

HOUSE BILL No. 5066

July 25, 2007, Introduced by Reps. Meadows, Sak, Vagnozzi, LeBlanc, Bieda, Alma Smith, Byrnes, Wojno, Accavitti, Kathleen Law, Polidori, Constan, Robert Jones, Clack, Bauer, Young, Simpson, Donigan, Valentine, Warren, McDowell, Miller, Melton, Hammel, Espinoza, Brown, Lemmons, Meisner, Sheltroun, Hammon, Tobocman, Corriveau, Farrah, Cushingberry, Jackson, Johnson, Coulouris, Brandenburg and Dean and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32705, 32706, 32707, 32708, and 32708a (MCL
324.32705, 324.32706, 324.32707, 324.32708, and 324.32708a),
sections 32705 and 32708 as amended and section 32708a as added by
2006 PA 35, section 32706 as amended by 1996 PA 434, and section
32707 as amended by 2006 PA 33, and by adding section 32708b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32705. (1) Except as otherwise provided in this section,
2 the owner of real property who has the capacity on that property to
3 make a large quantity withdrawal from the waters of this state
4 shall register with the department prior to beginning that

1 withdrawal **THROUGH USE OF THE WATER WITHDRAWAL ASSESSMENT TOOL**
2 **PROVIDED FOR IN SECTION 32722.**

3 (2) The following persons are not required to register under
4 this section:

5 (a) A person who has previously registered for that property
6 under this part, unless that registrant develops new or increased
7 withdrawal capacity on the property of an additional 100,000
8 gallons of water per day from the waters of the state.

9 (b) A community supply owned by a political subdivision that
10 holds a permit under the safe drinking water act, 1976 PA 399, MCL
11 325.1001 to 325.1023.

12 (c) A person holding a permit under section 32723.

13 (d) The owner of a noncommercial well on residential property.

14 ~~—— (3) The following persons shall register under this section~~
15 ~~but may register after beginning the withdrawal but before 90 days~~
16 ~~after the effective date of the amendatory act that added this~~
17 ~~section.~~

18 ~~—— (a) A person who was developing new or increased withdrawal~~
19 ~~capacity on the effective date of the amendatory act that added~~
20 ~~this section.~~

21 ~~—— (b) A person who was not required to register under this part~~
22 ~~prior to the effective date of the amendatory act that added this~~
23 ~~section.~~

24 (3) ~~(4)~~ Subsection (1) does not limit a property owner's
25 ability to withdraw water from a test well prior to registration if
26 the test well is constructed in association with the development of
27 new or increased withdrawal capacity and used only to evaluate the

1 development of new or increased withdrawal capacity.

2 (4) ~~(5)~~—A registration under this section by the owner of a
3 farm in which the withdrawal is intended for an agricultural
4 purpose, including irrigation for an agricultural purpose, shall be
5 submitted to the department of agriculture instead of the
6 department.

7 (5) ~~(6)~~—A registration submitted under this section shall be
8 on a form provided by the department or the department of
9 agriculture, as appropriate.

10 (6) ~~(7)~~—In calculating the total amount of an existing or
11 proposed withdrawal for the purpose of this section, a person shall
12 combine all separate withdrawals that the person makes or proposes
13 to make, whether or not these withdrawals are for a single purpose
14 or are for related but separate purposes.

15 (7) ~~(8)~~—The department shall aggregate information received by
16 the state related to large quantity withdrawal capacities within
17 the state and reported large quantity withdrawals in the state.

18 Sec. 32706. Each registration under this part shall consist of
19 a statement and supporting documentation that includes all of the
20 following:

21 (a) The place and source of the proposed or existing
22 withdrawal.

23 (b) The location of any discharge or return flow.

24 (c) The location and nature of the proposed or existing water
25 user.

26 (D) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
27 ADDED THIS SUBDIVISION, THE CAPACITY OF THE WELL OR WITHDRAWAL

1 **INFRASTRUCTURE.**

2 **(E)** ~~(d)~~—The actual or estimated average annual and monthly
3 volumes and rate of withdrawal.

4 **(F)** ~~(e)~~—The actual or estimated average annual and monthly
5 volumes and rates of consumptive use from the withdrawal.

6 Sec. 32707. (1) Except as provided in subsections (2) and (3),
7 a person who is required to register under section 32705 or holds a
8 permit under section 32723 shall file a report annually with the
9 department on a form provided by the department. Reports shall be
10 submitted by April 1 of each year. ~~Except as provided in subsection~~
11 ~~(8), reports~~ **REPORTS** shall include the following information:

12 (a) The amount and rate of water withdrawn on an annual and
13 monthly basis.

14 (b) The source or sources of the water supply.

15 (c) The use or uses of the water withdrawn.

16 (d) The amount of consumptive use of water withdrawn.

17 (e) If the source of the water withdrawn is groundwater, the
18 location of the well or wells in latitude and longitude, with the
19 accuracy of the reported location data to within 25 feet.

20 (f) If the source of water withdrawn is groundwater, the
21 static water level of the aquifer or aquifers, if practicable.

22 **(G) A CERTIFICATION THAT THE PERSON'S CURRENT WATER USE AND**
23 **THE PERSON'S PROPOSED PLANS FOR WITHDRAWAL OF WATER INCORPORATE**
24 **ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION**
25 **MEASURES AS PROVIDED FOR IN SECTION 32708A.**

26 **(H)** ~~(g)~~—Other information specified by rule of the department.

27 **(I)** ~~(h)~~—At the discretion of the registrant or permit holder,

1 ~~the~~ **THE** baseline capacity of the withdrawal and ~~, if applicable, a~~
2 description of the system capacity. ~~If the registrant or permit~~
3 ~~holder chooses to report the baseline capacity under this~~
4 ~~subdivision, that information~~ **INFORMATION REQUIRED UNDER THIS**
5 **SUBDIVISION** shall be included in the ~~next~~ **FIRST** report submitted by
6 the registrant or permit holder after ~~the effective date of the~~
7 ~~amendatory act that added this subdivision~~ **FEBRUARY 28, 2006.**
8 Information reported under this subdivision needs only to be
9 reported to the department on 1 occasion.

10 (J) ~~(i)~~ At the discretion of the registrant or permit holder,
11 the amount of water returned to the source watershed.

12 (2) If a person reports the information required by this
13 section to the department in conjunction with a permit or for any
14 other purpose, that reporting, upon approval of the department,
15 shall satisfy the reporting requirements of this section.

16 (3) The owner of a farm who reports water use under section
17 32708 is not required to report under subsection (1).

18 (4) The department may, upon request from a person required to
19 report under this section, accept a formula or model that provides
20 to the department's satisfaction the information required in
21 subsection (1).

22 (5) The department shall develop forms for reporting under
23 this section that minimize paperwork and allow for a notification
24 to the department instead of a report if the annual amount of water
25 withdrawn by a person required to report under this section is
26 within 4% of the amount last reported and the other information
27 required in subsection (1) has not changed since the last year in

1 which a report was filed.

2 (6) Information described in section 32701(c)(i)(C) that is
3 provided to the department under subsection ~~(1)(h)~~ **(1)(I)** is exempt
4 from disclosure under the freedom of information act, 1976 PA 442,
5 MCL 15.231 to 15.246, and shall not be disclosed unless the
6 department determines that the withdrawal is causing an adverse
7 resource impact.

8 (7) Except as otherwise provided in this subsection, a person
9 who files an annual report or notification under this section shall
10 annually remit a water use reporting fee of \$200.00 to the
11 department. ~~Beginning when a water withdrawal assessment tool~~
12 ~~becomes effective upon legislative enactment pursuant to the~~
13 ~~recommendations of the groundwater conservation advisory council~~
14 ~~under section 32803, a person who files an annual report or~~
15 ~~notification under this section shall annually remit a water use~~
16 ~~reporting fee of \$100.00 to the department.~~ Water use reporting
17 fees shall be remitted to the department in conjunction with the
18 annual report or notification submitted under this section. The
19 department shall transmit water use reporting fees collected under
20 this section to the state treasurer to be credited to the water use
21 protection fund created in section 32714. ~~A water use reporting fee~~
22 ~~is not required for a report or notification related to a farm that~~
23 ~~reports withdrawals under section 32708 or for a report under~~
24 ~~subsection (8).~~

25 ~~— (8) A person who withdraws less than 1,500,000 gallons of~~
26 ~~water in any year shall indicate this fact on the reporting form~~
27 ~~and is not required to provide information under subsection (1)(a)~~

~~1 or (d). A person who withdraws less than 1,500,000 gallons of water~~
~~2 in any year is not required to pay the water use reporting fee~~
~~3 under subsection (7).~~

4 Sec. 32708. (1) The owner of a farm that is registered under
5 this part who makes a withdrawal for an agricultural purpose,
6 including irrigation for an agricultural purpose, may report the
7 water use on the farm by annually submitting to the department of
8 agriculture a water use conservation plan. Conservation plans shall
9 be submitted by April 1 of each year. The water use conservation
10 plan shall include, but need not be limited to, all of the
11 following information:

12 (a) The amount and rate of water withdrawn on an annual and
13 monthly basis in either gallons or acre inches.

14 (b) The type of crop irrigated, if applicable.

15 (c) The acreage of each irrigated crop, if applicable.

16 (d) The source or sources of the water supply.

17 (e) If the source of the water withdrawn is groundwater, the
18 location of the well or wells in latitude and longitude, with the
19 accuracy of the reported location data to within 25 feet.

20 (f) If the water withdrawn is not used entirely for
21 irrigation, the use or uses of the water withdrawn.

22 (g) If the source of water withdrawn is groundwater, the
23 static water level of the aquifer or aquifers, if practicable.

24 (h) Applicable water conservation practices and an
25 implementation plan for those practices.

26 (i) ~~At the discretion of the registrant, the~~ **THE** baseline
27 capacity of the withdrawal based upon system capacity and a

1 description of the system capacity. ~~If the registrant chooses to~~
2 ~~report the baseline capacity under this subdivision, that~~
3 ~~information~~ **INFORMATION REQUIRED UNDER THIS SUBDIVISION** shall be
4 included in the ~~next~~ **FIRST** report submitted by the registrant after
5 ~~the effective date of the amendatory act that added this~~
6 ~~subdivision~~ **FEBRUARY 28, 2006**. Information reported under this
7 subdivision needs only to be reported to the department of
8 agriculture on 1 occasion.

9 (2) The department and the department of agriculture in
10 consultation with Michigan state university shall validate and use
11 a formula or model to estimate the consumptive use of withdrawals
12 made for agricultural purposes consistent with the objectives of
13 section 32707.

14 (3) Subject to subsection (4), information provided to the
15 department of agriculture under subsection (1)(a), (d), and (e)
16 shall be forwarded to the department for inclusion in the statewide
17 groundwater inventory and map prepared under section 32802.

18 (4) Information provided under subsection ~~(1)(a), (e), and (i)~~
19 **(1)(I)** is exempt from disclosure under the freedom of information
20 act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed
21 by the department, the department of agriculture, or the department
22 of natural resources unless the department determines that the
23 withdrawal is causing an adverse resource impact.

24 Sec. 32708a. (1) ~~Within 12 months after the effective date of~~
25 ~~the amendatory act that added this section~~ **BY JANUARY 1, 2008**, each
26 water user's sector shall ~~begin designing~~ **PREPARE** guidelines for
27 ~~generally accepted water management practices or environmentally~~

1 sound and economically feasible water conservation measures within
2 that sector. ~~Within 24 months after the effective date of the~~
3 ~~amendatory act that added this section~~ **BY JULY 1, 2008**, the
4 department shall review and ~~report to the appropriate standing~~
5 ~~committees of the legislature on~~ **EACH SECTOR'S ENVIRONMENTALLY**
6 **SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES AND**
7 **SHALL APPROVE OR DISAPPROVE THOSE MEASURES BASED UPON** whether or
8 not there are reasonably detailed criteria for assisting a facility
9 in determining whether water is being used in ~~an efficient manner~~
10 **COMPLIANCE WITH THOSE MEASURES. Such guidelines** **GUIDELINES APPROVED**
11 **BY THE DEPARTMENT UNDER THIS SUBSECTION** may be adopted by an
12 established statewide professional or trade association
13 representing that sector. **IF A WATER USER'S SECTOR FAILS TO PREPARE**
14 **GUIDELINES FOR ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE**
15 **WATER CONSERVATION MEASURES BY JANUARY 1, 2008, THE DEPARTMENT**
16 **SHALL PROMULGATE RULES THAT PROVIDE ENVIRONMENTALLY SOUND AND**
17 **ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES FOR THAT SECTOR.**
18 **THE DEPARTMENT SHALL REVIEW THESE RULES AT LEAST EVERY 5 YEARS TO**
19 **DETERMINE WHETHER THE RULES SHOULD BE UPDATED AND, IF SO, SHALL**
20 **PROMULGATE UPDATED RULES.**

21 (2) A PERSON WHO MAKES A LARGE QUANTITY WITHDRAWAL SHALL USE
22 THE WATERS OF THE STATE IN ACCORDANCE WITH ENVIRONMENTALLY SOUND
23 AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES PROVIDED FOR
24 UNDER THIS SECTION AND SHALL RETURN UNUSED WATER TO AS CLOSE TO THE
25 POINT OF WITHDRAWAL AS POSSIBLE.

26 (3) ~~(2)~~ Compliance with generally accepted water management
27 practices or environmentally sound and economically feasible water

1 conservation measures does not authorize a water withdrawal that is
2 otherwise prohibited by law.

3 **SEC. 32708B. A PERSON WHO MAKES A LARGE QUANTITY WITHDRAWAL**
4 **SHALL UNDERTAKE ACTIVITIES, IF NEEDED, TO ADDRESS HYDROLOGIC**
5 **IMPACTS COMMENSURATE WITH THE NATURE AND EXTENT OF THE WITHDRAWAL.**
6 **THESE ACTIVITIES MAY INCLUDE THOSE RELATED TO THE STREAM FLOW**
7 **REGIME, WATER QUALITY, AND AQUIFER PROTECTION.**

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 94th Legislature are
10 enacted into law:

11 (a) Senate Bill No.____ or House Bill No. 5073(request no.
12 00453'07 *).

13 (b) Senate Bill No.____ or House Bill No. 5065(request no.
14 02361'07).

15 (c) Senate Bill No.____ or House Bill No. 5067(request no.
16 02363'07).

17 (d) Senate Bill No.____ or House Bill No. 5068(request no.
18 02364'07).

19 (e) Senate Bill No.____ or House Bill No. 5069(request no.
20 02365'07).

21 (f) Senate Bill No.____ or House Bill No. 5070(request no.
22 02366'07).

23 (g) Senate Bill No.____ or House Bill No. 5071(request no.
24 02367'07).

25 (h) Senate Bill No.____ or House Bill No. 5072(request no.
26 02368'07).