

SENATE BILL No. 624

September 19, 2001, Introduced by Senator YOUNG and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 32701 (MCL 324.32701), as amended by 1996 PA
434, and by adding section 32704a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32701. As used in this part:

2 (a) "Agricultural purpose" means the agricultural production
3 of forestry, livestock, food, feed, or fiber.

4 (b) "Consumptive use" means that portion of water withdrawn
5 or withheld from the Great Lakes basin and assumed to be lost or
6 otherwise not returned to the Great Lakes basin due to evapora-
7 tion, incorporation into products, or other processes.

8 (c) "Department" means the department of environmental
9 quality.

1 (D) "DIVERSION" OR "INTERBASIN DIVERSION" MEANS THE
2 WITHDRAWAL OF WATERS OF THE GREAT LAKES BASIN AND THE TRANSPORT
3 OF THOSE WATERS TO 1 OR MORE LOCATIONS OUTSIDE OF THE GREAT LAKES
4 BASIN.

5 (E) ~~-(d)-~~ "Great Lakes basin" means the watershed of the
6 Great Lakes and the St. Lawrence river.

7 (F) ~~-(e)-~~ "Great Lakes charter" means the document estab-
8 lishing the principles for the cooperative management of the
9 Great Lakes water resources, signed by the governors and premiers
10 of the Great Lakes region on February 11, 1985.

11 (G) ~~-(f)-~~ "Great Lakes region" means the geographic region
12 composed of the states of Illinois, Indiana, Michigan, Minnesota,
13 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,
14 and the provinces of Ontario and Quebec, Canada.

15 (H) ~~-(g)-~~ "Industrial or processing facility" means an oper-
16 ating plant or other entity, including a thermoelectric power
17 generation plant, carrying on a common manufacturing activity,
18 trade, or business on a common site, including similar plants or
19 entities under common ownership or control located on contiguous
20 properties. Plants or entities under common ownership or control
21 located on separate sites shall be considered separate
22 facilities. Industrial or processing facility does not include
23 an irrigation facility.

24 (I) ~~-(h)-~~ "Irrigation facility" means all wells, pumps,
25 intakes, gates, tanks, pipes, or other equipment under common
26 ownership or control and located either on the same site or on
27 separate sites, which are used to withdraw, convey, or distribute

1 water for the purposes of irrigating golf courses, parks,
2 recreational areas, or other grounds, but not including irriga-
3 tion for an agricultural purpose.

4 (J) ~~-(i)-~~ "Public water supply system" means a water system
5 that provides water for human consumption or other purposes to
6 persons other than the supplier of water.

7 (K) ~~-(j)-~~ "Registrant" means any industrial or processing
8 facility or irrigation facility registered under this part.

9 (L) ~~-(k)-~~ "Water of the Great Lakes basin" means the Great
10 Lakes and all streams, rivers, lakes, connecting channels, and
11 other bodies of water, including groundwater, within the Great
12 Lakes basin.

13 (M) ~~-(l)-~~ "Withdrawal" means the removal of water from its
14 source for any purpose, other than for hydroelectric generation
15 at sites certified, licensed, or permitted by the federal energy
16 regulatory commission.

17 SEC. 32704A. (1) UPON RECEIPT OF ANY OF THE FOLLOWING, THE
18 GOVERNOR SHALL NOTIFY THE DEPARTMENT:

19 (A) A REQUEST FOR APPROVAL OF A PROPOSED INTERBASIN DIVER-
20 SION FROM THE GREAT LAKES BASIN PURSUANT TO SECTION 1109 OF TITLE
21 XI OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986, PUBLIC LAW
22 99-662, 42 U.S.C. 1962d-20, OR A PROPOSED INCREASE IN AN EXISTING
23 INTERBASIN DIVERSION FROM THE GREAT LAKES BASIN.

24 (B) NOTICE OF A PROPOSED CONSUMPTIVE USE OF THE WATER OF THE
25 GREAT LAKES BASIN IN EXCESS OF 5,000,000 GALLONS PER DAY AVERAGE
26 IN ANY 30-DAY PERIOD PURSUANT TO THE GREAT LAKES CHARTER.

1 (C) NOTIFICATION OF AN INCREASE OR OTHER ALTERATION IN AN
2 EXISTING INTERBASIN DIVERSION FROM THE GREAT LAKES BASIN.

3 (2) UPON RECEIPT OF NOTIFICATION PURSUANT TO SUBSECTION (1),
4 THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

5 (A) NOTIFY THE PERSON PROPOSING THE DIVERSION OR CONSUMPTIVE
6 USE WHETHER SUFFICIENT INFORMATION HAS ACCOMPANIED THE PROPOSAL
7 OR IS OTHERWISE AVAILABLE TO PERMIT AN EVALUATION OF THE
8 PROPOSAL.

9 (B) NOTIFY OTHER STATE AGENCIES, INCLUDING THE DEPARTMENTS
10 OF COMMUNITY HEALTH, CONSUMER AND INDUSTRY SERVICES, AGRICULTURE,
11 AND TRANSPORTATION AND THE MICHIGAN PUBLIC SERVICE COMMISSION OF
12 THE PROPOSAL AND SOLICIT THEIR COMMENTS. IN ADDITION, THE
13 DEPARTMENT SHALL NOTIFY AND SOLICIT COMMENTS FROM THE INTERNA-
14 TIONAL JOINT COMMISSION, THE GREAT LAKES COMMISSION, AND OTHER
15 APPROPRIATE FEDERAL AGENCIES.

16 (C) PUBLISH A NOTICE IN THE MICHIGAN REGISTER CONTAINING THE
17 FOLLOWING INFORMATION:

18 (i) THE NAME OF THE PERSON, HIS OR HER RELEVANT AFFILIATION,
19 AND THE ORIGINATING STATE OR PROVINCE OF THE PROPOSED DIVERSION
20 OR CONSUMPTIVE USE.

21 (ii) A DESCRIPTION OF THE PROPOSED DIVERSION OR CONSUMPTIVE
22 USE, INCLUDING THE LOCATION AND SIZE OF THE DIVERSION OR CONSUMP-
23 TIVE USE, AND THE STATE OR PROVINCE TO WHICH THE WATER WILL BE
24 DIVERTED OR IN WHICH THE WATER WILL BE USED.

25 (iii) THE NAME AND ADDRESS OF THE PERSON FROM WHOM MORE
26 INFORMATION MAY BE OBTAINED.

1 (3) THE NOTICE UNDER SUBSECTION (2)(C) SHALL ALSO PROVIDE
2 FOR A PUBLIC COMMENT PERIOD OF AT LEAST 30 DAYS. THE DEPARTMENT
3 SHALL HOLD A PUBLIC HEARING IF REQUESTED BY ANY PERSON. WITHIN
4 60 DAYS AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD OR THE
5 PUBLIC HEARING, WHICHEVER IS LATER, THE DEPARTMENT SHALL TRANSMIT
6 A REPORT TO THE GOVERNOR OR HIS OR HER DESIGNEE AND THE
7 LEGISLATURE. THE REPORT SHALL SUMMARIZE ALL COMMENTS RECEIVED
8 FROM STATE, FEDERAL, AND INTERSTATE AGENCIES AND THE PUBLIC, MAKE
9 A RECOMMENDATION ON THE PROPOSAL, AND EVALUATE ALL OF THE
10 FOLLOWING:

11 (A) WHETHER THE PROPOSED WITHDRAWAL IS CONSISTENT WITH
12 APPLICABLE STATE PLANS FOR PRESENT OR FUTURE USES OF THE WATER OF
13 THE GREAT LAKES BASIN.

14 (B) WHETHER BOTH THE CURRENT WATER USE OF THE PERSON SUBMIT-
15 TING THE PROPOSAL AND THE PERSON'S PROPOSED PLANS FOR WITHDRAWAL,
16 TRANSPORTATION, DEVELOPMENT, AND USE OF WATER RESOURCES INCOR-
17 PORATE MAXIMUM ECONOMICALLY FEASIBLE CONSERVATION PRACTICES.

18 (C) WHETHER THE PROPOSED WITHDRAWAL AND USES WILL HAVE A
19 SIGNIFICANT ADVERSE IMPACT ON NAVIGATION WITHIN THE GREAT LAKES
20 BASIN.

21 (D) WHETHER THE PROPOSED WITHDRAWAL AND USES ARE CONSISTENT
22 WITH THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE IN THE
23 GREAT LAKES BASIN AND WILL NOT BE DETRIMENTAL TO THE PUBLIC
24 INTEREST OR THE PUBLIC TRUST IN THE WATER OF THE GREAT LAKES
25 BASIN.

26 (E) WHETHER EACH BASIN, REGION, STATE, OR PROVINCE TO WHICH
27 THE WATER WILL BE DIVERTED HAS DEVELOPED AND IS IMPLEMENTING A

1 PLAN TO MANAGE AND CONSERVE ITS OWN WATER QUANTITY RESOURCES, AND
2 WHETHER FURTHER DEVELOPMENT OF ITS OWN WATER RESOURCES IS ECONOM-
3 ICALLY IMPRACTICABLE OR WOULD HAVE A SUBSTANTIAL ADVERSE ECONOM-
4 IC, SOCIAL, OR ENVIRONMENTAL IMPACT.

5 (F) WHETHER THE APPLICATION WILL IMPAIR THE ABILITY OF THE
6 GREAT LAKES BASIN TO MEET ITS OWN WATER NEEDS.

7 (G) WHETHER THE PROPOSED WITHDRAWAL AND USES ALONE, OR IN
8 COMBINATION WITH OTHER WATER USES, WILL HAVE A SIGNIFICANT
9 ADVERSE IMPACT ON LAKE LEVELS, WATER USE, OR THE ENVIRONMENT OR
10 THE ECOSYSTEM OF THE GREAT LAKES BASIN, INCLUDING THE QUALITY AND
11 QUANTITY OF THE WATER OF THE GREAT LAKES BASIN, FISHERIES, WILD-
12 LIFE, WETLANDS, SHORELINE RESOURCES AND ECOSYSTEMS, AND OTHER
13 RELATED RESOURCES.

14 (H) WHETHER THE PROPOSED WITHDRAWAL IS CONSISTENT WITH ALL
15 APPLICABLE FEDERAL, REGIONAL, INTERSTATE, AND INTERNATIONAL WATER
16 RESOURCES PLANS.

17 (4) THE DEPARTMENT SHALL SOLICIT, REVIEW, MAKE AVAILABLE TO
18 THE PUBLIC, AND PREPARE A DOCUMENT RESPONDING TO ALL COMMENTS
19 SUBMITTED BY A STATE, PROVINCE, APPROPRIATE UNITED STATES AND
20 CANADIAN FEDERAL AGENCIES, AND THE INTERNATIONAL JOINT COMMISSION
21 REGARDING A PROPOSED CONSUMPTIVE USE FROM WITHIN MICHIGAN'S
22 BOUNDARIES IN EXCESS OF 5,000,000 GALLONS PER DAY AVERAGE IN ANY
23 30-DAY PERIOD PURSUANT TO THE GREAT LAKES CHARTER. THE DEPART-
24 MENT SHALL NOT APPROVE SUCH A CONSUMPTIVE USE WITHOUT OBSERVING
25 THE PUBLIC NOTICE AND COMMENT PROCEDURES OUTLINED IN THIS
26 SECTION. THE DEPARTMENT'S DECISION ON THE CONSUMPTIVE USE SHALL

1 BE MADE AT A PUBLIC MEETING HELD IN ACCORDANCE WITH THE OPEN
2 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

3 (5) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL, UPON
4 RECEIPT OF THE REPORT PURSUANT TO SUBSECTION (3) RELATING TO A
5 PROPOSED DIVERSION, PREPARE A STATEMENT SETTING FORTH THE
6 GOVERNOR'S OR GOVERNOR'S DESIGNEE'S APPROVAL OR DISAPPROVAL OF
7 THE PROPOSED DIVERSION AND THE REASONS FOR THE APPROVAL OR
8 DISAPPROVAL. HOWEVER, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE
9 SHALL NOT APPROVE A DIVERSION IN VIOLATION OF THIS PART.