

# 1st Sub. H.B. 288

## CRITICAL INFRASTRUCTURE MATERIALS

HOUSE COMMITTEE AMENDMENTS

AMENDMENT 1

FEBRUARY 15, 2019 3:39 PM

Representative **Logan Wilde** proposes the following amendments:

1. *Page 3, Lines 63 through 72:*

63 (1) "Critical infrastructure materials" means ~~{the same as that term is defined in Section~~  
64 ~~17-41-101}~~ sand, gravel, or rock aggregate .

65 (2) "Critical infrastructure materials operations" ~~{means the same as that term is defined~~  
66 ~~in Section 17-41-101}~~ means the extraction, excavation, processing, or reprocessing of critical  
infrastructure materials .

67 (3) "Critical infrastructure materials operator" means ~~{the same as that term is defined~~  
68 ~~in Section 17-41-101}~~ a natural person, corporation, association, partnership, receiver, trustee,  
executor, administrator, guardian, fiduciary, agent, or other organization or representative, either  
public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:  
(a) owns, controls, or manages a critical infrastructure materials operations; and  
(b) has produced commercial quantities of critical infrastructure materials from the critical  
infrastructure materials operations .

69 (4) "Vested critical infrastructure materials operations" means critical infrastructure  
70 materials operations operating in accordance with a permit issued by the municipality that existed or  
was conducted or otherwise engaged in before a political  
71 subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials  
72 operations.

2. *Page 3, Lines 80 through 83:*

80 (1) (a) Critical infrastructure materials operations operating in accordance with a permit issued by  
the municipality are conclusively presumed to be  
81 vested critical infrastructure materials operations if the critical infrastructure materials  
82 operations existed or was conducted or otherwise engaged in before a political subdivision  
83 prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

3. *Page 3, Line 87 through Page 4, Line 90:*

87 (2) A vested critical infrastructure materials operations:  
88 (a) runs with the land; and  
89 (b) may be changed to another critical infrastructure materials operations conducted within the  
scope of the permit for the vested critical infrastructure materials operations without  
90 losing its status as a vested critical infrastructure materials operations.

4. Page 4, Line 104 through Page 5, Line 133:

104 10-9a-903. Rights of a critical infrastructure materials operator with a vested  
105 critical infrastructure materials operations -- Expanding vested critical infrastructure  
106 materials operations {~~==Notice.~~}

107 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation  
108 on a critical infrastructure materials operations adopted after the establishment of the critical  
109 infrastructure materials operations, the rights of a critical infrastructure materials operator with  
110 vested critical infrastructure materials operations include the right to:

111 {~~(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure~~  
112 ~~materials operations to land that the critical infrastructure materials operator owns or controls;~~  
113 ~~—(b) expand the vested critical infrastructure materials operations to any new land that is~~  
114 ~~contiguous and related in critical infrastructure materials to surface or subsurface land that the~~  
115 ~~critical infrastructure materials operator already owns or controls;}~~

116 {(c)} (a) use, operate, construct, reconstruct, restore, {~~extend, expand,~~} maintain, repair,  
alter,

117 substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on  
118 any surface or subsurface land that the critical infrastructure materials operator owns or  
119 controls;

120 {~~(d) increase production or volume, alter the method of excavating or extracting, and~~  
121 ~~process a different or additional critical infrastructure material than previously owned on any~~  
122 ~~surface or subsurface land that the critical infrastructure materials operator owns or controls;}~~

123 and

124 {(e)} (b) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily  
125 or permanently, all or any part of the critical infrastructure materials operations.

126 (2) {~~Notwithstanding the other provisions of this section from May 14, 2019, to July 1,~~  
127 ~~2020, a~~} A vested critical infrastructure materials operator may expand a vested critical  
128 infrastructure materials operator only if:

129 (a) the land to which the vested critical infrastructure materials operator expands is  
130 contiguous with land that the vested critical infrastructure materials operator owns or controls;

131 (b) the vested critical infrastructure materials operator owns or leases the land to which  
132 the vested critical infrastructure materials operator expands as of February 1, 2019; {and}

133 (c) the land is zoned for vested critical infrastructure materials operations {. ; and  
(d) the expansion is in accordance with the scope of the initial permit issued by the municipality.

5. Page 6, Lines 161 through 171:

161 As used in this part:

162 (1) "Critical infrastructure materials" means {~~the same as that term is defined in Section~~  
163 ~~17-41-101~~} - sand, gravel, or rock aggregate .

164 (2) "Critical infrastructure materials operations" means ~~{the same as that term is defined~~  
165 in Section 17-41-101} - the extraction, excavation, processing, or reprocessing of critical  
infrastructure materials -

166 (3) "Critical infrastructure materials operator" means ~~{the same as that term is defined~~  
167 in Section 17-41-101} - a natural person, corporation, association, partnership, receiver, trustee,  
executor, administrator, guardian, fiduciary, agent, or other organization or representative, either  
public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:  
(a) owns, controls, or manages a critical infrastructure materials operations; and  
(b) has produced commercial quantities of critical infrastructure materials from the critical  
infrastructure materials operations -

168 (4) "Vested critical infrastructure materials operations" means critical infrastructure  
169 materials operations = operating in accordance with a permit issued by the county = that existed or  
was conducted or otherwise engaged in before a political  
170 subdivision prohibits, restricts, or otherwise limits the critical infrastructure materials  
171 operations.

6. Page 6, Line 179 through Page 7, Line 182:

179 (1) (a) Critical infrastructure materials operations operating in accordance with a permit issued by  
the county are conclusively presumed to be  
180 vested critical infrastructure materials operations if the critical infrastructure materials  
181 operations existed or was conducted or otherwise engaged in before a political subdivision  
182 prohibits, restricts, or otherwise limits the critical infrastructure materials operations.

7. Page 7, Lines 186 through 189:

186 (2) A vested critical infrastructure materials operations:  
187 (a) runs with the land; and  
188 (b) may be changed to another critical infrastructure materials operations conducted within the  
scope of the permit for the vested critical infrastructure materials operations without  
189 losing its status as a vested critical infrastructure materials operations.

8. Page 7, Line 203 through Page 8, Line 231:

203 17-27a-1003. Rights of a critical infrastructure materials operator with a vested  
204 critical infrastructure materials operations -- Expanding vested critical infrastructure  
205 materials operations ~~{-- Notice}~~ .

206 (1) Notwithstanding a political subdivision's prohibition, restriction, or other limitation  
207 on a critical infrastructure materials operations adopted after the establishment of the critical  
208 infrastructure materials operations, the rights of a critical infrastructure materials operator with  
209 vested critical infrastructure materials operations include the right to:

210 ~~{(a) progress, extend, enlarge, grow, or expand the vested critical infrastructure~~

211 ~~materials operations to land that the critical infrastructure materials operator owns or controls;~~  
212 ~~—— (b) expand the vested critical infrastructure materials operations to any new land that is~~  
213 ~~contiguous and related in critical infrastructure materials to surface or subsurface land that the~~  
214 ~~critical infrastructure materials operator already owns or controls;~~  
215 ~~—— (c)}~~ (a) use, operate, construct, reconstruct, restore, ~~{extend, expand,}~~ maintain, repair,  
alter,  
216 substitute, modernize, upgrade, and replace equipment, processes, facilities, and buildings on  
217 any surface or subsurface land that the critical infrastructure materials operator owns or  
218 controls;  
219 ~~{ (d) increase production or volume, alter the method of excavating or extracting, and~~  
220 ~~process a different or additional critical infrastructure material than previously owned on any~~  
221 ~~surface or subsurface land that the critical infrastructure materials operator owns or controls;}~~  
222 and  
223 ~~{ (e)}~~ (b) discontinue, suspend, terminate, deactivate, or continue and reactivate, temporarily  
224 or permanently, all or any part of the critical infrastructure materials operations.  
225 (2) ~~{ Notwithstanding the other provisions of this section from May 14, 2019, to July 1,~~  
226 ~~2020, a}~~ A vested critical infrastructure materials operator may expand a vested critical  
227 infrastructure materials operator only if:  
228 (a) the land to which the vested critical infrastructure materials operator expands is  
229 contiguous with land that the vested critical infrastructure materials operator owns or controls;  
230 (b) the vested critical infrastructure materials operator owns or leases the land to which  
231 the vested critical infrastructure materials operator expands as of February 1, 2019; {and}

9. Page 8, Line 232:

232 (c) the land is zoned for vested critical infrastructure materials operations ~~{.}~~ ; and  
(d) the expansion is in accordance with the scope of the initial permit issued by the county.

10. Page 26, Lines 792 through 798:

792 (6) ~~{ From May 14, 2019, to July 1, 2020, a}~~ A county, city, or town may not:  
793 (a) adopt, enact, or amend an existing land use regulation, ordinance, or regulation that  
794 would prohibit, restrict, regulate, or otherwise limit critical infrastructure materials operations,  
795 including vested critical infrastructure materials operations as defined in Section 10-9a-901 or  
796 17-27a-1001; or  
797 (b) initiate proceedings to amend the county's, city's, or town's land use ordinances as  
798 described in Subsection 10-9a-509(1)(a)(ii) or 17-27a-508(1)(a)(ii).