

(2) If a hospital requests the department to conduct a certification survey for purposes of title XVIII or title XIX of the social security act, the hospital shall pay a license fee surcharge of \$23.00 per bed. As used in this subsection, “title XVIII” and “title XIX” mean those terms as defined in section 20155.

(3) The base fee for a certificate of need is \$1,500.00 for each application. For a project requiring a projected capital expenditure of more than \$500,000.00 but less than \$4,000,000.00, an additional fee of \$4,000.00 shall be added to the base fee. For a project requiring a projected capital expenditure of \$4,000,000.00 or more, an additional fee of \$7,000.00 shall be added to the base fee. The department of community health shall use the fees collected under this subsection only to fund the certificate of need program. Funds remaining in the certificate of need program at the end of the fiscal year shall not lapse to the general fund but shall remain available to fund the certificate of need program in subsequent years.

(4) If licensure is for more than 1 year, the fees described in subsection (1) are multiplied by the number of years for which the license is issued, and the total amount of the fees shall be collected in the year in which the license is issued.

(5) Fees described in this section are payable to the department at the time an application for a license, permit, or certificate is submitted. If an application for a license, permit, or certificate is denied or if a license, permit, or certificate is revoked before its expiration date, the department shall not refund fees paid to the department.

(6) The fee for a provisional license or temporary permit is the same as for a license. A license may be issued at the expiration date of a temporary permit without an additional fee for the balance of the period for which the fee was paid if the requirements for licensure are met.

(7) The department may charge a fee to recover the cost of purchase or production and distribution of proficiency evaluation samples that are supplied to clinical laboratories pursuant to section 20521(3).

(8) In addition to the fees imposed under subsection (1), a clinical laboratory shall submit a fee of \$25.00 to the department for each reissuance during the licensure period of the clinical laboratory’s license.

(9) The cost of licensure activities shall be supported by license fees.

(10) The application fee for a waiver under section 21564 is \$200.00 plus \$40.00 per hour for the professional services and travel expenses directly related to processing the application. The travel expenses shall be calculated in accordance with the state standardized travel regulations of the department of management and budget in effect at the time of the travel.

(11) An applicant for licensure or renewal of licensure under part 209 shall pay the applicable fees set forth in part 209.

(12) Except as otherwise provided in this section, the fees and assessments collected under this section shall be deposited in the state treasury, to the credit of the general fund. The department may use the unreserved fund balance in fees and assessments for the background check program required under this article.

(13) The quality assurance assessment collected under subsection (1)(g) and all federal matching funds attributed to that assessment shall be used only for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment and all federal matching funds attributed to that assessment shall be used to finance medicaid nursing home reimbursement payments. Only licensed nursing homes and hospital long-term care units that are assessed the quality assurance assessment and participate in the medicaid program are eligible for increased per diem medicaid reimbursement rates under this subdivision. A nursing home or long-term care

unit that is assessed the quality assurance assessment and that does not pay the assessment required under subsection (1)(g) in accordance with subdivision (c)(i) or in accordance with a written payment agreement with the state shall not receive the increased per diem medicaid reimbursement rates under this subdivision until all of its outstanding quality assurance assessments and any penalties assessed pursuant to subdivision (g) have been paid in full. Nothing in this subdivision shall be construed to authorize or require the department to overspend tax revenue in violation of the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(b) Except as otherwise provided under subdivision (c), beginning October 1, 2005, the quality assurance assessment is based on the total number of patient days of care each nursing home and hospital long-term care unit provided to nonmedicare patients within the immediately preceding year and shall be assessed at a uniform rate on October 1, 2005 and subsequently on October 1 of each following year, and is payable on a quarterly basis, the first payment due 90 days after the date the assessment is assessed.

(c) Within 30 days after September 30, 2005, the department shall submit an application to the federal centers for medicare and medicaid services to request a waiver pursuant to 42 CFR 433.68(e) to implement this subdivision as follows:

(i) If the waiver is approved, the quality assurance assessment rate for a nursing home or hospital long-term care unit with less than 40 licensed beds or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application is \$2.00 per nonmedicare patient day of care provided within the immediately preceding year or a rate as otherwise altered on the application for the waiver to obtain federal approval. If the waiver is approved, for all other nursing homes and long-term care units the quality assurance assessment rate is to be calculated by dividing the total statewide maximum allowable assessment permitted under subsection (1)(g) less the total amount to be paid by the nursing homes and long-term care units with less than 40 or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application by the total number of nonmedicare patient days of care provided within the immediately preceding year by those nursing homes and long-term care units with more than 39, but less than the maximum number of licensed beds necessary to secure federal approval. The quality assurance assessment, as provided under this subparagraph, shall be assessed in the first quarter after federal approval of the waiver and shall be subsequently assessed on October 1 of each following year, and is payable on a quarterly basis, the first payment due 90 days after the date the assessment is assessed.

(ii) If the waiver is approved, continuing care retirement centers are exempt from the quality assurance assessment if the continuing care retirement center requires each center resident to provide an initial life interest payment of \$150,000.00, on average, per resident to ensure payment for that resident's residency and services and the continuing care retirement center utilizes all of the initial life interest payment before the resident becomes eligible for medical assistance under the state's medicaid plan. As used in this subparagraph, "continuing care retirement center" means a nursing care facility that provides independent living services, assisted living services, and nursing care and medical treatment services, in a campus-like setting that has shared facilities or common areas, or both.

(d) Beginning October 1, 2011, the department shall no longer assess or collect the quality assurance assessment or apply for federal matching funds.

(e) Beginning May 10, 2002, the department of community health shall increase the per diem nursing home medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment is assessed and collected, the department of community health shall maintain the medicaid nursing home reimbursement payment increase financed by the quality assurance assessment.

(f) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment qualifies for federal matching funds.

(g) If a nursing home or a hospital long-term care unit fails to pay the assessment required by subsection (1)(g), the department of community health may assess the nursing home or hospital long-term care unit a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(h) The medicaid nursing home quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the medicaid nursing home quality assurance assessment fund.

(i) The department of community health shall not implement this subsection in a manner that conflicts with 42 USC 1396b(w).

(j) The quality assurance assessment collected under subsection (1)(g) shall be prorated on a quarterly basis for any licensed beds added to or subtracted from a nursing home or hospital long-term care unit since the immediately preceding July 1. Any adjustments in payments are due on the next quarterly installment due date.

(k) In each fiscal year governed by this subsection, medicaid reimbursement rates shall not be reduced below the medicaid reimbursement rates in effect on April 1, 2002 as a direct result of the quality assurance assessment collected under subsection (1)(g).

(l) In each fiscal year, \$39,900,000.00 of the quality assurance assessment collected pursuant to subsection (1)(g) shall be appropriated to the department of community health to support medicaid expenditures for long-term care services. These funds shall offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

(14) The quality assurance dedication is an earmarked assessment collected under subsection (1)(h). That assessment and all federal matching funds attributed to that assessment shall be used only for the following purpose and under the following specific circumstances:

(a) To maintain the increased medicaid reimbursement rate increases as provided for in subdivision (c).

(b) The quality assurance assessment shall be assessed on all net patient revenue, before deduction of expenses, less medicare net revenue, as reported in the most recently available medicare cost report and is payable on a quarterly basis, the first payment due 90 days after the date the assessment is assessed. As used in this subdivision, "medicare net revenue" includes medicare payments and amounts collected for coinsurance and deductibles.

(c) Beginning October 1, 2002, the department of community health shall increase the hospital medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment is assessed and collected, the department of community health shall maintain the hospital medicaid reimbursement rate increase financed by the quality assurance assessments.

(d) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment qualifies for federal matching funds.

(e) If a hospital fails to pay the assessment required by subsection (1)(h), the department of community health may assess the hospital a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(f) The hospital quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the hospital quality assurance assessment fund.

(g) In each fiscal year governed by this subsection, the quality assurance assessment shall only be collected and expended if medicaid hospital inpatient DRG and outpatient reimbursement rates and disproportionate share hospital and graduate medical education payments are not below the level of rates and payments in effect on April 1, 2002 as a direct result of the quality assurance assessment collected under subsection (1)(h), except as provided in subdivision (h).

(h) The quality assurance assessment collected under subsection (1)(h) shall no longer be assessed or collected after September 30, 2008, or in the event that the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a hospital that is not eligible for federal matching funds shall be returned to the hospital.

(i) In fiscal year 2005-2006, \$46,400,000.00 of the quality assurance assessment collected pursuant to subsection (1)(h) shall be appropriated to the department of community health to support medicaid expenditures for hospital services and therapy. In fiscal year 2006-2007, \$66,400,000.00 of the quality assurance assessment collected pursuant to subsection (1)(h) shall be appropriated to the department of community health to support medicaid expenditures for hospital services and therapy. Except as otherwise provided in this subdivision, in fiscal year 2007-2008, \$66,400,000.00 of the quality assurance assessment collected pursuant to subsection (1)(h) shall be appropriated to the department of community health to support medicaid expenditures for hospital services and therapy. However, if the state receives approval from the centers for medicare and medicaid services to increase medicaid health maintenance organization hospital payment rates that increase medicaid payments to hospitals by \$120,000,000.00 or more in fiscal year 2007-2008, then in fiscal year 2007-2008, \$81,400,000.00, instead of \$66,400,000.00, of the quality assurance assessment collected pursuant to subsection (1)(h) shall be appropriated to the department of community health to support medicaid expenditures for hospital services and therapy. These funds shall offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

(15) The quality assurance assessment provided for under this section is a tax that is levied on a health facility or agency.

(16) As used in this section, “medicaid” means that term as defined in section 22207.

This act is ordered to take immediate effect.

Approved July 2, 2008.

Filed with Secretary of State July 2, 2008.

[No. 174]

(HB 6094)

AN ACT to authorize the state administrative board to exchange certain real property in Ingham county; to prescribe conditions for the exchange; and to provide for disposition of revenue derived from the exchange.

The People of the State of Michigan enact:

Exchange of property known as city of Lansing south grand ramp and state of Michigan Cass building parking lot.

Sec. 1. The state administrative board, on behalf of the state, may exchange certain real property located in the city of Lansing, Ingham county, Michigan, commonly known as portions of the city of Lansing south grand ramp and the state of Michigan Cass building parking lot, for other real property located in the city of Lansing, Ingham county, Michigan, as provided in this act.

Accepting property from city of Lansing; description.

Sec. 2. The state administrative board, on behalf of the state, may accept certain real property from the city of Lansing or its successors in interest, located in Ingham county, Michigan, and more particularly described as follows:

That part of Washtenaw Street lying between Pine Street and Walnut Street, City of Lansing, Ingham County, Michigan, described as: Beginning at the Northeast corner of Block 125, City of Lansing, Ingham County, Michigan, thence West, 742.5 feet along the South line of Washtenaw Street to the Northwest corner of Block 124; thence North, 5.5 feet along the East line of Pine Street; thence East, 742.5 feet along a line 1.0 feet South of and parallel with an existing 6 foot wide sidewalk; thence South 7.9 feet along the West line of Walnut Street to the point of beginning.

Conveyance of property to city of Lansing; conditions; description.

Sec. 3. The state administrative board, on behalf of the state, after receiving the conveyance authorized in section 2, shall convey to the city of Lansing or its successors in interest, for consideration of the conveyance of the property described in section 2 and contingent upon the acceptance of property authorized under section 2, certain real property, including all interest in the property reserved to the state in the April 11, 1997 quitclaim deed number 190340 to the city of Lansing recorded in liber 2451, page 1140, Ingham county records, located in Ingham county, Michigan, and more particularly described as follows:

City of Lansing, Ingham County, Michigan: All of that parcel bounded on the north by the south line of Block 112, of the recorded plat of the City; on the east by the Grand River; on the south by the north line of Block 113, Plat of City; and on the west by east line of Grand Street, City of Lansing.

Descriptions as approximate; adjustments.

Sec. 4. The descriptions of the parcels of property in sections 2 and 3 are approximate and, for purposes of the conveyances, are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

Surplus, salvage, and scrap property or equipment.

Sec. 5. The property described in section 3 includes all surplus, salvage, and scrap property or equipment.

Quitclaim deed.

Sec. 6. The conveyances authorized by this act shall be by quitclaim deed or other instrument approved by the attorney general.

Deposit of net revenue.

Sec. 7. The net revenue received from the sale of property under this act, if any, shall be deposited in the state treasury and credited to the general fund.

This act is ordered to take immediate effect.

Approved July 2, 2008.

Filed with Secretary of State July 2, 2008.

[No. 175]**(SB 1380)**

AN ACT to amend 1984 PA 270, entitled “An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts,” by amending section 88b (MCL 125.2088b), as added by 2005 PA 225, and by adding section 88q.

The People of the State of Michigan enact:

125.2088b Programs created and operated by fund board; expenditures; use of appropriated or transferred money.

Sec. 88b. (1) The fund shall create and operate programs authorized under this chapter. The fund board shall determine the annual allocation of money for programs authorized under this chapter and make authorized expenditures or investments from the investment fund of the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, as authorized under this chapter for programs and activities authorized under this chapter.

(2) Money transferred or appropriated by law to the fund for the purposes of carrying out this chapter shall be expended or invested by the fund as authorized by law for the following purposes:

- (a) 21st century investments.
- (b) Grants and loans approved by the commercialization board under section 88k.
- (c) Other programs or activities authorized under this chapter.

(3) Except for the appropriations described in section 88j(3) and as otherwise provided in section 88q, the fund board shall not expend more than the following amounts each year from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, for the following purposes:

- (a) 25% for the loan enhancement program.
- (b) 40% for the private equity investment program, the venture capital investment program, and the mezzanine investment program combined.
- (c) 70% for competitive edge technology grants and loans under section 88k. The commercialization board shall not authorize the expenditure of more than \$100,000,000.00 of the amount described in this subdivision for basic research over the life of the program.

(4) The commercialization board shall authorize the expenditure of not less than the following amounts described in subsection (3)(c) as follows:

- (a) \$40,000,000.00 in the 2005-2006 fiscal year.
- (b) \$50,000,000.00 in the 2006-2007 fiscal year.

(c) \$30,000,000.00 in the 2007-2008 fiscal year.

(d) \$25,000,000.00 in the 2008-2009 through the 2011-2012 fiscal years.

(5) Not more than 4% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for the purposes of administering the programs and activities authorized under this chapter. However, the fund and the fund board shall not use more than 3% of the annual appropriation for administering the programs and activities authorized under this chapter unless the fund board by a 2/3 vote authorizes the additional 1% for administration.

(6) Not more than 5% of the annual appropriation as provided by law from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, may be used for business development and business marketing costs. Not less than 80% of the funds committed for business development and business marketing costs shall be targeted to persons or entities outside of this state. No funds may be used for any business development and business marketing effort that includes a reference to or the image or voice of an elected state officer or a candidate for elective state office and that is targeted to a media market in Michigan. The fund board shall select all vendors for all marketing expenditures under this chapter by issuing a request for proposal. At a minimum, the request for proposal shall require the responding entities to disclose any conflict of interest, disclose any criminal convictions, disclose any investigations by the internal revenue service or any other federal or state taxing body or court, disclose any pertinent litigation regarding the conduct of the entity, and maintain records and evidence pertaining to work performed. The fund board shall establish a standard process to evaluate proposals submitted as a result of a request for proposal and appoint a committee to review the proposals. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review proposals if that person has a conflict of interest with any potential vendors as determined by the office of the chief compliance officer established in section 88i.

(7) The fund shall not use any money appropriated or transferred for purposes authorized under this chapter to acquire interests in or improve real property. The restriction under this subsection applies only to the fund and not to recipients of expenditures or investments under this chapter.

125.2088q Centers of energy excellence program; creation; purpose; agreements; application; expenditures; limitation; use of funds; evaluation of applications; establishment of standard process; provisions to be included in agreement; selection of centers manager; duties; definitions.

Sec. 88q. (1) The fund may create and operate a centers of energy excellence program to promote the development, acceleration, and sustainability of energy excellence sectors in this state. The fund may enter into agreements with 1 or more qualified entities for the designation and operation of a center of energy excellence as provided in subsection (5). Prior to entering into an agreement under this section, 1 or more qualified entities may apply to the fund for an agreement for designation and operation of a center of energy excellence. The application shall be in a form determined by the fund and shall include information the fund determines necessary and appropriate.

(2) The fund board shall not expend more than \$45,000,000.00 of the money appropriated for programs authorized under this chapter from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, for the centers of energy excellence program. Grants given for the centers of energy excellence program shall only be awarded to for-profit companies for 1 of the following purposes:

(a) Providing a match for foundation funding, federal funding, or international investments of up to 50% of the total project costs.

(b) Supplementing in-kind contributions provided by a person or entity other than this state.

(c) Accelerating the commercialization of an innovative energy technology or process that will be ready to market within 3 years of the effective date of the agreement.

(d) Activities of the center, including, but not limited to, workforce development and technology demonstration.

(3) Not less than 50% of the funds allocated to the centers for energy excellence program shall be used to match foundation funding, federal funding, or international investments. The fund board may authorize investment terms in qualified entities as part of any agreement as provided in subsection (5). Not more than 15% of any grant awarded can be used for administrative costs or overhead by the grantee or any subcontractor hired to implement any portion of the centers for energy excellence agreement. Grants authorized by this section shall be disbursed pursuant to a timeline and progress disbursement schedule included as part of an agreement under this section.

(4) The fund board shall establish a standard process to evaluate applications for an agreement under this section and shall appoint a committee of members of the fund board to assist in the review of applications. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review applications if that person has a conflict of interest with any potential applicants as determined by the office of the chief compliance officer established in section 88i. When determining whether to enter into an agreement under this section, the fund board shall consider all of the following:

(a) The potential that in the absence of an agreement the development, acceleration, and sustainability of energy excellence sectors addressed by the proposed center of energy excellence will occur in a location other than this state.

(b) The extent to which the proposed center of energy excellence will promote the development of energy excellence sectors in this state.

(c) The extent to which the proposed center of energy excellence will promote economic development or job creation in this state.

(d) The extent to which the proposed center of energy excellence could attract private investment or encourage commercialization in energy excellence sectors in this state.

(e) The extent to which the proposed center of energy excellence may leverage skills or resources in which this state possesses a competitive advantage, including, but not limited to, skills of workers, intellectual property, and natural resources.

(f) The extent to which the proposed center of energy excellence may encourage collaboration on commercialization and technology transfer among qualified entities in this state.

(g) The extent to which the proposed center of energy excellence may attract additional federal funding to this state or persons or entities within this state.

(h) The financial viability of the proposed center of energy excellence and the proposed business plan for the center of energy excellence, including, but not limited to, commitments of financial and other support for the proposed center and the potential availability of federal funding for the proposed center.

(i) The financial resources available to the fund board for operation of the centers of energy excellence program under this section.

(j) Any recommendations from the centers manager selected under subsection (6).

(5) If the fund board enters into an agreement with 1 or more qualified entities for the operation of a center of energy excellence, the agreement shall include participation by at

least 1 qualified business and at least 1 institution of higher education. An agreement shall include, but is not limited to, all of the following:

(a) The roles and responsibilities of the fund and the qualified entities participating in the agreement.

(b) A governance structure for the center of energy excellence. The agreement may provide for representation of the fund in the governance of the center.

(c) The responsibilities of the fund and the qualified entities participating in the agreement, including, but not limited to, financial resources, technology, real property, personal property, or other resources contributed by the parties to the agreement.

(d) A commitment by the qualified entities participating in the agreement to collaborate on commercialization and technology transfer opportunities in energy excellence sectors in this state.

(e) A commitment by qualified entities that are institutions of higher education to provide incentives for faculty who participate in technology transfer and commercialization activities in energy excellence sectors and expansion of business formation efforts related to energy excellence sectors to increase the number of institution of higher education related start-up companies.

(f) A commitment to locate and retain commercialization opportunities resulting from the agreement or center of energy excellence within this state.

(g) A business plan for the center of energy excellence that identifies clear and measurable objectives, timelines, and deliverables for the center.

(h) The duration of the agreement and a mechanism for the dissolution of the center of energy excellence and the disposition of any assets. The fund board may revoke an agreement for the designation and operation of a center of energy excellence if a qualified entity that is a party to the agreement does not comply with the agreement.

(i) Provision for repayment of grants from the fund in the event a qualified entity fails to comply with the agreement.

(6) The fund board may select a person or entity as a centers manager to assist the fund in the administration of the centers of energy excellence program authorized by this section. Costs associated with the administration of the centers of energy excellence program are subject to section 88b(5). The centers manager shall do all of the following as determined by the fund board:

(a) Provide administrative services related to the centers of energy excellence program.

(b) Act as contract manager on behalf of the fund for any agreement establishing a center of energy excellence under this section.

(c) Recommend to the fund board a plan for managing the centers of energy excellence program and implement any plan authorized by the fund board.

(d) Assist centers of energy excellence in developing a supply chain for energy excellence sectors.

(e) Evaluate and report to the fund board on the centers of energy excellence program and progress made toward commercialization of technology in energy excellence sectors in this state.

(f) Review applications submitted under subsection (1) and make recommendations to the fund board on the applications for approval or disapproval of applications.

(g) Perform other functions related to the centers for energy excellence program authorized by this section as deemed necessary and appropriate by the fund board.

(7) As used in this section:

(a) “Centers manager” means a centers manager selected under subsection (6).

(b) “Energy excellence sectors” means new and developing industry sectors in the energy field in this state where the fund has determined the state has a competitive advantage and there are barriers to the commercialization of technology within the new and developing industry sector.

(c) “Energy field” means alternative energy technology, energy efficiency technology, technologies that contribute to energy security and independence, other advanced energy technologies, or water technology related to the development of energy excellence sectors.

(d) “Qualified entity” means a qualified business, an institution of higher education, a Michigan nonprofit corporation, or a political subdivision of this state.

This act is ordered to take immediate effect.

Approved July 8, 2008.

Filed with Secretary of State July 8, 2008.

[No. 176]

(SB 754)

AN ACT to assure that returning veterans are informed of state-funded veterans service organizations; and to prescribe certain duties of certain state agencies.

The People of the State of Michigan enact:

35.1231 Short title.

Sec. 1. This act shall be known and may be cited as the “veterans welcome home act”.

35.1232 Welcome home letter; inclusion of list of state-funded veterans service organizations.

Sec. 2. The department of labor and economic growth shall include in its welcome home letter that it now sends to returning veterans a list of all state-funded veterans service organizations. The list shall be ordered by the amount of state funding, with the veterans service organization that receives the highest amount of state funding listed first and the remaining organizations listed in descending order.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

[No. 177]

(SB 1217)

AN ACT to amend 2007 PA 36, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, reporting, payment, and enforcement of taxes on certain commercial, business, and financial activities; to prescribe the powers and duties of public officers and state departments; to provide for the

inspection of certain taxpayer records; to provide for interest and penalties; to provide exemptions, credits, and refunds; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to make appropriations,” by amending section 113 (MCL 208.1113), as amended by 2008 PA 97.

The People of the State of Michigan enact:

208.1113 Definitions; P and R.

Sec. 113. (1) “Partner” means a partner or member of a partnership.

(2) “Partnership” means a taxpayer that is required to or has elected to file as a partnership for federal income tax purposes.

(3) “Person” means an individual, firm, bank, financial institution, insurance company, limited partnership, limited liability partnership, copartnership, partnership, joint venture, association, corporation, subchapter S corporation, limited liability company, receiver, estate, trust, or any other group or combination of groups acting as a unit.

(4) “Professional employer organization” means an organization that provides the management and administration of the human resources of another entity by contractually assuming substantial employer rights and responsibilities through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining a right of direction and control of employees’ work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining a right to hire and fire employees.

(5) Professional employer organization is not a staffing company as that term is defined in subsection (6).

(6) “Purchases from other firms” means all of the following:

(a) Inventory acquired during the tax year, including freight, shipping, delivery, or engineering charges included in the original contract price for that inventory.

(b) Assets, including the costs of fabrication and installation, acquired during the tax year of a type that are, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes.

(c) To the extent not included in inventory or depreciable property, materials and supplies, including repair parts and fuel.

(d) For a staffing company, compensation of personnel supplied to customers of staffing companies. As used in this subdivision:

(i) “Compensation” means that term as defined under section 107 plus all payroll tax and worker’s compensation costs.

(ii) “Staffing company” means a taxpayer whose business activities are included in industry group 736 under the standard industrial classification code as compiled by the United States department of labor.

(e) For a person included in major group 15, 16, or 17 under the standard industrial classification code as compiled by the United States department of labor that does not qualify for a credit under section 417, both of the following:

(i) Payments to subcontractors for a construction project under a contract specific to that project.

(ii) To the extent not deducted under subdivisions (a) and (c), payments for materials deducted as purchases in determining the cost of goods sold for the purpose of calculating total income on the taxpayer's federal income tax return.

(f) For the 2008 tax year and each tax year after 2008, all film rental or royalty payments paid by a theater owner to a film distributor, a film producer, or a film distributor and producer.

(7) "Revenue mile" means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile.

Amendatory act as retroactive.

Enacting section 1. This amendatory act is retroactive and effective for taxes levied after December 31, 2007.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

[No. 178]

(HB 6014)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 80205 and 80215 (MCL 324.80205 and 324.80215), section 80205 as amended by 2007 PA 8 and section 80215 as added by 2000 PA 229; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.80205 Operation of personal watercraft; requirements; violation; fine.

Sec. 80205. (1) Until March 16, 2009, except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.

(2) Beginning March 16, 2009, except as otherwise provided in this section, a person shall not operate a personal watercraft on the waters of this state unless each person 12 years of age or older riding on or being towed behind the personal watercraft is wearing a type I, type II, or type III personal flotation device as described in R 281.1234 of the Michigan administrative code.

(3) Beginning March 16, 2009, a person shall not operate a personal watercraft on the waters of this state unless each person on board or being towed by the personal watercraft who is less than 12 years of age is wearing a type I or type II personal flotation device as described in R 281.1234 of the Michigan administrative code.

(4) A person shall not operate a personal watercraft on the waters of this state unless each person on board the personal watercraft is wearing a personal flotation device that is not inflatable.

(5) A person shall not operate a personal watercraft on the waters of this state if a child who is under 7 years of age is on board or being towed behind the personal watercraft unless the child is in the company of his or her parent or guardian or a designee of the parent or guardian.

(6) While operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch on the waters of this state, a person shall have the lanyard attached to his or her person, clothing, or personal flotation device as is appropriate for the personal watercraft.

(7) A person shall not operate a personal watercraft on the waters of this state during the period that begins at sunset and ends at 8 a.m. As used in this subsection, “sunset” means that time as determined by the national weather service.

(8) A person operating a personal watercraft on the waters of this state shall not cross within 150 feet behind another vessel, other than a personal watercraft, unless the person is operating the personal watercraft at slow—no wake speed. A person who violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(9) A person shall not operate a personal watercraft on the waters of this state where the water depth is less than 2 feet, as determined by vertical measurement, unless 1 or both of the following circumstances exist:

(a) The personal watercraft is being operated at slow—no wake speed.

(b) The personal watercraft is being docked or launched.

(10) A person who violates subsection (9) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(11) A person shall operate a personal watercraft in a reasonable and prudent manner. A maneuver that unreasonably or unnecessarily endangers life, limb, or property, including, but not limited to, all of the following, constitutes reckless operation of a personal watercraft under section 80208:

(a) Weaving through congested vessel traffic.

(b) Jumping the wake of another vessel unreasonably or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed.

(c) Waiting until the last possible moment before swerving to avoid a collision.

(12) A person shall not operate a personal watercraft on the waters of this state carrying more persons than the personal watercraft is designed to carry.

(13) A violation of subsection (12) is prima facie evidence of reckless operation of a watercraft under section 80208.

(14) A person operating a personal watercraft in excess of the speeds established under part 801 is guilty of reckless operation of a personal watercraft under section 80208.

(15) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 under a permit issued by the department and at the time and place specified in the permit.

(16) The department shall annually prepare and submit to the standing committees of the senate and house of representatives with primary jurisdiction over marine safety issues an accident report related to the use of personal watercraft, the types of personal flotation devices that were being used, and the injuries that resulted.

324.80215 Operation of personal watercraft; graduated age provisions; amendatory act known and cited as “Ashleigh Iserman’s law.”

Sec. 80215. (1) Until October 1, 2011, except as provided in subsection (2), a person under the age of 14 shall not operate a personal watercraft on the waters of this state.

(2) Until October 1, 2011, a person who is 12 or more and less than 14 years of age may operate a personal watercraft on the waters of this state if all of the following circumstances exist:

(a) The person is accompanied solely by the person’s parent or legal guardian.

(b) Both the person and the parent or legal guardian have obtained a boating safety certificate.

(c) The personal watercraft is equipped by the manufacturer with a lanyard-type engine cutoff switch, and the parent or legal guardian has the lanyard attached to his or her person, clothing, or personal flotation device.

(d) The personal watercraft is designed to carry not less than 2 persons.

(3) A person who was born after December 31, 1978 shall not operate a personal watercraft upon the waters of this state unless he or she first obtains a boating safety certificate.

(4) Beginning October 1, 2011, a person under the age of 16 shall not operate a personal watercraft on the waters of this state unless the person is not less than 14 years of age and 1 of the following circumstances applies:

(a) The person is riding the personal watercraft with his or her parent or guardian or an individual 21 years of age or older designated by the parent or guardian.

(b) The person is operating or riding a personal watercraft at a distance of not more than 100 feet from his or her parent or guardian or an individual 21 years of age or older designated by the parent or guardian.

(5) The owner of a personal watercraft or a person having charge over or control of a personal watercraft shall not authorize or knowingly permit the personal watercraft to be operated in violation of this section.

(6) This section does not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in a regatta, race, marine parade, tournament, or exhibition held in compliance with section 80164 under a permit issued by the department and at the time and place specified in the permit.

(7) The amendatory act that added subdivisions (4)(a) and (b) shall be known and may be cited as “Ashleigh Iserman’s Law”.

Repeal of enacting section 2 of 2004 PA 27.

Enacting section 1. Enacting section 2 of 2004 PA 27 is repealed.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

[No. 179]

(HB 5073)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural

resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 32701 (MCL 324.32701), as amended by 2006 PA 33.

The People of the State of Michigan enact:

324.32701 Definitions; retention of established baseline capacity.

Sec. 32701. (1) As used in this part:

(a) “Adverse resource impact” means any of the following:

(i) Until February 1, 2009, decreasing the flow of a river or stream by part of the index flow such that the river’s or stream’s ability to support characteristic fish populations is functionally impaired.

(ii) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cold river system by part of the index flow as follows:

(A) For a cold stream, the withdrawal will result in a 3% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, the withdrawal will result in a 1% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iii) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cold-transitional river system by part of the index flow such that the withdrawal will result in a 5% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a cool river system by part of the index flow as follows:

(A) For a cool stream, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For a cool small river, the withdrawal will result in a 15% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, the withdrawal will result in a 12% or more reduction in the density of thriving fish populations as determined by the thriving fish curve.

(v) Beginning February 1, 2009, subject to subparagraph (vi), decreasing the flow of a warm river system by part of the index flow as follows:

(A) For a warm stream, the withdrawal will result in a 5% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For a warm small river, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(C) For a warm large river, the withdrawal will result in a 10% or more reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(vi) Beginning February 1, 2009, decreasing the flow of a stream or river by more than 25% of its index flow.

(vii) Decreasing the level of a lake or pond with a surface area of 5 acres or more through a direct withdrawal from the lake or pond in a manner that would impair or destroy the lake or pond or the uses made of the lake or pond, including the ability of the lake or pond to support characteristic fish populations, or such that the ability of the lake or pond to support characteristic fish populations is functionally impaired. As used in this subparagraph, lake or pond does not include a retention pond or other artificially created surface water body.

(b) “Agricultural purpose” means the agricultural production of plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy animals and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product, as determined by the commission of agriculture, that incorporates the use of food, feed, fiber, or fur.

(c) “Assessment tool” means the water withdrawal assessment tool provided for in section 32706a.

(d) “Baseline capacity”, subject to subsection (2), means any of the following, which shall be considered the existing withdrawal approval amount under section 4.12.2 of the compact:

(i) The following applicable withdrawal capacity as reported to the department or the department of agriculture, as appropriate, by the person making the withdrawal in the annual report submitted under section 32707 not later than April 1, 2009 or in the water use conservation plan submitted under section 32708 not later than April 1, 2009:

(A) Unless reported under a different provision of this subparagraph, for a quarry or mine that holds an authorization to discharge under part 31 that includes a discharge volume, the discharge volume stated in that authorization on February 28, 2006.

(B) The system capacity used or developed to make a withdrawal on February 28, 2006, if the system capacity and a description of the system capacity are included in an annual report that is submitted under this part not later than April 1, 2009.

(ii) If the person making the withdrawal does not report under subparagraph (i), the highest annual amount of water withdrawn as reported under this part for calendar year 2002, 2003, 2004, or 2005. However, for a person who is required to report by virtue of the 2008 amendments to section 32705(2)(d), baseline capacity means the person’s withdrawal capacity as reported in the April 1, 2009 annual report submitted under section 32707.

(iii) For a community supply, the total designed withdrawal capacity for the community supply under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, on February 28, 2006 as reported to the department in a report submitted not later than April 1, 2009.

(e) “Characteristic fish curve” means a fish functional response curve that describes the abundance of characteristic fish populations in response to reductions in index flow as published in the document entitled “Report to the Michigan Legislature in response to 2006 Public Act 34” by the former groundwater conservation advisory council dated July 2007, which is incorporated by reference.

(f) “Characteristic fish population” means the fish species, including thriving fish, typically found at relatively high densities in stream reaches having specific drainage area, index flow, and summer temperature characteristics.

(g) “Cold river system” means a stream or small river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of cold-water fish species, and where small increases in water temperature will not cause a decline in these populations, as determined by a scientific methodology adopted by order of the commission.

(h) “Cold-transitional river system” means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of cold-water fish species, and where small increases in water temperature will cause a decline in the proportion of cold-water species, as determined by a scientific methodology adopted by order of the commission.

(i) “Community supply” means that term as it is defined in section 2 of the safe drinking water act, 1976 PA 399, MCL 325.1002.

(j) “Compact” means the Great Lakes-St. Lawrence river basin water resources compact provided for in part 342.

(k) “Consumptive use” means that portion of water withdrawn or withheld from the Great Lakes basin and assumed to be lost or otherwise not returned to the Great Lakes basin due to evaporation, incorporation into products or agricultural products, use as part of the packaging of products or agricultural products, or other processes. Consumptive use includes a withdrawal of waters of the Great Lakes basin that is packaged within the Great Lakes basin in a container of 5.7 gallons (20 liters) or less and is bottled drinking water as defined in the food code, 2005 recommendations of the food and drug administration of the United States public health service.

(l) “Cool river system” means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed mostly of warm-water fish species, but also contains some cool-water species or cold-water species, or both, as determined by a scientific methodology adopted by order of the commission.

(m) “Council” means the Great Lakes-St. Lawrence river basin water resources council created in the compact.

(n) “Department” means the department of environmental quality.

(o) “Designated trout stream” means a trout stream identified on the document entitled “Designated Trout Streams for the State of Michigan”, as issued under order of the director of the department of natural resources, FO-210.04, on October 10, 2003.

(p) “Diversion” means a transfer of water from the Great Lakes basin into another watershed, or from the watershed of 1 of the Great Lakes into that of another by any means of transfer, including, but not limited to, a pipeline, canal, tunnel, aqueduct, channel, modification of the direction of a water course, tanker ship, tanker truck, or rail tanker but does not apply to water that is used in the Great Lakes basin or a Great Lake watershed to manufacture or produce a product that is then transferred out of the Great Lakes basin or watershed. Diverted has a corresponding meaning. Diversion includes a transfer of water withdrawn from the waters of the Great Lakes basin that is removed from the Great Lakes basin in a container greater than 5.7 gallons (20 liters). Diversion does not include any of the following:

(i) A consumptive use.

(ii) The supply of vehicles, including vessels and aircraft, whether for the needs of the persons or animals being transported or for ballast or other needs related to the operation of vehicles.

(iii) Use in a noncommercial project on a short-term basis for firefighting, humanitarian, or emergency response purposes.

(iv) A transfer of water from a Great Lake watershed to the watershed of its connecting waterways.

(q) “Environmentally sound and economically feasible water conservation measures” means those measures, methods, technologies, or practices for efficient water use and for reduction of water loss and waste or for reducing a withdrawal, consumptive use, or diversion that meet all of the following:

(i) Are environmentally sound.

(ii) Reflect best practices applicable to the water use sector.

(iii) Are technically feasible and available.

(iv) Are economically feasible and cost-effective based on an analysis that considers direct and avoided economic and environmental costs.

(v) Consider the particular facilities and processes involved, taking into account the environmental impact, the age of equipment and facilities involved, the process employed, energy impacts, and other appropriate factors.

(r) “Farm” means that term as it is defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(s) “Flow-based safety factor” means a protective measure of the assessment tool that reduces the portion of index flow available for a withdrawal to 1/2 of the index flow for the purpose of minimizing the risk of adverse resource impacts caused by statistical uncertainty.

(t) “Great Lakes” means Lakes Superior, Michigan and Huron, Erie, and Ontario and their connecting waterways including the St. Marys river, Lake St. Clair, the St. Clair river, and the Detroit river. For purposes of this definition, Lakes Huron and Michigan shall be considered a single Great Lake.

(u) “Great Lakes basin” means the watershed of the Great Lakes and the St. Lawrence river.

(v) “Great Lakes charter” means the document establishing the principles for the cooperative management of the Great Lakes water resources, signed by the governors and premiers of the Great Lakes region on February 11, 1985.

(w) “Great Lakes region” means the geographic region composed of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania, and the provinces of Ontario and Quebec, Canada.

(x) “Index flow” means the 50% exceedance flow for the lowest summer flow month of the flow regime, for the applicable stream reach, as determined over the period of record or extrapolated from analyses of the United States geological survey flow gauges in Michigan. Beginning on October 1, 2008, index flow shall be calculated as of that date.

(y) “Intrabasin transfer” means a diversion of water from the source watershed of a Great Lake prior to its use to the watershed of another Great Lake.

(z) “Lake augmentation well” means a water well used to withdraw groundwater for the purpose of maintaining or raising water levels of an inland lake or stream as defined in section 30101.

(aa) “Large quantity withdrawal” means 1 or more cumulative total withdrawals of over 100,000 gallons of water per day average in any consecutive 30-day period that supply a common distribution system.

(bb) “Large river” means a river with a drainage area of 300 or more square miles.

(cc) “New or increased large quantity withdrawal” means a new water withdrawal of over 100,000 gallons of water per day average in any consecutive 30-day period or an increase of over 100,000 gallons of water per day average in any consecutive 30-day period beyond the baseline capacity of a withdrawal.

(dd) “New or increased withdrawal capacity” means new or additional water withdrawal capacity to supply a common distribution system that is an increase from the person’s baseline capacity. New or increased capacity does not include maintenance or replacement of existing withdrawal capacity.

(ee) “Online registration process” means the online registration process provided for in section 32706.

(ff) “Preventative measure” means an action affecting a stream or river that prevents an adverse resource impact by diminishing the effect of a withdrawal on stream or river flow or the temperature regime of the stream or river.

(gg) “Registrant” means a person who has registered a water withdrawal under section 32705.

(hh) “River” means a flowing body of water with a drainage area of 80 or more square miles.

(ii) “Site-specific review” means the department’s independent review under section 32706c to determine whether the withdrawal is a zone A, zone B, zone C, or zone D withdrawal and whether a withdrawal is likely to cause an adverse resource impact.

(jj) “Small river” means a river with a drainage area of less than 300 square miles.

(kk) “Source watershed” means the watershed from which a withdrawal originates. If water is withdrawn directly from a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake and its connecting waterways. If water is withdrawn from the watershed of a direct tributary to a Great Lake, then the source watershed shall be considered to be the watershed of that Great Lake and its connecting waterways, with a preference for returning water to the watershed of the direct tributary from which it was withdrawn.

(ll) “Stream” means a flowing body of water with a drainage area of less than 80 square miles.

(mm) “Stream reach” means a segment of a stream or river.

(nn) “Thriving fish curve” means a fish functional response curve that describes the initial decline in density of thriving fish populations in response to reductions in index flow as published in the document entitled “Report to the Michigan Legislature in response to 2006 Public Act 34” by the former groundwater conservation advisory council dated July 2007, which is incorporated by reference.

(oo) “Thriving fish population” means the fish species that are expected to flourish at very high densities in stream reaches having specific drainage area, index flow, and summer temperature characteristics.

(pp) “Warm river system” means a stream or river that has the appropriate summer water temperature that, based on statewide averages, sustains a fish community composed predominantly of warm-water fish species, as determined by a scientific methodology adopted by order of the commission.

(qq) “Waters of the Great Lakes basin” means the Great Lakes and all streams, rivers, lakes, connecting channels, and other bodies of water, including groundwater, within the Great Lakes basin.

(rr) “Waters of the state” means groundwater, lakes, rivers, and streams and all other watercourses and waters, including the Great Lakes, within the territorial boundaries of the state. Waters of the state do not include drainage ways and ponds designed and constructed solely for wastewater conveyance, treatment, or control.

(ss) “Withdrawal” means the removal of water from surface water or groundwater.

(tt) “Zone A withdrawal” means the following:

(i) For a cold river system, as follows:

(A) For a cold stream, less than a 1% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, less than 50% of the withdrawal that would result in an adverse resource impact.

(ii) For a cold-transitional river system, there is not a zone A withdrawal.

(iii) For a cool river system, as follows:

(A) For a cool stream, less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cool small river, less than a 5% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, less than an 8% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For a warm river system, less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(uu) “Zone B withdrawal” means the following:

(i) There is not a zone B withdrawal for a cold stream or small river.

(ii) For a cold-transitional river system, less than a 5% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iii) For a cool river system, as follows:

(A) For a cool stream, a 10% or more but less than a 20% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cool small river, a 5% or more but less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For a cool large river, an 8% or more but less than a 10% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For a warm river system, as follows:

(A) For a warm stream, a 10% or more but less than a 15% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a warm small river or a warm large river, a 10% or more but less than a 20% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(vv) “Zone C withdrawal” means the following as long as the withdrawal will not decrease the flow of a stream or river by more than 25% of its index flow:

(i) For a cold river system, as follows:

(A) For a cold stream, a 1% or more but less than a 3% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(B) For a cold small river, 50% or more of the withdrawal that would result in an adverse resource impact but less than a 1% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(ii) There is not a zone C withdrawal for a cold-transitional river system.

(iii) For a cool river system, as follows:

(A) For a cool stream, a 20% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a 10% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For cool small rivers, a 10% or more but less than a 15% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(C) For cool large rivers, a 10% or more but less than a 12% reduction in the density of thriving fish populations as determined by the thriving fish curve.

(iv) For warm river systems, as follows:

(A) For warm streams, a 15% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a 5% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(B) For warm small rivers and warm large rivers, a 20% or more reduction in the density of thriving fish populations as determined by the thriving fish curve but less than a

10% reduction in the abundance of characteristic fish populations as determined by the characteristic fish curve.

(ww) “Zone D withdrawal” means, beginning February 1, 2009, a withdrawal that is likely to cause an adverse resource impact.

(2) For purposes of determining baseline capacity, a person who replaces his or her surface water withdrawal capacity with the same amount of groundwater withdrawal capacity from the drainage area of the same stream reach may retain the baseline capacity established under this section.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.
- (g) House Bill No. 4343.
- (h) House Bill No. 5065.
- (i) House Bill No. 5066.
- (j) House Bill No. 5067.
- (k) House Bill No. 5069.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.

[No. 180]

(HB 5069)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials;

to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 32702, 32703, 32705, 32706, and 32723 (MCL 324.32702, 324.32703, 324.32705, 324.32706, and 324.32723), sections 32702 and 32703 as amended and section 32723 as added by 2006 PA 33, section 32705 as amended by 2006 PA 35, and section 32706 as amended by 1996 PA 434.

The People of the State of Michigan enact:

324.32702 Legislative findings and declarations; authority.

Sec. 32702. (1) The legislature finds and declares that:

(a) A diversion of water out of the basin of the Great Lakes may impair or destroy the Great Lakes. The legislature further finds that a limitation on such diversions is authorized by and is consistent with the mandate of section 52 of article IV of the state constitution of 1963 that the legislature provide for the protection of the air, water, and other natural resources of the state from pollution, impairment, and destruction.

(b) Water use registration and reporting are essential to implementing the principles of the Great Lakes charter and necessary to support the state’s opposition to diversion of waters of the Great Lakes basin and to provide a source of information on water use to protect Michigan’s rights when proposed water losses affect the level, flow, use, or quality of waters of the Great Lakes basin.

(c) The waters of the state are valuable public natural resources held in trust by the state, and the state has a duty as trustee to manage its waters effectively for the use and enjoyment of present and future residents and for the protection of the environment.

(d) The waters of the Great Lakes basin are a valuable public natural resource, and the states and provinces of the Great Lakes region and Michigan share a common interest in the preservation of that resource.

(e) Any new diversion of waters of the Great Lakes basin for use outside of the Great Lakes basin will have significant economic and environmental impact adversely affecting the use of this resource by the Great Lakes states and Canadian provinces.

(f) The continued availability of water for domestic, municipal, industrial, and agricultural water supplies, navigation, hydroelectric power and energy production, recreation, and the maintenance of fish and wildlife habitat and a balanced ecosystem are vital to the future economic health of the states and provinces of the Great Lakes region.

(g) Future interbasin diversions and consumptive uses of waters of the Great Lakes basin may have significant adverse impacts upon the environment, economy, and welfare of the Great Lakes region and of this state.

(h) The states and provinces of the Great Lakes region have a duty to protect, conserve, and manage their shared water resources for the use and enjoyment of present and future residents.

(i) The waters of the Great Lakes basin are capable of concurrently serving multiple uses, and such multiple uses of water resources for municipal, public, industrial, commercial, agriculture, mining, navigation, energy development and production, recreation, water quality maintenance, and the maintenance of fish and wildlife habitat and a balanced ecosystem and other purposes are encouraged, recognizing that such uses are interdependent and must be balanced.

(j) The waters of the Great Lakes basin are interconnected and part of a single hydrologic system.

(2) The legislature has the authority under sections 51 and 52 of article IV of the state constitution of 1963 to regulate the withdrawal and uses of the waters of the state, including both surface water and groundwater, to promote the public health, safety, and welfare and to protect the natural resources of the state from pollution, impairment, and destruction, subject to constitutional protections against unreasonable or arbitrary governmental action and the taking of property without just compensation. This authority extends to all waters within the territorial boundaries of the state.

324.32703 Diversion of waters prohibited.

Sec. 32703. Subject to section 32704, a diversion of the waters of the state out of the Great Lakes basin is prohibited.

324.32705 Registration of withdrawal; use of assessment tool; exception; agricultural purpose; form; calculating total amount of existing or proposed withdrawal; aggregate information; duration of valid registration.

Sec. 32705. (1) Except as otherwise provided in this section, the owner of real property who intends to develop capacity on that property to make a new or increased large quantity withdrawal from the waters of this state shall register the withdrawal with the department after using the assessment tool, if required under this part, and prior to beginning that withdrawal. A registration under this section may be made using the online registration process.

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

(a) Subject to subdivision (c), a person who has previously registered for that property under this part or the owner of real property containing the capacity to make a withdrawal that was previously requested under this part, unless the property owner develops new or increased withdrawal capacity on the property of an additional 100,000 gallons of water per day from the waters of the state.

(b) A community supply required to obtain a permit under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(c) A person required to obtain a permit under section 32723.

(d) The owner of a noncommercial well located on the following residential property:

(i) Single-family residential property unless that well is a lake augmentation well.

(ii) Multifamily residential property not exceeding 4 residential units and not more than 3 acres in size unless that well is a lake augmentation well.

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

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

(5) A registration submitted under this section that is not submitted via the online registration process shall be on a form provided by the department or the department of agriculture, as appropriate.

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

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

(8) Unless a property owner develops the capacity to make the new or increased large quantity withdrawal within 18 months after the property owner registers under subsection (1), the registration is no longer valid.

324.32706 Development of internet-based online registration process; registration; required statement and supporting documentation.

Sec. 32706. (1) Not later than 1 year after the effective date of the amendatory act that amended this section, the department shall develop and implement an internet-based online registration process that may be used for registrations under section 32705. The online registration process shall be designed to work in conjunction with the assessment tool.

(2) Each registration under this part shall include both of the following:

(a) A statement and supporting documentation that includes all of the following:

(i) The place and source of the proposed withdrawal.

(ii) The location of any discharge or return flow associated with the proposed withdrawal.

(iii) The location and nature of the proposed water use.

(iv) The capacity of the equipment used for making the proposed withdrawal.

(v) The estimated average annual and monthly volumes and rate of the proposed withdrawal.

(vi) The estimated average annual and monthly volumes and rates of consumptive use from the proposed withdrawal.

(b) Beginning 1 year after the effective date of the amendatory act that added this subdivision, for a new or increased large quantity withdrawal from a stream or river or groundwater, the determination from the use of the assessment tool under section 32706b or the determination from a site-specific review, as appropriate.

324.32723 Water withdrawal permit; persons required to obtain; application; fee; issuance; conditions; revocation; petition for contested case hearing; exemptions from permit requirements.

Sec. 32723. (1) Except as provided in subsection (13), the following persons shall obtain a water withdrawal permit prior to making the withdrawal:

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

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

(c) A person who proposes to develop withdrawal capacity to make a new or increased large quantity withdrawal of more than 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system that a site-specific review has determined is a zone C withdrawal.

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

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

(3) An application submitted under subsection (2) is considered to be administratively complete effective 30 days after it is received by the department unless the department notifies the applicant, in writing, during this 30-day period that the application is not administratively complete or that the fee required to be accompanied with the application has not been paid. If the department determines that the application is not administratively complete, the notification shall specify the information necessary to make the application administratively complete. If the department notifies the applicant as provided in this subsection, the 30-day period is tolled until the applicant submits to the department the specified information or fee.

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

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

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

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

(b) The withdrawal will be implemented so as to ensure that the proposal will result in no individual or cumulative adverse resource impacts. Cumulative adverse resource impacts under this subdivision shall be evaluated by the department based upon available information gathered by the department.

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

(d) The proposed use is reasonable under common law principles of water law in Michigan.

(e) For permit applications received on or after January 1, 2009, the applicant has self-certified that he or she is in compliance with environmentally sound and economically feasible water conservation measures developed by the applicable water user's sector under section 32708a or has self-certified that he or she is in compliance with environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal.

(f) The department determines that the proposed withdrawal will not violate public or private rights and limitations imposed by Michigan water law or other Michigan common law duties.

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

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

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

(10) A permit issued under part 31 pursuant to 33 USC 1326(b) shall be considered sufficient to demonstrate that there will not be an adverse resource impact under section 32721 and satisfies the conditions for a water withdrawal permit under this section. Upon receipt of an application under this section and evidence that the applicant holds a part 31 permit described in this subsection, the department shall grant the applicant a water withdrawal permit under this subsection.

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

(12) A person who is aggrieved by a determination of the department under this section related to a water withdrawal permit may file a sworn petition with the department setting forth the grounds and reasons for the complaint and asking for a contested case hearing on the matter pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A petition filed more than 60 days after action on the water withdrawal permit may be rejected by the department as being untimely. The department shall issue a final decision on a petition for a contested case hearing within 6 months after receiving the petition. A determination, action, or inaction by the department following a contested case hearing is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

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

(b) Seasonal withdrawals of not more than 2,000,000 gallons of water per day average in any consecutive 90-day period to supply a common distribution system unless the withdrawals result in a diversion.

(c) A withdrawal for the production of bottled drinking water approved by the department under a water source review conducted under section 17 of the safe drinking water act, 1976 PA 399, MCL 325.1017.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.
- (g) House Bill No. 4343.

- (h) House Bill No. 5065.
- (i) House Bill No. 5066.
- (j) House Bill No. 5067.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.
Approved July 9, 2008.
Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 181]

(HB 5067)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding sections 32706c and 32706d; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.32706c Request for site-specific review; conditions; form; information to be included; completion of review by department; withdrawals; registration; corrected data; interim site-specific review to determine adverse resource impact.

Sec. 32706c. (1) If the assessment tool determines that a proposed withdrawal is a zone B withdrawal in a cold-transitional river system, or a zone C or zone D withdrawal, the property owner shall submit to the department a request for a site-specific review. Additionally, if the assessment tool determines that a proposed withdrawal is a zone A withdrawal, or a zone B withdrawal in a cool river system or a warm river system and the property owner wishes to have a site-specific review, the property owner may submit to the department a request for a site-specific review. A request for a site-specific review shall be submitted to the department in a form required by the department and shall include all of the following:

(a) The information described in section 32706a(3).

(b) The intended maximum monthly and annual volumes and rates of the proposed withdrawal, if different from the capacity of the equipment used for making the proposed withdrawal.

(c) If the amount and rate of the proposed withdrawal will have seasonal fluctuations, the relevant information related to the seasonal use of the proposed withdrawal.

(d) A description of how the water will be used and the location, amount, and rate of any return flow.

(e) Any other information the property owner would like the department to consider in making its determination under this section.

(2) Upon receipt of a request for a site-specific review, the department shall consider the information submitted to the department under subsection (1) and shall consider the actual stream or river flow data of any affected stream reach. The department shall also apply the drainage area aggregation standards provided in section 32706a(2)(a), (b), and (c), if applicable, and account for cumulative withdrawals as provided for in section 32706e. The department shall not rely on the assessment tool's determination in making its determination under a site-specific review.

(3) The department shall complete its site-specific review within 10 working days of submittal of a request for a site-specific review. If the department determines, based upon a site-specific review, that the proposed withdrawal is a zone A or a zone B withdrawal, the department shall provide written notification to the property owner and the property owner may register the withdrawal and may proceed with the withdrawal.

(4) Subject to subsection (5), if the department determines in conducting a site-specific review that the proposed withdrawal is a zone C withdrawal, the property owner may register the withdrawal and proceed to make the withdrawal if the property owner self-certifies that he or she is implementing applicable environmentally sound and economically feasible water conservation measures prepared under section 32708a that the property owner considers to be reasonable or has self-certified that he or she is implementing applicable environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal that the property owner considers to be reasonable.

(5) Except for withdrawals exempt from obtaining a water withdrawal permit under section 32723, if a site-specific review determines that a proposed withdrawal is a zone C withdrawal with capacity in excess of 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system, the person proposing the withdrawal shall not register the withdrawal and shall not proceed with making the withdrawal unless the person obtains a water withdrawal permit under section 32723.

(6) If the department determines, based upon a site-specific review, that the proposed withdrawal is a zone D withdrawal, the property owner shall not register the withdrawal and shall not make the withdrawal unless he or she applies for a water withdrawal permit under section 32723 and the withdrawal is authorized under that section.

(7) After a property owner registers a withdrawal following a site-specific review, if, in developing the capacity to make the withdrawal, the conditions of the withdrawal deviate from the specific data that were evaluated in the site-specific review, the property owner shall notify the department of the corrected data and the department shall confirm its determination under the site-specific review. If the corrected data do not change the determination under the site-specific review, the property owner may proceed with the withdrawal. If the corrected data change the determination under the site-specific review, the property owner shall proceed under the provisions of this part related to the corrected determination.

(8) Subject to subsection (9), prior to the implementation date of the assessment tool under section 32706a, a property owner proposing to develop withdrawal capacity on his or her property to make a new or increased large quantity withdrawal may submit to the department a request for an interim site-specific review under this subsection to determine

whether or not the proposed withdrawal is likely to cause an adverse resource impact. The department, upon request, shall conduct an interim site-specific review under this subsection within a reasonable time period not to exceed 30 days based upon an evaluation of reasonably available information. For purposes of this part, a determination under an interim site-specific review under this subsection shall be afforded the same status as a site-specific review otherwise conducted under this section.

(9) Except for withdrawals exempt from obtaining a permit under section 32723, a property owner who, prior to the implementation of the assessment tool under section 32706a, intends to develop withdrawal capacity on his or her property to make a new or increased large quantity withdrawal of more than 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system shall obtain an interim site-specific review under subsection (8). If the interim site-specific review determines that the proposed withdrawal is a zone C withdrawal, the property owner shall not proceed with making the withdrawal unless the person obtains a water withdrawal permit under section 32723.

324.32706d Collection of stream or river flow measurements by persons other than department; development and use of protocol; training program.

Sec. 32706d. (1) The department shall develop a protocol for the collection of stream or river flow measurements by persons other than the department for use by the department in the administration of this part. The protocol may specify a minimum number of measurements, stream or river flow and weather conditions when the measurements are to be made, and any other conditions necessary to ensure the adequacy and quality of the measurements. The protocol shall ensure that stream or river flow measurements collected for this purpose meet the same data quality standards as stream or river flow measurements collected by the United States geological survey. The department shall consult with the United States geological survey and other recognized scientific experts in developing this protocol.

(2) The department may use stream or river flow data collected using the protocol under subsection (1) in conducting site-specific reviews, in making water withdrawal permit decisions under section 32723, in issuing permits under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, in updating the water withdrawal assessment tool as appropriate, or in other actions requiring an evaluation of stream or river flow.

(3) The department may establish a program to train and certify individuals in the collection of stream or river flow measurements. The department shall charge a fee sufficient to reimburse the department for the cost of a program developed under this subsection. The department may enter into a cooperative agreement with the United States geological survey to provide training and certification under this section.

Repeal of MCL 324.32724.

Enacting section 1. Section 32724 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32724, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.

- (g) House Bill No. 4343.
- (h) House Bill No. 5065.
- (i) House Bill No. 5066.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
 Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
 Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
 Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
 Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
 Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
 House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
 House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
 House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
 House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
 House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 182]

(HB 5066)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 32707, 32708, 32708a, and 32709 (MCL 324.32707, 324.32708, 324.32708a, and 324.32709), section 32707 as amended by 2006 PA 33, section 32708 as amended and section 32708a as added by 2006 PA 35, and section 32709 as added by 1995 PA 59.

The People of the State of Michigan enact:

324.32707 Reporting requirements; forms; water use reporting fees.

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

- (a) The amount and rate of water withdrawn on an annual and monthly basis.
- (b) The source or sources of the water supply.
- (c) The use or uses of the water withdrawn.
- (d) The amount of consumptive use of water withdrawn.

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

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

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

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

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

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

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

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

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

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

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

(7) Except as otherwise provided in this subsection, a person who files an annual report or notification under this section shall annually remit a water use reporting fee of \$200.00 to the department. Water use reporting fees shall be remitted to the department in conjunction with the annual report or notification submitted under this section. The department shall transmit water use reporting fees collected under this section to the state treasurer to be credited to the water use protection fund created in section 32714. A water use reporting fee is not required for a report or notification related to a farm that reports withdrawals under section 32708 or for a report under subsection (8).

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

324.32708 Water use conservation plan; formula or model to estimate consumptive use of withdrawals for agricultural purposes; inclusion of information in statewide groundwater inventory and map; disclosure.

Sec. 32708. (1) The owner of a farm that is registered under this part who makes a withdrawal for an agricultural purpose, including irrigation for an agricultural purpose, may report the water use on the farm by annually submitting to the department of agriculture a water use conservation plan. Conservation plans shall be submitted by April 1 of each year.

The water use conservation plan shall include, but need not be limited to, all of the following information:

- (a) The amount and rate of water withdrawn on an annual and monthly basis in either gallons or acre inches.
 - (b) The type of crop irrigated, if applicable.
 - (c) The acreage of each irrigated crop, if applicable.
 - (d) The source or sources of the water supply.
 - (e) If the source of the water withdrawn is groundwater, the location of the well or wells in latitude and longitude, with the accuracy of the reported location data to within 25 feet.
 - (f) If the water withdrawn is not used entirely for irrigation, the use or uses of the water withdrawn.
 - (g) If the source of water withdrawn is groundwater, the static water level of the aquifer or aquifers, if practicable.
 - (h) Applicable water conservation practices and an implementation plan for those practices. Beginning in 2010, the water use conservation plan shall include an acknowledgment that the owner of the farm has reviewed applicable environmentally sound and economically feasible water conservation measures prepared under section 32708a.
 - (i) At the discretion of the registrant, the baseline capacity of the withdrawal based upon system capacity and a description of the system capacity.
- (2) The department and the department of agriculture in consultation with Michigan state university shall validate and use a formula or model to estimate the consumptive use of withdrawals made for agricultural purposes consistent with the objectives of section 32707.
- (3) Subject to subsection (4), information provided to the department of agriculture under subsection (1)(a), (d), and (e) shall be forwarded to the department for inclusion in the state-wide groundwater inventory and map prepared under section 32802.
- (4) Information provided under subsection (1)(a), (e), and (i) is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed by the department, the department of agriculture, or the department of natural resources unless the department determines that the withdrawal is causing an adverse resource impact.

324.32708a Generic water conservation measures; preparation; posting on website; submission of water conservation measures by water user's sector; acceptance by department; water conservation measures for agricultural purposes; report; notification of zone C withdrawal; definitions.

Sec. 32708a. (1) Not later than March 31, 2009, the department shall prepare, based upon recommendations from representative trade associations, a set of generic water conservation measures that are applicable to all persons making large quantity withdrawals. The department shall post these generic water conservation measures on its website.

(2) Subject to subsection (3), each water user's sector may prepare and submit to the department water conservation measures that are applicable for water users within its sector. Upon receipt of water conservation measures from a water user's sector, the department shall review the water conservation measures, and, if the department determines that those water conservation measures are appropriate for that sector, the department shall accept those water conservation measures. Upon acceptance, the department shall post the water conservation measures on its website and those water conservation measures shall supersede the generic water conservation measures prepared under subsection (1) for water users

within that sector. If the department determines that the water conservation measures are not appropriate for the water user's sector, the department shall provide comments to the water user's sector and suggestions that would result in the department's acceptance of the water conservation measures. A water user's sector may resubmit water conservation measures in response to the department's comments and suggestions.

(3) Water conservation measures for agricultural purposes shall be developed and approved by the commission of agriculture and shall be updated annually as part of the process for review and update of generally accepted agricultural and management practices under the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474. Water conservation measures approved under this subsection shall be posted on the department of agriculture's website and shall be forwarded to the department for posting on its website.

(4) By April 1, 2010, the department shall report to the standing committees of the legislature with jurisdiction primarily related to natural resources and the environment on the status of the preparation and acceptance of water user sector conservation measures.

(5) If the department receives a registration for a zone C withdrawal, the department shall notify all other registrants and permit holders whose withdrawals are from the same water source as the zone C withdrawal of the status of the water source. Upon receipt of notification under this subsection, each of these registrants and permit holders shall review and consider implementing the applicable water conservation measures prepared under this section.

(6) Compliance with water conservation measures does not authorize a water withdrawal that is otherwise prohibited by law.

(7) As used in this section:

(a) "Permit holders" means persons holding a permit under section 32723 and persons holding a permit under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(b) "Water conservation measures" means environmentally sound and economically feasible water conservation measures.

324.32709 Informational materials.

Sec. 32709. The department may contract for the preparation and distribution of informational materials to members of the public related to any of the following:

(a) The purposes, benefits, and requirements of this part.

(b) Information on complying with the registration requirement of this part and on any general or applicable methods for calculating or estimating water withdrawals or consumptive uses.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.
- (g) House Bill No. 4343.
- (h) House Bill No. 5065.

- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
 Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
 Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
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 Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
 Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
 House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
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 House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
 House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 183]

(HB 5065)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 32721, 32722, and 32727 (MCL 324.32721, 324.32722, and 324.32727), as added by 2006 PA 33.

The People of the State of Michigan enact:

324.32721 Large quantity withdrawal; prohibition; exception; certain large quantity withdrawals subject to definition of adverse resource impact existing on February 28, 2006.

Sec. 32721. (1) A person shall not make a new or increased large quantity withdrawal from the waters of the state that causes an adverse resource impact.

(2) This section does not apply to the baseline capacity of a large quantity withdrawal or a well capable of making a large quantity withdrawal that existed on February 28, 2006.

(3) This section does not apply to a withdrawal that is utilized solely for fire suppression.

(4) A person who developed the capacity to make a new or increased large quantity withdrawal on or after February 28, 2006 and prior to February 1, 2009 or who received a determination under former section 32724 during that period is subject to the definition of adverse resource impact that existed on February 28, 2006.

324.32722 Presumption.

Sec. 32722. (1) For new or increased large quantity withdrawals developed on or after February 28, 2006 and prior to the implementation date of the assessment tool under section 32706a, there is a rebuttable presumption that the withdrawal will not cause an adverse resource impact in violation of section 32721 under either of the following circumstances:

(a) The location of the withdrawal is more than 1,320 feet from the banks of an affected stream reach.

(b) The withdrawal depth of the well is at least 150 feet.

(2) If the assessment tool determines that a withdrawal is a zone A or a zone B withdrawal and is not likely to cause an adverse resource impact, there is a rebuttable presumption that the withdrawal under the conditions that were the basis for the assessment tool's determination will not cause an adverse resource impact in violation of section 32721.

(3) If the department determines, based upon a site-specific review, or in connection with a permit or approval issued under section 32723 or the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, that a withdrawal is not likely to cause an adverse resource impact, there is a rebuttable presumption that the withdrawal under the conditions that were the basis of the department's determination will not cause an adverse resource impact in violation of section 32721.

(4) A presumption under this section is not valid if the capacity to make the withdrawal is not developed within 18 months after the withdrawal is registered. A presumption under this section may be rebutted by a preponderance of evidence that a new or increased large quantity withdrawal from the waters of the state has caused or is likely to cause an adverse resource impact.

324.32727 Exemptions; compilation and sharing of certain data.

Sec. 32727. (1) The following withdrawals are exempt from the requirements of this part unless they result in a diversion:

(a) A withdrawal undertaken as part of an activity authorized by the department under part 111, 115, 201, 213, or 615.

(b) A withdrawal undertaken as part of an activity authorized by the United States environmental protection agency under either of the following:

(i) The comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510.

(ii) The resource conservation and recovery act of 1976, Public Law 94-580.

(c) A withdrawal that is undertaken for hydroelectric generation at sites certified, licensed, or permitted by the federal energy regulatory commission.

(d) A hydroelectric facility authorized under section 12 of chapter 264 of the act of March 3, 1909, commonly known as the river and harbor act of 1909, 35 Stat. 821.

(e) A hydroelectric facility authorized under section 1075(c) of the intermodal surface transportation efficiency act of 1991, Public Law 102-240.

(f) A hydroelectric facility authorized under Public Law 85, chapter 1368, 34 Stat. 102.

(g) Removal of water from an artificially created surface water body that has as its primary source of water either of the following:

(i) A withdrawal that is not a new or increased large quantity withdrawal.

(ii) A registered new or increased large quantity withdrawal that has been determined by the assessment tool, a site-specific review, or a permit issued under section 32723 to be a withdrawal that is not likely to cause an adverse resource impact.

(h) A withdrawal from a noncommercial well located on the following residential property:

(i) Single-family residential property unless that well is a lake augmentation well.

(ii) Multifamily residential property not exceeding 4 residential units and not more than 3 acres in size unless that well is a lake augmentation well.

(2) The director of the department shall ensure that data in the possession of the state related to withdrawals that are not regulated under this part are compiled and shared with departmental personnel responsible for implementing this part.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.
- (g) House Bill No. 4343.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
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House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 184]

(HB 4343)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain

appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 32710 and 32725 (MCL 324.32710 and 324.32725), section 32710 as added by 1995 PA 59 and section 32725 as added by 2006 PA 36.

The People of the State of Michigan enact:

324.32710 Duties of department; electronic mail notification of withdrawals; formation of water resources assessment and education committee.

Sec. 32710. (1) The department shall do all of the following:

(a) Cooperate with the states and provinces in the Great Lakes region to develop and maintain a common base of information on the use and management of the water of the Great Lakes basin and to establish systematic arrangements for the exchange of this information.

(b) Collect and maintain information regarding the locations, types, and quantities of water use, including water withdrawals and consumptive uses, in a form that the department determines is comparable to the form used by other states and provinces in the Great Lakes region.

(c) Collect, maintain, and exchange information on current and projected future water needs with the other states and provinces in the Great Lakes region.

(d) Cooperate with other states and provinces in the Great Lakes region in developing a long-range plan for developing, conserving, and managing the water of the Great Lakes basin.

(e) Participate in the development of a regional consultation procedure for use in exchanging information on the effects of proposed water withdrawals and consumptive uses from the Great Lakes basin.

(f) Develop procedures for notifying water users and potential water users of the requirements of this part.

(g) If the department receives a registration for a zone B or a zone C withdrawal or issues a permit under section 32723 or the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, for a zone B or zone C withdrawal, place a notice on the department’s website and notify by electronic mail all of the following that have requested under subsection (2) an electronic mail notification:

(i) Conservation districts.

(ii) Regional planning agencies.

(iii) Watershed management planning committees.

(iv) Storm water committees established under part 31.

(v) The chief elected officials of the local units of government.

(vi) Community supplies owned by political subdivisions.

(vii) A water users committee established under section 32725.

(2) An organization listed in subsection (1)(g) that wishes to receive an electronic mail notification of withdrawals described in subsection (1)(g) that are located in its vicinity shall provide to the department an electronic mail address.

(3) Upon receipt of notification from the department under subsection (1)(g), the notified entities may form a water resources assessment and education committee in order to assess trends in water use in the vicinity of the withdrawal and educate water users. The department shall assist in the formation of these water resources assessment and education

committees and may provide them with technical information regarding water use and capacity within their vicinity, aggregated at the stream reach level. Meetings of water resources assessment and education committees shall be open to the general public. A water resources assessment and education committee formed under this subsection may provide educational materials and recommendations regarding any of the following:

- (a) Long-term water resources planning.
- (b) Use of conservation measures.
- (c) Drought management activities.
- (d) Other topics related to water use as identified by the committee.

324.32725 Water users committee; establishment; purpose; composition; notice of withdrawal; occurrence of adverse resource impacts; recommended solution proposed by department; order by director; petition; “unverified petition” and “permit holders” defined.

Sec. 32725. (1) All persons making large quantity withdrawals within a watershed are encouraged to establish a water users committee to evaluate the status of current water resources, water use, and trends in water use within the watershed and to assist in long-term water resources planning. A water users committee may be composed of all registrants, permit holders, and local government officials within the watershed. Upon establishment of a water users committee, a participating local government official may create an ad hoc subcommittee of residents of that local unit of government to provide that local government official with information and advice on water resources, water use, and trends in water use within the local unit of government.

(2) If the department authorizes a zone B withdrawal in a cold-transitional river system or a zone C withdrawal, the department shall notify all registrants, permit holders, and local government officials within the watershed of the withdrawal and of the authority under this section to establish a water users committee and may provide them technical information regarding water use and capacity within their vicinity aggregated at the stream reach level.

(3) If the department determines by reasonable scientifically-based evidence that adverse resource impacts are occurring or are likely to occur from 1 or more large quantity withdrawals, the department shall notify the water users committee in the watershed or shall convene a meeting of all registrants and permit holders within the watershed and shall attempt to facilitate an agreement on voluntary measures that would prevent adverse resource impacts.

(4) If, within 30 days after the department has notified the water users committee or convened the meeting under subsection (3), the registrants and permit holders are not able to voluntarily agree to measures that would prevent adverse resource impacts, the department may propose a solution that the department believes would equitably resolve the situation and prevent adverse resource impacts. The recommended solution is not binding on any of the parties.

(5) The director may, without a prior hearing, order permit holders to immediately restrict a withdrawal if the director determines by clear and convincing scientific evidence that there is a substantial and imminent threat that the withdrawal is causing or is likely to cause an adverse resource impact. The order shall specify the date on which the withdrawal must be restricted and the date on which it may be resumed. An order issued under this section shall remain in force and effect for not more than 30 days and may be renewed for an additional 30 days if the director determines by clear and convincing scientific evidence that conditions continue to pose a substantial and imminent threat that the withdrawal is

causing or is likely to cause an adverse resource impact. The order shall notify the person that the person may request a contested case hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The hearing shall be held within 10 business days following the request, unless the permittee requests a later date. As an alternative to requesting a contested case hearing, a person subject to an order under this section may seek judicial review of the order as provided in the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(6) A registrant or permit holder may submit a petition to the director alleging that adverse resource impacts are occurring or are likely to occur from 1 or more water withdrawals. The director shall either investigate the petition or forward the petition to the director of the department of agriculture if the water withdrawals are from an agricultural well. The petition shall be in writing and shall include all the information requested by the director or the director of the department of agriculture, as appropriate.

(7) A person who submits more than 2 unverified petitions under this section within 1 year may be ordered by the director to pay for the full costs of investigating any third or subsequent unverified petition. As used in this subsection, “unverified petition” means a petition in response to which the director determines that there is not reasonable evidence to suspect adverse resource impacts.

(8) As used in this section, “permit holders” means persons holding a permit under section 32723 and persons holding a permit under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) Senate Bill No. 860.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 185]**(SB 860)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 32728 (MCL 324.32728), as added by 2006 PA 33, and by adding sections 32706a, 32706b, 32706e, and 32729.

The People of the State of Michigan enact:

324.32706a Internet-based water withdrawal assessment tool; implementation; determination of proposed zone withdrawal; entering and printing data; working in conjunction with online registration process; technical modifications; redesignation of stream or river; report.

Sec. 32706a. (1) On October 1, 2008, the department shall make available for testing and evaluation an internet-based water withdrawal assessment tool based upon the recommendations of the former groundwater conservation advisory council and the requirements of this part. The assessment tool shall contain a flow-based safety factor. Beginning 1 year after the effective date of the amendatory act that added this section, the department shall implement the assessment tool.

(2) The assessment tool shall determine whether a proposed withdrawal is a zone A, zone B, zone C, or zone D withdrawal and whether a proposed withdrawal is likely to cause an adverse resource impact based upon whether the proposed withdrawal is from a cold river system, a cold-transitional river system, a cool river system, or a warm river system. The assessment tool shall account for impacts due to cumulative withdrawals as provided for in section 32706e. The assessment tool shall also distinguish the impact of a proposed withdrawal based upon whether the proposed withdrawal is from a stream, a small river, or a large river, subject to the following:

(a) Cool streams and warm streams with less than 3 square miles of drainage area shall be integrated into the next largest drainage area for purposes of assessment tool determinations.

(b) Cool streams and warm streams with less than 20 square miles of drainage area and less than 1 cubic foot per second of index flow shall be integrated into the next largest drainage area for purposes of assessment tool determinations.

(c) Cool streams and warm streams with a drainage area of more than 3 square miles but less than 6 square miles shall be integrated into the next largest drainage area for purposes of assessment tool determinations for groundwater withdrawals.

(3) The assessment tool shall allow the user to enter into fields the following data related to a proposed withdrawal:

- (a) The capacity of the equipment used for making the withdrawal.
- (b) The location of the withdrawal.
- (c) The withdrawal source, whether surface water or groundwater.

(d) If the source of the withdrawal is groundwater, whether the source of the withdrawal is a glacial stratum or bedrock.

(e) The depth of the withdrawal if from groundwater.

(f) The amount and rate of water to be withdrawn.

(g) Whether the withdrawal will be intermittent.

(4) The assessment tool shall contain a print function that allows the user, upon receipt of the assessment tool's determination, to print the data submitted and the determination returned along with a date and time.

(5) The assessment tool shall work in conjunction with the online registration process and shall also allow operation independent of the online registration process.

(6) On an ongoing basis, the department shall add verified data to the assessment tool's database from reports submitted under sections 32707, water use conservation plans submitted under section 32708, and permits issued under the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, and other sources of data regarding the waters of the state. Additionally, the department shall make technical modifications to the assessment tool related to considerations of temperature, hydrology, and stream or river flow based upon a scientific methodology adopted by order of the commission.

(7) If a person disagrees with the designation of a particular stream or river as a cold river system, a cold-transitional river system, a cool river system, or a warm river system for use in the assessment tool or otherwise under this part, the person may petition for a redesignation of that stream or river. The petition shall be submitted to the commission for its review and determination.

(8) The department shall report annually to the standing committees of the legislature with jurisdiction primarily pertaining to natural resources and the environment on the implementation of the assessment tool and this part. This report shall include, but is not limited to, all of the following:

(a) The number of zone C withdrawal site-specific reviews requested by applicants each 12 months after the effective date of the implementation of the assessment tool under section 32706a.

(b) The number of zone C withdrawal site-specific review determinations that resulted in changes from zone C to zone B and the number of changes from zone C to zone A.

(c) The number of zone C withdrawal site-specific review determinations that result in a zone D withdrawal determination.

(d) The number of site-specific review determinations where the department failed to meet statutory timelines.

(e) The number of registered assessment tool determinations for each zone.

(f) The number of voluntary requests for site-specific reviews that were submitted to the department and whether the department failed to meet statutory timelines on these site-specific reviews.

(g) The number of registrations submitted to the department under this part.

324.32706b Utilization of assessment tool; request for site-specific review; designation of proposed withdrawal; registration; rerun of assessment tool; correction of data.

Sec. 32706b. (1) Beginning on the effective date of the implementation of the assessment tool under section 32706a, prior to registering a new or increased large quantity withdrawal

under section 32705 for a proposed withdrawal from a stream or river, or from groundwater, the property owner proposing to make the withdrawal shall utilize the assessment tool by entering the data related to the proposed withdrawal into the assessment tool. However, a person who intends to make a new or increased large quantity withdrawal for the purpose of dewatering a mine that has a permit under part 31 and is not regulated under part 631, 632, or 637 may choose to submit a request for a site-specific review rather than utilize the assessment tool.

(2) Upon entry of the relevant data under subsection (1), the assessment tool shall indicate to the user whether or not the proposed withdrawal is likely to cause an adverse resource impact and whether the proposed withdrawal falls into the category of zone A, zone B, zone C, or zone D.

(3) If the assessment tool designates a proposed withdrawal as a zone A withdrawal, or a zone B withdrawal in a cool river system or a warm river system, the property owner may register the withdrawal and proceed to make the withdrawal.

(4) If the assessment tool designates a proposed withdrawal as a zone B withdrawal in a cold-transitional river system, or a zone C or zone D withdrawal, the property owner shall not register the withdrawal or make the withdrawal except in accordance with section 32706c.

(5) After a property owner registers a withdrawal, if, in developing the capacity to make the withdrawal, the conditions of the withdrawal deviate from the specific data that were entered into the assessment tool, the property owner shall rerun the assessment tool and shall enter the corrected data into the assessment tool. The property owner shall notify the department of the corrected data and the corrected results from the assessment tool. If the corrected data do not change the determination of the assessment tool, the property owner may proceed with the withdrawal. If the corrected data change the determination from the assessment tool, the property owner shall proceed under the provisions of this part related to the corrected assessment tool determination.

324.32706e Cumulative withdrawals; determination of adverse impact.

Sec. 32706e. The department shall determine whether an adverse resource impact has occurred under this part and whether a withdrawal is a zone A, a zone B, a zone C, or a zone D withdrawal under this part based upon cumulative withdrawals affecting the same stream reach. In accounting for these cumulative withdrawals, the department shall apply both of the following:

(a) Beginning on October 1, 2008, the department shall begin water withdrawal accounting for cumulative withdrawals affecting the same stream reach.

(b) Beginning on February 1, 2009, the department shall adjust the water withdrawal accounting under subdivision (a) such that if cumulative withdrawals beginning on October 1, 2008 have removed a sufficient flow of water from a stream reach to change the zone classification of that stream reach, the department shall reset the water withdrawal accounting benchmark for that stream reach as follows:

(i) If the cumulative impact of withdrawals on February 1, 2009 results in a classification as a zone B withdrawal, the accounting benchmark shall be reset at the beginning point for zone B withdrawals.

(ii) If the cumulative impact of withdrawals on February 1, 2009 results in a classification as a zone C withdrawal, the accounting benchmark shall be reset at the beginning point for zone C withdrawals.

(iii) If the cumulative impact of withdrawals on February 1, 2009 results in a classification as a zone D withdrawal, the accounting benchmark shall be reset at the beginning point for

zone C withdrawals. If there is not a zone C for the classification of the stream reach, the water withdrawal accounting benchmark shall be reset at the beginning point for zone B withdrawals.

324.32728 Construction and scope of act; rules.

Sec. 32728. (1) This part shall not be construed as affecting, intending to affect, or in any way altering or interfering with common law water rights or property rights or the applicability of other laws providing for the protection of natural resources or the environment or limit, waive, cede, or grant any rights or interest that the state possesses as sovereign for the people of the state in the waters or natural resources of the state.

(2) This part does not limit the right of a person whose interests have been or will be adversely affected to institute proceedings in circuit court against any person to protect such interests.

(3) Except as specifically authorized under this part, this part does not authorize the promulgation of rules.

324.32729 Fees not authorized; exception.

Sec. 32729. Except as specifically authorized under this part, this part does not authorize the assessment of fees.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 859.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

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House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 186]**(SB 859)**

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 32713 (MCL 324.32713), as amended by 2006 PA 33.

The People of the State of Michigan enact:

324.32713 Civil action; commencement; civil fine; recovery of surveillance and enforcement costs.

Sec. 32713. (1) The department may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a rule promulgated under this part, including falsifying a record submitted under this part. An action under this section shall be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance.

(2) In addition to any other relief granted under subsection (1), the court may impose a civil fine as follows:

(a) For a person who knowingly violates section 32721 or 32723 or the terms of a permit issued under section 32723, a civil fine of not more than \$10,000.00 per day of violation.

(b) For all other violations of this part, a civil fine of not more than \$1,000.00.

(3) In addition to a fine imposed under subsection (2), the attorney general may file a suit in a court of competent jurisdiction to recover the full value of the costs of surveillance and enforcement by the state resulting from the violation.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 858.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.

(k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.

Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.

Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.

Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.

Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.

House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.

House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.

House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.

House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.

House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.

House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 187]

(SB 858)

AN ACT to amend 1976 PA 399, entitled “An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties,” by amending section 4 (MCL 325.1004), as amended by 2006 PA 601.

The People of the State of Michigan enact:

325.1004 Waterworks system; filing plans and specifications; general plan; evaluation of proposed system; use of assessment tool; determination of zone C withdrawal; certification of measures taken; capacity assessment; return or rejection of plans and specifications; public notice; plans and specifications for improvements; permit for construction; violation; conditions for denial of permit; verbal approval of minor modifications; confirmation; report; definitions.

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

(2) Upon receipt of the plans and specifications for a proposed waterworks system, the department shall evaluate the adequacy of the proposed system to protect the public health by supplying water meeting the state drinking water standards and, if applicable, shall evaluate the impact of the proposed system as provided in subsections (3) and (4). In addition, for a proposed waterworks system by a community supply that will provide capacity

for a new or increased large quantity withdrawal, the department shall utilize the assessment tool to evaluate the proposed withdrawal associated with the proposed waterworks system and shall confirm the assessment tool's determination. Prior to the implementation of the assessment tool under section 32706a, the department shall evaluate the proposed withdrawal based upon reasonably available information. If the department determines that the proposed withdrawal for a community supply is a zone C withdrawal, the community supply shall certify that it is implementing applicable environmentally sound and economically feasible water conservation measures prepared under section 32708a that the community supply considers to be reasonable or shall certify that it is implementing environmentally sound and economically feasible water conservation measures developed for the water use associated with that specific withdrawal that the community supply considers to be reasonable. The department shall also conduct a capacity assessment for a proposed community supply or nontransient noncommunity water supply and determine if the system has the technical, financial, and managerial capacity to meet all requirements of this act and the rules promulgated under this act, on the date of commencement of operations. If upon evaluation the department determines the plans and specifications to be inadequate or the capacity assessment shows the system to be inadequate, the department may return the plans and specifications to the applicant and require additions or modifications as may be appropriate. The department may reject plans and specifications for a waterworks system that will not satisfactorily provide for the protection of the public health or, if applicable, will not meet the standards provided in subsection (4). The department may deny a permit for construction of a proposed community supply or a nontransient noncommunity water supply if the capacity assessment shows that the proposed system does not have adequate technical, financial, or managerial capacity to meet the requirements of this act and the rules promulgated under this act.

(3) The department shall evaluate the impact of a proposed waterworks system for a community supply that will do any of the following:

(a) Provide new total designed withdrawal capacity of more than 2,000,000 gallons of water per day from the waters of the state.

(b) Provide an increased total designed withdrawal capacity of more than 2,000,000 gallons of water per day from the waters of the state beyond the system's total designed withdrawal capacity.

(c) Provide new or increased total designed withdrawal capacity for a new or increased large quantity withdrawal of more than 1,000,000 gallons of water per day from the waters of the state to supply a common distribution system that the department confirms is a zone C withdrawal.

(d) Provide new total designed withdrawal capacity or an increased total designed withdrawal capacity that will result in an intrabasin transfer of more than 100,000 gallons per day average over any 90-day period.

(4) The department shall provide public notice that it is conducting an evaluation under subsection (3) and shall provide a public comment period of not less than 45 days before making a determination on that evaluation. The department shall reject the plans and specifications for a proposed waterworks system evaluated under subsection (3) if it determines that the proposed system will not meet the applicable standard provided in section 32723 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32723. However, the department may approve the plans and specifications for a proposed waterworks system evaluated under subsection (3) for a community supply owned by a political subdivision that the department determines will not meet the applicable standard provided in section 32723 if the plans and specifications do not result in an intrabasin transfer of

more than 100,000 gallons per day average over any 90-day period and both of the following conditions are met:

(a) The department determines that there is no feasible and prudent alternative location for the withdrawal.

(b) The department includes in the approval conditions related to depth, pumping capacity, rate of flow, and ultimate use that ensure that the environmental impact of the withdrawal is balanced by the public benefit of the withdrawal related to public health, safety, and welfare. This subdivision does not confer upon the department any authority to require a person to connect or to remain connected to an existing drinking water supply system owned by a political subdivision.

(5) The department's approval of a proposed waterworks system under this section shall be considered to satisfy the requirements of section 4.11 of the compact.

(6) Before commencing the construction of a waterworks system or an alteration, addition, or improvement to a system, a supplier of water shall submit the plans and specifications for the improvements to the department and secure from the department a permit for construction as provided by rule. Plans and specifications submitted to the department shall be prepared by a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder, or supplier of water shall not engage in or begin the construction of a waterworks system or an alteration, addition, or improvement to a waterworks system until a valid permit for the construction has been secured from the department. A contractor, builder, or supplier of water who permits or allows construction to proceed without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, violates this act. A supplier of water shall not issue a voucher or check or in any other way expend money or provide consideration for construction of a waterworks system unless a valid permit issued by the department is in effect. The department may issue a permit with conditions to correct minor design deficiencies. If eligible, a supplier may request an expedited review of an application for a permit under section 4a.

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

(8) The department may verbally approve minor modifications of a construction permit issued by the department as a result of unforeseen site conditions that become apparent during construction. Minor modifications include, but are not limited to, extending a hydrant lead or routing a water main around a manhole. A supplier making a request for a modification shall provide to the department all relevant information required under this section and the application form provided by the department related to the modification. A supplier shall obtain written approval from the department for all modifications to a waterworks system except when the department provides verbal approval for a minor modification as provided for in this subsection. A supplier receiving a written or verbal approval from the department shall submit revised plans and specifications to the department within 10 days from the date of approval.

(9) If a supplier seeks confirmation of the department's verbal approval of a minor modification under subsection (8), the supplier shall notify the department electronically, at an address specified by the department, with a detailed description of the request for the modification. The department shall make reasonable efforts to respond within 2 business days,

confirming whether the request has been approved or not approved. If the department has not responded within 2 business days after the department receives the detailed description, the verbal approval shall be considered confirmed.

(10) As a condition of a permit issued under this section to a community supply, the department shall require the permit holder to annually submit to the department a report by April 1 of each year that contains the information described in section 32707 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32707.

(11) As used in this section, “assessment tool”, “compact”, “intrabasin transfer”, “new or increased large quantity withdrawal”, “waters of the state”, and “zone C withdrawal” mean those terms as they are defined in section 32701 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32701.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 727.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
 Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
 Senate Bill No. 727 was filed with the Secretary of State July 9, 2008, and became 2008 PA 188, Imd. Eff. July 9, 2008.
 Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
 Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
 House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
 House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
 House Bill No. 5066 was filed with the Secretary of State July 9, 2008, and became 2008 PA 182, Imd. Eff. July 9, 2008.
 House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
 House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
 House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.

[No. 188]

(SB 727)

AN ACT to amend 1976 PA 399, entitled “An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties

of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties,” by amending section 17 (MCL 325.1017), as amended by 2006 PA 37.

The People of the State of Michigan enact:

325.1017 Bottled drinking water.

Sec. 17. (1) A person engaged in producing bottled drinking water shall utilize a water source meeting the requirements of this section and the requirements otherwise provided in this act. Bottling or packaging facilities and their operation shall remain under the supervision of the department of agriculture as provided for in the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(2) A person producing bottled drinking water from an out-of-state source shall submit proof to the director that the source and bottling facilities were approved by the agency having jurisdiction. The director may withhold approval of the bottled water if the other agency’s inspection, surveillance, and approval procedures and techniques are determined to be inadequate.

(3) A person who proposes to engage in producing bottled drinking water from a new or increased large quantity withdrawal of more than 200,000 gallons of water per day from the waters of the state or that will result in an intrabasin transfer of more than 100,000 gallons per day average over any 90-day period shall submit an application to the department in a form required by the department containing an evaluation of environmental, hydrological, and hydrogeological conditions that exist and the predicted effects of the intended withdrawal that provides a reasonable basis for the determination under this section to be made.

(4) The department shall only approve an application under subsection (3) if the department determines both of the following:

(a) The proposed use will meet the applicable standard provided in section 32723 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32723.

(b) The person will undertake activities, if needed, to address hydrologic impacts commensurate with the nature and extent of the withdrawal. These activities may include those related to the stream flow regime, water quality, and aquifer protection.

(5) Before proposing activities under subsection (4)(b), the person proposing to engage in producing bottled drinking water shall consult with local government officials and interested community members.

(6) Before making the determination under subsection (4), the department shall provide public notice and an opportunity for public comment of not less than 45 days.

(7) If the person proposing to engage in producing bottled drinking water under subsection (3) does not have a permit under section 4, the person shall request a determination under subsection (4) when that person applies for a permit under section 4. If the person proposing to engage in producing bottled drinking water has previously received a permit under section 4, the person shall obtain approval under subsection (4) prior to beginning

the operations. A proposed use for which the department makes a determination that the conditions of subsection (4) will be met shall be considered to satisfy the requirements of section 4.11 of the compact.

(8) A person seeking a departmental determination under subsection (4) shall submit an application fee of \$5,000.00 to the department. The department shall transmit application fees received under this section to the state treasurer to be credited to the water use protection fund created in section 32714.

(9) This section shall not be construed as affecting, intending to affect, or in any way altering or interfering with common law water rights or the applicability of other laws providing for the protection of natural resources or the environment.

(10) A person who proposes to engage in producing bottled drinking water and who submitted an application for a permit under section 4 prior to the effective date of the amendatory act that added this subsection is subject to the provisions of this section that existed on February 28, 2006.

(11) As used in this section, “compact”, “intrabasin transfer”, “new or increased large quantity withdrawal”, and “waters of the state” mean those terms as they are defined in section 32701 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32701.

Conditional effective date.

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

- (a) Senate Bill No. 212.
- (b) Senate Bill No. 723.
- (c) Senate Bill No. 858.
- (d) Senate Bill No. 859.
- (e) Senate Bill No. 860.
- (f) House Bill No. 4343.
- (g) House Bill No. 5065.
- (h) House Bill No. 5066.
- (i) House Bill No. 5067.
- (j) House Bill No. 5069.
- (k) House Bill No. 5073.

This act is ordered to take immediate effect.

Approved July 9, 2008.

Filed with Secretary of State July 9, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
Senate Bill No. 212 was filed with the Secretary of State July 9, 2008, and became 2008 PA 190, Imd. Eff. July 9, 2008.
Senate Bill No. 723 was filed with the Secretary of State July 9, 2008, and became 2008 PA 189, Imd. Eff. July 9, 2008.
Senate Bill No. 858 was filed with the Secretary of State July 9, 2008, and became 2008 PA 187, Imd. Eff. July 9, 2008.
Senate Bill No. 859 was filed with the Secretary of State July 9, 2008, and became 2008 PA 186, Eff. Oct. 7, 2008.
Senate Bill No. 860 was filed with the Secretary of State July 9, 2008, and became 2008 PA 185, Imd. Eff. July 9, 2008.
House Bill No. 4343 was filed with the Secretary of State July 9, 2008, and became 2008 PA 184, Imd. Eff. July 9, 2008.
House Bill No. 5065 was filed with the Secretary of State July 9, 2008, and became 2008 PA 183, Imd. Eff. July 9, 2008.
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House Bill No. 5067 was filed with the Secretary of State July 9, 2008, and became 2008 PA 181, Imd. Eff. July 9, 2008.
House Bill No. 5069 was filed with the Secretary of State July 9, 2008, and became 2008 PA 180, Imd. Eff. July 9, 2008.
House Bill No. 5073 was filed with the Secretary of State July 9, 2008, and became 2008 PA 179, Imd. Eff. July 9, 2008.