

SUBSTITUTE FOR
HOUSE BILL NO. 5066

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32707, 32708, 32708a, 32709, and 32710 (MCL
324.32707, 324.32708, 324.32708a, 324.32709, and 324.32710),
section 32707 as amended by 2006 PA 33, section 32708 as amended
and section 32708a as added by 2006 PA 35, and sections 32709 and
32710 as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32707. (1) Except as provided in subsections (2) and (3),
2 a person who is required to register under section 32705 or holds a
3 permit under section 32723 shall file a report annually with the
4 department on a form provided by the department. Reports shall be
5 submitted by April 1 of each year. Except as provided in subsection
6 (8), reports shall include the following information:

1 (a) The amount and rate of water withdrawn on an annual and
2 monthly basis.

3 (b) The source or sources of the water supply.

4 (c) The use or uses of the water withdrawn.

5 (d) The amount of consumptive use of water withdrawn.

6 (e) If the source of the water withdrawn is groundwater, the
7 location of the well or wells in latitude and longitude, with the
8 accuracy of the reported location data to within 25 feet.

9 (f) If the source of water withdrawn is groundwater, the
10 static water level of the aquifer or aquifers, if practicable.

11 (g) Other information specified by rule of the department.

12 (h) At the discretion of the registrant or permit holder, the
13 baseline capacity of the withdrawal and, if applicable, a
14 description of the system capacity. ~~If the registrant or permit~~
15 ~~holder chooses to report the baseline capacity under this~~
16 ~~subdivision, that information shall be included in the next report~~
17 ~~submitted by the registrant or permit holder after the effective~~
18 ~~date of the amendatory act that added this subdivision. Information~~
19 ~~reported under this subdivision needs only to be reported to the~~
20 ~~department on 1 occasion.~~

21 (i) At the discretion of the registrant or permit holder, the
22 amount of water returned to the source watershed.

23 **(J) BEGINNING IN 2010, AN ACKNOWLEDGMENT THAT THE REGISTRANT**
24 **HAS REVIEWED APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY**
25 **FEASIBLE WATER CONSERVATION MEASURES PREPARED UNDER SECTION 32708A.**

26 (2) If a person reports the information required by this
27 section to the department in conjunction with a permit or for any

House Bill No. 5066 (H-3) as amended May 21, 2008

1 other purpose, that reporting, upon approval of the department,
2 ~~shall satisfy~~ **SATISFIES** the reporting requirements of this section.

3 (3) The owner of a farm who reports water use under section
4 32708 is not required to report under subsection (1).

5 (4) The department may, upon request from a person required to
6 report under this section, accept a formula or model that provides
7 to the department's satisfaction the information required in
8 subsection (1).

9 (5) The department shall develop forms for reporting under
10 this section that minimize paperwork and allow for a notification
11 to the department instead of a report if the annual amount of water
12 withdrawn by a person required to report under this section is
13 within 4% of the amount last reported and the other information
14 required in subsection (1) has not changed since the last year in
15 which a report was filed.

16 (6) Information described in section ~~32701(e)(i)(C)~~
17 **[32701(D)(i)(B)]** that is provided to the department under subsection
18 (1)(h) is exempt from disclosure under the freedom of information
19 act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed
20 unless the department determines that the withdrawal is causing an
21 adverse resource impact.

22 (7) Except as otherwise provided in this subsection, a person
23 who files an annual report or notification under this section shall
24 annually remit a water use reporting fee of \$200.00 to the
25 department. ~~Beginning when a water withdrawal assessment tool~~
26 ~~becomes effective upon legislative enactment pursuant to the~~
27 ~~recommendations of the groundwater conservation advisory council~~

~~under section 32803, a person who files an annual report or notification under this section shall annually remit a water use reporting fee of \$100.00 to the department.~~ Water use reporting fees shall be remitted to the department in conjunction with the annual report or notification submitted under this section. The department shall transmit water use reporting fees collected under this section to the state treasurer to be credited to the water use protection fund created in section 32714. A water use reporting fee is not required for a report or notification related to a farm that reports withdrawals under section 32708 or for a report under subsection (8).

(8) A person who withdraws less than 1,500,000 gallons of water in any year shall indicate this fact on the reporting form and is not required to provide information under subsection (1)(a) or (d). A person who withdraws less than 1,500,000 gallons of water in any year is not required to pay the water use reporting fee under subsection (7).

Sec. 32708. (1) The owner of a farm that is registered under this part who makes a withdrawal for an agricultural purpose, including irrigation for an agricultural purpose, may report the water use on the farm by annually submitting to the department of agriculture a water use conservation plan. Conservation plans shall be submitted by April 1 of each year. The water use conservation plan shall include, but need not be limited to, all of the following information:

(a) The amount and rate of water withdrawn on an annual and monthly basis in either gallons or acre inches.

1 (b) The type of crop irrigated, if applicable.

2 (c) The acreage of each irrigated crop, if applicable.

3 (d) The source or sources of the water supply.

4 (e) If the source of the water withdrawn is groundwater, the
5 location of the well or wells in latitude and longitude, with the
6 accuracy of the reported location data to within 25 feet.

7 (f) If the water withdrawn is not used entirely for
8 irrigation, the use or uses of the water withdrawn.

9 (g) If the source of water withdrawn is groundwater, the
10 static water level of the aquifer or aquifers, if practicable.

11 (h) Applicable water conservation practices and an
12 implementation plan for those practices. **BEGINNING IN 2010, THE**
13 **WATER USE CONSERVATION PLAN SHALL INCLUDE AN ACKNOWLEDGMENT THAT**
14 **THE OWNER OF THE FARM HAS REVIEWED APPLICABLE ENVIRONMENTALLY SOUND**
15 **AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES PREPARED**
16 **UNDER SECTION 32708A.**

17 (i) At the discretion of the registrant, the baseline capacity
18 of the withdrawal based upon system capacity and a description of
19 the system capacity. ~~If the registrant chooses to report the~~
20 ~~baseline capacity under this subdivision, that information shall be~~
21 ~~included in the next report submitted by the registrant after the~~
22 ~~effective date of the amendatory act that added this subdivision.~~
23 ~~Information reported under this subdivision needs only to be~~
24 ~~reported to the department of agriculture on 1 occasion.~~

25 (2) The department and the department of agriculture in
26 consultation with Michigan state university shall validate and use
27 a formula or model to estimate the consumptive use of withdrawals

1 made for agricultural purposes consistent with the objectives of
2 section 32707.

3 (3) Subject to subsection (4), information provided to the
4 department of agriculture under subsection (1)(a), (d), and (e)
5 shall be forwarded to the department for inclusion in the statewide
6 groundwater inventory and map prepared under section 32802.

7 (4) Information provided under subsection (1)(a), (e), and (i)
8 is exempt from disclosure under the freedom of information act,
9 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by
10 the department, the department of agriculture, or the department of
11 natural resources unless the department determines that the
12 withdrawal is causing an adverse resource impact.

13 Sec. 32708a. ~~(1) Within 12 months after the effective date of~~
14 ~~the amendatory act that added this section, each water user's~~
15 ~~sector shall begin designing guidelines for generally accepted~~
16 ~~water management practices or environmentally sound and~~
17 ~~economically feasible water conservation measures within that~~
18 ~~sector. Within 24 months after the effective date of the amendatory~~
19 ~~act that added this section, the department shall review and report~~
20 ~~to the appropriate standing committees of the legislature on~~
21 ~~whether or not there are reasonably detailed criteria for assisting~~
22 ~~a facility in determining whether water is being used in an~~
23 ~~efficient manner. Such guidelines may be adopted by an established~~
24 ~~statewide professional or trade association representing that~~
25 ~~sector.~~

26 (1) NOT LATER THAN MARCH 31, 2009, THE DEPARTMENT SHALL
27 PREPARE AND POST ON ITS WEBSITE A SET OF GENERIC WATER CONSERVATION

1 MEASURES THAT ARE APPLICABLE TO ALL PERSONS MAKING LARGE QUANTITY
2 WITHDRAWALS. IN PREPARING GENERIC WATER CONSERVATION MEASURES, THE
3 DEPARTMENT MAY CONSIDER GENERIC WATER CONSERVATION MEASURES
4 SUBMITTED BY REPRESENTATIVE TRADE ASSOCIATIONS.

5 (2) EACH WATER USER'S SECTOR MAY PREPARE AND SUBMIT TO THE
6 DEPARTMENT WATER CONSERVATION MEASURES THAT ARE APPLICABLE FOR
7 WATER USERS WITHIN ITS SECTOR. UPON RECEIPT OF WATER CONSERVATION
8 MEASURES FROM A WATER USER'S SECTOR, THE DEPARTMENT SHALL REVIEW
9 THE WATER CONSERVATION MEASURES, AND, IF THE DEPARTMENT DETERMINES
10 THAT THOSE WATER CONSERVATION MEASURES ARE APPROPRIATE FOR THAT
11 SECTOR, THE DEPARTMENT SHALL ACCEPT THOSE WATER CONSERVATION
12 MEASURES. UPON ACCEPTANCE, THE DEPARTMENT SHALL POST THE WATER
13 CONSERVATION MEASURES ON ITS WEBSITE AND THOSE WATER CONSERVATION
14 MEASURES SHALL SUPERSEDE THE GENERIC WATER CONSERVATION MEASURES
15 PREPARED UNDER SUBSECTION (1) FOR WATER USERS WITHIN THAT SECTOR.
16 IF THE DEPARTMENT DETERMINES THAT THE WATER CONSERVATION MEASURES
17 ARE NOT APPROPRIATE FOR THE WATER USER'S SECTOR, THE DEPARTMENT
18 SHALL PROVIDE COMMENTS TO THE WATER USER'S SECTOR AND SUGGESTIONS
19 THAT WOULD RESULT IN THE DEPARTMENT'S ACCEPTANCE OF THE WATER
20 CONSERVATION MEASURES. A WATER USER'S SECTOR MAY RESUBMIT WATER
21 CONSERVATION MEASURES IN RESPONSE TO THE DEPARTMENT'S COMMENTS AND
22 SUGGESTIONS.

23 (3) BY APRIL 1, 2010, THE DEPARTMENT SHALL REPORT TO THE
24 STANDING COMMITTEES OF THE LEGISLATURE WITH JURISDICTION PRIMARILY
25 RELATED TO NATURAL RESOURCES AND THE ENVIRONMENT ON THE STATUS OF
26 THE PREPARATION AND ACCEPTANCE OF WATER USER SECTOR CONSERVATION
27 MEASURES.

(4) IF THE DEPARTMENT RECEIVES A REGISTRATION FOR A ZONE C WITHDRAWAL, THE DEPARTMENT SHALL NOTIFY ALL OTHER REGISTRANTS AND PERMIT HOLDERS WHOSE WITHDRAWALS ARE FROM THE SAME WATER SOURCE AS THE ZONE C WITHDRAWAL OF THE STATUS OF THE WATER SOURCE. UPON RECEIPT OF NOTIFICATION UNDER THIS SUBSECTION, EACH OF THESE REGISTRANTS AND PERMIT HOLDERS SHALL REVIEW AND CONSIDER IMPLEMENTING THE APPLICABLE WATER CONSERVATION MEASURES PREPARED UNDER THIS SECTION. THE NOTIFICATION WILL INFORM WATER USERS THAT, IN ORDER TO MINIMIZE IMPACTS ON AQUATIC HEALTH, EACH WATER USER IS REQUIRED TO REVIEW AND CONSIDER IMPLEMENTING THE APPLICABLE WATER CONSERVATION MEASURES PREPARED UNDER THIS SECTION.

(5) ~~(2)~~ Compliance with ~~generally accepted water management practices or environmentally sound and economically feasible water~~ conservation measures does not authorize a water withdrawal that is otherwise prohibited by law.

(6) AS USED IN THIS SECTION:

(A) "PERMIT HOLDERS" MEANS PERSONS HOLDING A PERMIT UNDER SECTION 32723 AND PERSONS HOLDING A PERMIT UNDER THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL 325.1001 TO 325.1023.

(B) "WATER CONSERVATION MEASURES" MEANS ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES.

Sec. 32709. The department may contract for the preparation and distribution of informational materials to ~~persons who withdraw water for irrigation or industrial purposes regarding the~~ MEMBERS OF THE PUBLIC RELATED TO ANY OF THE FOLLOWING:

(A) THE purposes, benefits, and requirements of this part. ~~and may also provide information~~

1 **(B) INFORMATION** on complying with the registration ~~program~~
2 **REQUIREMENT OF THIS PART** and on any general or applicable methods
3 for calculating or estimating water withdrawals or consumptive
4 uses.

5 Sec. 32710. **(1)** The department shall do all of the following:

6 (a) Cooperate with the states and provinces in the Great Lakes
7 region to develop and maintain a common base of information on the
8 use and management of the water of the Great Lakes basin and to
9 establish systematic arrangements for the exchange of this
10 information.

11 (b) Collect and maintain information regarding the locations,
12 types, and quantities of water use, including water withdrawals and
13 consumptive uses, in a form that the department determines is
14 comparable to the form used by other states and provinces in the
15 Great Lakes region.

16 (c) Collect, maintain, and exchange information on current and
17 projected future water needs with the other states and provinces in
18 the Great Lakes region.

19 (d) Cooperate with other states and provinces in the Great
20 Lakes region in developing a long-range plan for developing,
21 conserving, and managing the water of the Great Lakes basin.

22 (e) Participate in the development of a regional consultation
23 procedure for use in exchanging information on the effects of
24 proposed water withdrawals and consumptive uses from the Great
25 Lakes basin.

26 (f) Develop procedures for notifying water users and potential
27 water users of the requirements of this part.

House Bill No. 5066 (H-3) as amended May 21, 2008

(G) IF THE DEPARTMENT RECEIVES A REGISTRATION FOR A ZONE B OR A ZONE C WITHDRAWAL OR ISSUES A PERMIT UNDER SECTION 32723 OR THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL 325.1001 TO [325.1023], FOR A ZONE B OR ZONE C WITHDRAWAL, OR IF THE DEPARTMENT RECEIVES A REGISTRATION THAT THE DEPARTMENT DETERMINES WILL REDUCE THE DENSITY OF THRIVING FISH POPULATIONS AS DETERMINED BY THE THRIVING FISH CURVE IN A COLD-TRANSITIONAL STREAM BY MORE THAN 1%, PLACE A NOTICE ON THE DEPARTMENT'S WEBSITE AND NOTIFY BY ELECTRONIC MAIL ALL OF THE FOLLOWING THAT HAVE REQUESTED UNDER SUBSECTION (2) AN ELECTRONIC MAIL NOTIFICATION:

(i) CONSERVATION DISTRICTS.

(ii) REGIONAL PLANNING AGENCIES.

(iii) WATERSHED MANAGEMENT PLANNING COMMITTEES.

(iv) STORM WATER COMMITTEES ESTABLISHED UNDER PART 31.

(v) THE CHIEF ELECTED OFFICIALS OF THE LOCAL UNITS OF GOVERNMENT.

(vi) COMMUNITY SUPPLIES OWNED BY POLITICAL SUBDIVISIONS.

(vii) A WATER USERS COMMITTEE ESTABLISHED UNDER SECTION 32725.

(2) AN ORGANIZATION LISTED IN SUBSECTION (1) (G) THAT WISHES TO RECEIVE AN ELECTRONIC MAIL NOTIFICATION OF WITHDRAWALS DESCRIBED IN SUBSECTION (1) (G) THAT ARE LOCATED IN ITS VICINITY SHALL PROVIDE TO THE DEPARTMENT AN ELECTRONIC MAIL ADDRESS.

(3) UPON RECEIPT OF NOTIFICATION FROM THE DEPARTMENT UNDER SUBSECTION (1) (G), THE NOTIFIED ENTITIES MAY FORM A WATER RESOURCES ASSESSMENT AND EDUCATION COMMITTEE IN ORDER TO ASSESS TRENDS IN WATER USE IN THE VICINITY OF THE WITHDRAWAL AND EDUCATE WATER USERS. THE DEPARTMENT SHALL ASSIST IN THE FORMATION OF THESE WATER

1 RESOURCES ASSESSMENT AND EDUCATION COMMITTEES AND MAY PROVIDE THEM
2 WITH TECHNICAL INFORMATION REGARDING WATER USE AND CAPACITY WITHIN
3 THEIR VICINITY, AGGREGATED AT THE STREAM REACH LEVEL. MEETINGS OF
4 WATER RESOURCES ASSESSMENT AND EDUCATION COMMITTEES SHALL BE OPEN
5 TO THE GENERAL PUBLIC. A WATER RESOURCES ASSESSMENT AND EDUCATION
6 COMMITTEE FORMED UNDER THIS SUBSECTION MAY PROVIDE EDUCATIONAL
7 MATERIALS AND RECOMMENDATIONS REGARDING ANY OF THE FOLLOWING:

8 (A) LONG-TERM WATER RESOURCES PLANNING.

9 (B) USE OF CONSERVATION MEASURES.

10 (C) DROUGHT MANAGEMENT ACTIVITIES.

11 (D) OTHER TOPICS RELATED TO WATER USE AS IDENTIFIED BY THE
12 COMMITTEE.

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

16 (a) House Bill No. 4343.

17 (b) House Bill No. 5065.

18 (c) House Bill No. 5067.

19 (d) House Bill No. 5068.

20 (e) House Bill No. 5069.

21 (f) House Bill No. 5070.

22 (g) House Bill No. 5071.

23 (h) House Bill No. 5072.

24 (i) House Bill No. 5073.