



SENATE BILL 632/ASSEMBLY BILL 816: *Preserving Property Rights*

Overview

- Courts have held that if a property is in lawful use prior to the enactment of a restrictive zoning ordinance, and the new zoning ordinance restricts or prohibits the use (thereby rendering the use "nonconforming"), the property is generally held to have a "grandfathered" or "vested" right to the nonconforming use. You can't change the zoning rules on a lawfully operating business in a manner that would destroy its property rights.
- Since a February 2012 Wisconsin Supreme Court decision (*Zwiefelhofer vs. Town of Cooks Valley*), Wisconsin has entered uncharted territory as municipalities have used non-zoning police powers to regulate non-metallic mining activity outside of the traditional zoning process. As a result, municipalities have enacted land-use restrictions outside of the zoning process, leaving locally approved, lawfully operating non-metallic mine operators without the grandfathered or vested rights to the nonconforming use.
- This is not hypothetical, there are real examples of how municipalities can, without due process, use police powers to effectively shut down Wisconsin businesses. In one case, a town board attempted to close a 100-year-old business that employs 100 people and is certified by the state DNR as a Green Tier site demonstrating superior environmental performance. Uncertainty like that has chilling implications and causes good companies to look outside of Wisconsin.
- SB 632/AB 816 codifies existing agreements between a mine and a municipality and prevents the potential misuse of municipal police powers to negatively impact a locally approved, lawfully operating non-metallic mine.
- SB 632/AB 816 does not impact a local unit's police power authority or pre-empt any local government authority. It ensures legally permitted non-metallic mines can keep operating responsibly, creating jobs and investing in Wisconsin.

Sponsors and Supporters

- SB 632/AB 816 is sponsored by State Sen. Tom Tiffany (R-Hazelhurst) and State Rep. Joan Ballweg (R-Markesan).
- In addition to the Wisconsin Industrial Sand Association, supporters of the legislation include:
 - Wisconsin Manufacturers & Commerce
 - Int'l Union of Operating Engineers #139
 - Wisconsin Transportation Builders Association
 - Aggregate Producers of Wisconsin
 - Wisconsin State Council of Carpenters
 - Wisconsin Cast Metals Association
 - Wisconsin Laborers' District Council
 - Iron Workers District Council of North Central States
 - Wisconsin Industrial Sand Association
 - Wisconsin Pipe Trades Association

About WISA

- WISA is a statewide organization formed to promote safe and responsible sand mining practices. The group works to promote science and fact-based discussions and to create a positive dialogue among the industry, citizens and government officials on sand mining issues. Sand mining in Wisconsin dates back more than a century. Today, the industry is responsible for thousands of family-supporting jobs and millions of dollars in positive economic impact.
- WISA members follow the association's strict Code of Conduct – a set of guiding principles and performance standards that reinforce the association's goal of being the leader in healthy, safe and environmentally responsible sand mining in Wisconsin.
- All WISA members are participants in the Wisconsin DNR's Green Tier program, which recognizes superior environmental commitment. Green Tier participation is a requirement of WISA membership.
- WISA's members include four of the country's oldest and most respected industrial sand companies with operations in Wisconsin: Badger Mining Corp., Fairmount Minerals/Wisconsin Industrial Sand Co., Unimin and U.S. Silica Co.