

Act No. 187
Public Acts of 2008
Approved by the Governor
July 9, 2008
Filed with the Secretary of State
July 9, 2008
EFFECTIVE DATE: July 9, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Van Woerkom, Birkholz, Patterson, Sanborn, Richardville, Jansen, George, Pappageorge, Allen, Kahn, Cropsey, Hardiman, Garcia, Jelinek, Gilbert and Bishop

ENROLLED SENATE BILL No. 858

AN ACT to amend 1976 PA 399, entitled "An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties," by amending section 4 (MCL 325.1004), as amended by 2006 PA 601.

The People of the State of Michigan enact:

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

(2) Upon receipt of the plans and specifications for a proposed waterworks system, the department shall evaluate the adequacy of the proposed system to protect the public health by supplying water meeting the state drinking water standards and, if applicable, shall evaluate the impact of the proposed system as provided in subsections (3) and (4). In addition, for a proposed waterworks system by a community supply that will provide capacity for a new or increased large quantity withdrawal, the department shall utilize the assessment tool to evaluate the proposed withdrawal associated with the proposed waterworks system and shall confirm the assessment tool's determination. Prior to the implementation of the assessment tool under section 32706a, the department shall evaluate the proposed withdrawal based upon reasonably available information. If the department determines that the proposed withdrawal for a community supply is a zone C withdrawal, the community supply shall certify that it is implementing applicable environmentally sound and economically feasible water conservation measures prepared under section 32708a that the community supply considers to be reasonable or shall certify that it is implementing environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal that the community supply considers to be reasonable. The department shall also conduct a capacity assessment for a proposed community supply or nontransient noncommunity water supply and determine if the system has the technical, financial, and managerial capacity to meet all requirements of this act and the rules promulgated under 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 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 shall evaluate the impact of a proposed waterworks system for a community supply 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 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 the waters of the state beyond the system's total designed withdrawal capacity.

(c) Provide new or increased total designed withdrawal capacity for a new or increased large quantity withdrawal of more than 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system that the department confirms is a zone C withdrawal.

(d) Provide new total designed withdrawal capacity or an increased total designed withdrawal capacity that will result in an intrabasin transfer of more than 100,000 gallons per day average over any 90-day period.

(4) The department shall provide public notice that it is conducting an evaluation under subsection (3) and shall provide a public comment period of not less than 45 days before making a determination on that evaluation. The department shall reject the plans and specifications for a proposed waterworks system evaluated under subsection (3) if it determines that the proposed system will not meet the applicable standard provided in section 32723 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32723. However, the department may approve the plans and specifications for a proposed waterworks system evaluated under subsection (3) for a community supply owned by a political subdivision that the department determines will not meet the applicable standard provided in section 32723 if the plans and specifications do not result in an intrabasin transfer of more than 100,000 gallons per day average over any 90-day period and both of the following conditions are met:

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

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

(5) The department's approval of a proposed waterworks system under this section shall be considered to satisfy the requirements of section 4.11 of the compact.

(6) Before commencing the construction of a waterworks system or an alteration, addition, or improvement to a system, a supplier of water shall submit the plans and specifications for the improvements to the department and secure from the department a permit for construction as provided by rule. Plans and specifications submitted to the department shall be prepared by a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder, or supplier of water shall not engage in or begin the construction of a waterworks system or an alteration, addition, or improvement to a waterworks system until a valid permit for the construction has been secured from the department. A contractor, builder, or supplier of water who permits or allows construction to proceed without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, violates this act. A supplier of water shall not issue a voucher or check or in any other way expend money or provide consideration for construction of a waterworks system unless a valid permit issued by the department is in effect. The department may issue a permit with conditions to correct minor design deficiencies. If eligible, a supplier may request an expedited review of an application for a permit under section 4a.

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

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

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

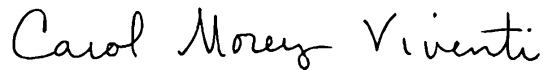
(10) As a condition of a permit issued under this section to a community supply, the department shall require the permit holder to annually submit to the department a report by April 1 of each year that contains the information described in section 32707 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32707.

(11) As used in this section, "assessment tool", "compact", "intrabasin transfer", "new or increased large quantity withdrawal", "waters of the state", and "zone C withdrawal" mean those terms as they are defined in section 32701 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32701.

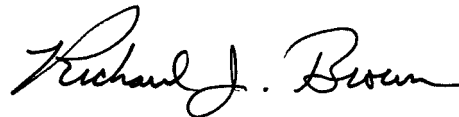
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor