

# HOUSE BILL No. 5069

July 25, 2007, Introduced by Reps. Warren, Alma Smith, Sak, Byrnes, LeBlanc, Vagnozzi, Wojno, Accavitti, Kathleen Law, Bieda, Polidori, Constan, Robert Jones, Clack, Bauer, Simpson, Donigan, Valentine, Meadows, McDowell, Miller, Melton, Young, Hammel, Espinoza, Brown, Lemmons, Meisner, Sheltroun, Hammon, Tobocman, Corriveau, Farrah, Cushingberry, Jackson, Johnson, Coulouris, Brandenburg and Dean and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 32722 (MCL 324.32722), as added by 2006 PA 33;  
and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 32722. (1) BY FEBRUARY 28, 2008, THE DEPARTMENT SHALL  
2       MAKE AVAILABLE THROUGH ITS INTERNET WEB PAGE A WATER WITHDRAWAL  
3       ASSESSMENT TOOL TO EDUCATE THE PUBLIC ON POTENTIAL RESOURCE IMPACTS  
4       OF A WATER WITHDRAWAL, TO INDICATE WHETHER OR NOT A WATER  
5       WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT, AND TO  
6       FACILITATE REGISTRATION OF A PROPOSED WATER WITHDRAWAL AS REQUIRED  
7       BY SECTION 32705.

8       (2) A PERSON MAY BEGIN A NEW OR INCREASED LARGE QUANTITY

1 WITHDRAWAL AFTER THE WATER WITHDRAWAL ASSESSMENT TOOL BECOMES  
2 EFFECTIVE IF 1 OF THE FOLLOWING APPLIES:

3 (A) THE WITHDRAWAL IS REGISTERED AFTER THE WITHDRAWAL  
4 ASSESSMENT TOOL HAS INDICATED THAT THE WITHDRAWAL IS NOT LIKELY TO  
5 CAUSE AN ADVERSE RESOURCE IMPACT.

6 (B) THE WITHDRAWAL IS REGISTERED AFTER THE DEPARTMENT  
7 DETERMINES, USING SITE-SPECIFIC FLOW AND OTHER READILY AVAILABLE  
8 INFORMATION, THAT A WITHDRAWAL IS NOT LIKELY TO CAUSE AN ADVERSE  
9 RESOURCE IMPACT.

10 (C) THE WITHDRAWAL RECEIVES A PERMIT UNDER SECTION 32723.

11 (3) THERE IS A REBUTTABLE PRESUMPTION THAT A NEW OR INCREASED  
12 LARGE QUANTITY WITHDRAWAL THAT IS REGISTERED OR PERMITTED IN  
13 ACCORDANCE WITH SUBSECTION (2) IS NOT LIKELY TO CAUSE AN ADVERSE  
14 RESOURCE IMPACT IN VIOLATION OF SECTION 32721.

15 (4) A PERSON CONSIDERING A NEW OR INCREASED LARGE QUANTITY  
16 WITHDRAWAL MAY USE THE WATER WITHDRAWAL ASSESSMENT TOOL TO INDICATE  
17 WHETHER OR NOT THE WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE  
18 RESOURCE IMPACT. ALTERNATIVELY, A PERSON CONSIDERING A NEW OR  
19 INCREASED LARGE QUANTITY WITHDRAWAL MAY REQUEST THAT THE DEPARTMENT  
20 USE THE WATER WITHDRAWAL ASSESSMENT TOOL FOR THAT PURPOSE AND  
21 REGISTER THAT PERSON UNDER SECTION 32705. THE DEPARTMENT MAY  
22 ESTABLISH A FEE, NOT TO EXCEED \$150.00, FOR SUCH A REQUEST.

23 (5) A PERSON MAY SEEK A DETERMINATION FROM THE DEPARTMENT  
24 PURSUANT TO SUBSECTION (2)(B) THAT A NEW OR INCREASED LARGE  
25 QUANTITY WITHDRAWAL IS NOT LIKELY TO CAUSE AN ADVERSE RESOURCE  
26 IMPACT FOR PURPOSES OF REGISTRATION BY SUBMITTING INFORMATION ON A  
27 FORM DEVELOPED BY THE DEPARTMENT AND A FEE IN AN AMOUNT ESTABLISHED

1 BY THE DEPARTMENT NOT TO EXCEED \$500.00.

2 (6) THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF  
3 NATURAL RESOURCES, SHALL UPDATE THE WATER WITHDRAWAL ASSESSMENT  
4 TOOL AT LEAST ANNUALLY TO MAINTAIN THE ASSESSMENT TOOL AND TO  
5 INCORPORATE ANY DATA OR METHODS FOR PROCESSING DATA THAT WILL HELP  
6 IMPROVE ITS ABILITY TO PREDICT IMPACTS FROM PROPOSED WATER  
7 WITHDRAWALS.

8 (7) IF ACCORDING TO THE WATER WITHDRAWAL ASSESSMENT TOOL A  
9 PORTION OF THE STATE IS CONSISTENTLY SHOWN TO BE AT RISK FOR  
10 ADVERSE RESOURCE IMPACTS, THE DEPARTMENT MAY DESIGNATE THAT AREA AS  
11 A SENSITIVE WATER RESOURCE. AFTER THE DEPARTMENT DESIGNATES AN AREA  
12 AS A SENSITIVE WATER RESOURCE, THE DEPARTMENT MAY MODIFY WATER  
13 WITHDRAWAL PERMITS THAT AFFECT THE WATER RESOURCE AND MAY REQUIRE  
14 PERMITS FOR A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL WITHIN THE  
15 AREA.

16 (8) ~~(1) Until a water withdrawal assessment tool becomes~~  
17 ~~effective upon legislative enactment pursuant to the~~  
18 ~~recommendations of the groundwater conservation advisory council~~  
19 ~~under section 32803~~ **FEBRUARY 28, 2008**, there is a rebuttable  
20 presumption that a new or increased large quantity withdrawal will  
21 not cause an adverse resource impact in violation of section 32721  
22 under either of the following circumstances:

23 (a) The location of the withdrawal is more than 1,320 feet  
24 from the banks of a designated trout stream.

25 (b) The withdrawal depth of the well is at least 150 feet.

26 (9) ~~(2)~~ A presumption under subsection ~~(1)~~ **(3) OR (8)** may be  
27 rebutted by a preponderance of evidence that a new or increased

1 large quantity withdrawal from the waters of the state has caused  
2 or is likely to cause an adverse resource impact.

3 Enacting section 1. Section 32724 of the natural resources and  
4 environmental protection act, 1994 PA 451, MCL 324.32724, is  
5 repealed.

6 Enacting section 2. This amendatory act does not take effect  
7 unless all of the following bills of the 94th Legislature are  
8 enacted into law:

9 (a) Senate Bill No.\_\_\_\_ or House Bill No. 5073(request no.  
10 00453'07 \*).

11 (b) Senate Bill No.\_\_\_\_ or House Bill No. 5065(request no.  
12 02361'07).

13 (c) Senate Bill No.\_\_\_\_ or House Bill No. 5066(request no.  
14 02362'07).

15 (d) Senate Bill No.\_\_\_\_ or House Bill No. 5067(request no.  
16 02363'07).

17 (e) Senate Bill No.\_\_\_\_ or House Bill No. 5068(request no.  
18 02364'07).

19 (f) Senate Bill No.\_\_\_\_ or House Bill No. 5070(request no.  
20 02366'07).

21 (g) Senate Bill No.\_\_\_\_ or House Bill No. 5071(request no.  
22 02367'07).

23 (h) Senate Bill No.\_\_\_\_ or House Bill No. 5072(request no.  
24 02368'07).