

SUBSTITUTE FOR  
HOUSE BILL NO. 5070

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 32725, 32726, and 32728 (MCL 324.32725,  
324.32726, and 324.32728), section 32725 as added by 2006 PA 36 and  
sections 32726 and 32728 as added by 2006 PA 33; and to repeal acts  
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 32725. (1) All persons making large quantity withdrawals  
2       within a watershed are encouraged to establish a water users  
3       committee to evaluate the status of current water resources, water  
4       use, and trends in water use within the watershed and to assist in  
5       long-term water resources planning. A water users committee may be  
6       composed of all registrants, ~~water withdrawal~~ permit holders, and

1 local government officials within the watershed. UPON ESTABLISHMENT  
2 OF A WATER USERS COMMITTEE, A PARTICIPATING LOCAL GOVERNMENT  
3 OFFICIAL MAY CREATE AN AD HOC SUBCOMMITTEE OF RESIDENTS OF THAT  
4 LOCAL UNIT OF GOVERNMENT TO PROVIDE THAT LOCAL GOVERNMENT OFFICIAL  
5 WITH INFORMATION AND ADVICE ON WATER RESOURCES, WATER USE, AND  
6 TRENDS IN WATER USE WITHIN THE LOCAL UNIT OF GOVERNMENT.

7 (2) IF THE DEPARTMENT AUTHORIZES A ZONE C WITHDRAWAL, THE  
8 DEPARTMENT SHALL NOTIFY ALL REGISTRANTS, PERMIT HOLDERS, AND LOCAL  
9 GOVERNMENT OFFICIALS WITHIN THE WATERSHED OF THE ZONE C WITHDRAWAL  
10 AND OF THE AUTHORITY UNDER THIS SECTION TO ESTABLISH A WATER USERS  
11 COMMITTEE AND MAY PROVIDE THEM TECHNICAL INFORMATION REGARDING  
12 WATER USE AND CAPACITY WITHIN THEIR VICINITY AGGREGATED AT THE  
13 STREAM REACH LEVEL.

14 (3) ~~(2)~~ If the department determines by reasonable  
15 scientifically-based evidence that adverse resource impacts are  
16 occurring or are likely to occur from 1 or more large quantity  
17 withdrawals, the department shall notify the water users committee  
18 in the watershed or shall convene a meeting of all registrants and  
19 ~~water withdrawal~~ permit holders within the watershed and shall  
20 attempt to facilitate an agreement on voluntary measures that would  
21 prevent adverse resource impacts.

22 (4) ~~(3)~~ If, within 30 days after the department has notified  
23 the water users committee or convened the meeting under subsection  
24 ~~(2)~~ (3), the registrants and ~~water withdrawal~~ permit holders are  
25 not able to voluntarily agree to measures that would prevent  
26 adverse resource impacts, the department may propose a solution  
27 that the department believes would equitably resolve the situation

1 and prevent adverse resource impacts. The recommended solution is  
2 not binding on any of the parties.

3 (5) ~~(4)~~—The director may, without a prior hearing, order a  
4 ~~person holding a water withdrawal permit~~ **HOLDERS** to immediately  
5 restrict a withdrawal if the director determines by clear and  
6 convincing scientific evidence that there is a substantial and  
7 imminent threat that the withdrawal is causing or is likely to  
8 cause an adverse resource impact. The order shall specify the date  
9 on which the withdrawal must be restricted and the date on which it  
10 may be resumed. An order issued under this section shall remain in  
11 force and effect for not more than 30 days and may be renewed for  
12 an additional 30 days if the director determines by clear and  
13 convincing scientific evidence that conditions continue to pose a  
14 substantial and imminent threat that the withdrawal is causing or  
15 is likely to cause an adverse resource impact. The order shall  
16 notify the person that the person may request a contested case  
17 hearing under the administrative procedures act of 1969, 1969 PA  
18 306, MCL 24.201 to 24.328. The hearing shall be held within 10  
19 business days following the request, unless the permittee requests  
20 a later date. As an alternative to requesting a contested case  
21 hearing, a person subject to an order under this section may seek  
22 judicial review of the order as provided in the revised judicature  
23 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

24 (6) ~~(5)~~—A registrant or ~~water withdrawal permit~~ holder may  
25 submit a petition to the director alleging that adverse resource  
26 impacts are occurring or are likely to occur from 1 or more water  
27 withdrawals. The director shall either investigate the petition or

1 forward the petition to the director of the department of  
2 agriculture if the water withdrawals are from an agricultural well.  
3 The petition shall be in writing and shall include all the  
4 information requested by the director or the director of the  
5 department of agriculture, as appropriate.

6 (7) ~~(6)~~—A person who submits more than 2 unverified petitions  
7 under this section within 1 year may be ordered by the director to  
8 pay for the full costs of investigating any third or subsequent  
9 unverified petition. As used in this subsection, "unverified  
10 petition" means a petition in response to which the director  
11 determines that there is not reasonable evidence to suspect adverse  
12 resource impacts.

13 (8) AS USED IN THIS SECTION, "PERMIT HOLDERS" MEANS PERSONS  
14 HOLDING A PERMIT UNDER SECTION 32723 AND PERSONS HOLDING A PERMIT  
15 UNDER THE SAFE DRINKING WATER ACT, 1976 PA 399, MCL 325.1001 TO  
16 325.1023.

17 Sec. 32726. (1) Except as authorized by the public health  
18 code, 1978 PA 368, MCL 333.1101 to 333.25211, a local unit of  
19 government shall not enact or enforce an ordinance that regulates a  
20 large quantity withdrawal. This section is not intended to diminish  
21 or create any existing authority of municipalities to require  
22 persons to connect to municipal water supply systems as authorized  
23 by law.

24 (2) A LOCAL UNIT OF GOVERNMENT BY A MAJORITY VOTE OF ITS  
25 GOVERNING BODY MAY RECOMMEND THAT THE DEPARTMENT REVIEW A PROPOSED  
26 WATER WITHDRAWAL THAT IT BELIEVES HAS A SIGNIFICANT RISK OF CAUSING  
27 A CONFLICT WITH OTHER WATER USERS WITHIN ITS JURISDICTION. THE

1 DEPARTMENT SHALL REVIEW THE PROPOSAL AND ATTEMPT TO RESOLVE ANY  
2 POTENTIAL CONFLICTS THROUGH NEGOTIATIONS.

3 Sec. 32728. This part shall not be construed as affecting,  
4 intending to affect, or in any way altering or interfering with  
5 common law water rights or the applicability of other laws  
6 providing for the protection of natural resources or the  
7 environment OR LIMIT THE RIGHT OF A PERSON WHOSE INTERESTS HAVE  
8 BEEN OR WILL BE ADVERSELY AFFECTED TO INSTITUTE PROCEEDINGS IN  
9 CIRCUIT COURT AGAINST ANY PERSON TO PROTECT SUCH INTERESTS.

10 Enacting section 1. Section 32724 of the natural resources and  
11 environmental protection act, 1994 PA 451, MCL 324.32724, is  
12 repealed.

13 Enacting section 2. 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. 5066.
- 19 (d) House Bill No. 5067.
- 20 (e) House Bill No. 5068.
- 21 (f) House Bill No. 5069.
- 22 (g) House Bill No. 5071.
- 23 (h) House Bill No. 5072.
- 24 (i) House Bill No. 5073.