

HOUSE BILL No. 4200

February 6, 2013, Introduced by Rep. Brown and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 31701 and 31702 (MCL 324.31701 and 324.31702),
as added by 2012 PA 602.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 31701. As used in this part:

2 (a) "Agricultural well" means a high-capacity well that is
3 used for an agricultural purpose.

4 (b) "Complaint" means a complaint submitted under section
5 31702 alleging a potential groundwater dispute.

6 (c) "Construction" means the process of building a building,
7 road, utility, or another structure, including all of the
8 following:

1 (i) Assembling materials.

2 (ii) Disassembling and removing a structure.

3 (iii) Preparing the construction site.

4 (iv) Work related to any of the items described in
5 subparagraphs (i) to (iii).

6 (d) "Department" means the department of environmental
7 quality.

8 (e) "Dewatering well" means a well or pump that is used to
9 remove water from a mining operation or that is used for a limited
10 time period as part of a construction project to remove or pump
11 water from a surface or subsurface area and ceases to be used upon
12 completion of the construction project or shortly after completion
13 of the construction project.

14 (f) "Director" means the director of the department or his or
15 her designee.

16 (g) "Farm" means that term as it is defined in section 2 of
17 the Michigan right to farm act, 1981 PA 93, MCL 286.472.

18 (h) "Fund" means the aquifer protection revolving fund created
19 in section 31710.

20 (i) "Groundwater" means the water in the zone of saturation
21 that fills all of the pore spaces of the subsurface geologic
22 material.

23 (j) "Groundwater dispute" means a groundwater dispute declared
24 by order of the director under section 31703.

25 (k) "High-capacity well" means 1 or more water wells
26 associated with an industrial or processing facility, an irrigation
27 facility, or a farm that, in the aggregate from all sources and by

1 all methods, have the capability of withdrawing 100,000 or more
2 gallons of groundwater in 1 day.

3 (I) "IRRIGATION WELL" MEANS A HIGH-CAPACITY WELL THAT IS USED
4 FOR IRRIGATION.

5 (M) ~~(L)~~—"Local health department" means that term as it is
6 defined in section 1105 of the public health code, 1978 PA 368, MCL
7 333.1105.

8 (N) ~~(m)~~—"Owner" means either of the following:

9 (i) The owner of an interest in property.

10 (ii) A person in possession of property.

11 (O) ~~(n)~~—"Potable water" means water that at the point of use
12 is acceptable for human consumption.

13 (P) ~~(o)~~—"Small-quantity well" means 1 or more water wells of a
14 person at the same location that, in the aggregate from all sources
15 and by all methods, do not have the capability of withdrawing
16 100,000 or more gallons of groundwater in 1 day.

17 (Q) ~~(p)~~—"Water well" means an opening in the surface of the
18 earth, however constructed, that is used for the purpose of
19 withdrawing groundwater. Water well does not include a drain as
20 defined in section 3 of the drain code of 1956, 1956 PA 40, MCL
21 280.3.

22 (R) ~~(q)~~—"Well drilling contractor" means a well drilling
23 contractor registered under part 127 of the public health code,
24 1978 PA 368, MCL 333.12701 to 333.12771.

25 Sec. 31702. (1) The owner of a small-quantity well may submit
26 a complaint alleging a potential groundwater dispute if the small-
27 quantity well has failed to furnish the well's normal supply of

1 water or the well has failed to furnish potable water and the owner
2 has credible reason to believe that the well's problems have been
3 caused by a high-capacity well. A complaint shall be submitted to
4 the director or to the director of the department of agriculture
5 and rural development if the complaint involves an agricultural
6 well. The complaint shall be in writing and shall be submitted in
7 person, via certified mail, via the toll-free facsimile telephone
8 number provided in subsection (6), or via other means of electronic
9 submittal as developed by the department. However, the director or
10 the director of the department of agriculture and rural development
11 may refuse to accept an unreasonable complaint. The complaint shall
12 include all of the following information:

13 (a) The name, address, and telephone number of the owner of
14 the small-quantity well.

15 (b) The location of the small-quantity well, including the
16 county, township, township section, and address of the property on
17 which the small-quantity well is situated, and all other available
18 information that defines the location of that well.

19 (c) A written assessment by a well drilling contractor that
20 the small-quantity well failure was not the result of well design
21 or equipment failure. The assessment shall include a determination
22 of the static water level in the well at the time of the assessment
23 and, if readily available, the type of pump and equipment.

24 (d) An explanation of why the small-quantity well owner
25 believes that a high-capacity well has interfered with the proper
26 function of the small-quantity well and any information available
27 to the small-quantity well owner about the location and operation

1 of the high-capacity well.

2 (e) The date or dates on which the interference by a high-
3 capacity well occurred.

4 (f) Sufficient evidence to establish a reasonable belief that
5 the interference was caused by a high-capacity well.

6 (2) The owner of a small-quantity well may call the toll-free
7 telephone line provided for in subsection (6) to request a
8 complaint form or other information regarding the dispute
9 resolution process provided in this part.

10 (3) Within 2 business days after receipt of a complaint under
11 subsection (1), the director or the director of the department of
12 agriculture and rural development, as appropriate, shall contact
13 the complainant and **NOTIFY, IN WRITING**, the owner of each high-
14 capacity well identified in the complaint ~~and~~ **OF THE FILING OF THE**
15 **COMPLAINT. AFTER PROVIDING THIS NOTIFICATION, THE DEPARTMENT SHALL**
16 **begin an investigation. THE OWNER OF AN IRRIGATION WELL IS REQUIRED**
17 **TO COMPLY WITH THE DISPUTE RESOLUTION PROCESS PROVIDED FOR IN THIS**
18 **PART.** However, if the owner of the high-capacity well **OTHER THAN AN**
19 **IRRIGATION WELL** notifies the department **IN WRITING WITHIN 3 DAYS**
20 **AFTER RECEIVING NOTIFICATION OF THE COMPLAINT** that he or she does
21 not wish to participate in the dispute resolution process provided
22 for in this part, the investigation shall be suspended and the
23 dispute shall be resolved as otherwise provided by law.

24 (4) Within 5 business days after receipt of a complaint under
25 subsection (1), the director or the director of the department of
26 agriculture and rural development, as appropriate, shall conduct an
27 on-site evaluation. However, if the complaint is for a small-

1 quantity well that is in close proximity to other small-quantity
2 wells for which documented complaints have been received and
3 investigated during the previous 60 days, the department need not
4 conduct an on-site evaluation unless the department determines that
5 an on-site evaluation is necessary. The director or the director of
6 the department of agriculture and rural development, as
7 appropriate, shall give affected persons an opportunity to
8 contribute to the investigation of a complaint. In conducting the
9 investigation, the director or the director of the department of
10 agriculture and rural development, as appropriate, shall consider
11 whether the owner of the high-capacity well is using industry-
12 recognized water conservation management practices.

13 (5) After conducting an investigation, the director or the
14 director of the department of agriculture and rural development, as
15 appropriate, shall make a diligent effort to resolve the complaint.
16 In attempting to resolve a complaint, the director or the director
17 of the department of agriculture and rural development, as
18 appropriate, may propose a remedy that he or she believes would
19 equitably resolve the complaint. If, within 14 days following the
20 submittal of a complaint, the director of the department of
21 agriculture and rural development is unable to resolve a complaint,
22 the director of the department of agriculture and rural development
23 shall refer the complaint, and provide all relevant information, to
24 the director.

25 (6) The director shall provide for the use of a toll-free
26 facsimile line to receive complaints and a toll-free telephone line
27 for owners of small-quantity wells to request complaint forms and

1 to obtain other information regarding the dispute resolution
2 process provided in this part.

3 (7) The director and the director of the department of
4 agriculture and rural development shall do both of the following:

5 (a) Publicize the toll-free facsimile line and the toll-free
6 telephone line provided for in subsection (6).

7 (b) Enter into a memorandum of understanding that describes
8 the process that will be followed by each director when a complaint
9 involves an agricultural well.

10 (8) A complainant who submits more than 2 unverified
11 complaints under this section within 1 year may be ordered by the
12 director to pay for the full costs of investigation of any third or
13 subsequent unverified complaint. As used in this subsection,
14 "unverified complaint" means a complaint in response to which the
15 director determines that there is not reasonable evidence to
16 declare a groundwater dispute.