

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 289

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 32701, 32705, 32707, 32708, and 32714 (MCL  
324.32701, 324.32705, 324.32707, 324.32708, and 324.32714),  
sections 32701, 32707, and 32708 as amended and section 32714 as  
added by 1996 PA 434 and section 32705 as added by 1995 PA 59,  
and by adding part 328.

**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~~ **those plants and**  
4 **animals useful to human beings produced by agriculture and**  
5 **includes, but is not limited to, forages and sod crops, grains**  
6 **and feed crops, field crops, dairy and dairy products, poultry**  
7 **and poultry products, cervidae, livestock, including breeding and**

1 grazing, equine, fish and other aquacultural products, bees and  
2 bee products, berries, herbs, fruits, vegetables, flowers, seeds,  
3 grasses, nursery stock, trees and tree products, mushrooms, and  
4 other similar products, or any other product, as determined by  
5 the commission of agriculture, that incorporates the use of food,  
6 feed, fiber, or fur.

7 (b) "Consumptive use" means that portion of water withdrawn  
8 or withheld from the Great Lakes basin and assumed to be lost or  
9 otherwise not returned to the Great Lakes basin due to  
10 evaporation, incorporation into products, or other processes.

11 (c) "Department" means the department of environmental  
12 quality.

13 (d) **"Farm" means that term as it is defined in section 2 of**  
14 **the Michigan right to farm act, 1981 PA 93, MCL 286.472.**

15 (e) ~~-(d)-~~ "Great Lakes basin" means the watershed of the  
16 Great Lakes and the St. Lawrence river.

17 (f) ~~-(e)-~~ "Great Lakes charter" means the document  
18 establishing the principles for the cooperative management of the  
19 Great Lakes water resources, signed by the governors and premiers  
20 of the Great Lakes region on February 11, 1985.

21 (g) ~~-(f)-~~ "Great Lakes region" means the geographic region  
22 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
23 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
24 and the provinces of Ontario and Quebec, Canada.

25 (h) ~~-(g)-~~ "Industrial or processing facility" means an  
26 operating plant or other entity, including a thermoelectric power  
27 generation plant, carrying on a common manufacturing activity,

1 trade, or business on a common site, including similar plants or  
2 entities under common ownership or control located on contiguous  
3 properties. Plants or entities under common ownership or control  
4 located on separate sites shall be considered separate  
5 facilities. Industrial or processing facility does not include  
6 an irrigation facility **or a farm.**

7       **(i)** ~~-(h)-~~ "Irrigation facility" means all wells, pumps,  
8 intakes, gates, tanks, pipes, or other equipment under common  
9 ownership or control and located either on the same site or on  
10 separate sites, which are used to withdraw, convey, or distribute  
11 water for the purposes of irrigating golf courses, parks,  
12 recreational areas, or other grounds. ~~-, but not including~~  
13 ~~irrigation for an agricultural purpose.~~ **Irrigation facility does**  
14 **not include a farm.**

15       **(j)** ~~-(i)-~~ "Public water supply system" means a water system  
16 that provides water for human consumption or other purposes to  
17 persons other than the supplier of water.

18       **(k)** ~~-(j)-~~ "Registrant" means any industrial or processing  
19 facility or irrigation facility registered under this part.

20       **(l)** ~~-(k)-~~ "Water of the Great Lakes basin" means the Great  
21 Lakes and all streams, rivers, lakes, connecting channels, and  
22 other bodies of water, including groundwater, within the Great  
23 Lakes basin.

24       **(m)** ~~-(l)-~~ "Withdrawal" means the removal of water from its  
25 source for any purpose, other than for hydroelectric generation  
26 at sites certified, licensed, or permitted by the federal energy  
27 regulatory commission.

1           Sec. 32705. (1) ~~A~~ **Subject to subsection (2), a person who**  
2 **makes a withdrawal** shall register with the department ~~by~~  
3 ~~December 31, 1991~~ on a form provided by the department if,  
4 during the **calendar** year ~~1990 or 1991, the person does either~~  
5 **in which the withdrawal occurs, any** of the following **apply**:

6           (a) ~~Owns~~ **The person owns** an industrial or processing  
7 facility that has the capacity to withdraw over 100,000 gallons  
8 of water per day average in any consecutive 30-day period from  
9 the waters of the Great Lakes basin.

10           (b) ~~Owns~~ **The person owns** an irrigation facility that has  
11 the capacity to withdraw over 100,000 gallons of water per day  
12 average in any consecutive 30-day period from the waters of the  
13 Great Lakes basin.

14           (c) **Beginning 1 year after the effective date of the**  
15 **amendatory act that added this subdivision, the person owns a**  
16 **farm that has the capacity to withdraw over 100,000 gallons of**  
17 **water per day average in any consecutive 30-day period from the**  
18 **waters of the Great Lakes basin.**

19           (2) ~~Beginning January 1, 1992, a person who meets the~~  
20 ~~requirements of subsection (1)(a) or (b) shall register with the~~  
21 ~~department during the calendar year in which the withdrawal~~  
22 ~~occurred.~~ **The owner of a farm who registers under section 32708**  
23 **is not required to register under subsection (1).**

24           (3) In calculating the total amount of an existing or  
25 proposed withdrawal for the purpose of this section, a person  
26 shall combine all separate withdrawals that the person makes or  
27 proposes to make, whether or not these withdrawals are for a

1 single purpose or are for related but separate purposes.

2       Sec. 32707. (1) Except as provided in ~~subsection~~  
3 **subsections (2) and (3)**, a person who owns an industrial or  
4 processing facility, ~~or~~ an irrigation facility, **or a farm**  
5 registered under this ~~section~~ **part** shall file a report annually  
6 with the department on a form provided by the department. ~~The~~  
7 ~~first report shall be submitted to the department by March 31,~~  
8 ~~1992. Subsequent reports~~ **Reports** shall be submitted ~~within 3~~  
9 ~~months after the end~~ **by April 1** of each ~~calendar~~ year.

10 Reports shall include the following information:

11       (a) ~~Amount~~ **The amount** and rate of water withdrawn on an  
12 annual and monthly basis.

13       (b) ~~Source~~ **The source** or sources of **the** water supply.

14       (c) ~~Use~~ **The use** or uses of **the** water **withdrawn**.

15       (d) ~~Amount~~ **The amount** of consumptive ~~water~~ **use of water**  
16 **withdrawn**.

17       (e) **If the source of the water withdrawn is groundwater, the**  
18 **location of the well or wells in latitude and longitude, with the**  
19 **accuracy of the reported location data to within 15 feet.**

20       (f) **If the source of water withdrawn is groundwater, the**  
21 **static water level of the aquifer or aquifers.**

22       (g) ~~(e)~~ Other information specified by rule of the  
23 department.

24       (2) If a person reports the information required by this  
25 section to the department in conjunction with a permit or for any  
26 other purpose, that reporting, upon approval of the department,  
27 shall satisfy the reporting requirements of this section.

1           (3) **The owner of a farm who reports water use under section**  
2 **32708 is not required to report under subsection (1).**

3           (4) ~~-(3)-~~ The department ~~shall~~ **may**, upon request from a  
4 person required to report under this section, accept a formula or  
5 model that provides to the department's satisfaction the  
6 information required in subsection (1).

7           (5) ~~-(4)-~~ The department shall develop forms for reporting  
8 under this section that minimize paperwork and allow for a  
9 notification to the department instead of a report if the annual  
10 amount of water withdrawn by a person required to report under  
11 this section is within 4% of the amount last reported and the  
12 other information required in subsection (1) has not changed  
13 since the last year in which a report was filed.

14           (6) ~~-(5)-~~ A person who files an annual report or notification  
15 ~~pursuant to~~ **under** this section shall annually remit a water use  
16 reporting fee of ~~-\$50.00-~~ **\$100.00** to the department. Water use  
17 reporting fees shall be remitted to the department in conjunction  
18 with the annual report or notification submitted ~~pursuant to~~  
19 **under** this section. The department shall transmit water use  
20 reporting fees collected under this section to the state  
21 treasurer to be credited to the water use protection fund created  
22 in section 32714. **A water use reporting fee is not required for**  
23 **a report or notification related to a farm that reports water use**  
24 **under section 32708.**

25           Sec. 32708. (1) **Beginning 1 year after the effective date**  
26 **of the 2003 amendatory act that amended this section, the owner**  
27 **of a farm described in section 32705(1)(c) who makes a withdrawal**

1 for an agricultural purpose, including irrigation for an  
2 agricultural purpose, may register the farm address and report  
3 the water use on the farm by annually submitting to the  
4 department of agriculture a water use conservation plan. The  
5 water use conservation plan shall include, but need not be  
6 limited to, all of the following information:

7 (a) The amount and rate of water withdrawn on an annual and  
8 monthly basis in either gallons or acre inches.

9 (b) The type of crop irrigated, if applicable.

10 (c) The acreage of each irrigated crop, if applicable.

11 (d) The source or sources of the water supply.

12 (e) If the water withdrawn is not used entirely for  
13 irrigation, the use or uses of the water withdrawn.

14 (f) If the source of water withdrawn is groundwater, the  
15 static water level of the aquifer or aquifers.

16 (g) Applicable water conservation practices and an  
17 implementation plan for those practices.

18 (2) ~~-(1)-~~ The department and the department of agriculture in  
19 consultation with ~~the cooperative extension service and the soil~~  
20 ~~conservation districts-~~ **Michigan state university** shall ~~develop~~  
21 **validate and use** a formula or model to ~~determine the amount of~~  
22 ~~water withdrawn-~~ **estimate the consumptive use of withdrawals made**  
23 for agricultural purposes consistent with the objectives of  
24 section 32707. ~~For a period of 3 years beginning January 1,~~  
25 ~~1997,~~ a person using water for an agricultural purpose who  
26 ~~withdraws over 100,000 gallons of water per day average in any~~  
27 ~~consecutive 30 day period for irrigation shall provide~~

~~1 information regarding the location and source of the water, the  
2 type of crop irrigated, and the acreage of each irrigated crop to  
3 the county soil conservation district. The soil conservation  
4 districts and the department of agriculture shall use the model  
5 or formula developed to aggregate these data and provide county  
6 and watershed totals by water source to the department by April 1  
7 of each year for irrigation water use that occurred in the  
8 previous year.~~

~~9 (2) At the end of the 3 year period provided in  
10 subsection (1), the department and the department of agriculture  
11 shall assess the reliability of annual irrigation water use data  
12 and determine if reliable data could be deduced from surveys  
13 conducted every 2 or 3 years.~~

**14 (3) The department of agriculture shall use water use  
15 conservation plan information received under subsection (1) to  
16 determine an estimate of water use and consumptive use data for  
17 each township in the state. The department of agriculture shall  
18 forward the township water use and consumptive use data to the  
19 department for inclusion in the statewide groundwater inventory  
20 and map prepared under section 32802.**

21 Sec. 32714. (1) The water use protection fund is created  
22 within the state treasury.

23 (2) The state treasurer may receive money or other assets  
24 from any source for deposit into the fund. The state treasurer  
25 shall direct the investment of the fund, and shall credit to the  
26 fund interest and earnings from fund investments.

27 (3) Money in the fund at the close of the fiscal year shall

1 remain in the fund and shall not lapse into the general fund.

2 (4) The department may expend money from the fund, upon  
3 appropriation, only for ~~the implementation~~ **1 or more of the**  
4 **following:**

5 (a) ~~The implementation~~ and administration of this part.

6 (b) ~~The preparation of the statewide groundwater inventory~~  
7 ~~and map under section 32802.~~

8 (c) ~~The implementation and administration of part 317.~~

9 ~~(5) By December 31, 1999, the department shall conduct an~~  
10 ~~assessment of the fund and report to the legislature on the~~  
11 ~~overall number of irrigation and industrial or processing~~  
12 ~~facilities registered in the program, the annual amount of water~~  
13 ~~use reporting fees received by the fund, and the staff workload~~  
14 ~~necessary to implement this part, to determine if the amount of~~  
15 ~~the annual water use reporting fees can be lowered.~~

16 **PART 328 AQUIFER PROTECTION**

17 **Sec. 32801. As used in this part:**

18 (a) "Annex 2001" means the Great Lakes charter annex signed  
19 by the governors and premiers of the Great Lakes region on June  
20 18, 2001.

21 (b) "Aquifer" means any water bearing bed or stratum of earth  
22 or rock capable of yielding groundwater to a water well in  
23 sufficient quantities that can be withdrawn.

24 (c) "Base flow" means groundwater discharge to rivers and  
25 streams.

26 (d) "Conflict areas" means an aquifer or a portion of an  
27 aquifer in which the department has determined that there is

1 reasonable, scientifically based evidence of a pattern of  
2 groundwater withdrawal conflicts or a single extended groundwater  
3 withdrawal conflict.

4 (e) "Council" means the groundwater conservation advisory  
5 council created under section 32803.

6 (f) "Department" means the department of environmental  
7 quality.

8 (g) "Director" means the director of the department.

9 (h) "Groundwater" means water below the land surface in a  
10 zone of saturation.

11 (i) "Groundwater withdrawal conflict" means the failure of an  
12 existing water well that was constructed in compliance with part  
13 127 of the public health code, 1978 PA 368, MCL 333.12701 to  
14 333.12771, to furnish its normal supply of groundwater because of  
15 a progressive decline of the static water level within the  
16 aquifer due to the withdrawal of groundwater from the aquifer by  
17 a high-capacity well or sump, as determined based on reasonable,  
18 scientifically based evidence.

19 (j) "Static water level" means the distance between the  
20 ground surface and the water level within a well that is not  
21 being pumped.

22 Sec. 32802. (1) Not later than 2 years after the effective  
23 date of the amendatory act that added this section, the  
24 department shall collect and compile groundwater data into a  
25 statewide groundwater inventory and map. The department shall  
26 use existing sources of groundwater data where those data are  
27 available, including information reported under part 327,

1 information reported under the safe drinking water act, 1976 PA  
2 399, MCL 325.1001 to 325.1023, and information collected under  
3 the groundwater dispute resolution program created in part 317,  
4 but may supplement those data through additional studies if those  
5 data are incomplete. Following completion of the initial  
6 statewide groundwater inventory and map, the department shall  
7 update the statewide groundwater inventory and map as new  
8 information becomes available. The department shall include data  
9 on all of the following in the statewide groundwater inventory  
10 and map:

11 (a) Location and water yielding capabilities of aquifers in  
12 the state.

13 (b) Aquifer recharge rates in the state, if available to the  
14 department.

15 (c) Static water levels of groundwater in the state.

16 (d) Base flow of rivers and streams in the state.

17 (e) Conflict areas in the state.

18 (f) Surface waters, including designated trout lakes and  
19 streams, and groundwater dependent natural resources, that are  
20 identified on the natural features inventory.

21 (g) The location and pumping capacity of all of the  
22 following:

23 (i) Industrial or processing facilities registered under  
24 section 32705 that withdraw groundwater.

25 (ii) Irrigation facilities registered under section 32705  
26 that withdraw groundwater.

27 (iii) Public water supply systems that have the capacity to

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1 withdraw over 100,000 gallons of groundwater per day average in  
2 any consecutive 30-day period.

3 (h) Aggregate agricultural water use and consumptive use, by  
4 township.

5 (2) The department shall make the statewide groundwater  
6 inventory and map available to the general public.

7 Sec. 32803. (1) The groundwater conservation advisory  
8 council is created within the department. The council shall  
9 consist of all of the following members:

10 (a) Three individuals appointed by the senate majority leader  
11 representing business and manufacturing interests, utilities, and  
12 conservation organizations.

13 (b) Three individuals appointed by the speaker of the house  
14 of representatives representing well drilling contractors, local  
15 units of government, and agricultural interests.

16 (c) Four individuals appointed by the director representing  
17 nonagriculture irrigators, the aggregate industry, environmental  
18 organizations, and the general public.

19 (d) Three individuals representing the department, the  
20 department of agriculture, and the department of natural  
21 resources, as nonvoting members [who shall serve as information resources  
22 to the council].

22 (2) The council shall do all of the following:

23 (a) Study the sustainability of the state's groundwater use  
24 and whether the state should provide additional oversight of  
25 groundwater withdrawals.

26 (b) Monitor Annex 2001 implementation efforts and make  
27 recommendations on Michigan's statutory conformance with Annex

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1 2001, including whether groundwater withdrawals should be subject  
2 to best management practices or certification requirements and  
3 whether groundwater withdrawals impact water-dependent natural  
4 features.

5 (c) Study the implementation of and the results from the  
6 groundwater dispute resolution program created in part 317.

7 (3) Within 2-1/2 years after the effective date of the  
8 amendatory act that added this section, the council shall submit  
9 a report[, approved by a majority of the voting members of the council,]  
on its findings and recommendations under subsection (2)  
10 to the senate majority leader, the speaker of the house of  
11 representatives, and the standing committees of the legislature  
12 with jurisdiction primarily related to natural resources and the  
13 environment.

14 (4) Effective 6 months after the council submits its findings  
15 and recommendations under subsection (3), the council is  
16 disbanded.

17 Enacting section 1. This amendatory act does not take  
18 effect unless House Bill No. 4087 of the 92nd Legislature is  
19 enacted into law.