

WATERWORKS SYSTEMS FOR COMMUNITY SUPPLIES

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Senate Bill 858 (Substitute S-4)

Sponsor: Sen. Gerald Van Woerkom

House Committee: Great Lakes and the Environment

Senate Committee: Natural Resources and Environmental Affairs

Complete to 6-19-08

A SUMMARY OF SENATE BILL 858 AS PASSED BY THE SENATE 5-14-08

The bill would amend Section 4 of the Safe Water Drinking Act (MCL 325.1004) relating to water withdrawals by waterworks systems for community supplies. In its current form, Senate Bill 858 is similar, but not identical, to House Bill 5071, as passed by the House on June 4, 2008.

Require use of assessment tool. The bill would require the Department of Environmental Quality to use the water withdrawal assessment tool to evaluate proposals for a new or increased large quantity withdrawal by a public waterworks system for a community supply. The DEQ would also be required to confirm the assessment tool's determination. Before the assessment tool is implemented, the DEQ would have to evaluate a proposed withdrawal based on "reasonably available information."

Zone C withdrawals, implementation of conservation measures considered reasonable by the public supply. If the DEQ classifies a proposed withdrawal for a community supply as "Zone C," the community supply would have to certify that it is implementing one of the following:

- Applicable environmentally sound and economically feasible water conservation measures prepared under Section 32708a *considered reasonable by the community supply.*
- Applicable environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal *considered reasonable by the community supply.*

Require evaluation of impact of certain proposed waterworks systems. Under current Section 4(3), the DEQ *may* evaluate the impact of specified proposed waterworks systems for a community supply owned by a political subdivision, including those that provide new withdrawal capacity of more than two million gallons per day from inland sources or more than five million gallons per day from the Great Lakes or their connecting waterways. Under the bill, the DEQ would be *required* to evaluate proposed waterworks systems for a community supply (with no reference to ownership by a political subdivision) that would:

- Provide *new* total designed capacity of more than two million gallons per day from "the waters of the state," no longer distinguishing between inland and Great Lakes sources.
- Provide *increased* total designed withdrawal capacity of more than two million gallons per day from the waters of the state beyond the system's total designed withdrawal capacity.
- Result in an intra-basin transfer of more than 100,000 gallons per day averaged over any 90-day period.

Public notice and comment period. The bill would require the DEQ to provide public notice that it is evaluating a proposed waterworks system as described above and provide a public comment period of at least 45 days before making a determination on the evaluation.

Standard. The Safe Water Drinking Act currently requires the DEQ to reject plans for a public waterworks project that does not meet the standard contained in Section 32723(5) or (6) of NREPA unless both of the following conditions are met: (1) the department determines that there is no feasible and prudent alternative location for the withdrawal; and (2) the department attaches approval conditions related to depth, plumbing capacity, rate of flow, and ultimate use to balance the environmental impact and the public benefit of the withdrawal.

In contrast, Senate Bill 858 (Substitute S-4), as passed the Senate, would require the DEQ to reject plans that do not meet the standard contained in Section 32723 except as described below.

Exception for proposals not meeting standard contained in Section 32723. The DEQ could approve the plans and specifications for a proposed waterworks system that does not meet the Section 32723 standard if:

- The proposed system is a community supply owned by a *political subdivision*.
- The plans would not result in an inter-basin transfer of more than 100,000 gallons per day averaged over any 90-day period.
- The department determines that there is no feasible and prudent alternative location for the withdrawal.
- The department attaches approval conditions, as in current law, relating to depth, pumping capacity, rate of flow, and ultimate use, to balance the environmental impact and the public benefit of the withdrawal. (But the authority to attach approval conditions would not include authority to require a person to connect to or to remain connected to an existing drinking water supply system owned by a political subdivision.)

Effect of approval. DEQ approval under Section 4 of the Safe Drinking Water Act would also satisfy Section 4.11 of the Great Lakes Water Compact. (See Senate Bill 212).

Annual report. As a condition of a permit issued to a community supply, the holder of the permit issued under Section 4 would have to submit an annual report to the DEQ by April 1 of each year containing the information described in Section 32707 of NREPA.

Tie-bars. The bill is tie-barred to the following other bills:

Senate Bill 212 (Great Lakes Water Compact ratification and effect on Michigan law)

Senate Bill 723 (Water Resources Conservation Advisory Council)

Senate Bill 727 (Water Withdrawals by bottled water producers)

Senate Bill 859 (Court enforcement and penalties)

Senate Bill 860 (Regulation of water withdrawals; adverse resource impact standard)

MCL 324.1004

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.