

Sand Mine Bill Strips Local Powers - Community's Ability to Say No

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This week Senator Kathleen Vinehout writes about a bill that would take away local control as it relates to sand mining. The bill, SB 632, appears to be fast-tracked through the legislative process. It will impact existing local ordinances and take away the ability of local communities to say “no”.

MADISON - Should communities be able to prevent development of sand mines? Can communities set rules if sand mine operations are inadequate to protect nearby residents?

A new “communities cannot say no to sand mines” bill is making its way through the Legislature. The bill introduced by Senator Tiffany, chair of the Senate Mining committee, appears on the fast track. It could be up for final passage in both houses less than two weeks after it was unveiled.

The bill freezes in place the public health, safety and welfare protections for a community as they relate to existing sand mines. If this bill becomes law, the locals wouldn't be able to write and enforce a new ordinance on any permitted mine during the life of that permit – as long as 25 years.

Much can happen in 25 years.

Local people who have written ordinances say it appears nearly all local ordinances would be

invalid under this bill. That's because the bill also requires ordinances relating to approval of sand mines be split apart from ordinances relating to the trucking of sand from the mine and processing of sand.

Most existing ordinances address the regulation of the actual mine as well as sand processing and transportation.

The combination of freezing in place rules affecting existing sand mines and invalidating most local ordinances will throw sand mine regulation into legal chaos. The bill creates a huge legal gray area on exactly which ordinance the sand mines would have to follow – the one made invalid by the bill or the new one rewritten to comply with the bill, or none at all.

Finally, this bill sets up a back-door process by which mine owners can avoid new restrictions and open a mine anywhere as long as they register the mineral deposit with local officials.

Changing a little known part of the statute written when comprehensive planning was put in place, this bill would stop a local community from saying 'no' to a mine owner who registered his mineral deposit.

Owners or those leasing property where a mine might be developed would be able to register that property with the town or county and have the existing rules for sand mines "locked in" at the time of registration for a period of up to 20 years. In addition locals could do nothing to prevent the mines' operation.

Many residents from the Town of Dover in Buffalo County wrote me saying the bill seeks to get around recent actions. One landowner explained (and I paraphrase) in the last 10 months Dover officials held more than a dozen public meetings including a community forum attended by a quarter of the town's population. Last July, in a unanimous vote, town officials recommended the county deny a permit for a 400-acre mine. In October, town officials adopted Village Powers. In January 2014, town officials adopted a Comprehensive Land Use Plan. In February, they adopted a sand mine ordinance resembling that of the Town of Cooks Valley.

While the Town of Dover was doing this work, the four owners of the mine quietly registered their mineral deposits with the county Register of Deeds. A Dover resident wrote: If Senator Tiffany's bill is passed, it would make all of the work that our town did to protect itself of no avail. Thousands of dollars have been spent by the town, as well as by landowners, so the voice of the town's people may be heard. Where do you find democracy speaking and being respected in this bill?

If this bill passes, Dover and other local communities can never say 'No'.

Just because an underground mineral deposit exists does not mean humans should extract it – at the expense of all of the wealth that exists above ground.

This bill is far more dangerous than its earlier cousin. It will set precedence for every other mineral deposit in Wisconsin. Do we want sand mining next to Lake Delton?

Industrial mining has its place. But it is a place that must be determined by the people who live in that neighborhood. Taking away the community's ability to say 'no' is taking away local control.

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