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BILL ANALYSIS

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Senate Bill 860 (Substitute S-3 as reported)
Sponsor: Senator Patricia L. Birkholz
Committee: Natural Resources and Environmental Protection

CONTENT

The bill would amend Part 327 of the Natural Resources and Environmental Protection Act to do the following:

- Revise requirements for a property owner to register with the Department of Environmental Quality (DEQ) before making a large-quantity withdrawal.
- Revise water withdrawal permit requirements.
- Require the DEQ to develop and implement an internet-based water withdrawal assessment tool that could be used to determine if a proposed withdrawal was likely to cause an adverse resource impact.
- Require a property owner to submit to the DEQ a request for a site-specific review if the assessment tool indicated that the proposed withdrawal would fall into a particular category or could cause an adverse resource impact.
- Revise the definition of "adverse resource impact".
- Require a property owner to obtain a water withdrawal permit and DEQ authorization in order to register and make a withdrawal, under certain circumstances.
- Create a rebuttable presumption that a proposed withdrawal would not cause an adverse resource impact, under certain circumstances.
- Require the DEQ to notify various local entities by e-mail if a proposed withdrawal fell into a particular category.
- Require the DEQ to develop a protocol for the collection of stream or river flow data by people other than the Department, and allow the DEQ to establish a program to train and certify individuals in the collection of measurements.
- Eliminate a provision reducing a \$200 water use reporting fee upon legislative enactment of the assessment tool.
- Require the DEQ, by March 31, 2009, to prepare and post on its website a set of generic water conservation measures applicable to all people making large-quantity withdrawals.
- Require the DEQ to review water conservation measures submitted by a specific water user's sector and approve them as a replacement for the generic measures for that sector.
- Require a withdrawal registrant or permit holder to certify that he or she had reviewed environmentally sound and economically feasible water conservation measures.
- Require the DEQ, upon receiving a registration falling into a particular category, to notify all other registrants and permit holders using water from the same source, and require them to review and consider implementing water conservation measures.
- Repeal a section allowing a person who intends to make a withdrawal for which a permit is not required to petition the DEQ for a determination that the withdrawal is not likely to cause an adverse resource impact.

The bill is tie-barred to Senate Bills 212, 727, 858, and 859.

MCL 324.32701

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would cost the State an indeterminate amount for program administration expenses and information technology expenses. In FY 2006-07, \$738,000 was appropriated for administrative costs of the water withdrawal program. In FY 2005-06, \$500,000 was appropriated for initial development of a water withdrawal assessment tool. An unknown amount of additional funding would be necessary for the increased responsibilities of the Department of Environmental Quality under the bill. Those duties would include operation of the internet-based water withdrawal assessment tool, continuing maintenance of the data in the assessment tool and monitoring system, increased staff oversight of allowable withdrawals, and creation of an online registration system. The bill does not identify a source of funding for the additional cost.

The bill would make two changes in order to continue current levels of fee revenue. Presently, the water withdrawal reporting fee will decrease from \$200 to \$100 once the assessment tool is operational; however, the legislation would continue the fee at \$200. Annual revenue of about \$220,000 is collected from the fee and used to support the program in the Department. The second change would eliminate a sunset on the \$2,000 application fee for large quantity water withdrawals. Fee revenue is deposited into the Water Use Reporting Fund for administrative costs of the program.

The bill would allow the Department to establish a program to certify individuals in the collection of stream or river flow measurements. The Department would have to charge a fee to cover the costs of the program, making it self-funded.

The bill would allow water withdrawals that would cause losses to the fish population. Limits would be imposed on the size of those potential losses, but there could be resulting declines in water quality and recreational opportunities.

An indeterminate amount of additional revenue would be received from the increased civil penalties for violations of Part 327, depending on the number of violations. Revenue from civil penalties is deposited into the General Fund.

Date Completed: 5-15-08

Fiscal Analyst: Jessica Runnels