

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 854

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding section 32725.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 32725. (1) ALL PERSONS MAKING LARGE QUANTITY WITHDRAWALS  
2        WITHIN A WATERSHED ARE ENCOURAGED TO ESTABLISH A WATER USERS  
3        COMMITTEE TO EVALUATE THE STATUS OF CURRENT WATER RESOURCES, WATER  
4        USE, AND TRENDS IN WATER USE WITHIN THE WATERSHED AND TO ASSIST IN  
5        LONG-TERM WATER RESOURCES PLANNING. A WATER USERS COMMITTEE MAY BE  
6        COMPOSED OF ALL REGISTRANTS, WATER WITHDRAWAL PERMIT HOLDERS, AND  
7        LOCAL GOVERNMENT OFFICIALS WITHIN THE WATERSHED.

8        (2) IF THE DEPARTMENT DETERMINES BY REASONABLE SCIENTIFICALLY-  
9        BASED EVIDENCE THAT ADVERSE RESOURCE IMPACTS ARE OCCURRING OR ARE  
10       LIKELY TO OCCUR FROM 1 OR MORE LARGE QUANTITY WITHDRAWALS, THE

1 DEPARTMENT SHALL NOTIFY THE WATER USERS COMMITTEE IN THE WATERSHED  
2 OR SHALL CONVENE A MEETING OF ALL REGISTRANTS AND WATER WITHDRAWAL  
3 PERMIT HOLDERS WITHIN THE WATERSHED AND SHALL ATTEMPT TO FACILITATE  
4 AN AGREEMENT ON VOLUNTARY MEASURES THAT WOULD PREVENT ADVERSE  
5 RESOURCE IMPACTS.

6 (3) IF, WITHIN 30 DAYS AFTER THE DEPARTMENT HAS NOTIFIED THE  
7 WATER USERS COMMITTEE OR CONVENED THE MEETING UNDER SUBSECTION (2),  
8 THE REGISTRANTS AND WATER WITHDRAWAL PERMIT HOLDERS ARE NOT ABLE TO  
9 VOLUNTARILY AGREE TO MEASURES THAT WOULD PREVENT ADVERSE RESOURCE  
10 IMPACTS, THE DEPARTMENT MAY PROPOSE A SOLUTION THAT THE DEPARTMENT  
11 BELIEVES WOULD EQUITABLY RESOLVE THE SITUATION AND PREVENT ADVERSE  
12 RESOURCE IMPACTS. THE RECOMMENDED SOLUTION IS NOT BINDING ON ANY OF  
13 THE PARTIES.

14 (4) THE DIRECTOR MAY, WITHOUT A PRIOR HEARING, ORDER A PERSON  
15 HOLDING A WATER WITHDRAWAL PERMIT TO IMMEDIATELY RESTRICT A  
16 WITHDRAWAL IF THE DIRECTOR DETERMINES BY CLEAR AND CONVINCING  
17 SCIENTIFIC EVIDENCE THAT THERE IS A SUBSTANTIAL AND IMMINENT THREAT  
18 THAT THE WITHDRAWAL IS CAUSING OR IS LIKELY TO CAUSE AN ADVERSE  
19 RESOURCE IMPACT. THE ORDER SHALL SPECIFY THE DATE ON WHICH THE  
20 WITHDRAWAL MUST BE RESTRICTED AND THE DATE ON WHICH IT MAY BE  
21 RESUMED. AN ORDER ISSUED UNDER THIS SECTION SHALL REMAIN IN FORCE  
22 AND EFFECT FOR NOT MORE THAN 30 DAYS AND MAY BE RENEWED FOR AN  
23 ADDITIONAL 30 DAYS IF THE DIRECTOR DETERMINES BY CLEAR AND  
24 CONVINCING SCIENTIFIC EVIDENCE THAT CONDITIONS CONTINUE TO POSE A  
25 SUBSTANTIAL AND IMMINENT THREAT THAT THE WITHDRAWAL IS CAUSING OR  
26 IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT. THE ORDER SHALL  
27 NOTIFY THE PERSON THAT THE PERSON MAY REQUEST A CONTESTED CASE

Senate Bill No. 854 (H-2) as amended February 9, 2006

1 HEARING UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA  
2 306, MCL 24.201 TO 24.328. THE HEARING SHALL BE HELD WITHIN 10  
3 BUSINESS DAYS FOLLOWING THE REQUEST, UNLESS THE PERMITTEE REQUESTS  
4 A LATER DATE. AS AN ALTERNATIVE TO REQUESTING A CONTESTED CASE  
5 HEARING, A PERSON SUBJECT TO AN ORDER UNDER THIS SECTION MAY SEEK  
6 JUDICIAL REVIEW OF THE ORDER AS PROVIDED IN THE REVISED JUDICATURE  
7 ACT OF 1961, 1961 PA 236, MCL 600.101 TO 600.9947.

8 (5) A REGISTRANT OR WATER WITHDRAWAL PERMIT HOLDER MAY SUBMIT  
9 A PETITION TO THE DIRECTOR ALLEGING THAT ADVERSE RESOURCE IMPACTS  
10 ARE OCCURRING OR ARE LIKELY TO OCCUR FROM 1 OR MORE WATER  
11 WITHDRAWALS. THE DIRECTOR SHALL EITHER INVESTIGATE THE PETITION OR  
12 FORWARD THE PETITION TO THE DIRECTOR OF THE DEPARTMENT OF  
13 AGRICULTURE IF THE WATER WITHDRAWALS ARE FROM AN AGRICULTURAL WELL.  
14 THE PETITION SHALL BE IN WRITING AND SHALL INCLUDE ALL THE  
15 INFORMATION REQUESTED BY THE DIRECTOR OR THE DIRECTOR OF THE  
16 DEPARTMENT OF AGRICULTURE, AS APPROPRIATE.

17 (6) A PERSON WHO SUBMITS MORE THAN 2 UNVERIFIED PETITIONS  
18 UNDER THIS SECTION WITHIN 1 YEAR MAY BE ORDERED BY THE DIRECTOR TO  
19 PAY FOR THE FULL COSTS OF INVESTIGATING ANY THIRD OR SUBSEQUENT  
20 UNVERIFIED PETITION. AS USED IN THIS SUBSECTION, "UNVERIFIED  
21 PETITION" MEANS A PETITION IN RESPONSE TO WHICH THE DIRECTOR  
22 DETERMINES THAT THERE IS NOT REASONABLE EVIDENCE TO SUSPECT ADVERSE  
23 RESOURCE IMPACTS.

24 Enacting section 1. This amendatory act does not take effect  
25 unless all of the following bills of the 93rd Legislature are  
26 enacted into law:

27 [

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- 1       (a)] Senate Bill No. 850.
- 2       [(b)] Senate Bill No. 851.
- 3       [(c)] Senate Bill No. 852.
- 4       [(d)] Senate Bill No. 857.