

Act No. 189
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 Brater, Gleason, Cherry, Olshove, Anderson, Whitmer, Switalski, Clarke,
Hunter, Jacobs, Clark-Coleman, Schauer, Prusi and Basham**

ENROLLED SENATE BILL No. 723

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 32801 and 32803 (MCL 324.32801 and 324.32803), section 32801 as added by 2003 PA 148 and section 32803 as amended by 2006 PA 34.

The People of the State of Michigan enact:

Sec. 32801. As used in this part:

(a) "Annex 2001" means the Great Lakes charter annex signed by the governors and premiers of the Great Lakes region on June 18, 2001.

(b) "Aquifer" means any water bearing bed or stratum of earth or rock capable of yielding groundwater to a water well in sufficient quantities that can be withdrawn.

(c) "Base flow" means groundwater discharge to rivers and streams.

(d) "Conflict areas" means an aquifer or a portion of an aquifer in which the department has determined that there is reasonable, scientifically based evidence of a pattern of groundwater withdrawal conflicts or a single extended groundwater withdrawal conflict.

(e) "Council" means the water resources conservation advisory council created under section 32803.

(f) "Department" means the department of environmental quality.

(g) "Director" means the director of the department.

(h) "Groundwater" means water below the land surface in a zone of saturation.

(i) "Groundwater withdrawal conflict" means the failure of an existing water well that was constructed in compliance with part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771, to furnish its normal supply of groundwater because of a progressive decline of the static water level within the aquifer due to the withdrawal of groundwater from the aquifer by a high-capacity well or sump, as determined based on reasonable, scientifically based evidence.

(j) "Static water level" means the distance between the ground surface and the water level within a well that is not being pumped.

Sec. 32803. (1) The water resources conservation advisory council is created within the department of natural resources. The council shall consist of all of the following members:

(a) Four individuals appointed by the senate majority leader as follows:

(i) One individual representing business and manufacturing interests.

(ii) One individual representing public utilities.

(iii) One individual representing a statewide angler association.

(iv) One individual representing a statewide agricultural organization.

(b) Four individuals appointed by the speaker of the house of representatives as follows:

(i) One individual representing registered well drilling contractors with hydrology experience.

(ii) One individual representing local units of government.

(iii) One individual representing agricultural interests.

(iv) One individual with knowledge and expertise in limnology.

(c) Five individuals appointed by the governor as follows:

(i) One individual representing municipal water suppliers.

(ii) One individual representing a statewide conservation organization.

(iii) One individual representing a statewide riparian landowners association.

(iv) One individual representing a statewide tourism organization.

(v) One individual representing Indian tribes.

(d) Four individuals appointed by the director as follows:

(i) One individual representing nonagriculture irrigators.

(ii) One individual representing the aggregate industry.

(iii) One individual representing environmental organizations.

(iv) One individual representing the general public.

(e) Four individuals representing the department, the department of agriculture, the department of natural resources, and the attorney general.

(2) The appointments to the council under subsection (1) shall be made not later than 30 days after the effective date of the amendatory act that added this subsection. The person making the appointment under subsection (1) shall give consideration and deference to individuals who served on the former groundwater conservation advisory council.

(3) The council shall appoint a technical advisory committee of individuals with specific technical and legal expertise relevant to the council's responsibilities.

(4) The council shall do all of the following:

(a) Not later than 6 months after the effective date of the amendatory act that added this subdivision, study and make recommendations to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment, and the department on how the assessment tool could be updated to reconcile differences between baseline capacity and actual withdrawal amounts to assure the accuracy of the assessment tool's determinations.

(b) When the department makes the assessment tool available for testing and evaluation, conduct testing and evaluate the operation and the accuracy of the assessment tool, including implications of section 32706e. Not later than 9 months after the effective date of the amendatory act that added this subdivision, submit a report to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment, and the department that contains the results of its testing and evaluation and any recommendations that the council has to improve the operation of the assessment tool.

(c) Study and make recommendations regarding the development and refinement of the assessment tool.

(d) Study and make recommendations on whether and how the definition of adverse resource impact in section 32701 should be modified to more specifically address potential impacts to the Great Lakes, inland lakes, and other aquatic systems due to large quantity withdrawals.

(e) Make recommendations on reconciling conflicts in state laws related to the use of the waters of the state.

(f) Make recommendations on the development and implementation of the state's water conservation and efficiency program under section 4.2 of the compact.

(g) Develop a framework for evaluating preventative measures designed to prevent adverse resource impacts.

(h) In consultation with academic institutions and other nonprofit organizations, make recommendations regarding educational materials related to the use and availability of water resources.

(i) Not earlier than 3 years after the effective date of the amendatory act that added this subdivision, submit a report to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment that makes recommendations regarding how the water withdrawal assessment process under part 327 could be improved in order to more accurately assess adverse resource impacts. The report shall contain specific recommendations on the use of the assessment tool, the site-specific review process, the permitting process, and any other measure that the council determines would improve the water withdrawal assessment process.

(5) The council shall submit the following reports, approved by a majority of the voting members of the council, to the senate majority leader, the speaker of the house of representatives, and the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment and to the department:

(a) Not later than February 8, 2009, a progress report on the council's findings and recommendations under subsection (4)(c) to (h) as of that date.

(b) Not later than August 8, 2009, the council's final report on its findings and recommendations under subsection (4)(c) to (h).

(6) As used in this section, "assessment tool" means the water withdrawal assessment tool provided for in part 327.

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. 727.
- (c) Senate Bill No. 858.
- (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.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor