



SENATE BILL No. 218

February 2, 1995, Introduced by Senator YOUNG and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend section 2a of Act No. 130 of the Public Acts of 1985, entitled as amended

"Great Lakes preservation act,"

as added by Act No. 326 of the Public Acts of 1990, being section 323.72a of the Michigan Compiled Laws; and to add section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2a of Act No. 130 of the Public Acts of
2 1985, as added by Act No. 326 of the Public Acts of 1990, being
3 section 323.72a of the Michigan Compiled Laws, is amended and
4 section 4a is added to read as follows:

5 Sec. 2a. As used in this act:

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

8 (B) "COMMISSION" MEANS THE COMMISSION OF NATURAL RESOURCES.

1 (C) ~~(b)~~ "Consumptive use" means that portion of water
2 withdrawn or withheld from the Great Lakes basin and assumed to
3 be lost or otherwise not returned to the Great Lakes basin due to
4 evaporation, incorporation into products, or other processes.

5 (D) ~~(c)~~ "Department" means the department of natural
6 resources.

7 (E) "DIVERSION" OR "INTERBASIN DIVERSION" MEANS THE WITH-
8 DRAWAL AND TRANSPORT OF WATERS OF THE GREAT LAKES BASIN TO 1 OR
9 MORE LOCATIONS OUTSIDE OF THE GREAT LAKES BASIN.

10 (F) ~~(d)~~ "Great Lakes basin" means the watershed of the
11 Great Lakes and the St. Lawrence river.

12 (G) ~~(e)~~ "Great Lakes charter" means the document estab-
13 lishing the principles for the cooperative management of the
14 Great Lakes water resources, signed by the governors and premiers
15 of the Great Lakes region on February 11, 1985.

16 (H) ~~(f)~~ "Great Lakes region" means the geographic region
17 composed of the states of Illinois, Indiana, Michigan, Minnesota,
18 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,
19 and the provinces of Ontario and Quebec, Canada.

20 (I) ~~(g)~~ "Industrial or processing facility" means an oper-
21 ating plant or other entity, including a thermoelectric power
22 generation plant, carrying on a common manufacturing activity,
23 trade, or business on a common site, including similar plants or
24 entities under common ownership or control located on contiguous
25 properties. Plants or entities under common ownership or control
26 located on separate sites shall be considered separate

1 facilities. Industrial or processing facility does not include
2 an irrigation facility.

3 (J) ~~(h)~~ "Irrigation facility" means all wells, pumps,
4 intakes, gates, tanks, pipes, or other equipment under common
5 ownership or control and located either on the same site or on
6 separate sites, that are used to withdraw, convey, or distribute
7 water for the purposes of irrigating golf courses, parks, recrea-
8 tional areas, or other grounds, but not including irrigation for
9 an agricultural purpose.

10 (K) ~~(i)~~ "Person" means an individual, partnership, corpo-
11 ration, association, governmental entity, or any other legal
12 entity. ~~whatsoever.~~

13 (L) ~~(j)~~ "Public water supply system" means a water system
14 that provides water for human consumption or other purposes to
15 persons other than the supplier of water.

16 (M) ~~(k)~~ "Registrant" means any industrial or processing
17 facility or irrigation facility registered under this act.

18 (N) ~~(l)~~ "Rule" means a rule promulgated pursuant to the
19 administrative procedures act of 1969, Act No. 306 of the Public
20 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
21 Compiled Laws.

22 (O) ~~(m)~~ "Water of the Great Lakes basin" means the Great
23 Lakes and all streams, rivers, lakes, connecting channels, and
24 other bodies of water, including groundwater, within the Great
25 Lakes basin.

26 (P) ~~(n)~~ "Withdrawal" means the removal of water from its
27 source for any purpose, other than for hydroelectric generation

1 at sites certified, licensed, or permitted by the federal energy
2 regulatory commission.

3 SEC. 4A. (1) UPON RECEIPT OF ANY OF THE FOLLOWING, THE GOV-
4 ERNOR SHALL NOTIFY THE COMMISSION:

5 (A) A REQUEST FOR APPROVAL OF A PROPOSED INTERBASIN DIVER-
6 SION FROM THE GREAT LAKES BASIN PURSUANT TO SECTION 1109 OF TITLE
7 XI OF THE WATER RESOURCES DEVELOPMENT ACT OF 1986, PUBLIC LAW
8 99-662, 42 U.S.C. 1962d-20, OR A PROPOSED INCREASE IN AN EXISTING
9 INTERBASIN DIVERSION FROM THE GREAT LAKES BASIN.

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

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

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

17 (A) NOTIFY THE PERSON PROPOSING THE DIVERSION OR CONSUMPTIVE
18 USE WHETHER SUFFICIENT INFORMATION HAS ACCOMPANIED THE PROPOSAL
19 OR IS OTHERWISE AVAILABLE TO PERMIT AN EVALUATION OF THE
20 PROPOSAL.

21 (B) NOTIFY OTHER STATE AGENCIES, INCLUDING THE DEPARTMENTS
22 OF PUBLIC HEALTH, COMMERCE, AGRICULTURE, AND TRANSPORTATION AND
23 THE PUBLIC SERVICE COMMISSION OF THE PROPOSAL AND SOLICIT THEIR
24 COMMENTS. IN ADDITION, NOTIFICATION SHALL BE GIVEN AND COMMENTS
25 SOLICITED FROM THE INTERNATIONAL JOINT COMMISSION, THE GREAT
26 LAKES COMMISSION, AND OTHER APPROPRIATE FEDERAL AGENCIES.

1 (C) PUBLISH A NOTICE IN THE MICHIGAN REGISTER CONTAINING THE
2 FOLLOWING INFORMATION:

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

6 (ii) A DESCRIPTION OF THE PROPOSED DIVERSION OR CONSUMPTIVE
7 USE, INCLUDING THE LOCATION AND SIZE OF THE DIVERSION OR CONSUMP-
8 TIVE USE, AND THE STATE OR PROVINCE TO WHICH THE WATER WILL BE
9 DIVERTED OR IN WHICH THE WATER WILL BE USED.

10 (iii) THE NAME AND ADDRESS WHERE MORE INFORMATION MAY BE
11 OBTAINED.

12 (3) THE NOTICE UNDER SUBSECTION (2)(C) SHALL ALSO PROVIDE
13 FOR A PUBLIC COMMENT PERIOD OF AT LEAST 30 DAYS. THE COMMISSION
14 SHALL HOLD A PUBLIC HEARING ON THE REQUEST. WITHIN 60 DAYS OF
15 THE CLOSE OF THE PUBLIC COMMENT PERIOD OR THE PUBLIC HEARING,
16 WHICHEVER IS LATER, THE COMMISSION SHALL TRANSMIT A REPORT TO THE
17 GOVERNOR OR HIS OR HER DESIGNEE AND THE LEGISLATURE, SUMMARIZING
18 ALL COMMENTS RECEIVED FROM STATE, FEDERAL, AND INTERSTATE AGEN-
19 CIES AND THE PUBLIC AND MAKING A RECOMMENDATION ON THE PROPOSAL
20 AND EVALUATING WHETHER:

21 (A) THE PROPOSED WITHDRAWAL IS CONSISTENT WITH ANY APPLICA-
22 BLE STATE PLANS FOR PRESENT OR FUTURE USES OF THE WATER OF THE
23 GREAT LAKES BASIN.

24 (B) BOTH THE CURRENT WATER USE OF THE PERSON SUBMITTING THE
25 PROPOSAL AND THE PERSON'S PROPOSED PLANS FOR WITHDRAWAL, TRANS-
26 PORTATION, DEVELOPMENT, AND USE OF WATER RESOURCES INCORPORATE
27 MAXIMUM ECONOMICALLY FEASIBLE CONSERVATION PRACTICES.

1 (C) THE PROPOSED WITHDRAWAL AND USES WILL HAVE A SIGNIFICANT
2 ADVERSE IMPACT ON NAVIGATION WITHIN THE GREAT LAKES BASIN.

3 (D) THE PROPOSED WITHDRAWAL AND USES ARE CONSISTENT WITH THE
4 PROTECTION OF PUBLIC HEALTH, SAFETY, AND WELFARE IN THE GREAT
5 LAKES BASIN AND WILL NOT BE DETRIMENTAL TO THE PUBLIC INTEREST OR
6 THE PUBLIC TRUST IN THE WATER OF THE GREAT LAKES BASIN.

7 (E) EACH BASIN, REGION, STATE, OR PROVINCE TO WHICH THE
8 WATER WILL BE DIVERTED HAS DEVELOPED AND IS IMPLEMENTING A PLAN
9 TO MANAGE AND CONSERVE ITS OWN WATER QUANTITY RESOURCES, AND
10 WHETHER FURTHER DEVELOPMENT OF ITS OWN WATER RESOURCES IS ECONOM-
11 ICALLY IMPRACTICABLE OR WOULD HAVE A SUBSTANTIAL ADVERSE ECONOM-
12 IC, SOCIAL, OR ENVIRONMENTAL IMPACT.

13 (F) THE APPLICATION WILL IMPAIR THE ABILITY OF THE GREAT
14 LAKES BASIN TO MEET ITS OWN WATER NEEDS.

15 (G) THE PROPOSED WITHDRAWAL AND USES ALONE, OR IN COMBINA-
16 TION WITH OTHER WATER USES, WILL HAVE A SIGNIFICANT ADVERSE
17 IMPACT ON LAKE LEVELS, WATER USE, OR THE ENVIRONMENT OR THE ECO-
18 SYSTEM OF THE GREAT LAKES BASIN, INCLUDING THE QUALITY AND QUAN-
19 TITY OF THE WATER OF THE GREAT LAKES BASIN, FISHERIES, WILDLIFE,
20 WETLANDS, SHORELINE RESOURCES AND ECOSYSTEMS, AND OTHER RELATED
21 RESOURCES.

22 (H) WHETHER THE PROPOSED WITHDRAWAL IS CONSISTENT WITH ALL
23 APPLICABLE FEDERAL, REGIONAL, AND INTERSTATE AND INTERNATIONAL
24 WATER RESOURCES PLANS.

25 (4) THE COMMISSION SHALL SOLICIT, REVIEW, MAKE AVAILABLE TO
26 THE PUBLIC, AND PREPARE A DOCUMENT RESPONDING TO ALL COMMENTS
27 SUBMITTED BY A STATE, PROVINCE, APPROPRIATE UNITED STATES AND

1 CANADIAN FEDERAL AGENCIES, AND THE INTERNATIONAL JOINT COMMISSION
2 REGARDING A PROPOSED CONSUMPTIVE USE FROM WITHIN MICHIGAN'S
3 BOUNDARIES IN EXCESS OF 5,000,000 GALLONS PER DAY AVERAGE IN ANY
4 30-DAY PERIOD PURSUANT TO THE GREAT LAKES CHARTER. THE COMMIS-
5 SION SHALL NOT APPROVE SUCH A CONSUMPTIVE USE WITHOUT OBSERVING
6 THE PUBLIC NOTICE AND COMMENT PROCEDURES OUTLINED IN THIS ACT.
7 THE COMMISSION'S DECISION ON THE CONSUMPTIVE USE SHALL BE MADE AT
8 A PUBLIC MEETING OF THE COMMISSION IN ACCORDANCE WITH THE OPEN
9 MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SEC-
10 TIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.

11 (5) THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL, UPON
12 RECEIPT OF THE REPORT PURSUANT TO SUBSECTION (3), PREPARE A
13 STATEMENT SETTING FORTH THE GOVERNOR'S OR GOVERNOR'S DESIGNEE'S
14 APPROVAL OR DISAPPROVAL OF THE PROPOSED DIVERSION AND THE REASONS
15 FOR THE APPROVAL OR DISAPPROVAL. HOWEVER, THE GOVERNOR OR THE
16 GOVERNOR'S DESIGNEE SHALL NOT APPROVE A DIVERSION IN VIOLATION OF
17 THIS ACT.