

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 723

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32801 and 32803 (MCL 324.32801 and 324.32803),
section 32801 as added by 2003 PA 148 and section 32803 as amended
by 2006 PA 34.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32801. As used in this part:

2 (a) "Annex 2001" means the Great Lakes charter annex signed by
3 the governors and premiers of the Great Lakes region on June 18,
4 2001.

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7 sufficient quantities that can be withdrawn.

8 (c) "Base flow" means groundwater discharge to rivers and

1 streams.

2 (d) "Conflict areas" means an aquifer or a portion of an
3 aquifer in which the department has determined that there is
4 reasonable, scientifically based evidence of a pattern of
5 groundwater withdrawal conflicts or a single extended groundwater
6 withdrawal conflict.

7 (e) "Council" means the ~~groundwater~~ **WATER RESOURCES**
8 conservation advisory council created under section 32803.

9 (f) "Department" means the department of environmental
10 quality.

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

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

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

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

24 Sec. 32803. (1) The ~~groundwater~~ **WATER RESOURCES** conservation
25 advisory council is created within the department of natural
26 resources. The council shall consist of all of the following
27 members:

(a) ~~Three~~**FOUR** individuals appointed by the senate majority leader **AS FOLLOWS:**

(i) **ONE INDIVIDUAL** representing business and manufacturing interests. ~~7~~

(ii) **ONE INDIVIDUAL REPRESENTING PUBLIC** utilities. ~~7~~ ~~and~~
~~conservation organizations.~~

(iii) **ONE INDIVIDUAL REPRESENTING A STATEWIDE ANGLER**
ASSOCIATION.

(iv) **ONE INDIVIDUAL REPRESENTING A STATEWIDE AGRICULTURAL**
ORGANIZATION.

(b) ~~Three~~**FOUR** individuals appointed by the speaker of the house of representatives **AS FOLLOWS:**

(i) **ONE INDIVIDUAL** representing **REGISTERED** well drilling contractors ~~7~~ **WITH HYDROLOGY EXPERIENCE.**

(ii) **ONE INDIVIDUAL REPRESENTING** local units of government. ~~7~~
~~and~~

(iii) **ONE INDIVIDUAL REPRESENTING** agricultural interests.

(iv) **ONE INDIVIDUAL WITH KNOWLEDGE AND EXPERTISE IN LIMNOLOGY.**

(c) **FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:**

(i) **ONE INDIVIDUAL REPRESENTING MUNICIPAL WATER SUPPLIERS.**

(ii) **ONE INDIVIDUAL REPRESENTING A STATEWIDE CONSERVATION**
ORGANIZATION.

(iii) **ONE INDIVIDUAL REPRESENTING A STATEWIDE RIPARIAN**
LANDOWNERS ASSOCIATION.

(iv) **ONE INDIVIDUAL REPRESENTING A STATEWIDE TOURISM**
ORGANIZATION.

(v) **ONE INDIVIDUAL REPRESENTING INDIAN TRIBES.**

(D) ~~(e)~~ Four individuals appointed by the director **AS FOLLOWS:**

(i) **ONE INDIVIDUAL** representing nonagriculture irrigators. 7

(ii) **ONE INDIVIDUAL REPRESENTING** the aggregate industry. 7

(iii) **ONE INDIVIDUAL REPRESENTING** environmental organizations. 7

and

(iv) **ONE INDIVIDUAL REPRESENTING** the general public.

(E) ~~(d)~~ Three **FOUR** individuals representing the department, the department of agriculture, and the department of natural resources, **AND THE ATTORNEY GENERAL.**

~~—— (e) To assist the council in carrying out the responsibilities assigned to the council by subsection (4) (b), (c), and (f), in addition to the members of the council who are serving on the effective date of the amendatory act that added this subdivision, the following members shall be appointed to the council within 30 days after the effective date of the amendatory act that added this subdivision.~~

~~—— (i) One individual appointed by the senate majority leader representing a statewide agricultural organization.~~

~~—— (ii) One individual appointed by the speaker of the house of representatives who is a registered well driller with knowledge and expertise in hydrogeology.~~

~~—— (iii) Two individuals appointed by the governor representing municipal water suppliers and a statewide conservation organization.~~

~~—— (2) Members of the council appointed under subsection (1) (e) shall not take office earlier than February 15, 2006. The council may continue to carry out its responsibilities under this part in~~

1 ~~the absence of the additional members of the council appointed~~
2 ~~under subsection (1)(c).~~

3 (2) THE APPOINTMENTS TO THE COUNCIL UNDER SUBSECTION (1) SHALL
4 BE MADE NOT LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE
5 AMENDATORY ACT THAT ADDED THIS SUBSECTION. THE PERSON MAKING THE
6 APPOINTMENT UNDER SUBSECTION (1) SHALL GIVE CONSIDERATION AND
7 DEFERENCE TO INDIVIDUALS WHO SERVED ON THE FORMER GROUNDWATER
8 CONSERVATION ADVISORY COUNCIL.

9 (3) The council shall appoint a technical advisory committee
10 of individuals with specific technical and legal expertise relevant
11 to the council's responsibilities.

12 (4) The council shall do all of the following:

13 ~~—— (a) Study the sustainability of the state's groundwater use.~~

14 ~~—— (b) Develop criteria and indicators to evaluate the~~
15 ~~sustainability of the state's groundwater use.~~

16 ~~—— (c) Monitor Annex 2001 implementation efforts and make~~
17 ~~recommendations on Michigan's statutory conformance with Annex~~
18 ~~2001, including whether groundwater withdrawals should be subject~~
19 ~~to best management practices or certification requirements and~~
20 ~~whether groundwater withdrawals impact water dependent natural~~
21 ~~features.~~

22 ~~—— (d) Study the implementation of and the results from the~~
23 ~~groundwater dispute resolution program created in part 317.~~

24 ~~—— (e) Design and make recommendations regarding a water~~
25 ~~withdrawal assessment tool as provided for in subsection (5).~~

26 ~~—— (f) Study and make recommendations as to whether the state~~
27 ~~should consider as part of its groundwater conservation programs~~

~~proposals to mitigate adverse impacts to the waters of the state or to the water dependent natural resources of the state that may result from groundwater withdrawals.~~

~~—— (5) The council, in consultation with the department, the department of natural resources, the department of agriculture, and the technical advisory committee appointed under subsection (3), shall do all of the following:~~

~~—— (a) Design a water withdrawal assessment tool that can be utilized to protect and conserve the waters of the state and the water dependent natural resources of the state. The water withdrawal assessment tool shall be designed to be used by a person proposing a new or increased large quantity withdrawal to assist in determining whether the proposed withdrawal may cause an adverse impact to the waters of the state or to the water dependent natural resources of the state.~~

~~—— (b) Make factually based recommendations for the policy based parameters and variables of the water withdrawal assessment tool.~~

~~—— (c) Recommend an appropriate timetable for periodic updates or changes to the water withdrawal assessment tool or to the water withdrawal assessment tool's parameters or variables.~~

(A) NOT LATER THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, STUDY AND MAKE RECOMMENDATIONS TO THE SENATE MAJORITY LEADER, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE STANDING COMMITTEES OF THE LEGISLATURE WITH JURISDICTION PRIMARILY RELATED TO NATURAL RESOURCES AND THE ENVIRONMENT, AND THE DEPARTMENT ON HOW THE ASSESSMENT TOOL COULD BE UPDATED TO RECONCILE DIFFERENCES BETWEEN

1 BASELINE CAPACITY AND ACTUAL WITHDRAWAL AMOUNTS TO ASSURE THE
2 ACCURACY OF THE ASSESSMENT TOOL'S DETERMINATIONS.

3 (B) WHEN THE DEPARTMENT MAKES THE ASSESSMENT TOOL AVAILABLE
4 FOR TESTING AND EVALUATION, CONDUCT TESTING AND EVALUATE THE
5 OPERATION AND THE ACCURACY OF THE ASSESSMENT TOOL, INCLUDING
6 IMPLICATIONS OF SECTION 32706E. NOT LATER THAN 9 MONTHS AFTER THE
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION,
8 SUBMIT A REPORT TO THE SENATE MAJORITY LEADER, THE SPEAKER OF THE
9 HOUSE OF REPRESENTATIVES, AND THE STANDING COMMITTEES OF THE
10 LEGISLATURE WITH JURISDICTION PRIMARILY RELATED TO NATURAL
11 RESOURCES AND THE ENVIRONMENT, AND THE DEPARTMENT THAT CONTAINS THE
12 RESULTS OF ITS TESTING AND EVALUATION AND ANY RECOMMENDATIONS THAT
13 THE COUNCIL HAS TO IMPROVE THE OPERATION OF THE ASSESSMENT TOOL.

14 (C) STUDY AND MAKE RECOMMENDATIONS REGARDING THE DEVELOPMENT
15 AND REFINEMENT OF THE ASSESSMENT TOOL.

16 (D) STUDY AND MAKE RECOMMENDATIONS ON WHETHER AND HOW THE
17 DEFINITION OF ADVERSE RESOURCE IMPACT IN SECTION 32701 SHOULD BE
18 MODIFIED TO MORE SPECIFICALLY ADDRESS POTENTIAL IMPACTS TO THE
19 GREAT LAKES, INLAND LAKES, AND OTHER AQUATIC SYSTEMS DUE TO LARGE
20 QUANTITY WITHDRAWALS.

21 (E) MAKE RECOMMENDATIONS ON RECONCILING CONFLICTS IN STATE
22 LAWS RELATED TO THE USE OF THE WATERS OF THE STATE.

23 (F) MAKE RECOMMENDATIONS ON THE DEVELOPMENT AND IMPLEMENTATION
24 OF THE STATE'S WATER CONSERVATION AND EFFICIENCY PROGRAM UNDER
25 SECTION 4.2 OF THE COMPACT.

26 (G) DEVELOP A FRAMEWORK FOR EVALUATING PREVENTATIVE MEASURES
27 DESIGNED TO PREVENT ADVERSE RESOURCE IMPACTS.

(H) IN CONSULTATION WITH ACADEMIC INSTITUTIONS AND OTHER
NONPROFIT ORGANIZATIONS, MAKE RECOMMENDATIONS REGARDING EDUCATIONAL
MATERIALS RELATED TO THE USE AND AVAILABILITY OF WATER RESOURCES.

(I) NOT EARLIER THAN 3 YEARS AFTER THE EFFECTIVE DATE OF THE
AMENDATORY ACT THAT ADDED THIS SUBDIVISION, SUBMIT A REPORT TO THE
SENATE MAJORITY LEADER, THE SPEAKER OF THE HOUSE OF
REPRESENTATIVES, AND THE STANDING COMMITTEES OF THE LEGISLATURE
WITH JURISDICTION PRIMARILY RELATED TO NATURAL RESOURCES AND THE
ENVIRONMENT THAT MAKES RECOMMENDATIONS REGARDING HOW THE WATER
WITHDRAWAL ASSESSMENT PROCESS UNDER PART 327 COULD BE IMPROVED IN
ORDER TO MORE ACCURATELY ASSESS ADVERSE RESOURCE IMPACTS. THE
REPORT SHALL CONTAIN SPECIFIC RECOMMENDATIONS ON THE USE OF THE
ASSESSMENT TOOL, THE SITE-SPECIFIC REVIEW PROCESS, THE PERMITTING
PROCESS, AND ANY OTHER MEASURE THAT THE COUNCIL DETERMINES WOULD
IMPROVE THE WATER WITHDRAWAL ASSESSMENT PROCESS.

(5) ~~(6)~~—The council shall submit the following reports,
approved by a majority of the voting members of the council, to the
senate majority leader, the speaker of the house of
representatives, and the standing committees of the legislature
with jurisdiction primarily related to natural resources and the
environment **AND TO THE DEPARTMENT:**

(a) Not later than February 8, ~~2006~~—**2009**, a **PROGRESS** report on
the council's findings and recommendations under subsection ~~(4)~~
(4) (C) TO (H) as of that date.

(b) Not later than ~~July 1, 2007~~—**AUGUST 8, 2009**, the council's
FINAL REPORT ON ITS findings and recommendations under subsection
~~(4)~~—**(4) (C) TO (H)**. ~~that have not previously been reported and the~~

~~council's findings and recommendations under subsection (5).~~

~~—— (7) The legislature shall provide for the adoption of a water withdrawal assessment tool including the assessment tool's conceptual framework, the policy based parameters or variables of the assessment tool, the timetable for updating the assessment tool and its data, and the details for use of the assessment tool.~~

~~—— (8) As used in this section, "large quantity withdrawal" means that term as it is defined in section 32701.~~

(6) AS USED IN THIS SECTION, "ASSESSMENT TOOL" MEANS THE WATER WITHDRAWAL ASSESSMENT TOOL PROVIDED FOR IN PART 327.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 212.

(b) Senate Bill No. 727.

(c) Senate Bill No. 858.

(d) Senate Bill No. 859.

(e) Senate Bill No. 860.

(f) House Bill No. 4343.

(g) House Bill No. 5065.

(h) House Bill No. 5066.

(i) House Bill No. 5067.

(j) House Bill No. 5069.

(k) House Bill No. 5073.