

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 858

A bill to amend 1976 PA 399, entitled
"Safe drinking water act,"
by amending section 4 (MCL 325.1004), as amended by 2006 PA 601.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A supplier of water shall file with the department
2 the plans and specifications of the entire waterworks system owned
3 or operated by the supplier, unless the department determines that
4 its existing records are adequate. A general plan of the waterworks
5 system for each public water supply shall be provided to the
6 department by a supplier of water and shall be updated as
7 determined necessary by the department.

8 (2) Upon receipt of the plans and specifications for a

1 proposed waterworks system, the department shall evaluate the
2 adequacy of the proposed system to protect the public health by
3 supplying water meeting the state drinking water standards and, if
4 applicable, shall evaluate the impact of the proposed system as
5 provided in subsections (3) and (4). **IN ADDITION, FOR A PROPOSED**
6 **WATERWORKS SYSTEM BY A COMMUNITY SUPPLY THAT WILL PROVIDE CAPACITY**
7 **FOR A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL, THE DEPARTMENT**
8 **SHALL UTILIZE THE ASSESSMENT TOOL TO EVALUATE THE PROPOSED**
9 **WITHDRAWAL ASSOCIATED WITH THE PROPOSED WATERWORKS SYSTEM AND SHALL**
10 **CONFIRM THE ASSESSMENT TOOL'S DETERMINATION. PRIOR TO THE**
11 **IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, THE**
12 **DEPARTMENT SHALL EVALUATE THE PROPOSED WITHDRAWAL BASED UPON**
13 **REASONABLY AVAILABLE INFORMATION. IF THE DEPARTMENT DETERMINES THAT**
14 **THE PROPOSED WITHDRAWAL FOR A COMMUNITY SUPPLY IS A ZONE C**
15 **WITHDRAWAL, THE COMMUNITY SUPPLY SHALL CERTIFY THAT IT IS**
16 **IMPLEMENTING APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY**
17 **FEASIBLE WATER CONSERVATION MEASURES PREPARED UNDER SECTION 32708A**
18 **THAT THE COMMUNITY SUPPLY CONSIDERS TO BE REASONABLE OR SHALL**
19 **CERTIFY THAT IT IS IMPLEMENTING ENVIRONMENTALLY SOUND AND**
20 **ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES DEVELOPED FOR THE**
21 **WATER USE ASSOCIATED WITH THAT SPECIFIC WITHDRAWAL THAT THE**
22 **COMMUNITY SUPPLY CONSIDERS TO BE REASONABLE.** The department shall
23 also conduct a capacity assessment for a proposed community supply
24 or nontransient noncommunity water supply and determine if the
25 system has the technical, financial, and managerial capacity to
26 meet all requirements of this act and the rules promulgated under
27 this act, on the date of commencement of operations. If upon

1 evaluation the department determines the plans and specifications
 2 to be inadequate or the capacity assessment shows the system to be
 3 inadequate, the department may return the plans and specifications
 4 to the applicant and require additions or modifications as may be
 5 appropriate. The department may reject plans and specifications for
 6 a waterworks system that will not satisfactorily provide for the
 7 protection of the public health or, if applicable, will not meet
 8 the standards provided in ~~subsections (3) and~~ **SUBSECTION** (4). The
 9 department may deny a permit for construction of a proposed
 10 community supply or a nontransient noncommunity water supply if the
 11 capacity assessment shows that the proposed system does not have
 12 adequate technical, financial, or managerial capacity to meet the
 13 requirements of this act and the rules promulgated under this act.

14 (3) The department ~~may~~ **SHALL** evaluate the impact of a proposed
 15 waterworks system for a community supply ~~owned by a political~~
 16 ~~subdivision~~ that will do any of the following:

17 (a) Provide new total designed withdrawal capacity of more
 18 than 2,000,000 gallons of water per day from ~~a source of water~~
 19 ~~other than the Great Lakes and their connecting waterways~~ **THE**
 20 **WATERS OF THE STATE.**

21 (b) Provide an increased total designed withdrawal capacity of
 22 more than 2,000,000 gallons of water per day from ~~a source of water~~
 23 ~~other than the Great Lakes and their connecting waterways~~ **THE**
 24 **WATERS OF THE STATE** beyond the system's total designed withdrawal
 25 capacity.

26 ~~—— (c) Provide new total designed withdrawal capacity of more~~
 27 ~~than 5,000,000 gallons of water per day from the Great Lakes and~~

1 ~~their connecting waterways.~~

2 ~~—— (d) Provide an increased total designed withdrawal capacity of~~
 3 ~~more than 5,000,000 gallons of water per day from the Great Lakes~~
 4 ~~and their connecting waterways beyond the system's total designed~~
 5 ~~withdrawal capacity.~~

6 (C) PROVIDE NEW OR INCREASED TOTAL DESIGNED WITHDRAWAL
 7 CAPACITY FOR A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL OF MORE
 8 THAN 1,000,000 GALLONS OF WATER PER DAY FROM THE WATERS OF THE
 9 STATE TO SUPPLY A COMMON DISTRIBUTION SYSTEM THAT THE DEPARTMENT
 10 CONFIRMS IS A ZONE C WITHDRAWAL.

11 (D) PROVIDE NEW TOTAL DESIGNED WITHDRAWAL CAPACITY OR AN
 12 INCREASED TOTAL DESIGNED WITHDRAWAL CAPACITY THAT WILL RESULT IN AN
 13 INTRABASIN TRANSFER OF MORE THAN 100,000 GALLONS PER DAY AVERAGE
 14 OVER ANY 90-DAY PERIOD.

15 (4) THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE THAT IT IS
 16 CONDUCTING AN EVALUATION UNDER SUBSECTION (3) AND SHALL PROVIDE A
 17 PUBLIC COMMENT PERIOD OF NOT LESS THAN 45 DAYS BEFORE MAKING A
 18 DETERMINATION ON THAT EVALUATION. The department shall reject the
 19 plans and specifications for a proposed waterworks system evaluated
 20 under subsection (3) if it determines that the proposed system will
 21 not meet the applicable standard provided in section 32723(5) ~~or~~
 22 ~~(6)~~ 32723 of the natural resources and environmental protection
 23 act, 1994 PA 451, MCL 324.32723. ~~unless~~ **HOWEVER, THE DEPARTMENT**
 24 **MAY APPROVE THE PLANS AND SPECIFICATIONS FOR A PROPOSED WATERWORKS**
 25 **SYSTEM EVALUATED UNDER SUBSECTION (3) FOR A COMMUNITY SUPPLY OWNED**
 26 **BY A POLITICAL SUBDIVISION THAT THE DEPARTMENT DETERMINES WILL NOT**
 27 **MEET THE APPLICABLE STANDARD PROVIDED IN SECTION 32723 IF THE PLANS**

1 AND SPECIFICATIONS DO NOT RESULT IN AN INTRABASIN TRANSFER OF MORE
2 THAN 100,000 GALLONS PER DAY AVERAGE OVER ANY 90-DAY PERIOD AND
3 both of the following conditions are met:

4 (a) The department determines that there is no feasible and
5 prudent alternative location for the withdrawal.

6 (b) The department includes in the approval conditions related
7 to depth, pumping capacity, rate of flow, and ultimate use that
8 ensure that the environmental impact of the withdrawal is balanced
9 by the public benefit of the withdrawal related to public health,
10 safety, and welfare. THIS SUBDIVISION DOES NOT CONFER UPON THE
11 DEPARTMENT ANY AUTHORITY TO REQUIRE A PERSON TO CONNECT OR TO
12 REMAIN CONNECTED TO AN EXISTING DRINKING WATER SUPPLY SYSTEM OWNED
13 BY A POLITICAL SUBDIVISION.

14 (5) THE DEPARTMENT'S APPROVAL OF A PROPOSED WATERWORKS SYSTEM
15 UNDER THIS SECTION SHALL BE CONSIDERED TO SATISFY THE REQUIREMENTS
16 OF SECTION 4.11 OF THE COMPACT.

17 (6) ~~(5)~~—Before commencing the construction of a waterworks
18 system or an alteration, addition, or improvement to a system, a
19 supplier of water shall submit the plans and specifications for the
20 improvements to the department and secure from the department a
21 permit for construction as provided by rule. Plans and
22 specifications submitted to the department shall be prepared by a
23 professional engineer licensed under article 20 of the occupational
24 code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder,
25 or supplier of water shall not engage in or begin the construction
26 of a waterworks system or an alteration, addition, or improvement
27 to a waterworks system until a valid permit for the construction

1 has been secured from the department. A contractor, builder, or
2 supplier of water who permits or allows construction to proceed
3 without a valid permit, or in a manner not in accordance with the
4 plans and specifications approved by the department, violates this
5 act. A supplier of water shall not issue a voucher or check or in
6 any other way expend money or provide consideration for
7 construction of a waterworks system unless a valid permit issued by
8 the department is in effect. The department may issue a permit with
9 conditions to correct minor design deficiencies. If eligible, a
10 supplier may request an expedited review of an application for a
11 permit under section 4a.

12 (7) ~~(6)~~—The department may deny a permit for construction of a
13 waterworks system or an alteration, addition, or improvement to a
14 waterworks system if the most recent capacity assessment shows that
15 the waterworks system does not have adequate technical, financial,
16 or managerial capacity to meet the requirements of this act and the
17 rules promulgated under this act, and the deficiencies identified
18 in that capacity assessment remain uncorrected, unless the proposed
19 construction will remedy the deficiencies.

20 (8) ~~(7)~~—The department may verbally approve minor
21 modifications of a construction permit issued by the department as
22 a result of unforeseen site conditions that become apparent during
23 construction. Minor modifications include, but are not limited to,
24 extending a hydrant lead or routing a water main around a manhole.
25 A supplier making a request for a modification shall provide to the
26 department all relevant information required under this section and
27 the application form provided by the department related to the

1 modification. A supplier shall obtain written approval from the
2 department for all modifications to a waterworks system except when
3 the department provides verbal approval for a minor modification as
4 provided for in this subsection. A supplier receiving a written or
5 verbal approval from the department shall submit revised plans and
6 specifications to the department within 10 days from the date of
7 approval.

8 (9) ~~(8)~~—If a supplier seeks confirmation of the department's
9 verbal approval of a minor modification under subsection ~~(7)~~—(8),
10 the supplier shall notify the department electronically, at an
11 address specified by the department, with a detailed description of
12 the request for the modification. The department shall make
13 reasonable efforts to respond within 2 business days, confirming
14 whether the request has been approved or not approved. If the
15 department has not responded within 2 business days after the
16 department receives the detailed description, the verbal approval
17 shall be considered confirmed.

18 (10) AS A CONDITION OF A PERMIT ISSUED UNDER THIS SECTION TO A
19 COMMUNITY SUPPLY, THE DEPARTMENT SHALL REQUIRE THE PERMIT HOLDER TO
20 ANNUALLY SUBMIT TO THE DEPARTMENT A REPORT BY APRIL 1 OF EACH YEAR
21 THAT CONTAINS THE INFORMATION DESCRIBED IN SECTION 32707 OF THE
22 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
23 MCL 324.32707.

24 (11) AS USED IN THIS SECTION, "ASSESSMENT TOOL", "COMPACT",
25 "INTRABASIN TRANSFER", "NEW OR INCREASED LARGE QUANTITY
26 WITHDRAWAL", "WATERS OF THE STATE", AND "ZONE C WITHDRAWAL" MEAN
27 THOSE TERMS AS THEY ARE DEFINED IN SECTION 32701 OF THE NATURAL

1 **RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL**
2 **324.32701.**

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

- 6 (a) Senate Bill No. 212.
- 7 (b) Senate Bill No. 723.
- 8 (c) Senate Bill No. 727.
- 9 (d) Senate Bill No. 859.
- 10 (e) Senate Bill No. 860.
- 11 (f) House Bill No. 4343.
- 12 (g) House Bill No. 5065.
- 13 (h) House Bill No. 5066.
- 14 (i) House Bill No. 5067.
- 15 (j) House Bill No. 5069.
- 16 (k) House Bill No. 5073.