

**SENATE BILL NO. 294**

February 10, 1999, Introduced by Senators YOUNG, DE BEAUSSAERT, A. SMITH, PETERS, CHERRY, V. SMITH and BYRUM and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 32701 (MCL 324.32701), as amended by 1996 PA 434, and by adding section 32704a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 32701. As used in this part:

2       (a) "Agricultural purpose" means the agricultural production  
3 of forestry, livestock, food, feed, or fiber.

4       (b) "Consumptive use" means that portion of water withdrawn  
5 or withheld from the Great Lakes basin and assumed to be lost or  
6 otherwise not returned to the Great Lakes basin due to evapora-  
7 tion, incorporation into products, or other processes.

8       (c) "Department" means the department of environmental  
9 quality.

1 (D) "DIVERSION" OR "INTERBASIN DIVERSION" MEANS THE  
2 WITHDRAWAL AND TRANSPORT OF WATERS OF THE GREAT LAKES BASIN TO 1  
3 OR MORE LOCATIONS OUTSIDE OF THE GREAT LAKES BASIN.

4 (E) ~~-(d)-~~ "Great Lakes basin" means the watershed of the  
5 Great Lakes and the St. Lawrence river.

6 (F) ~~-(e)-~~ "Great Lakes charter" means the document estab-  
7 lishing the principles for the cooperative management of the  
8 Great Lakes water resources, signed by the governors and premiers  
9 of the Great Lakes region on February 11, 1985.

10 (G) ~~-(f)-~~ "Great Lakes region" means the geographic region  
11 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
12 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
13 and the provinces of Ontario and Quebec, Canada.

14 (H) ~~-(g)-~~ "Industrial or processing facility" means an oper-  
15 ating plant or other entity, including a thermoelectric power  
16 generation plant, carrying on a common manufacturing activity,  
17 trade, or business on a common site, including similar plants or  
18 entities under common ownership or control located on contiguous  
19 properties. Plants or entities under common ownership or control  
20 located on separate sites shall be considered separate  
21 facilities. Industrial or processing facility does not include  
22 an irrigation facility.

23 (I) ~~-(h)-~~ "Irrigation facility" means all wells, pumps,  
24 intakes, gates, tanks, pipes, or other equipment under common  
25 ownership or control and located either on the same site or on  
26 separate sites, which are used to withdraw, convey, or distribute  
27 water for the purposes of irrigating golf courses, parks,

1 recreational areas, or other grounds, but not including  
2 irrigation for an agricultural purpose.

3       (J) ~~-(i)-~~ "Public water supply system" means a water system  
4 that provides water for human consumption or other purposes to  
5 persons other than the supplier of water.

6       (K) ~~-(j)-~~ "Registrant" means any industrial or processing  
7 facility or irrigation facility registered under this part.

8       (l) ~~-(k)-~~ "Water of the Great Lakes basin" means the Great  
9 Lakes and all streams, rivers, lakes, connecting channels, and  
10 other bodies of water, including groundwater, within the Great  
11 Lakes basin.

12       (M) ~~-(l)-~~ "Withdrawal" means the removal of water from its  
13 source for any purpose, other than for hydroelectric generation  
14 at sites certified, licensed, or permitted by the federal energy  
15 regulatory commission.

16       SEC. 32704A. (1) UPON RECEIPT OF ANY OF THE FOLLOWING, THE  
17 GOVERNOR SHALL NOTIFY THE DEPARTMENT:

18       (A) A REQUEST FOR APPROVAL OF A PROPOSED INTERBASIN DIVER-  
19 SION FROM THE GREAT LAKES BASIN PURSUANT TO SECTION 1109 OF TITLE  
20 XI OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986, PUBLIC LAW  
21 99-662, 42 U.S.C. 1962d-20, OR A PROPOSED INCREASE IN AN EXISTING  
22 INTERBASIN DIVERSION FROM THE GREAT LAKES BASIN.

23       (B) NOTICE OF A PROPOSED CONSUMPTIVE USE OF THE WATER OF THE  
24 GREAT LAKES BASIN IN EXCESS OF 5,000,000 GALLONS PER DAY AVERAGE  
25 IN ANY 30-DAY PERIOD PURSUANT TO THE GREAT LAKES CHARTER.

26       (C) NOTIFICATION OF AN INCREASE OR OTHER ALTERATION IN AN  
27 EXISTING INTERBASIN DIVERSION FROM THE GREAT LAKES BASIN.

1       (2) UPON RECEIPT OF NOTIFICATION PURSUANT TO SUBSECTION (1),  
2 THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

3       (A) NOTIFY THE PERSON PROPOSING THE DIVERSION OR CONSUMPTIVE  
4 USE WHETHER SUFFICIENT INFORMATION HAS ACCOMPANIED THE PROPOSAL  
5 OR IS OTHERWISE AVAILABLE TO PERMIT AN EVALUATION OF THE  
6 PROPOSAL.

7       (B) NOTIFY OTHER STATE AGENCIES, INCLUDING THE DEPARTMENTS  
8 OF COMMUNITY HEALTH, CONSUMER AND INDUSTRY SERVICES, AGRICULTURE,  
9 AND TRANSPORTATION AND THE PUBLIC SERVICE COMMISSION OF THE PRO-  
10 POSAL AND SOLICIT THEIR COMMENTS. IN ADDITION, THE DEPARTMENT  
11 SHALL NOTIFY AND SOLICIT COMMENTS FROM THE INTERNATIONAL JOINT  
12 COMMISSION, THE GREAT LAKES COMMISSION, AND OTHER APPROPRIATE  
13 FEDERAL AGENCIES.

14       (C) PUBLISH A NOTICE IN THE MICHIGAN REGISTER CONTAINING THE  
15 FOLLOWING INFORMATION:

16       (i) THE NAME OF THE PERSON, HIS OR HER RELEVANT AFFILIATION,  
17 AND ORIGINATING STATE OR PROVINCE PROPOSING THE DIVERSION OR CON-  
18 SUMPTIVE USE.

19       (ii) A DESCRIPTION OF THE PROPOSED DIVERSION OR CONSUMPTIVE  
20 USE, INCLUDING THE LOCATION AND SIZE OF THE DIVERSION OR CONSUMP-  
21 TIVE USE, AND THE STATE OR PROVINCE TO WHICH THE WATER WILL BE  
22 DIVERTED OR IN WHICH THE WATER WILL BE USED.

23       (iii) THE NAME AND ADDRESS WHERE MORE INFORMATION MAY BE  
24 OBTAINED.

25       (3) THE NOTICE UNDER SUBSECTION (2)(C) SHALL ALSO PROVIDE  
26 FOR A PUBLIC COMMENT PERIOD OF AT LEAST 30 DAYS. THE DEPARTMENT  
27 SHALL HOLD A PUBLIC HEARING UPON REQUEST. WITHIN 60 DAYS OF THE

1 CLOSE OF THE PUBLIC COMMENT PERIOD OR THE PUBLIC HEARING,  
2 WHICHEVER IS LATER, THE DEPARTMENT SHALL TRANSMIT A REPORT TO THE  
3 GOVERNOR OR HIS OR HER DESIGNEE AND THE LEGISLATURE. THE REPORT  
4 SHALL SUMMARIZE ALL COMMENTS RECEIVED FROM STATE, FEDERAL, AND  
5 INTERSTATE AGENCIES AND THE PUBLIC, MAKE A RECOMMENDATION ON THE  
6 PROPOSAL, AND EVALUATE ALL OF THE FOLLOWING:

7 (A) WHETHER THE PROPOSED WITHDRAWAL IS CONSISTENT WITH  
8 APPLICABLE STATE PLANS FOR PRESENT OR FUTURE USES OF THE WATER OF  
9 THE GREAT LAKES BASIN.

10 (B) WHETHER BOTH THE CURRENT WATER USE OF THE PERSON SUBMIT-  
11 TING THE PROPOSAL AND THE PERSON'S PROPOSED PLANS FOR WITHDRAWAL,  
12 TRANSPORTATION, DEVELOPMENT, AND USE OF WATER RESOURCES INCOR-  
13 PORATE MAXIMUM ECONOMICALLY FEASIBLE CONSERVATION PRACTICES.

14 (C) WHETHER THE PROPOSED WITHDRAWAL AND USES WILL HAVE A  
15 SIGNIFICANT ADVERSE IMPACT ON NAVIGATION WITHIN THE GREAT LAKES  
16 BASIN.

17 (D) WHETHER THE PROPOSED WITHDRAWAL AND USES ARE CONSISTENT  
18 WITH THE PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE IN THE  
19 GREAT LAKES BASIN AND WILL NOT BE DETRIMENTAL TO THE PUBLIC  
20 INTEREST OR THE PUBLIC TRUST IN THE WATER OF THE GREAT LAKES  
21 BASIN.

22 (E) WHETHER EACH BASIN, REGION, STATE, OR PROVINCE TO WHICH  
23 THE WATER WILL BE DIVERTED HAS DEVELOPED AND IS IMPLEMENTING A  
24 PLAN TO MANAGE AND CONSERVE ITS OWN WATER QUANTITY RESOURCES, AND  
25 WHETHER FURTHER DEVELOPMENT OF ITS OWN WATER RESOURCES IS ECONOM-  
26 ICALLY IMPRACTICABLE OR WOULD HAVE A SUBSTANTIAL ADVERSE  
27 ECONOMIC, SOCIAL, OR ENVIRONMENTAL IMPACT.

1 (F) WHETHER THE APPLICATION WILL IMPAIR THE ABILITY OF THE  
2 GREAT LAKES BASIN TO MEET ITS OWN WATER NEEDS.

3 (G) WHETHER THE PROPOSED WITHDRAWAL AND USES ALONE, OR IN  
4 COMBINATION WITH OTHER WATER USES, WILL HAVE A SIGNIFICANT  
5 ADVERSE IMPACT ON LAKE LEVELS, WATER USE, OR THE ENVIRONMENT OR  
6 THE ECOSYSTEM OF THE GREAT LAKES BASIN, INCLUDING THE QUALITY AND  
7 QUANTITY OF THE WATER OF THE GREAT LAKES BASIN, FISHERIES, WILD-  
8 LIFE, WETLANDS, SHORELINE RESOURCES AND ECOSYSTEMS, AND OTHER  
9 RELATED RESOURCES.

10 (H) WHETHER THE PROPOSED WITHDRAWAL IS CONSISTENT WITH ALL  
11 APPLICABLE FEDERAL, REGIONAL, AND INTERSTATE AND INTERNATIONAL  
12 WATER RESOURCES PLANS.

13 (4) THE DEPARTMENT SHALL SOLICIT, REVIEW, MAKE AVAILABLE TO  
14 THE PUBLIC, AND PREPARE A DOCUMENT RESPONDING TO ALL COMMENTS  
15 SUBMITTED BY A STATE, PROVINCE, APPROPRIATE UNITED STATES AND  
16 CANADIAN FEDERAL AGENCIES, AND THE INTERNATIONAL JOINT COMMISSION  
17 REGARDING A PROPOSED CONSUMPTIVE USE FROM WITHIN MICHIGAN'S  
18 BOUNDARIES IN EXCESS OF 5,000,000 GALLONS PER DAY AVERAGE IN ANY  
19 30-DAY PERIOD PURSUANT TO THE GREAT LAKES CHARTER. THE DEPART-  
20 MENT SHALL NOT APPROVE SUCH A CONSUMPTIVE USE WITHOUT OBSERVING  
21 THE PUBLIC NOTICE AND COMMENT PROCEDURES OUTLINED IN THIS  
22 SECTION. THE DEPARTMENT'S DECISION ON THE CONSUMPTIVE USE SHALL  
23 BE MADE AT A PUBLIC MEETING HELD IN ACCORDANCE WITH THE OPEN  
24 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

25 (5) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL, UPON  
26 RECEIPT OF THE REPORT PURSUANT TO SUBSECTION (3), PREPARE A  
27 STATEMENT SETTING FORTH THE GOVERNOR'S OR GOVERNOR'S DESIGNEE'S

1 APPROVAL OR DISAPPROVAL OF THE PROPOSED DIVERSION AND THE REASONS  
2 FOR THE APPROVAL OR DISAPPROVAL. HOWEVER, THE GOVERNOR OR THE  
3 GOVERNOR'S DESIGNEE SHALL NOT APPROVE A DIVERSION IN VIOLATION OF  
4 THIS PART.