February 22, 2018, Introduced by Reps. Miller, Leutheuser, Barrett, Cole, Victory, Pagel, Bizon, Whiteford, Kelly, Hernandez, LaFave, Frederick, Roberts, Rendon, Alexander, Griffin, VanderWall, Glenn, Bellino, Howell, Iden, LaSata, Kahle, Calley and Brann and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 32706c (MCL 324.32706c), as added by 2008 PA 181.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 32706c. (1) If the assessment tool determines that a proposed withdrawal is a zone B withdrawal in a cold-transitional river system, or a zone C or zone D withdrawal, AND IF the property owner shall submit to the department the information described in section 32706a(3) and either of the following, there is a rebuttable presumption that the proposed withdrawal will not create an adverse resource impact:

(A) An analysis by a professional hydrologist or hydrogeologist of the proposed withdrawal demonstrating the proposed withdrawal is unlikely to cause an adverse resource impact.
IMPACT. THE ANALYSIS SHALL BE BASED ON HYDROGEOLOGICAL STREAMFLOW DATA AND SHALL INCLUDE AT LEAST 1 OF THE FOLLOWING:

(i) EVIDENCE THE PROPOSED WITHDRAWAL IS IN THE WATER MANAGEMENT UNIT OR UNITS THAT WERE PART OF A REGIONAL OR WATERSHED BASED STUDY OF WATER USE IMPACTS ACCEPTED BY THE DEPARTMENT UNDER THIS SECTION OR SECTION 32706D. THE EVIDENCE SUBMITTED TO THE DEPARTMENT MUST INCLUDE AN AFFIDAVIT BY THE PROPERTY OWNER THAT THE PROPOSED WITHDRAWAL IS LOCATED IN A RIVER SYSTEM AND AQUIFER INCLUDED IN THE STUDY, AND RECORDS OF APPLICABLE DATA COLLECTED IN THE STUDY.

(ii) SURFICIAL MAPPING OF GLACIAL GEOLOGY AND DATA ACCUMULATION IN 3-DIMENSIONAL FORMAT THAT INCLUDES THE WATER MANAGEMENT UNIT OR UNITS FOR THE PROPOSED WITHDRAWAL, COMPLETED BY OR IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES GEOLOGICAL SURVEY OR THE MICHIGAN GEOLOGICAL SURVEY.

(iii) A GEOLOGIC CROSS SECTION AND AN ANALYSIS OF THE WATER MANAGEMENT UNIT OR UNITS IN WHICH THE PROPOSED WITHDRAWAL WILL BE MADE, INCORPORATING DATA FROM WELL LOGS, GAMMA RAY LOGS, OR OTHER DATA AVAILABLE TO CONSTRUCT THE CROSS SECTION.

(B) REGISTRATION FOR A PROPOSED WITHDRAWAL THAT WILL DRAW WATER FROM AQUIFERS SEPARATED FROM GLACIAL AQUIFERS BY BEDROCK.

(2) THE DEPARTMENT SHALL PROVIDE TO THE PROPERTY OWNER AN ACKNOWLEDGMENT OF ITS RECEIPT OF THE SUBMITTAL UNDER SUBSECTION (1) WITHIN 10 DAYS AFTER THE ACTUAL RECEIPT OF DATA AND ANALYSES RELATED TO THE PROPOSED WITHDRAWAL. THE ACKNOWLEDGMENT OF RECEIPT SHALL SERVE AS FINAL APPROVAL OF THE PROPOSED WITHDRAWAL UNLESS, WITHIN 10 DAYS OF ITS ACKNOWLEDGEMENT OF RECEIPT, THE DEPARTMENT
PROVIDES A WRITTEN DEMONSTRATION TO THE PROPERTY OWNER THAT THE
APPROVAL OF WITHDRAWAL UNDER THIS SECTION MUST BE GRANTED ON A
PROVISIONAL BASIS. IF THE DEPARTMENT PROVISIONALLY APPROVES A
PROPOSED WITHDRAWAL UNDER THIS SECTION, THE DEPARTMENT MAY REQUIRE
IN WRITING THAT THE LANDOWNER PROVIDE 5 SETS OF WATER LEVEL
RECOVERY MEASUREMENTS AS DESCRIBED IN THIS SECTION, TAKEN AFTER
PUMPING BETWEEN JUNE AND OCTOBER WITHIN 2 YEARS AFTER THE
PRODUCTION WELL IS PUT IN SERVICE. IF AN ADVERSE RESOURCE IMPACT IS
NOT OBSERVED, THE DEPARTMENT SHALL ISSUE FINAL APPROVAL OF THE
WITHDRAWAL AND SHALL NOT REQUIRE SUBMISSION OF ADDITIONAL
INFORMATION OR DATA FROM THE LANDOWNER.

(3) IF A PROPOSED WITHDRAWAL IS A ZONE B WITHDRAWAL IN A COLD-
TRANSITIONAL RIVER SYSTEM, OR A ZONE C OR ZONE D WITHDRAWAL, AND A
PROPERTY OWNER DOES NOT SUBMIT ANY OF THE INFORMATION DESCRIBED IN
SUBSECTION (1), THE PROPERTY OWNER MAY request for a site-specific
review. Additionally, if the assessment tool determines that a
proposed withdrawal is a zone A withdrawal, or a zone B withdrawal
in a cool river system or a warm river system, and the property
owner wishes to have a site-specific review, the property owner may
submit to the department a request for a site-specific review. A
request for a site-specific review shall be submitted to the
department in a form required by the department and shall include
all of the following:

(a) The information described in section 32706a(3).

(b) The intended maximum monthly and annual volumes and rates
of the proposed withdrawal, if different from the capacity of the
equipment used for making the proposed withdrawal.
(c) If the amount and rate of the proposed withdrawal will have seasonal fluctuations, the relevant information related to the seasonal use of the proposed withdrawal.

(d) A description of how the water will be used and the location, amount, and rate of any return flow.

(e) Any other information the property owner would like the department to consider in making its determination under this section.

(4) (2) Upon receipt of a request for a site-specific review UNDER SUBSECTION (3), the department shall consider the information submitted to the department under subsection (1) and shall consider the actual stream or river flow data of any affected stream reach. The department shall also apply the drainage area aggregation INTEGRATION standards provided in section 32706a(2)(a), (b), and (c), if applicable, and account for cumulative withdrawals as provided for in section 32706e. The department shall not rely on the assessment tool's determination in making its determination under a site-specific review. THE DEPARTMENT MAY CALCULATE STREAMFLOW DEPLETION USING HUNT, 2003; WARD AND LOUGH, 2011; OR A PEER-REVIEWED FUNCTIONAL EQUIVALENT AS DETERMINED BY THE PROFESSIONAL JUDGMENT OF THE DEPARTMENT TO DETERMINE WHETHER THE PROPOSED WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT. THE CALCULATION OF STREAMFLOW DEPLETION MAY ALSO BE CONDUCTED ON EXISTING WITHDRAWALS IN THE SAME WATER MANAGEMENT UNIT OR UNITS AS THE PROPOSED WITHDRAWAL IF APPLICABLE DATA IS AVAILABLE. THIS DATA MAY BE USED TO PROVIDE ADDITIONAL EVIDENCE AS NEEDED TO DEMONSTRATE WHETHER A PROPOSED WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE
RESOURCE IMPACT.

(5) The department shall complete its site-specific review within 10 working days of submittal of a request for a site-specific review. If the department determines, based upon a site-specific review, that the proposed withdrawal is a zone A or a zone B withdrawal, the department shall provide written notification to the property owner and the property owner may register the withdrawal and may proceed with the withdrawal.

(6) Subject to subsection (5), if the department determines in conducting a site-specific review that the proposed withdrawal is a zone C withdrawal, the property owner may register the withdrawal and proceed to make the withdrawal if the property owner self-certifies that he or she is implementing applicable environmentally sound and economically feasible water conservation measures prepared under section 32708a that the property owner considers to be reasonable or has self-certified that he or she is implementing applicable environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal that the property owner considers to be reasonable.

(7) Except for withdrawals exempt from obtaining a water withdrawal permit under section 32723, if a site-specific review determines that a proposed withdrawal is a zone C withdrawal with capacity in excess of 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system, the person proposing the withdrawal shall not register the withdrawal and shall not proceed with making the withdrawal unless the person
obtains a water withdrawal permit under section 32723.

(8) If the department determines, based upon a site-specific review, that the proposed withdrawal is a zone D withdrawal, the property owner shall not register the withdrawal and shall not make the withdrawal unless he or she applies for a water withdrawal permit under section 32723 and the withdrawal is authorized under that section.

(9) After a property owner registers a withdrawal following a site-specific review, if, in developing the capacity to make the withdrawal, the conditions of the withdrawal deviate from the specific data that were evaluated in the site-specific review, the property owner shall notify the department of the corrected data and the department shall confirm its determination under the site-specific review. If the corrected data do not change the determination under the site-specific review, the property owner may proceed with the withdrawal. If the corrected data change the determination under the site-specific review, the property owner shall proceed under the provisions of this part related to the corrected determination.

(10) Subject to subsection (9), prior to the implementation date of the assessment tool under section 32706a, a property owner proposing to develop withdrawal capacity on his or her property to make a new or increased large quantity withdrawal may submit to the department a request for an interim site-specific review under this subsection to determine whether or not the proposed withdrawal is likely to cause an adverse resource impact. The department, upon request, shall conduct an interim site-
specific review under this subsection within a reasonable time period not to exceed 30 days based upon an evaluation of reasonably available information. For purposes of this part, a determination under an interim site-specific review under this subsection shall be afforded the same status as a site-specific review otherwise conducted under this section.

(11) Except for withdrawals exempt from obtaining a permit under section 32723, a property owner who, prior to the implementation of the assessment tool under section 32706a, intends to develop withdrawal capacity on his or her property to make 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 shall obtain an interim site-specific review under subsection (8)—(10). If the interim site-specific review determines that the proposed withdrawal is a zone C withdrawal, the property owner shall not proceed with making the withdrawal unless the person obtains a water withdrawal permit under section 32723.

(12) For agricultural withdrawals, data and analyses submitted to the department under this part are exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 TO 15.246, and shall not be disclosed by the department, the department of agriculture and rural development, or the department of natural resources unless the department determines that the withdrawal is causing an adverse resource impact.

(13) As used in this part:

(A) "Aquifer performance test" means a controlled field test
IN WHICH ALL OF THE FOLLOWING ARE DONE:

(i) PUMPING IS CONDUCTED AT A CONSTANT RATE AT OR ABOVE THE
DESIRED PRODUCTION RATE FOR THE DURATION OF THE TEST AND METERED OR
PERIODICALLY MEASURED TO ENSURE CONSISTENCY OF RATE.

(ii) THE TEST IS CONDUCTED FOR A PERIOD OF 24 HOURS, DURING
WHICH DRAWDOWN MEASUREMENTS ARE TAKEN AT 1-MINUTE INTERVALS TO AN
ACCURACY OF 0.05 FEET.

(iii) AFTER COMPLETION OF PUMPING, MEASUREMENTS OF WATER LEVEL
RECOVERY ARE TAKEN AT 1-MINUTE INTERVALS FOR 24 HOURS. THE ANALYSIS
SHALL CALCULATE STREAMFLOW DEPLETION USING SOLUTIONS FROM HUNT,
2003; WARD AND LOUGH, 2011; OR A PEER-REVIEWED FUNCTIONAL
EQUIVALENT AS DETERMINED BY THE PROFESSIONAL JUDGMENT OF THE
HYDROLOGIST OR HYDROGEOLOGIST PERFORMING THE ANALYSIS. THE ANALYSIS
MAY ALSO BE CONDUCTED ON EXISTING WITHDRAWALS IN THE SAME WATER
MANAGEMENT UNIT OR UNITS AS THE PROPOSED WITHDRAWAL IF APPLICABLE
DATA IS AVAILABLE. THIS MAY BE USED TO PROVIDE ADDITIONAL EVIDENCE
AS NEEDED TO DEMONSTRATE A PROPOSED WITHDRAWAL IS UNLIKELY TO CAUSE
AN ADVERSE RESOURCE IMPACT.

(B) "HUNT, 2003" MEANS HUNT 2003: "UNSTEADY STREAM DEPLETION
WHEN PUMPING FROM SEMICONFINED AQUIFER".

(C) "HYDROGEOLOGICAL STREAMFLOW DATA" INCLUDES ALL OF THE
FOLLOWING:

(i) RECORDS OF THE INSTALLATION OF A MINIMUM OF 1 MONITORING
WELL. A NEARBY EXISTING MONITORING WELL MAY BE USED FOR THE TEST
INSTEAD, IF IT IS IN SUFFICIENTLY CLOSE PROXIMITY AND IF THERE ARE
SUFFICIENTLY SIMILAR GEOLOGIC CONDITIONS THAT IN THE PROFESSIONAL
JUDGMENT OF THE HYDROLOGIST OR HYDROGEOLOGIST THE EXISTING WELL
WILL COLLECT DATA ACCURATE ENOUGH FOR THE ANALYSIS OF STREAMFLOW DEPLETION UNDER THIS PART. THE MONITORING WELL MUST BE INSTALLED IN THE SAME AQUIFER AND SCREENED AT OR NEAR THE SAME DEPTH AS THE PRODUCTION WELL, AND BE LOCATED AT A DISTANCE OF 1 TO 5 TIMES THE THICKNESS OF THE AQUIFER FROM THE PROPOSED PRODUCTION WELL.

(ii) MEASUREMENTS OF STATIC WATER LEVEL ELEVATIONS AT 1-MINUTE INTERVALS FOR A MINIMUM OF 24 HOURS BEFORE THE PUMPING PORTION OF THE TEST.

(iii) RECORDS FROM AN AQUIFER PERFORMANCE TEST FROM THE PROPOSED PRODUCTION WELL. A NEARBY EXISTING PRODUCTION WELL MAY BE USED FOR THE TEST INSTEAD, IF IT IS IN SUFFICIENTLY CLOSE PROXIMITY AND THERE ARE SUFFICIENTLY SIMILAR GEOLOGIC CONDITIONS THAT IN THE PROFESSIONAL JUDGMENT OF THE HYDROLOGIST OR HYDROGEOLOGIST THE EXISTING WELL WILL COLLECT DATA ACCURATE ENOUGH FOR THE ANALYSIS OF STREAMFLOW DEPLETION UNDER THIS PART.

(D) "WARD AND LOUGH, 2011" MEANS WARD AND LOUGH 2011: "STREAM DEPLETION FROM PUMPING A SEMICONFINED AQUIFER IN A TWO-LAYER LEAKY AQUIFER SYSTEM".