessment of the risk to the environment or public health and safety associated with potential significant incidents or failures and described the operator's notification and response plans. When the application was submitted to the Department, the applicant would have to provide a copy of the contingency plan to each emergency management coordinator having jurisdiction

over the affected area. ("Emergency management coordinator" would mean a person appointed to coordinate emergency management within the county or municipality. The term would include a civil defense director, civil defense coordinator, emergency services coordinator, emergency program manager, or other person with a similar title and duties.)

The applicant would have the burden of establishing that the terms and conditions set forth in the application, the mining, reclamation, and environmental protection plan, and the environmental impact assessment would result in a mining operation that reasonably minimized actual or potential adverse impacts on air, water, and other natural resources and met the requirements of NREPA.

Effective 14 days after the DEQ received an application, it would have to be considered to be administratively complete unless the Department notified the applicant before then that the application was not administratively complete, specifying the information necessary to make it complete, or notified the applicant that the required fee had not been paid, specifying the amount due. The running of the 14-day period would be tolled until the applicant submitted the specified information or the required fee. The notice would have to be given in writing or electronically.

Public Meeting & Hearing

Within 42 days after an application was determined to be administratively complete, the DEQ would have to hold a public meeting on it in the county where the proposed mining operation was located. The Department would have to give notice of the meeting between 14 and 28 days before the meeting date. The notice would have to specify the time and place of the meeting, and include information on how to review a copy of the application. The notice would have to be given in writing to the city, village, or township and the county where the proposed operation was to be located, as well as to all affected Federally recognized Indian tribes. The notice also would have to be given by publication in a newspaper of local distribution in the area where the proposed mining operation was to be located.

The DEQ would have to accept written public comment on the application for 28 days following the meeting. Within 28 days after the expiration of the public comment period, the DEQ would have to reach a proposed decision to grant or deny a mining permit and would have to establish a time and place for a public hearing on the proposed decision. The DEQ would have to give notice of the public hearing between 14 and 28 days before the hearing date, in the same manner as required for the first notice. The hearing notice would have to contain all of the following:

-- A summary of the permit application.
-- Information on how to review a complete copy of the application, which would have to be made available at a public location in the area.
-- A listing of other permits and hearings that were pending or anticipated under NREPA with respect to the proposed mining operation.
-- The time and place of the public hearing, which would have to be held in the area where the proposed operation was located.

The DEQ would have to accept written public comment on the proposed decision to grant or deny a mining permit for 28 days following the public hearing. When the public comment period expired, the DEQ would have to issue a report summarizing all comments received and providing the Department's response to them.

If a person applied for a mining permit and one or more other permits under NREPA with respect to a particular mining operation, the DEQ could process the applications in a coordinated fashion to the extent feasible given procedural requirements applicable to individual permits. The coordinated permit process could include consolidating public hearings under proposed Part 632 with public hearings required under other parts of NREPA. Any notice of a consolidated public hearing would have to state clearly which permits were to be considered at the hearing. An applicant could waive any required timelines to facilitate the coordination.

Approval or Denial of a Permit

Within 28 days after the expiration of the period for public comment on the DEQ's proposed decision to grant or deny a mining permit, the DEQ would have to grant or deny the permit application in writing. A determination that an application was administratively incomplete would not preclude the Department from requiring additional information from the applicant. The 28-day period would be tolled until the applicant submitted the requested information. If a permit were denied, the reasons would have to be stated in a written report to the applicant.

A mining permit could not be issued or transferred to a person if the DEQ had determined that person to be in violation of proposed Part 632, rules promulgated under Part 632, the permit, or an order of the DEQ under Part 632, unless the person had corrected the violation or agreed in writing to correct it under a compliance schedule approved by the DEQ.

The Department would have to approve a permit if it determined both that the application met the requirements of Part 632; and that the proposed operation would not pollute, impair, or destroy the air, water, or other natural resources, in accordance with Part 17 of NREPA (the Michigan Environmental Protection Act). In making this determination, the DEQ would have to take into account the extent to which other permit determinations afforded protection to natural resources. For the purpose of this determination, excavation and removal of nonferrous metallic minerals and of associated overburden waste rock, in and of itself, would not constitute pollution, impairment, or destruction of those natural resources. The DEQ would have to deny the permit if it determined that these requirements had not been met.

Terms and conditions set forth in the permit application and the mining, reclamation, and environmental protection plan and approved by the DEQ would have to be incorporated in and become a part of the permit. A mining permit would not be effective until all other permits required under NREPA for the proposed operation were obtained.

Revocation & Termination of a Mining Permit

A mining permit would remain in effect until terminated or revoked by the DEQ. The Department could terminate a permit if the permittee had not commenced construction of plant facilities or conducted actual mining activities covered by the permit within two years after its effective date.

The DEQ also could terminate a permit if the permittee had completed final reclamation of the mining area and requested the termination of the permit, and the Department determined all of the following:

-- The mining operation had not polluted, impaired, or destroyed the air, water, or other natural resources or the public trust in those resources by activities conducted within the scope of the permit.
-- The permittee otherwise had fulfilled all conditions the DEQ determined necessary to protect the public health, safety, and welfare and the environment.
-- The requirements for the postclosure monitoring period had been satisfied.

(Under the bill, "postclosure monitoring period" would mean a period following closure of a nonferrous metallic mineral mine during which the permittee was required to conduct monitoring of groundwater and surface water.)

The DEQ could revoke a permit for a violation of Part 632, a rule, or the permit (as described below).

Mining Permit Transfer

A mining permit could be transferred to a new operator with the Department's approval after public notice. The person acquiring the permit would have to submit to the DEQ a request for transfer of the permit, and provide the required financial assurance. The person also would have to accept the conditions of the existing permit and adhere to the requirements set forth in Part 632.

If the DEQ determined the permittee was in violation of Part 632 or rules promulgated under it at the mining site involved in the transfer, the permit could not be transferred until the permittee completed the necessary

corrective actions or the person acquiring the permit entered into a written consent agreement to correct all of the violations.

The proposed transferee could not operate the mine pending the transfer of the existing permit.

Permit Amendment

A permittee could submit to the DEQ a request to amend the permit to address anticipated changes in the mining operation, including amendments to the environmental impact assessment and to the mining, reclamation, and environmental protection plan. Also, the DEQ could require a permit to be amended if it determined that the permit's terms and conditions were not providing the intended reasonable protection of the environment, natural resources, or public health and safety.

Within 30 days of receiving a request to amend a mining permit, or upon determining that an amendment was necessary, the DEQ would have to determine whether the request constituted a significant change from the conditions of the approved permit. If the Department determined that the request was a significant change, it could submit the request to the same review process as provided for a new permit application. If an amendment request were denied, the reasons for the denial would have to be stated in a written report to the permittee. If the DEQ determined that the request did not constitute a significant change, it would have to provide written notice to the city, village, or township and county and all affected Indian tribes. It also would have to give notice by publication in a newspaper of local distribution. The DEQ would have to approve the amendment within 14 days after publication of the notice, and notify the permittee of the approval.

Permittee Requirements

A permittee would have to comply with all other applicable permit standards under NREPA, and would have to conduct reclamation activities at a mining area in accordance with the approved mining, reclamation, and environmental protection plan.

If mining operations were suspended for a continuous period of more than 90 days, the permittee would have to take actions to maintain, monitor, and secure the mining area, and would have to conduct any interim sloping or stabilizing of surfaces necessary to protect the environment, natural resources, or public health and safety in accordance with the permit.

A permittee would have to begin final reclamation of a mining area within three years of the date mining operations ceased and would have to complete reclamation within the time set forth in the mining, reclamation, and environmental protection plan approved by the DEQ. Upon a permittee's written request, the DEQ could approve an extension of time to begin or complete final reclamation.

A permittee would have to conduct groundwater and surface water monitoring in accordance with the provisions of the permit during mining operations and during the postclosure monitoring period. The postclosure monitoring period would have to be 20 years following the cessation of mining. The permittee would have to give the DEQ a written request to terminate the postclosure monitoring at least 18 months before the proposed termination date and would have to give the Department technical data and information demonstrating the basis for the termination.

The DEQ could extend the postclosure monitoring period in increments of up to 20 years, unless it determined, approximately one year before the end of a monitoring period or incremental monitoring period, that there was no significant potential for water contamination resulting from the mining operation. The DEQ could extend or shorten the monitoring period only after public notice and opportunity for a public hearing.

Both the mining area and the affected area would have to be reclaimed and remediated to achieve a self-sustaining ecosystem appropriate for the region that did not require perpetual care following closure and with the goal that the affected area would be returned to the ecological conditions that approximated premining conditions subject to changes caused by nonmining activities or other natural events. Any portion of the

mining area owned by the applicant could be used for any legal purposes.

Compliance with Part 632 would not relieve a person of the obligation to comply with all other applicable tribal, State, Federal, or local statutes, regulations, or ordinances.

Financial Assurance

An operator would have to maintain financial assurance during mining operations until the DEQ determined that all reclamation had been completed and for a postclosure monitoring period as determined by DEQ. Financial assurance would have to be released immediately, however, upon termination of a mining permit because the permittee did not commence construction of plant facilities or conduct actual mining activities within two years after the permit's effective date.

The financial assurance would have to apply to all mining and reclamation operations subject to the permit and be sufficient to cover the cost to administer, and to hire a third party to implement, reclamation under the mining, reclamation, and environmental protection plan as well as necessary environmental protection measures, including remediation of any contamination of the air, surface water, or groundwater that violated the mining permit. The financial assurance would have to consist of a conformance bond, escrow, cash, certificate of deposit, irrevocable letter of credit, or other equivalent security, or any combination thereof, covering at least 75% of the total required amount. Financial assurance for the balance of the required total amount, if any, would have to consist of a statement of financial responsibility.

Every three years, or as the Department considered necessary, a permittee would have to update the statement of financial responsibility and adjust the conformance bond, escrow, cash, certificate of deposit, irrevocable letter of credit, or other security, as applicable, to assure that the financial assurance was sufficient for the purposes of administering and implementing reclamation.

The financial assurance mechanism could be satisfied in whole or in part by financial assurance provisions required by other parts of NREPA if those provisions addressed the remediation activities required under proposed Part 632.

Failure to provide financial assurance would constitute grounds for the DEQ to order immediate suspension of activities at a mining operation, including the removal of metallic product from the site (as described below).

Mining & Reclamation Report

A permittee would have to file with the DEQ a mining and reclamation report by March 15 of each year, while the mine was operating and during the postclosure monitoring period. The report would have to contain the following:

-- A description of the status of mining and reclamation operations.
-- An update of the contingency plan, a copy of which the permittee would have to give to the emergency management coordinator.
-- A report of the total tons of material mined from the mining area, and the amount of metallic product by weight, produced from the nonferrous metallic mineral mine for the preceding calendar year.

The permittee promptly would have to notify the DEQ of any incident, act of nature, or exceedance of a permit standard or condition at a mining operation that had created, or could create, a threat to the environment, natural resources, or public health and safety. A list of these reports also would have to be included in the mining and reclamation report.

The permittee would have to preserve records upon which the mining and reclamation reports were based for three years, and make them available to the Department upon request. The permittee would have to preserve records upon which incident reports were based for three years or until the end of the postclosure monitoring period, whichever was later.

Surveillance Fee

For purposes of surveillance, monitoring, administration, and enforcement of Part 632, the DEQ would have to assess a permittee a nonferrous metallic mineral surveillance fee of up to five cents per ton of

material mined from the mining area as reported in the mining and reclamation report, but not less than $5,000, for each calendar year the mine was in operation and during the postclosure monitoring period. The fees would have to be forwarded to the State Treasurer for deposit in the Nonferrous Metallic Mineral Surveillance Fund. The fee rate would have to be calculated each year as follows:

-- The DEQ would have to determine the total tons of material mined from mining areas in the State for the prior calendar year.
-- The DEQ would have to calculate the adjusted appropriation by deducting any unspent money in the Fund at the close of the prior fiscal year from the amount appropriated for the current fiscal year for surveillance, monitoring, administration, and enforcement of Part 632.
-- The fee rate would be the ratio, to the nearest 0.01%, of the adjusted appropriation to the total tons of material mined.

The fee would be due by 30 days after the DEQ sent written notice to the permittee of the amount due. A penalty equal to 10% of the amount due, or $1,000, whichever was greater, would have to be assessed against the permittee for a fee that was not paid when due. The DEQ could file an action in the circuit court for Ingham County to collect the unpaid fee and penalty. The unpaid fee and penalty would constitute a debt and become the basis of a judgment against the permittee.

The penalties paid would have to be used for the implementation, administration, and enforcement of Part 632.

Nonferrous Metallic Mineral Surveillance Fund

The bill would create the Fund within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, and would have to direct the investment of the Fund. The State Treasurer would have to credit to the Fund interest and earnings from Fund investments. Unspent money in the Fund at the close of the fiscal year would have to remain in the Fund and be carried over to the succeeding fiscal year. The DEQ could spend the Fund money, upon appropriation, only for surveillance, monitoring, administration, and enforcement under Part 632.

Grievance Process; Hearings

A person who was aggrieved by an order, action, or inaction of the DEQ, or by the issuance, denial, revocation, or amendment of a mining permit could file a petition with the DEQ requesting a contested case hearing under the Administrative Procedures Act (APA). A petition filed more than 60 days after an order, action, or inaction of the DEQ or an action on a mining permit could be rejected as untimely.

Any hearing under Part 632 would have to be held pursuant to the APA. The DEQ would have to provide notice of the hearing and mail copies of the notice to the person requesting the hearing; to the city, village, or township and the county where the proposed mining operation was to be located; and to all affected Indian tribes. The DEQ would have to publish notice of the hearing in a newspaper of local distribution in the area of the mining operation at least 10 days before the hearing.

Violation of Proposed Part 632

If the DEQ determined that an operator had violated Part 632, a rule promulgated under it, or a mining permit issued under Part 632, the DEQ would have to require the operator to correct the violation. If the DEQ determined that a violation was causing or resulting in an imminent and substantial endangerment to the public health or safety, environment, or natural resources, it would have to take action necessary to abate or eliminate the endangerment. The action could include revoking the mining permit; issuing an order to the operator requiring immediate suspension of activities at the mining operation, including the removal of metallic product from the site; and ordering the operator to undertake other response actions necessary to abate or eliminate the endangerment.

Before taking action to suspend operations or revoke a permit, or otherwise prevent the continuation of mining operations, the DEQ would have to give written notice to the operator, in person or by mail. The DEQ

would have to give the operator an opportunity for an evidentiary hearing.

If the DEQ found that emergency action was required to protect the public health, safety, or welfare, or to protect the environment, it could issue an emergency order without a public hearing to require an operator to suspend operations or take other corrective actions. An emergency order would remain in force and effect for a maximum of 21 days. If the operator or surety failed or neglected to correct the violation or take corrective actions as specified under the DEQ's order, after giving written notice to the operator and the surety, the DEQ could enter in or upon the mining area and upon and across any private or public property necessary to reach the mining area and take whatever action were necessary to curtail and remediate any damage to the environment and public health resulting from the violation. The operator and surety would be jointly and severally liable for all expenses the DEQ incurred, and would have to pay the claim within 30 days. If the claim were not paid within that time, the DEQ could bring suit against the operator or surety, jointly or severally, for the collection of the claim in any court of competent jurisdiction. Part 632 would not limit the DEQ's authority to take whatever response activities it determined necessary to protect the public health, safety, and welfare and the environment.

The revocation of a mining permit or suspension of activities would not relieve a permittee of the responsibility to complete reclamation, maintain the required financial assurance, and undertake all appropriate measures to protect the environment, natural resources, and public health and safety.

If the DEQ received an allegation of improper action under or a violation of Part 632, a rule promulgated under it, or a condition of a permit, and the person making the allegation provided evidence or corroboration sufficient to support the allegation, as determined by the Department, the DEQ would have to do all of the following:

-- Make a record of the allegation.
-- Conduct an inspection of the mining operation to investigate the allegation within five business days after the complaint or allegation was received.
-- Make a written report of the allegation and the results of the investigation to the operator and the person who made the allegation, within 15 business days after completing an investigation.

If the complaint or allegation were of a highly serious nature, as determined by the DEQ, the mining operation would have to be inspected as quickly as possible.
The DEQ would have to comply with the APA in its actions.

Civil & Criminal Penalties

The DEQ could request the Attorney General to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of Part 632 or a provision of a permit or order issued or rule promulgated under Part 632. An action could be brought in the circuit court for Ingham County or for the county in which the defendant was located, resided, or was doing business. The court would have jurisdiction to restrain the violation and to require compliance. In addition to any other relief, the court could impose a civil fine of at least $2,500, and could award reasonable attorney fees and costs to the prevailing party. The fine imposed could not exceed $25,000 per day of violation.

Upon a finding by the court that an operator had committed a violation that posed a substantial endangerment to the public health, safety, or welfare, the court would have to impose, in addition to the sanctions described above, a fine of at least $500,000 but not more than $5.0 million.

The Attorney General could file a civil suit in a court of competent jurisdiction to recover, in addition to a fine, the full value of the injuries done to the natural resources of Michigan and the costs of surveillance and enforcement by the State resulting from the violation.

If a person intentionally made a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of a permit, the person would be guilty of a felony. The person could be imprisoned for up to two years and would have to be fined at least

$2,500 but not more than $25,000 for each violation. For a subsequent violation, the court would have to impose a fine of between $25,000 and $50,000 per day of violation. With the exception of the issuance of criminal complaints, the issuance of warrants, and the holding of an arraignment, the circuit court for the county in which the violation occurred would have exclusive jurisdiction. Knowledge possessed by a person other than the defendant could be attributable to the defendant if he or she took affirmative steps to shield himself or herself from the relevant information.

If the court found that the actions of a criminal defendant posed a substantial endangerment to the public health, safety, or welfare, the court would have to impose, in addition to the civil penalty described above for substantial endangerment, a sentence of five years' imprisonment and a minimum fine of $1.0 million.

To find a defendant civilly or criminally liable for substantial endangerment, the court would have to determine that the defendant acted knowingly or recklessly in such a manner as to cause a danger of death or serious bodily injury, and that either of the following had occurred:

-- The defendant had an actual awareness, belief, or understanding that his or her conduct would cause a substantial danger of death or serious bodily injury.
-- The defendant acted in gross disregard of the standard of care that any reasonable person should observe in similar circumstances.

A civil fine or other civil award imposed would be payable to the State and would have to be credited to the General Fund. The fine would constitute a lien on any property, of any nature or kind, owned by the defendant. The lien would be effective and would have priority over all other liens and encumbrances except those filed or recorded before the date of judgment only if notice of the lien were filed or recorded as required by State or Federal law. A lien filed or recorded as required by State or Federal law would have to be terminated according to the procedures required by State or Federal law within 14 days after the fine or other award ordered was paid.

If a violation of Part 632 also constituted a violation of another part of NREPA, a court could apply a civil fine or penalty for the violation, and each day of continued violation, in accordance with and subject to the penalty limits of the other part.

Local Preemption

A local unit of government could not regulate or control mining or reclamation activities that were subject to Part 632, including construction, operation, closure, postclosure monitoring, reclamation, and remediation activities, and would not have jurisdiction concerning the issuance of permits for those activities. A local unit of government could, however, enact, maintain, and enforce ordinances, regulations, or resolutions affecting mining operations if the ordinances, regulations, or resolutions did not duplicate, contradict, or conflict with Part 632.

Legislative Findings

The bill includes the following findings by the Legislature:

-- "It is the policy of this state to foster the conservation and development of the state's natural resources."
-- "Discoveries of nonferrous metallic sulfide deposits have resulted in intensive exploration activities and may lead to the development of at least 1 mine."
-- "Nonferrous metallic sulfide deposits are different from the iron oxide ore deposits currently being mined in Michigan in that the sulfide minerals may react, when exposed to air and water, to form acid rock drainage. If the mineral products and waste materials associated with nonferrous metallic sulfide mining operations are not properly managed and controlled, they can cause significant damage to the environment, impact human health, and degrade the quality of life of the impacted community."
-- "The special concerns surrounding nonferrous metallic mineral mining warrant additional regulatory measures beyond those applied to the current iron mining operations."
-- "Nonferrous metallic mineral mining may be an important contributor to Michigan's economic vitality. The economic benefits of nonferrous metallic mineral mining shall occur only under conditions that

assure that the environment, natural resources, and public health and welfare are adequately protected."

Proposed MCL 324.63201-324.63223

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would establish a new permit program for the Department to administer and enforce. The program is intended to be self-supporting, with the revenue from application fees and annual surveillance fees covering all expenses. Since this would be a new permit program, it is unknown how many applications would be received and approved. Exploration for nonferrous metallic minerals is ongoing, although no such mining activity is happening on State-owned land. Existing environmental standards would apply to nonferrous metallic mineral mining.

The bill would establish civil and criminal penalties for violations of Part 632. Civil fine revenue would be deposited into the General Fund.

By creating a new felony, the bill would increase State and local corrections costs. There are no data to indicate how many offenders would be convicted of a violation. Local units would incur the cost of incarceration in local facilities, which varies by county. The State would incur the cost of felony probation at an average annual cost of $1,800 and the cost of incarceration in a State facility at an average annual cost of $28,000. Public libraries would benefit from any additional penal fine revenue.

Fiscal Analyst: Jessica Runnels