

## SAND DUNE SPECIAL EXCEPTIONS

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**Senate Bill 721 (S-1) as passed by the Senate**

**Sponsor: Sen. Darwin Boohar**

**House Committee: Natural Resources**

**Senate Committee: Natural Resources**

**Complete to 12-20-18**

Analysis available at

<http://www.legislature.mi.gov>

## SUMMARY:

Senate Bill 721 would amend Part 353 (Sand Dunes Protection and Management) of the Natural Resources and Environmental Protection Act to require the Department of Environmental Quality (DEQ) to issue a special exception regarding an activity in a critical dune area under certain circumstances. The bill would also change criteria for determining whether to issue a zoning variance or special exception in a critical dune area.

Currently, a person is prohibited from initiating a *use* in a critical dune area without first getting a permit from the relevant local unit of government or the DEQ.

*Use* is defined as a contour change or a developmental, silvicultural (forestry), or recreational activity that significantly alters a critical dune area physically.

However, a local unit may issue a variance under a zoning ordinance to allow a person to initiate or maintain a use in a critical dune area if not having the variance would cause a *practical difficulty* to the property owner. If the local unit does not have a zoning ordinance, the DEQ may issue a special exception under the model zoning plan to such a person.

Senate Bill 721 would require the DEQ to issue a special exception if all of the following conditions were met:

- The applicant is a local unit of government.
- The application involves public land that was public land on July 5, 1989.<sup>1</sup>
- The purpose of the application is to restore a use, including public viewing areas, that was lawful and in existence on July 5, 1989.
- The governing body of the local unit has adopted a resolution in support of the special exception.

The bill would also revise the criteria used to determine whether a *practical difficulty* will occur to a property owner if a variance or special exception is not granted. Under current law, primary consideration in making such a determination must go to assuring the protection of human health and safety and assuring compliance with applicable local, state,

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<sup>1</sup> July 5, 1989 was the effective date of Public Act 146 of 1989, which extensively revised and expanded the sand dune protection and management act (Public Act 222 of 1976) that was codified as Part 353 when the Natural Resources and Environmental Protection Act was enacted in 1994.

and federal requirements. In addition to these, the bill would require that primary consideration also be given to both of the following:

- The protection of multiple human uses of the critical dunes and the benefits of public access to and enjoyment of the critical dunes.
- The protection of compatible economic benefits associated with critical dunes.

The bill would take effect 90 days after its enactment.

MCL 324.35317

## **FISCAL IMPACT:**

It is unclear whether Senate Bill 721 would affect costs for the DEQ. The bill would require the department to issue a special zoning exception under specific circumstances. The DEQ already has the capacity to issue special exceptions and the number of special exception applicants who would qualify under the bill is unclear. Consequently the extent of a potential cost increase due to additional applicants is unclear. The bill is unlikely to affect costs or revenues for local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.