

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

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

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

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

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

~~—— (c) Provide new total designed withdrawal capacity of more 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 TOTAL DESIGNED WITHDRAWAL CAPACITY OR AN
7 INCREASED TOTAL DESIGNED WITHDRAWAL CAPACITY THAT WILL RESULT IN AN
8 INTRABASIN TRANSFER OF MORE THAN 100,000 GALLONS PER DAY AVERAGE
9 OVER ANY 90-DAY PERIOD.

10 (4) THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE THAT IT IS
11 CONDUCTING AN EVALUATION UNDER SUBSECTION (3) AND SHALL PROVIDE A
12 PUBLIC COMMENT PERIOD OF NOT LESS THAN 45 DAYS BEFORE MAKING A
13 DETERMINATION ON THAT EVALUATION. The department shall reject the
14 plans and specifications for a proposed waterworks system evaluated
15 under subsection (3) if it determines that the proposed system will
16 not meet the applicable standard provided in section 32723(5) ~~or~~
17 ~~(6)~~ 32723 of the natural resources and environmental protection
18 act, 1994 PA 451, MCL 324.32723. ~~, unless~~ **HOWEVER, THE DEPARTMENT**
19 **MAY APPROVE THE PLANS AND SPECIFICATIONS FOR A PROPOSED WATERWORKS**
20 **SYSTEM EVALUATED UNDER SUBSECTION (3) FOR A COMMUNITY SUPPLY OWNED**
21 **BY A POLITICAL SUBDIVISION THAT THE DEPARTMENT DETERMINES WILL NOT**
22 **MEET THE APPLICABLE STANDARD PROVIDED IN SECTION 32723 IF THE PLANS**
23 **AND SPECIFICATIONS DO NOT RESULT IN AN INTRABASIN TRANSFER OF MORE**
24 **THAN 100,000 GALLONS PER DAY AVERAGE OVER ANY 90-DAY PERIOD AND**
25 both of the following conditions are met:

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

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1 (b) The department includes in the approval conditions related
2 to depth, pumping capacity, rate of flow, and ultimate use that
3 ensure that the environmental impact of the withdrawal is balanced
4 by the public benefit of the withdrawal related to public health,
5 safety, and welfare.

<<THIS SUBDIVISION DOES NOT CONFER UPON THE DEPARTMENT
ANY AUTHORITY TO REQUIRE A PERSON TO CONNECT OR TO REMAIN CONNECTED TO AN
EXISTING DRINKING WATER SUPPLY SYSTEM OWNED BY A POLITICAL SUBDIVISION.>>

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

9 (6) ~~(5)~~—Before commencing the construction of a waterworks
10 system or an alteration, addition, or improvement to a system, a
11 supplier of water shall submit the plans and specifications for the
12 improvements to the department and secure from the department a
13 permit for construction as provided by rule. Plans and
14 specifications submitted to the department shall be prepared by a
15 professional engineer licensed under article 20 of the occupational
16 code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder,
17 or supplier of water shall not engage in or begin the construction
18 of a waterworks system or an alteration, addition, or improvement
19 to a waterworks system until a valid permit for the construction
20 has been secured from the department. A contractor, builder, or
21 supplier of water who permits or allows construction to proceed
22 without a valid permit, or in a manner not in accordance with the
23 plans and specifications approved by the department, violates this
24 act. A supplier of water shall not issue a voucher or check or in
25 any other way expend money or provide consideration for
26 construction of a waterworks system unless a valid permit issued by
27 the department is in effect. The department may issue a permit with

1 conditions to correct minor design deficiencies. If eligible, a
2 supplier may request an expedited review of an application for a
3 permit under section 4a.

4 (7) ~~(6)~~—The department may deny a permit for construction of a
5 waterworks system or an alteration, addition, or improvement to a
6 waterworks system if the most recent capacity assessment shows that
7 the waterworks system does not have adequate technical, financial,
8 or managerial capacity to meet the requirements of this act and the
9 rules promulgated under this act, and the deficiencies identified
10 in that capacity assessment remain uncorrected, unless the proposed
11 construction will remedy the deficiencies.

12 (8) ~~(7)~~—The department may verbally approve minor
13 modifications of a construction permit issued by the department as
14 a result of unforeseen site conditions that become apparent during
15 construction. Minor modifications include, but are not limited to,
16 extending a hydrant lead or routing a water main around a manhole.
17 A supplier making a request for a modification shall provide to the
18 department all relevant information required under this section and
19 the application form provided by the department related to the
20 modification. A supplier shall obtain written approval from the
21 department for all modifications to a waterworks system except when
22 the department provides verbal approval for a minor modification as
23 provided for in this subsection. A supplier receiving a written or
24 verbal approval from the department shall submit revised plans and
25 specifications to the department within 10 days from the date of
26 approval.

27 (9) ~~(8)~~—If a supplier seeks confirmation of the department's

1 verbal approval of a minor modification under subsection ~~(7)~~—(8),
2 the supplier shall notify the department electronically, at an
3 address specified by the department, with a detailed description of
4 the request for the modification. The department shall make
5 reasonable efforts to respond within 2 business days, confirming
6 whether the request has been approved or not approved. If the
7 department has not responded within 2 business days after the
8 department receives the detailed description, the verbal approval
9 shall be considered confirmed.

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

16 (11) AS USED IN THIS SECTION, "ASSESSMENT TOOL", "COMPACT",
17 "INTRABASIN TRANSFER", "NEW OR INCREASED LARGE QUANTITY
18 WITHDRAWAL", "WATERS OF THE STATE", AND "ZONE C WITHDRAWAL" MEAN
19 THOSE TERMS AS THEY ARE DEFINED IN SECTION 32701 OF THE NATURAL
20 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
21 324.32701.

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

25 (a) Senate Bill No. 212.

26 (b) Senate Bill No. 723.

27 (c) Senate Bill No. 727.

- 1 (d) Senate Bill No. 859.
- 2 (e) Senate Bill No. 860.