

Act No. 434
Public Acts of 1996
Approved by the Governor
December 2, 1996
Filed with the Secretary of State
December 2, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Reps. Brater, Bobier, Dolan, Bodem, Alley, Gagliardi, Middaugh, LaForge, Gire and Walberg
Reps. Profit, Agee, Baade, Brewer, DeHart, DeLange, DeMars, Jellema, Kukuk, Law, London, McNutt,
Murphy, Olshove, Price, Randall, Schroer, Scott, Tesanovich, Vaughn, Weeks and Wetters named
co-sponsors

ENROLLED HOUSE BILL No. 5875

AN ACT to amend the title and sections 32701, 32706, 32707, 32708, and 32712 of Act No. 451 of the Public Acts of 1994, 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, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," as added by Act No. 59 of the Public Acts of 1995, being sections 324.32701, 324.32706, 324.32707, 324.32708, and 324.32712 of the Michigan Compiled Laws; and to add section 32714.

- *The People of the State of Michigan enact:*

Section 1. The title and sections 32701, 32706, 32707, 32708, and 32712 of Act No. 451 of the Public Acts of 1994, as added by Act No. 59 of the Public Acts of 1995, being sections 324.32701, 324.32706, 324.32707, 324.32708, and 324.32712 of the Michigan Compiled Laws, are amended and section 32714 is added to read as follows:

TITLE

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts.

Sec. 32701. As used in this part:

- (a) "Agricultural purpose" means the agricultural production of forestry, livestock, food, feed, or fiber.
- (b) "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 other processes.
- (c) "Department" means the department of environmental quality.
- (d) "Great Lakes basin" means the watershed of the Great Lakes and the St. Lawrence river.

(e) "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.

(f) "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.

(g) "Industrial or processing facility" means an operating plant or other entity, including a thermoelectric power generation plant, carrying on a common manufacturing activity, trade, or business on a common site, including similar plants or entities under common ownership or control located on contiguous properties. Plants or entities under common ownership or control located on separate sites shall be considered separate facilities. Industrial or processing facility does not include an irrigation facility.

(h) "Irrigation facility" means all wells, pumps, intakes, gates, tanks, pipes, or other equipment under common ownership or control and located either on the same site or on separate sites, which are used to withdraw, convey, or distribute water for the purposes of irrigating golf courses, parks, recreational areas, or other grounds, but not including irrigation for an agricultural purpose.

(i) "Public water supply system" means a water system that provides water for human consumption or other purposes to persons other than the supplier of water.

(j) "Registrant" means any industrial or processing facility or irrigation facility registered under this part.

(k) "Water 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.

(l) "Withdrawal" means the removal of water from its source for any purpose, other than for hydroelectric generation at sites certified, licensed, or permitted by the federal energy regulatory commission.

Sec. 32706. Each registration under this part shall consist of a statement and supporting documentation that includes all of the following:

- (a) The place and source of the proposed or existing withdrawal.
- (b) The location of any discharge or return flow.
- (c) The location and nature of the proposed or existing water user.
- (d) The actual or estimated average annual and monthly volumes and rate of withdrawal.
- (e) The actual or estimated average annual and monthly volumes and rates of consumptive use from the withdrawal.

Sec. 32707. (1) Except as provided in subsection (2), a person who owns an industrial or processing facility or an irrigation facility registered under this section shall file a report annually with the department on a form provided by the department. The first report shall be submitted to the department by March 31, 1992. Subsequent reports shall be submitted within 3 months after the end of each calendar year. Reports shall include the following information:

- (a) Amount and rate of water withdrawn on an annual and monthly basis.
- (b) Source or sources of water supply.
- (c) Use or uses of water.
- (d) Amount of consumptive water use.
- (e) Other information specified by rule of the department.

(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, shall satisfy the reporting requirements of this section.

(3) The department shall, 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).

(4) 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.

(5) A person who files an annual report or notification pursuant to this section shall annually remit a water use reporting fee of \$50.00 to the department. Water use reporting fees shall be remitted to the department in conjunction with the annual report or notification submitted pursuant to 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.

Sec. 32708. (1) The department and the department of agriculture in consultation with the cooperative extension service and the soil conservation districts shall develop a formula or model to determine the amount of water withdrawn for agricultural purposes consistent with the objectives of section 32707. For a period of 3 years beginning January 1, 1997, a person using water for an agricultural purpose who withdraws over 100,000 gallons of water per day average in any consecutive 30-day period for irrigation shall provide information regarding the location and source of the water, the type of crop irrigated, and the acreage of each irrigated crop to the county soil conservation district. The soil conservation districts and the department of agriculture shall use the model or formula developed to aggregate these data and provide county and watershed totals by water source to the department by April 1 of each year for irrigation water use that occurred in the previous year.

(2) At the end of the 3-year period provided in subsection (1), the department and the department of agriculture shall assess the reliability of annual irrigation water use data and determine if reliable data could be deduced from surveys conducted every 2 or 3 years.

Sec. 32712. This part does not authorize the department to mandate any permit or to regulate the withdrawal of water covered under this part.

Sec. 32714. (1) The water use protection fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund, and shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse into the general fund.

(4) The department may expend money from the fund, upon appropriation, only for the implementation and administration of this part.

(5) By December 31, 1999, the department shall 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 received by the fund, and the staff workload necessary to implement this part, to determine if the amount of the annual water use reporting fees can be lowered.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.