

SENATE BILL No. 602

October 11, 1989, Introduced by Senators N. SMITH,
BINSFELD, CRUCE, EHLERS, NICHOLS, POSTHUMUS,
GEAKE, DILLINGHAM, GAST, SCHWARZ, ARTHURHULTZ and
CROPSEY and referred to the Committee on Natural
Resources and Environmental Affairs.

A bill to require registration and reporting by certain
water users; to prescribe the powers and duties of certain state
agencies and officials; and to prescribe penalties and provide
remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Great Lakes water use registration act".

3 Sec. 2. The legislature finds and declares that:

4 (a) Water use registration and reporting are essential to
5 implementing the principles of the Great Lakes charter, necessary
6 to support the state's opposition to diversion of Great Lakes
7 waters, and provide a source of information on water use to pro-
8 tect Michigan's rights when proposed water losses affect the
9 level, flow, use, or quality of waters of the Great Lakes basin.

1 (b) The waters of the state are valuable public natural
2 resources held in trust by the state, and the state has a duty as
3 trustee to manage its waters effectively for the use and enjoy-
4 ment of present and future residents and for the protection of
5 the environment.

6 (c) The waters of the Great Lakes basin are a valuable
7 public natural resource and the states and provinces of the Great
8 Lakes region and Michigan share a common interest in the preser-
9 vation of that resource.

10 (d) Any new diversion of Great Lakes water for use outside
11 of the Great Lakes basin will have significant economic and envi-
12 ronmental impact adversely affecting the use of this resource by
13 the Great Lakes states and Canadian provinces.

14 (e) The continued availability of water for domestic, munic-
15 ipal, industrial, and agricultural water supplies, navigation,
16 hydroelectric power and energy production, recreation, and the
17 maintenance of fish and wildlife habitat and a balanced ecosystem
18 are vital to the future economic health of the states and prov-
19 inces of the Great Lakes region and to Michigan.

20 (f) Without careful and prudent management, future interba-
21 sin diversions and consumptive uses of Great Lakes water may have
22 significant adverse impacts upon the environment, economy, and
23 welfare of the Great Lakes region and of Michigan.

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

1 Sec. 3. As used in this act:

2 (a) "Authorized base level of water loss" means the maximum
3 consecutive 30-day average water loss resulting from a consump-
4 tive use.

5 (b) "Consumptive use" means a use of Great Lakes water that
6 results in a failure to return any or all of the water to the
7 Great Lakes basin. Consumptive use includes, but is not limited
8 to, evaporation, except for the evaporative losses resulting from
9 reservoirs used to impound water for hydroelectric generation,
10 and incorporation of water into a product or agricultural crop.

11 (c) "Department" means the department of natural resources.

12 (d) "Great Lakes basin" means the watershed of the Great
13 Lakes and the St. Lawrence river.

14 (e) "Great Lakes charter" means the document establishing
15 the principles for the cooperative management of the Great Lakes
16 water resources, signed by the governors and premiers of the
17 Great Lakes region on February 11, 1985.

18 (f) "Great Lakes region" means the geographic region com-
19 posed of the states of Illinois, Indiana, Michigan, Minnesota,
20 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,
21 and the provinces of Ontario and Quebec, Canada.

22 (g) "Great Lakes water" means the water contained in the
23 Great Lakes and their connecting waterways.

24 (h) "International joint commission" means the commission
25 established by the boundary waters treaty of 1909 between the
26 United States and Canada.

1 (i) "Person" means an individual, partnership, corporation,
2 association, governmental entity, or any other legal entity
3 whatsoever.

4 (j) "Water loss" means a loss of water from the Great Lakes
5 basin as a result of a consumptive use.

6 (k) "Withdrawal" means the removal of water from its source
7 for any purpose, other than for hydroelectric generation at sites
8 certified, licensed, or permitted by the federal energy regula-
9 tory commission.

10 Sec. 4. (1) Within 1 year after the effective date of the
11 rules promulgated under section 9, a person who on the effective
12 date of the rules withdraws Great Lakes water in excess of an
13 average of 100,000 gallons per day in any consecutive 30-day
14 period shall register the withdrawal with the department pursuant
15 to this act.

16 (2) Except as provided in subsection (3), on or after the
17 effective date of the rules promulgated under section 9, a person
18 shall not begin a withdrawal of Great Lakes water that will aver-
19 age in excess of 100,000 gallons per day in any consecutive
20 30-day period unless that person has registered the proposed
21 withdrawal with the department pursuant to this act.

22 (3) Beginning on the effective date of the rules promulgated
23 under section 9, a person who withdraws Great Lakes water for an
24 agricultural purpose, shall register with the department if the
25 actual withdrawal averaged in excess of 100,000 gallons per day
26 in any consecutive 30-day period. A person required to register

1 under this subsection shall register during the calendar year of
2 the withdrawal.

3 (4) In calculating the total amount of an existing or pro-
4 posed withdrawal for the purpose of this section, a person shall
5 combine all separate withdrawals that the person makes or pro-
6 poses to make, whether or not these withdrawals are for a single
7 purpose or are for related but separate purposes.

8 Sec. 5. (1) Each registration under this act shall consist
9 of a statement and supporting documentation that includes all of
10 the following:

11 (a) The place and source of the proposed or existing
12 withdrawal.

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

14 (c) The location and nature of the proposed or existing
15 water user.

16 (d) The actual or estimated average annual and monthly vol-
17 umes and rate of withdrawal.

18 (e) The actual or estimated average annual and monthly vol-
19 umes and rates of water loss from the withdrawal.

20 (2) Each registration under this act concerning a withdrawal
21 that will result in a water loss averaging in excess of 2,000,000
22 gallons per day in any consecutive 30-day period shall also pro-
23 vide a statement and supporting documentation that includes all
24 of the following:

25 (a) The operating capacity of the withdrawal system identi-
26 fied in the registration.

1 (b) If the registration includes a proposed withdrawal
2 increase, the total new or increased operating capacity of the
3 withdrawal system.

4 (c) The estimated average annual and monthly rates of dis-
5 charge or return flow.

6 (d) A list of all federal, state, and local approvals, per-
7 mits, licenses, and other authorizations required for the exist-
8 ing or proposed withdrawal.

9 (3) A registration under this act shall be valid for a
10 period of 2 years. However, a person who withdraws water for an
11 agricultural purpose may register annually.

12 Sec. 6. Each person who registers a withdrawal under this
13 act shall report the volume and rate of withdrawal and, if appli-
14 cable, the volume and rate of water loss from the withdrawal to
15 the department in the form and at the times required by the
16 department.

17 Sec. 7. (1) The department shall prepare an environmental
18 impact statement on water withdrawals and consumptive uses in the
19 state, and their impact on water quality and quantity in the
20 Great Lakes basin. The environmental impact statement shall be
21 submitted to the governor, the senate majority leader, and the
22 speaker of the house of representatives by January 1, 1993.

23 (2) The department may contract for the preparation and dis-
24 tribution of informational materials to persons who withdraw
25 water for agricultural purposes regarding the purposes, benefits,
26 and requirements of this act, and may also provide information on
27 complying with the registration program and on any general or

1 applicable methods for calculating or estimating water
2 withdrawals or water loss.

3 Sec. 8. The department shall do all of the following:

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

9 (b) Collect and maintain information regarding the loca-
10 tions, types, and quantities of water use, including water with-
11 drawals and water losses, in a form that the department deter-
12 mines is comparable to the form used by other states and prov-
13 inces in the Great Lakes region.

14 (c) Collect, maintain, and exchange information on current
15 and projected future water needs with the other states and prov-
16 inces in the Great Lakes region.

17 (d) Cooperate with other states and provinces in the Great
18 Lakes region in developing a long-range plan for developing, con-
19 serving, and managing the water resources of the Great Lakes
20 basin.

21 (e) Participate in the development of a regional consulta-
22 tion procedure for use in exchanging information on the effects
23 of proposed water withdrawals and water losses from the Great
24 Lakes basin.

25 (f) Develop procedures for notifying water users and poten-
26 tial water users of the requirements of this act.

1 Sec. 9. The department shall promulgate rules pursuant to
2 the administrative procedures act of 1969, Act No. 306 of the
3 Public Acts of 1969, being sections 24.201 to 24.328 of the
4 Michigan Compiled Laws, to implement this act, including require-
5 ments for reporting volumes and rates of withdrawals. These
6 rules shall be submitted to the joint committee on administrative
7 rules within 1 year after the effective date of this act. Prior
8 to promulgating these rules, the department shall consult with
9 affected state agencies, the Michigan public service commission,
10 and interested parties.

11 Sec. 10. (1) A person who fails to register under this act
12 as required by this act is subject to an administrative fine of
13 \$500.00. When the department finds a violation of the registra-
14 tion requirements of this act, the department shall issue an
15 order requiring the person to register pursuant to this act and
16 to pay the administrative fine. If a person fails to pay an
17 administrative fine assessed under this subsection, the depart-
18 ment may bring an action in circuit court to recover the amount
19 of the fine. A fine collected under this subsection shall be
20 deposited into the state treasury to the credit of the Michigan
21 Great Lakes protection fund created in section 5 of the Great
22 Lakes protection act, Act No. 128 of the Public Acts of 1985,
23 being section 323.35 of the Michigan Compiled Laws.

24 (2) A person who fails to register within 60 days after
25 receiving an order of the department under subsection (1) requir-
26 ing the person to register is guilty of a misdemeanor, punishable

1 by imprisonment for not more than 90 days, or by a fine of not
2 more than \$10,000.00, or both.