

SENATE BILL NO. 1181

December 04, 2024, Introduced by Senator BAYER and referred to the Committee on Energy and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32707 and 32723 (MCL 324.32707 and 324.32723),
section 32707 as amended by 2008 PA 182 and section 32723 as
amended by 2008 PA 180, and by adding section 32707a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32707. (1) Except as provided in subsections (2) and (3),
2 **by April 1 each year,** a person ~~who~~**that** is required to register
3 under section 32705 or holds a permit under section 32723 shall

1 file a report ~~annually~~ with the department on a form provided by
2 the department. ~~Reports shall be submitted by April 1 of each year.~~
3 Except as provided in subsection (8), reports ~~shall~~ **must** include
4 the following information:

5 (a) The amount and rate of water withdrawn on an annual and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

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

8 (c) The use or uses of the water withdrawn.

9 (d) The amount of consumptive use of water withdrawn.

10 (e) If the source of the water withdrawn is groundwater, the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

13 (f) If the source of water withdrawn is groundwater, the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

15 (g) Other information specified by rule of the department.

16 (h) At the discretion of the registrant or permit holder, the
17 baseline capacity of the withdrawal and, if applicable, a
18 description of the system capacity.

19 (i) At the discretion of the registrant or permit holder, the
20 amount of water returned to the source watershed.

21 (j) Beginning in 2010, an acknowledgment that the registrant
22 has reviewed applicable environmentally sound and economically
23 feasible water conservation measures prepared under section 32708a.

24 (2) If a person reports the information required by this
25 section to the department in conjunction with a permit or for any
26 other purpose, that reporting, ~~upon~~ **on** approval of the department,
27 satisfies the reporting requirements of this section.

28 (3) The owner of a farm ~~who~~ **that** reports water use under
29 section 32708 is not required to report under subsection (1).

1 (4) The department may, ~~upon~~**on** request from a person required
2 to report under this section, accept a formula or model that
3 provides to the department's satisfaction the information required
4 in subsection (1).

5 (5) The department shall develop forms for reporting under
6 this section that minimize paperwork and allow for a notification
7 to the department instead of a report if the annual amount of water
8 withdrawn by a person required to report under this section is
9 within 4% of the amount last reported and the other information
10 required in subsection (1) has not changed since the last year in
11 which a report was filed.

12 (6) Information described in section 32701(d) ~~(i)~~ (B) that is
13 provided to the department under subsection (1)(h) is exempt from
14 disclosure under the freedom of information act, 1976 PA 442, MCL
15 15.231 to 15.246, and ~~shall~~**must** not be disclosed unless the
16 department determines that the withdrawal is causing an adverse
17 resource impact.

18 (7) Except as otherwise provided in this subsection, a person
19 ~~who~~**that** files an annual report or notification under this section
20 shall annually remit a water use ~~reporting~~ fee of ~~\$200.00~~**\$1.00 per**
21 **centum cubic foot of water withdrawn annually, as reported under**
22 **subsection (1)(a),** to the department. ~~Water~~**The water** use ~~reporting~~
23 ~~fees shall~~**fee must** be remitted to the department in conjunction
24 with the annual report or notification submitted under this
25 section. The department shall transmit water use ~~reporting~~ fees
26 collected under this section to the state treasurer to be credited
27 to the water use protection fund created in section 32714. A water
28 use ~~reporting~~ fee is not required for a report or notification
29 related to a farm that reports withdrawals under section 32708 or

1 for a report under subsection (8).

2 (8) A person ~~who~~**that** withdraws less than 1,500,000 gallons of
 3 water in any year shall indicate this fact on the reporting form
 4 and is not required to provide information under subsection (1)(a)
 5 or (d). A person ~~who~~**that** withdraws less than 1,500,000 gallons of
 6 water in any year is not required to pay the water use ~~reporting~~
 7 fee under subsection (7).

8 **Sec. 32707a. If a person that holds a permit under section**
 9 **32723 proposes to increase withdrawal capacity beyond the amount**
 10 **reported in the most recent annual report submitted under section**
 11 **32707(1) and the proposed increase will result in necessary**
 12 **infrastructure improvements to accommodate an increased withdrawal**
 13 **capacity, the person that holds the permit shall not pass on to the**
 14 **public any costs associated with the infrastructure improvements.**

15 Sec. 32723. (1) Except as provided in subsection (13), **all of**
 16 the following ~~persons~~ shall obtain a water withdrawal permit ~~prior~~
 17 ~~to~~**before** making ~~the~~**a water** withdrawal:

18 (a) A person ~~who~~**that** proposes to develop withdrawal capacity
 19 to make a new withdrawal of more than 2,000,000 gallons of water
 20 per day from the waters of the state to supply a common
 21 distribution system.

22 (b) A person ~~who~~**that** proposes to develop increased withdrawal
 23 capacity beyond baseline capacity of more than 2,000,000 gallons of
 24 water per day from the waters of the state to supply a common
 25 distribution system.

26 (c) A person ~~who~~**that** proposes to develop withdrawal capacity
 27 to make a new or increased large quantity withdrawal of more than
 28 1,000,000 gallons of water per day from the waters of the state to
 29 supply a common distribution system that a site-specific review has

1 determined is a zone C withdrawal.

2 (d) A person ~~who~~**that** proposes to develop a new or increased
3 withdrawal capacity that will result in an intrabasin transfer of
4 more than 100,000 gallons per day average over any 90-day period.

5 (2) A person shall apply for a water withdrawal permit under
6 this section by submitting an application to the department
7 ~~containing~~**that contains** the information described in section
8 ~~32706e(1)(a) to (e)~~**32706c(4)** and an evaluation of existing
9 hydrological and hydrogeological conditions. If the applicant
10 proposes to undertake a preventative measure along with the
11 withdrawal, the ~~property owner~~**applicant** shall provide the
12 department with a detailed description of the preventative measure
13 and relevant information as to how the preventative measure will be
14 implemented. In addition, the applicant shall submit an application
15 fee ~~in the amount of~~ \$2,000.00. The department shall transmit
16 application fees collected under this section to the state
17 treasurer to be credited to the water use protection fund created
18 in section 32714.

19 (3) An application submitted under subsection (2) is
20 considered to be administratively complete effective 30 days after
21 it is received by the department unless the department notifies the
22 applicant, in writing, during this 30-day period that the
23 application is not administratively complete or that the
24 **application** fee required ~~to be accompanied with the application~~
25 **under subsection (2)** has not been paid. If the department
26 determines that the application is not administratively complete,
27 the notification ~~shall~~**must** specify the information necessary to
28 make the application administratively complete. If the department
29 notifies the applicant as provided in this subsection, the 30-day

1 period is tolled until the applicant submits to the department the
2 specified information or **application** fee.

3 (4) The department shall provide public notification of its
4 receipt of applications under this section and ~~shall provide a~~
5 public comment period of not less than 45 days before applications
6 are acted ~~upon~~**on** under subsection (5).

7 (5) The department shall make a decision whether to grant or
8 deny a water withdrawal permit under this section within 120 days
9 ~~of~~**after** receipt of an administratively complete application.

10 (6) The department shall issue a water withdrawal permit under
11 subsection (1)(a), (b), or (c) if all of the following conditions
12 are met:

13 (a) All water withdrawn, less any consumptive use, is
14 returned, either naturally or after use, to the source watershed.

15 (b) The withdrawal will be implemented so as to ensure that
16 the proposal will result in no individual or cumulative adverse
17 resource impacts. ~~Cumulative~~**The department shall evaluate**
18 **cumulative** adverse resource impacts under this subdivision ~~shall be~~
19 ~~evaluated by the department based upon~~**on** available information
20 gathered by the department.

21 (c) Subject to section 32726, the withdrawal will be
22 implemented so as to ensure that it is in compliance with all
23 applicable local, state, and federal laws as well as all legally
24 binding regional interstate and international agreements, including
25 the boundary waters treaty of 1909.

26 (d) The proposed use is reasonable under common law principles
27 of water law in ~~Michigan~~**this state**.

28 (e) For permit applications received on or after January 1,
29 2009, the applicant has self-certified that ~~he or she~~**the applicant**

1 is in compliance with environmentally sound and economically
 2 feasible water conservation measures developed by the applicable
 3 water user's sector under section 32708a or has self-certified that
 4 ~~he or she~~ **the applicant** is in compliance with environmentally sound
 5 and economically feasible water conservation measures developed for
 6 the water use associated with that specific withdrawal.

7 (f) The department determines that the proposed withdrawal
 8 will not violate public or private rights and limitations imposed
 9 by ~~Michigan water law~~ **laws** or other ~~Michigan~~ common law duties
 10 **applicable in this state.**

11 **(g) The withdrawal does not exceed 2,000,000 gallons per day.**

12 (7) The department shall issue a water withdrawal permit under
 13 subsection (1)(d) if the transfer complies with section 4.9 of the
 14 compact.

15 (8) In reviewing a proposed preventative measure, the
 16 department shall consider the effect of the preventative measure on
 17 preventing an adverse resource impact by diminishing the effect of
 18 the withdrawal on stream or river flow or the temperature regime of
 19 the stream or river. If the department approves a preventative
 20 measure in conjunction with a water withdrawal permit under this
 21 section, the department shall enter into a legally enforceable
 22 implementation schedule for completion of the preventative measure.

23 (9) A proposed use for which a water withdrawal permit is
 24 issued under this section ~~shall~~ **must** be considered to satisfy the
 25 requirements of section 4.11 of the compact.

26 (10) A permit issued under part 31 ~~pursuant to~~ **in accordance**
 27 **with** 33 USC 1326(b) ~~shall be~~ **is** considered sufficient to
 28 demonstrate that there will not be an adverse resource impact under
 29 section 32721 and satisfies the conditions for a water withdrawal

1 permit under this section. ~~Upon~~**On** receipt of an application under
2 this section and evidence that the applicant holds a part 31 permit
3 described in this subsection, the department shall grant the
4 applicant a water withdrawal permit under this subsection.

5 (11) The department may revoke a water withdrawal permit
6 issued under this section if the department determines following a
7 hearing, based ~~upon~~**on** clear and convincing scientific evidence,
8 that the withdrawal is causing an adverse resource impact.

9 (12) A person ~~who~~**that** is aggrieved by a determination of the
10 department under this section related to a water withdrawal permit
11 may file a sworn petition with the department setting forth the
12 grounds and reasons for the complaint and asking for a contested
13 case hearing on the matter ~~pursuant to~~**in accordance with** the
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
15 24.328. A petition filed more than 60 days after action on the
16 water withdrawal permit may be rejected by the department as being
17 untimely. The department shall issue a final decision on a petition
18 for a contested case hearing ~~within~~**not later than** 6 months after
19 receiving the petition. A determination, action, or inaction by the
20 department following a contested case hearing is subject to
21 judicial review as provided in the administrative procedures act of
22 1969, 1969 PA 306, MCL 24.201 to 24.328.

23 (13) The following withdrawals are not required to obtain a
24 water withdrawal permit under this section:

25 (a) A withdrawal by a community supply that holds a permit
26 under the safe drinking water act, 1976 PA 399, MCL 325.1001 to
27 325.1023.

28 (b) Seasonal withdrawals of not more than 2,000,000 gallons of
29 water per day average in any consecutive 90-day period to supply a

1 common distribution system unless the withdrawals result in a
2 diversion.

3 (c) A withdrawal for the production of bottled drinking water
4 approved by the department ~~under a water source review conducted~~
5 ~~under~~ **in accordance with** section 17 of the safe drinking water act,
6 1976 PA 399, MCL 325.1017.