



Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 4343 (Substitute S-1 as reported)
House Bill 5065 (Substitute S-1 as reported)
House Bill 5066 (Substitute S-1 as reported)
House Bill 5067 (Substitute S-1 as reported)
House Bill 5069 (Substitute S-1 as reported)
House Bill 5073 (Substitute S-1 as reported)
Sponsor: Representative Kate Ebli (H.B. 4343)
Representative Gary McDowell (H.B. 5065)
Representative Mark Meadows (H.B. 5066)
Representative Terry Brown (H.B. 5067)
Representative Rebekah Warren (H.B. 5069)
Representative Kathleen Law (H.B. 5073)
House Committee: Great Lakes and Environment
Senate Committee: Natural Resources and Environmental Affairs

CONTENT

House Bill 4343 (S-1) would amend Part 327 (Great Lakes Preservation) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Require the Department of Environmental Quality (DEQ) to notify various local entities by e-mail if a proposed large-quantity withdrawal fell into a particular category.
- Allow the notified entities to form a water resources assessment and education committee to assess trends in water use in the vicinity of the withdrawal and educate water users.
- Allow a local government official participating on a water users committee to create an ad hoc subcommittee of residents to give him or her information and advice on water resources, water use, and trends in water use within the local unit.
- Require the DEQ, upon authorizing a withdrawal falling into a particular category, to give all registrants, permit holders, and local government officials within the watershed notice of the withdrawal and of the authority to establish a water users committee.

House Bill 5065 (S-1) would amend Part 327 to create a rebuttable presumption that a proposed withdrawal would not cause an adverse resource impact, under certain circumstances; and exempt specified withdrawals from the requirements of Part 327.

House Bill 5066 (S-1) would amend Part 327 to do the following:

- 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, 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 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.

House Bill 5067 (S-1) would amend Part 327 to do the following:

- Require a property to submit to the DEQ a request for a site-specific review of a proposed withdrawal, if the assessment tool (developed under House Bill 5069 (S-1)) determined that the withdrawal fell into a particular category.
- Allow a property owner to request a site-specific review if the assessment tool determined a proposed withdrawal fell into a particular category.
- Require the DEQ to complete a site-specific review within 10 days of receiving the request.
- Require the property owner to obtain a water withdrawal permit if the DEQ determined in a site-specific review that a withdrawal fell into a particular category with capacity of more than 1.0 million gallons per day to supply a common distribution system.
- Allow a property owner to request an interim site-specific review before the assessment tool's implementation date, and require an interim review under certain circumstances.
- Require the DEQ to develop a protocol for the collection of stream or river flow measurements by people other than the Department in the administration of Part 327.
- Allow the DEQ to use the collected data in conducting site-specific reviews, making water withdrawal permit decisions, issuing permits under the Safe Drinking Water Act, updating the assessment tool, and in other actions.
- Allow the DEQ to establish a program to train and certify individuals in the measurement collection, and require the Department to charge a fee to reimburse it for the program's cost.

In addition, the bill would 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.

House Bill 5069 (S-1) would amend Part 327 to do the following:

- Revise the prohibition against diverting water from the Great Lakes Basin.
- Revise a requirement that certain large-quantity water users obtain a water withdrawal permit from the DEQ (as described below).
- Beginning January 1, 2009, require a water withdrawal permit applicant to certify that he or she was in compliance with environmentally sound and economically feasible water conservation measures.
- Require the DEQ to issue a water withdrawal permit if it determined that the proposed withdrawal would not violate public or private rights and limitations imposed by Michigan water law or other Michigan common law duties.
- Revise requirements for a property owner to register with the DEQ before making a large-quantity withdrawal.
- 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.

Currently, except as otherwise provided, the following people must obtain a water withdrawal permit before making the withdrawal:

- A person who develops withdrawal capacity to make a new or increased withdrawal of over 2.0 million gallons per day from the waters of the State, other than the Great Lakes and their connecting waterways, to supply a common distribution system.

- A person who develops withdrawal capacity to make a new or increased withdrawal of more than 5.0 million gallons per day from the Great Lakes and their connecting waterways to supply a common distribution system.

Under the bill, except as otherwise provided, the following people would have to obtain a permit before making a withdrawal:

- A person who developed withdrawal capacity to make a new or increased withdrawal of over 2.0 million gallons per day from the waters of the State to supply a common distribution system.
- A person who proposed a new or increased withdrawal of more than 1.0 million gallons per day to supply a common distribution system that a site-specific review determined fell into a particular category.
- A person who proposed a new or increased withdrawal that would result in an intrabasin transfer of more than 100,000 gallons per day average over any 90-day period.

(Under House Bill 5073 (S-1), "intrabasin transfer" would mean a diversion of water from the source watershed of a Great Lake prior to its use to the watershed of another Great Lake or its connecting waterways.)

House Bill 5073 (S-1) would amend Part 327 to revise various definitions used in that part, and add several new definitions. Under the bill, "adverse resource impact" would depend on the type and size of river or stream involved, or the impact on the level of surface water. The bill also would place a proposed withdrawal into one of four categories (zone A, B, C, or D) depending on its anticipated impact on fish populations, as determined by the assessment tool.

The bills are tie-barred to each other and to Senate Bills 212, 723, 727, 858, 859, and 860. Those bills would do the following:

- Add Part 342 (Great Lakes-St. Lawrence River Basin Water Resources Compact) to NREPA.
- Amend Part 328 (Aquifer Protection) to establish the Water Resources Conservation Advisory Council within the Department of Natural Resources and prescribe its duties, which would pertain to the development and operation of the assessment tool.
- Amend Part 327 to revise the civil penalties for certain violations.

The Senate bills also would amend the Safe Drinking Water Act to do the following:

- Revise the withdrawals for which a bottled water producer must demonstrate to the DEQ that certain conditions will be met, and revise the conditions.
- Revise provisions requiring the DEQ to evaluate the impact of a proposed waterworks system for a community supply.

MCL 324.32710 & 324.32725 (H.B. 4343)
324.32721 et al. (H.B. 5065)
324.32707 et al. (H.B. 5066)
324.32724 et al. (H.B. 5067)
324.32702 et al. (H.B. 5069)
324.32701 (H.B. 5073)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would cost the State an indeterminate amount for program administration 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 these bills. 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, and increased staff oversight of allowable withdrawals. The bills do not identify a source of funding for the additional cost.

The bills 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 bills 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 bills 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.

Under the tie-barred Senate bills, the Departments of Agriculture, Environmental Quality, and Natural Resources would incur incidental costs for staff time spent on participating in the Water Resources Conservation Advisory Council and assisting the Council in the development and publication of its recommendations. The expenses would be paid from existing resources and could divert support from other programs in the Departments.

Date Completed: 6-25-08

Fiscal Analyst: Jessica Runnels

For hb4343

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.