



**House  
Legislative  
Analysis  
Section**

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**WATER USE PROTECTION FUND**  
AS ENROLLED

House Bill 5875 as passed by the House  
Second Analysis (8-20-96)

**Sponsor: Rep. Liz Brater**  
**Committee: Conservation,**  
**Environment and Great Lakes**

***THE APPARENT PROBLEM:***

Michigan is a member of the Great Lakes Charter, a cooperative agreement adopted in 1985 to protect and manage the water resources of the Great Lakes Basin among the eight Great Lakes states (Michigan, Indiana, Illinois, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin) and two Canadian provinces (Ontario and Quebec) which have shorelines on the lakes. Participation in the Great Lakes Charter is important to Michigan, to assure that it receives formal notification and is able to participate in the process when other states submit proposals for new diversion or uses of Great Lakes waters. Charter members are able to prevent diversions from the lakes only if they can demonstrate that their water needs outweigh national interest in a common resource, since federal courts have traditionally made it clear that water is an article of commerce and should not be unduly restricted. Accordingly the states and provinces agreed that each state and province should collect and maintain data regarding water use in order to cooperate in the sharing and exchange of such information. Michigan implements a reporting system under which the owners of industrial, irrigation, or processing facilities that withdraw more than 100,000 gallons of water per day during a thirty-day period from the lakes must register with the Department of Natural Resources (DNR). The program was funded for three years under the Michigan Great Lakes Protection Fund. These appropriations, however, will cease effective October, 1996. Legislation has therefore been proposed that would establish a new Water Use Protection Fund, which would be funded by fees imposed on all water use registrants.

***THE CONTENT OF THE BILL:***

House Bill 5875 would amend Part 327 of the Natural Resources and Environmental Protection Act (NREPA), which concerns Great Lakes Preservation, to -- among other provisions -- establish a Water Use Protection Fund, establish \$50 annual water use reporting fees, and require the Department of Environmental Quality (DEQ) and the Department of Agriculture to assess the reliability of annual irrigation water use data.

Deletions. Currently, under the act, a registration for an industrial, processing, or irrigation facility whose withdrawal will result in a consumptive use averaging in excess of 2,000,000 gallons per day in any consecutive 30-day period must provide, in addition to a statement and supporting documentation, information on the operating capacity of the withdrawal system identified in the registration; the total new or increased operating capacity of the withdrawal system; the estimated average annual and monthly rates of discharge or return flow; and a list of all federal, state, and local approvals, permits, licenses, and other authorizations required for the existing or proposed withdrawal of water from its source. House Bill 5875 would delete this provision.

Water Use Reporting Fees. Under the act, an owner of a registered industrial, processing, or irrigation facility must file an annual report with the DEQ containing statistics on the amount and rate of water withdrawn, and other information. A notification form may be submitted instead of a report if the annual amount of water withdrawn is within four percent of the amount last reported and the other information required in the report has not changed since the previous year. The bill would require, in addition, that a person filing the annual report would have to remit an annual water use reporting fee of \$50 to the department in conjunction with the annual report. The DEQ would transmit the fees collected under this provision to the state treasurer, to be credited to the Water Use Protection Fund.

Water Use Protection Fund. Water use reporting fees collected under the provisions of the bill would be deposited into the fund. The fund would also receive interest and earnings from fund investments and money or other assets from any source. Money from the fund could only be expended for the implementation and administration of Great Lakes preservation. The bill would also require that, by December 31, 1999, the DEQ conduct an assessment of the fund and report to the legislature on the overall number of irrigation and industrial or processing facilities registered in the program, the annual amount of water use reporting fees

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received by the fund, and the staff workload necessary to implement the provisions of the Great Lakes preservation requirements of the act, to determine if the amount of the annual water use reporting fees could be lowered. Money in the fund at the close of the fiscal year would remain in the fund and would not lapse into the general fund.

Annual Irrigation Water Use Data Report. Currently, the act requires that the DEQ and the Department of Agriculture, in consultation with the Cooperative Extension Service and the soil conservation districts, develop a formula or model to determine the amount of water withdrawn for agricultural purposes. The act also specifies that, for a period of not more than five years after December 21, 1990, a person using water for an agricultural purpose who withdraws over 100,000 gallons per day average in any consecutive 30-day period for irrigation must provide the location of the irrigation water source or sources, and other information as needed by the department in the calculations of the formula or model. House Bill 5875 would require, instead, that a person reporting the withdrawal of this water do so for a period of three years, beginning January 1, 1997, that the report include information on the type of crop irrigated and the acreage of each irrigated crop, and that it be submitted to county Soil Conservation Districts. The Soil Conservation districts and the Department of Agriculture would be required to use the model or formula developed to aggregate these data, and to provide county and watershed totals by water source to the DEQ by April 1st of each year for irrigation water use that occurred in the previous year. At the end of the three-year period, the DEQ and the Department of Agriculture would be required to assess the reliability of annual irrigation water use data and determine if reliable data could be deduced from surveys conducted every two or three years.

MCL 324.32701 et. al.

**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency (HFA) and the Department of Environmental Quality (DEQ), the program to exchange water use information with other Great Lakes states would be self-supporting. Water use reporting fees would generate approximately \$100,000 annually. In addition, the program's administrator has indicated that a \$300,000 reimbursement would be made to the Great Lakes Protection Fund, as compensation for funds used during the last three years of the program. (8-8-86)

**ARGUMENTS:**

**For:**

Under the Great Lakes Charter, all members of the charter must establish waster use reporting programs to demonstrate their future needs, as well as regional water usage. Participation by the states and provinces that border the Great Lakes is vital if the region is to defend itself against attempts to divert waters from the lakes. Such attempts have been made in the past, and are likely to be made again in the future, since many areas of the central and western United States have indicated that they will be in critical need of additional water supplies in the future. Michigan's water usage reporting program was previously funded through appropriations from the Michigan Great Lakes Protection Fund. No more appropriations from the fund have been granted beyond October, 1996. It is therefore necessary than a new program to fund Michigan's water use reporting program be established, as provided under the bill.

**POSITIONS:**

The Michigan Farm Bureau supports the bill. (8-20-96)

The Michigan Environmental Council (MEC) supports the bill. (8-12-96)

The Michigan United Conservation Clubs (MUCC) supports the bill. (8-12-96)

The Department of Environmental Quality (DEQ) supports the bill. (8-12-96)

Analyst: R. Young

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.