

**SUBSTITUTE FOR
HOUSE BILL NO. 5071**

A bill to amend 1976 PA 399, entitled
"Safe drinking water act,"
by amending section 4 (MCL 325.1004), as amended by 2006 PA 601.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A supplier of water shall file with the department
2 the plans and specifications of the entire waterworks system owned
3 or operated by the supplier, unless the department determines that
4 its existing records are adequate. A general plan of the waterworks
5 system for each public water supply shall be provided to the
6 department by a supplier of water and shall be updated as
7 determined necessary by the department.

8 (2) Upon receipt of the plans and specifications for a
9 proposed waterworks system, the department shall evaluate the

1 adequacy of the proposed system to protect the public health by
2 supplying water meeting the state drinking water standards and, if
3 applicable, shall evaluate the impact of the proposed system as
4 provided in subsections (3) and (4). **IN ADDITION, FOR A PROPOSED**
5 **WATERWORKS SYSTEM BY A COMMUNITY SUPPLY THAT WILL PROVIDE CAPACITY**
6 **FOR A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL, THE DEPARTMENT**
7 **SHALL UTILIZE THE ASSESSMENT TOOL TO EVALUATE THE PROPOSED**
8 **WITHDRAWAL ASSOCIATED WITH THE PROPOSED WATERWORKS SYSTEM AND SHALL**
9 **CONFIRM THE ASSESSMENT TOOL'S DETERMINATION. PRIOR TO THE**
10 **IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, THE**
11 **DEPARTMENT SHALL EVALUATE THE PROPOSED WITHDRAWAL BASED UPON**
12 **REASONABLY AVAILABLE INFORMATION. IF THE DEPARTMENT DETERMINES THAT**
13 **THE PROPOSED WITHDRAWAL FOR A COMMUNITY SUPPLY IS A ZONE C**
14 **WITHDRAWAL, THE COMMUNITY SUPPLY SHALL CERTIFY THAT IT IS**
15 **IMPLEMENTING APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY**
16 **FEASIBLE WATER CONSERVATION MEASURES PREPARED UNDER SECTION 32708A**
17 **OR SHALL CERTIFY THAT IT IS IMPLEMENTING ENVIRONMENTALLY SOUND AND**
18 **ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES DEVELOPED FOR THE**
19 **WATER USE ASSOCIATED WITH THAT SPECIFIC WITHDRAWAL.** The department
20 shall also conduct a capacity assessment for a proposed community
21 supply or nontransient noncommunity water supply and determine if
22 the system has the technical, financial, and managerial capacity to
23 meet all requirements of this act and the rules promulgated under
24 this act, on the date of commencement of operations. If upon
25 evaluation the department determines the plans and specifications
26 to be inadequate or the capacity assessment shows the system to be
27 inadequate, the department may return the plans and specifications

1 to the applicant and require additions or modifications as may be
2 appropriate. The department may reject plans and specifications for
3 a waterworks system that will not satisfactorily provide for the
4 protection of the public health or, if applicable, will not meet
5 the standards provided in ~~subsections (3) and~~ **SUBSECTION** (4). The
6 department may deny a permit for construction of a proposed
7 community supply or a nontransient noncommunity water supply if the
8 capacity assessment shows that the proposed system does not have
9 adequate technical, financial, or managerial capacity to meet the
10 requirements of this act and the rules promulgated under this act.

11 (3) The department ~~may~~ **SHALL** evaluate the impact of a proposed
12 waterworks system for a community supply ~~owned by a political~~
13 ~~subdivision~~ that will do any of the following:

14 (a) Provide new total designed withdrawal capacity of more
15 than 2,000,000 gallons of water per day from a ~~source of water~~
16 ~~other than the Great Lakes and their connecting waterways~~ **THE**
17 **WATERS OF THE STATE**.

18 (b) Provide an increased total designed withdrawal capacity of
19 more than 2,000,000 gallons of water per day from a ~~source of water~~
20 ~~other than the Great Lakes and their connecting waterways~~ **THE**
21 **WATERS OF THE STATE** beyond the system's total designed withdrawal
22 capacity.

23 ~~—— (c) Provide new total designed withdrawal capacity of more~~
24 ~~than 5,000,000 gallons of water per day from the Great Lakes and~~
25 ~~their connecting waterways.~~

26 ~~—— (d) Provide an increased total designed withdrawal capacity of~~
27 ~~more than 5,000,000 gallons of water per day from the Great Lakes~~

1 ~~and their connecting waterways beyond the system's total designed~~
2 ~~withdrawal capacity.~~

3 (C) PROVIDE NEW OR INCREASED TOTAL DESIGNED WITHDRAWAL
4 CAPACITY FOR A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL THAT THE
5 DEPARTMENT CONFIRMS IS A ZONE C WITHDRAWAL IF EITHER OF THE
6 FOLLOWING CONDITIONS EXISTS:

7 (i) THE PROPOSED WITHDRAWAL WOULD REDUCE THE FLOW OF A COLD
8 SMALL RIVER BY 14% OR MORE OF ITS INDEX FLOW.

9 (ii) THE PROPOSED WITHDRAWAL WOULD REDUCE THE FLOW OF A COOL
10 RIVER SYSTEM OR A WARM RIVER SYSTEM BY 20% OR MORE OF ITS INDEX
11 FLOW.

12 (D) PROVIDE NEW TOTAL DESIGNED WITHDRAWAL CAPACITY OR AN
13 INCREASED TOTAL DESIGNED WITHDRAWAL CAPACITY THAT WILL RESULT IN AN
14 INTRABASIN TRANSFER OF MORE THAN 100,000 GALLONS PER DAY AVERAGE
15 OVER ANY 90-DAY PERIOD.

16 (4) THE DEPARTMENT SHALL PROVIDE PUBLIC NOTICE THAT IT IS
17 CONDUCTING AN EVALUATION UNDER SUBSECTION (3) AND SHALL PROVIDE A
18 PUBLIC COMMENT PERIOD OF NOT LESS THAN 45 DAYS BEFORE MAKING A
19 DETERMINATION ON THAT EVALUATION. The department shall reject the
20 plans and specifications for a proposed waterworks system evaluated
21 under subsection (3) if it determines that the proposed system will
22 not meet the applicable standard provided in section ~~32723(5) or~~
23 ~~(6)~~ 32723 of the natural resources and environmental protection
24 act, 1994 PA 451, MCL 324.32723. ~~unless~~ HOWEVER, THE DEPARTMENT
25 MAY APPROVE THE PLANS AND SPECIFICATIONS FOR A PROPOSED WATERWORKS
26 SYSTEM EVALUATED UNDER SUBSECTION (3) FOR A COMMUNITY SUPPLY OWNED
27 BY A POLITICAL SUBDIVISION THAT THE DEPARTMENT DETERMINES WILL NOT

1 MEET THE APPLICABLE STANDARD PROVIDED IN SECTION 32723 IF THE PLANS
2 AND SPECIFICATIONS DO NOT RESULT IN AN INTRABASIN TRANSFER OF MORE
3 THAN 100,000 GALLONS PER DAY AVERAGE OVER ANY 90-DAY PERIOD AND
4 both of the following conditions are met:

5 (a) The department determines that there is no feasible and
6 prudent alternative location for the withdrawal. THIS SUBDIVISION
7 DOES NOT CONFER UPON THE DEPARTMENT ANY AUTHORITY TO REQUIRE A
8 PERSON TO CONNECT TO OR REMAIN CONNECTED TO ANOTHER EXISTING
9 COMMUNITY SUPPLY OWNED BY A POLITICAL SUBDIVISION.

10 (b) The department includes in the approval conditions related
11 to depth, pumping capacity, rate of flow, and ultimate use that
12 ensure that the environmental impact of the withdrawal is balanced
13 by the public benefit of the withdrawal related to public health,
14 safety, and welfare.

15 (5) THE DEPARTMENT'S APPROVAL OF A PROPOSED WATERWORKS SYSTEM
16 UNDER THIS SECTION SHALL BE CONSIDERED TO SATISFY THE REQUIREMENTS
17 OF SECTION 4.11 OF THE COMPACT.

18 (6) ~~(5)~~—Before commencing the construction of a waterworks
19 system or an alteration, addition, or improvement to a system, a
20 supplier of water shall submit the plans and specifications for the
21 improvements to the department and secure from the department a
22 permit for construction as provided by rule. Plans and
23 specifications submitted to the department shall be prepared by a
24 professional engineer licensed under article 20 of the occupational
25 code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder,
26 or supplier of water shall not engage in or begin the construction
27 of a waterworks system or an alteration, addition, or improvement

1 to a waterworks system until a valid permit for the construction
2 has been secured from the department. A contractor, builder, or
3 supplier of water who permits or allows construction to proceed
4 without a valid permit, or in a manner not in accordance with the
5 plans and specifications approved by the department, violates this
6 act. A supplier of water shall not issue a voucher or check or in
7 any other way expend money or provide consideration for
8 construction of a waterworks system unless a valid permit issued by
9 the department is in effect. The department may issue a permit with
10 conditions to correct minor design deficiencies. If eligible, a
11 supplier may request an expedited review of an application for a
12 permit under section 4a.

13 (7) ~~(6)~~—The department may deny a permit for construction of a
14 waterworks system or an alteration, addition, or improvement to a
15 waterworks system if the most recent capacity assessment shows that
16 the waterworks system does not have adequate technical, financial,
17 or managerial capacity to meet the requirements of this act and the
18 rules promulgated under this act, and the deficiencies identified
19 in that capacity assessment remain uncorrected, unless the proposed
20 construction will remedy the deficiencies.

21 (8) ~~(7)~~—The department may verbally approve minor
22 modifications of a construction permit issued by the department as
23 a result of unforeseen site conditions that become apparent during
24 construction. Minor modifications include, but are not limited to,
25 extending a hydrant lead or routing a water main around a manhole.
26 A supplier making a request for a modification shall provide to the
27 department all relevant information required under this section and

1 the application form provided by the department related to the
2 modification. A supplier shall obtain written approval from the
3 department for all modifications to a waterworks system except when
4 the department provides verbal approval for a minor modification as
5 provided for in this subsection. A supplier receiving a written or
6 verbal approval from the department shall submit revised plans and
7 specifications to the department within 10 days from the date of
8 approval.

9 (9) ~~(8)~~—If a supplier seeks confirmation of the department's
10 verbal approval of a minor modification under subsection ~~(7)~~—(8),
11 the supplier shall notify the department electronically, at an
12 address specified by the department, with a detailed description of
13 the request for the modification. The department shall make
14 reasonable efforts to respond within 2 business days, confirming
15 whether the request has been approved or not approved. If the
16 department has not responded within 2 business days after the
17 department receives the detailed description, the verbal approval
18 shall be considered confirmed.

19 (10) AS A CONDITION OF A PERMIT ISSUED UNDER THIS SECTION, THE
20 DEPARTMENT SHALL REQUIRE THE PERMIT HOLDER TO ANNUALLY SUBMIT TO
21 THE DEPARTMENT A REPORT BY APRIL 1 OF EACH YEAR THAT CONTAINS THE
22 INFORMATION DESCRIBED IN SECTION 32707 OF THE NATURAL RESOURCES AND
23 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.32707, UNLESS
24 THE PERMIT HOLDER IS OTHERWISE REQUIRED TO SUBMIT A REPORT UNDER
25 THAT SECTION.

26 (11) AS USED IN THIS SECTION, "ASSESSMENT TOOL", "COMPACT",
27 "INTRABASIN TRANSFER", "NEW OR INCREASED LARGE QUANTITY

1 WITHDRAWAL", "WATERS OF THE STATE", AND "ZONE C WITHDRAWAL" MEAN
2 THOSE TERMS AS THEY ARE DEFINED IN SECTION 32701 OF THE NATURAL
3 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
4 324.32701.

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

- 8 (a) House Bill No. 4343.
- 9 (b) House Bill No. 5065.
- 10 (c) House Bill No. 5066.
- 11 (d) House Bill No. 5067.
- 12 (e) House Bill No. 5068.
- 13 (f) House Bill No. 5069.
- 14 (g) House Bill No. 5070.
- 15 (h) House Bill No. 5072.
- 16 (i) House Bill No. 5073.