

# Legislative Analysis



## WATER USE ADVISORY COUNCIL

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 6123 (H-3) as reported from committee

**Sponsor: Rep. Scott VanSingel**

**Committee: Natural Resources**

**Complete to 11-8-18**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 509 of 2018)*

**BRIEF SUMMARY:** House Bill 6123 would amend Part 328 (Aquifer Protection) of the Natural Resources and Environmental Protection Act (NREPA) to replace in statute the former Water Resources Conservation Advisory Council with the newly created Water Use Advisory Council.

**FISCAL IMPACT:** House Bill 6123 would not affect costs or revenues for the Department of Environmental Quality (DEQ) or local governments.

### **THE APPARENT PROBLEM:**

The Great Lakes contain one-fifth of the world's surface fresh water, and Michigan, along with other Great Lakes states and Canadian provinces, plays an important role in managing the enjoyment, use, and preservation of that water. Over the years, to facilitate the informed exercise of that role, the legislature has created various advisory bodies composed of stakeholders and parties with expertise and knowledge in the field, to provide insight and advice regarding water withdrawal, water use conflict, and Michigan's membership in and responsibilities under the Great Lakes Compact. The Water Use Advisory Council, created in 2012 by the director of the DEQ, currently fills that role in the executive branch. Some feel that a water use advisory council should again be created in statute by the legislature, so that the legislature can receive its reports and have the benefit of its discussions, its expertise, and its recommendations. They believe that such an advisory body, charged with providing input and advice to the legislature as well as to executive branch agencies, would help the legislature to stay better informed about water use issues as it proposes and debates legislation on those topics.

### **THE CONTENT OF THE BILL:**

The Water Use Advisory Council would be established within the DEQ and would consist of the following 23 members:

- Four individuals appointed by the Senate Majority Leader as follows:
  - One representing business and manufacturing interests.
  - One representing public utilities.
  - One representing a statewide angler association.
  - One representing a statewide agricultural organization.
- Four individuals appointed by the Speaker of the House of Representatives as follows:
  - One representing well drilling contractors with hydrology and drilling field experience.

- One representing local units of government.
- One representing agricultural irrigators.
- One representing wetlands conservation organizations.
- Five individuals appointed by the governor as follows:
  - One representing municipal water suppliers.
  - One representing a statewide conservation organization.
  - One representing a statewide riparian landowners organization.
  - One representing professional hydrologists and hydrogeologists with hydrogeology field experience.
  - One representing Indian tribes.
- Four individuals appointed by the DEQ director as follows:
  - One representing nonagriculture irrigators.
  - One representing the aggregate industry.
  - One representing environmental organizations.
  - One representing local watershed councils.
- Six nonvoting individuals representing the DEQ, the Department of Natural Resources (DNR), the Department of Agriculture and Rural Development (MDARD), the Office of the Great Lakes, the Michigan Geological Survey, and the Attorney General.

Appointments to the council would have to be made within 60 days after the bill's effective date and would be made with consideration and deference given to individuals currently serving on the DEQ's Water Use Advisory Council (see ***Background Information***, below). Appointments would be for four-year terms without compensation. The bill outlines some procedural parameters for the council, including a requirement that it hold its meetings in compliance with the Open Meetings Act.

The Water Resources Conservation Advisory Council was required to appoint a technical advisory committee of individuals with technical and legal expertise relevant to the council's responsibilities. The bill would give the new Water Use Advisory Council the discretion to appoint technical advisors with scientific, technical, legal, and community education and decision engagement expertise. These technical advisors could participate in meetings, but would not be able to vote on recommendations made by the council.

The Water Use Advisory Council would have to make recommendations to the DEQ, the MDARD, the DNR, and the legislature on the implementation of Part 327 (Great Lakes Preservation) of NREPA, as well as studying and making recommendations, as needed or as requested by the DEQ or the relevant standing committees of the legislature, regarding the development and refinement of the water withdrawal assessment process contained in Part 327.

The council would also be charged with making recommendations on reconciling conflicts in state laws related to the use of the waters of the state.

Finally, the council would be required to provide a report at least every two years to the Senate Majority Leader, Speaker of the House of Representatives, and the standing

committees of the legislature primarily related to natural resources and the environment regarding how the water withdrawal assessment process could be improved. The report would have to contain specific recommendations, including on the staffing, budgetary, software, and other resources required by the DEQ, the DNR, and MDARD to successfully implement Part 327.

The bill would take effect 90 days after enactment.

MCL 324.32801 and 324.32803

### ***BACKGROUND INFORMATION:***

The Groundwater Conservation Advisory Council was created within the DNR by Public Act 148 of 2003.<sup>1</sup> The powers and duties of that council were transferred to the DEQ, and the council was abolished, by Executive Reorganization Order No. 2007-5.<sup>2</sup> In 2008, Public Act 189 reestablished the council within the DNR and renamed it the Water Resources Conservation Advisory Council.<sup>3</sup> That council was abolished, and its powers and duties transferred to the Natural Resources Commission (NRC), by Executive Reorganization Order No. 2009-31.<sup>4</sup>

The Water Use Advisory Council was established in the DEQ by the DEQ director in 2012. It issued its final report in 2014. Its first recommendation in that report was that the director of DEQ should reestablish and maintain the Council or a similar stakeholder group to continue to provide input on issues related to implementation of Part 327 of NREPA. The recommendation was implemented, and the Water Use Advisory Council has continued to meet and provide findings and recommendations on Michigan's water use program to the DEQ, the DNR, and MDARD.<sup>5</sup>

### ***ARGUMENTS:***

#### ***For:***

Supporters of the bill argue that the framework the bill provides will help the legislature to be better informed on water quality facts, issues, and analyses. This information would come from the council's knowledge and expertise in the relevant fields.

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<sup>1</sup> The House Legislative Analysis Section analysis of PA 148 of 2003 (Senate Bill 289):

<http://www.legislature.mi.gov/documents/2003-2004/billanalysis/House/pdf/2003-HLA-0289-a.pdf>

<sup>2</sup> Executive Order No. 2007-8, compiled as MCL 324.99907: <http://legislature.mi.gov/doc.aspx?mcl-324-99907>

<sup>3</sup> PA 189 of 2008 (Senate Bill 723): <http://legislature.mi.gov/doc.aspx?2007-SB-0723>

<sup>4</sup> Executive Order No. 2009-45, compiled as MCL 324.99919: <http://legislature.mi.gov/doc.aspx?mcl-324-99919>

The November 2009 report of the Water Resources Conservation Advisory Council is available here:

[https://www.michigan.gov/deq/0,4561,7-135-3313\\_3684\\_64633-305354--,00.html](https://www.michigan.gov/deq/0,4561,7-135-3313_3684_64633-305354--,00.html)

<sup>5</sup> Council membership is described here: [https://www.michigan.gov/documents/deq/deq-wrd-wuac-members\\_417518\\_7.pdf](https://www.michigan.gov/documents/deq/deq-wrd-wuac-members_417518_7.pdf)

The council's final report, issued December 12, 2014: [https://www.michigan.gov/documents/deq/wrd-wuac-final-report\\_534575\\_7.pdf](https://www.michigan.gov/documents/deq/wrd-wuac-final-report_534575_7.pdf)

Further information can be found here: [https://www.michigan.gov/deq/0,4561,7-135-3313\\_3684\\_64633---,00.html](https://www.michigan.gov/deq/0,4561,7-135-3313_3684_64633---,00.html)

***Against:***

No arguments against the bill were presented in committee.

***POSITIONS:***

A representative of Trout Unlimited testified in support of the bill. (9-26-18; and indicated support 10-3-18)

The following entities indicated support for the bill:

- Consumers Energy (9-26-18)
- Michigan Townships Association (9-26-18)
- Michigan United Conservation Clubs (9-26-18)
- Michigan Environmental Council (9-26-18)
- Michigan League of Conservation Voters (9-26-18)
- Michigan Farm Bureau (10-3-18)
- Michigan Ground Water Association (10-3-18)
- Michigan Chamber of Commerce (10-3-18)
- Potato Growers of Michigan (10-3-18)

The Department of Environmental Quality indicated a neutral position regarding the bill. (10-3-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.