

SENATE BILL No. 1197

March 12, 2002, Introduced by Senators SIKKEMA, NORTH, BYRUM, DE BEAUSSAERT, HAMMERSTROM, JOHNSON, GAST, STILLE, VAN REGENMORTER, SANBORN and GOSCHKA and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 328; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 PART 328 WATER WITHDRAWALS
- 2 SEC. 32801. AS USED IN THIS PART:
- 3 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
- 4 QUALITY.
- 5 (B) "ECOSYSTEM STATUS OF THE WATER SOURCE" MEANS THE INDI-
- 6 CATORS OF THE PHYSICAL, CHEMICAL, AND BIOLOGICAL INTEGRITY OF
- 7 THAT WATER SOURCE AND THE ECOSYSTEMS THAT DEPEND ON IT.
- 8 (C) "EXISTING USE" MEANS THE LEGAL WITHDRAWAL OF WATER AT
- 9 ANY TIME DURING THE 5 YEARS IMMEDIATELY PRECEDING THE EFFECTIVE

1 DATE OF THIS PART AT A SPECIFIC LOCATION IN A SPECIFIC AVERAGE
2 ANNUAL QUANTITY.

3 (D) "EXISTING USERS" MEANS A PERSON WHO HAS LEGALLY CARRIED
4 OUT AN EXISTING USE.

5 (E) "PERMIT" MEANS A WATER WITHDRAWAL PERMIT ISSUED UNDER
6 THIS PART.

7 (F) "RETURN FLOW" MEANS THE RETURN OF WATER TO THE WATERS OF
8 THE GREAT LAKES BASIN.

9 (G) "WATER-DEPENDENT NATURAL RESOURCES" MEANS THOSE SYSTEMS
10 OF PLANTS, ANIMALS, AND MICROORGANISMS, TOGETHER WITH THE NONLIV-
11 ING COMPONENT OF THEIR ENVIRONMENT, AND RELATED ECOLOGICAL PRO-
12 CESSES THAT ARE DEPENDENT ON WATER FOR THEIR SURVIVAL AND
13 WELL-BEING.

14 (H) "WATERS OF THE GREAT LAKES BASIN" MEANS THE SURFACE
15 WATERS AND GROUNDWATERS WITHIN OR UNDER THE GREAT LAKES SURFACE
16 WATERSHED AND THE GROUNDWATER OUTSIDE THE GREAT LAKES SURFACE
17 WATERSHED DETERMINED TO CONTRIBUTE TO THOSE WATERS OF THE GREAT
18 LAKES SURFACE WATERSHED. WATERS OF THE GREAT LAKES BASIN INCLUDE
19 ALL GROUNDWATER IN THE STATE.

20 (I) "WITHDRAWAL" OR "WITHDRAW" MEANS THE TAKING OF GROUNDWA-
21 TER FROM WHERE IT NATURALLY OCCURS.

22 SEC. 32802. BEGINNING JANUARY 1, 2003, A PERSON SHALL NOT
23 WITHDRAW GROUNDWATER WITHOUT A PERMIT IF THE WITHDRAWAL WILL
24 EXCEED 100,000 GALLONS PER DAY AVERAGED OVER 30 CONSECUTIVE DAYS.

25 SEC. 32803. EXCEPT AS PROVIDED IN SECTION 32804, A PERSON
26 WHO WISHES TO APPLY FOR A PERMIT SHALL SUBMIT AN APPLICATION TO

1 THE DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT. THE
2 APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING INFORMATION:

3 (A) THE PURPOSE OF THE WITHDRAWAL.

4 (B) THE LOCATION OF THE PROPOSED WELL SITE.

5 (C) THE CURRENT ECOSYSTEM STATUS OF THE WATER SOURCE THAT
6 WILL BE AFFECTED BY THE WITHDRAWAL.

7 (D) THE INFRASTRUCTURE THROUGH WHICH THE WATER IS TO BE
8 WITHDRAWN.

9 (E) THE MAXIMUM AND AVERAGE AMOUNT OF WATER TO BE WITHDRAWN
10 PER DAY, MONTH, AND YEAR.

11 (F) THE ESTIMATED AMOUNT OF WATER, TIMES OF THE YEAR, AND
12 PLACES THAT WITHDRAWN WATER WILL BE RETURNED TO THE LOCAL ECOSYS-
13 TEM AS RETURN FLOW.

14 (G) THE ESTIMATED CONDITION OF THE WATER TO BE WITHDRAWN AND
15 OF THE RETURN FLOW.

16 (H) THE FREQUENCY, DURATION, AND MONTHS OF THE YEAR FOR
17 WHICH THE WATER IS PROPOSED TO BE WITHDRAWN.

18 (I) THE REQUIREMENTS IMPOSED ON THE PROPOSED WATER WITH-
19 DRAWAL BY OTHER STATUTES, INCLUDING, BUT NOT LIMITED TO, THE FED-
20 ERAL WATER POLLUTION CONTROL ACT, CHAPTER 758, 86 STAT. 816, 33
21 U.S.C. 1251 TO 1252, 1253 TO 1254, 1255 TO 1257, 1258 TO 1263,
22 1265 TO 1270, 1273 TO 1274, 1281, 1282 TO 1293, 1294 TO 1301,
23 1311 TO 1313, 1314 TO 1330, 1341 TO 1346, 1361 TO 1375, 1376 TO
24 1377, AND 1381 TO 1387.

25 (J) THE EXPECTED RECHARGE RATE AND ESTIMATED AREA AND DEPTH
26 OF THE CONE OF DEPRESSION OF ANY AFFECTED AQUIFER.

1 (K) THE COURSE OF THE PROPOSED WITHDRAWAL AND THE OWNERSHIP
2 OF ALL LANDS UPON AND THROUGH WHICH THE PROPOSED WITHDRAWAL WILL
3 OCCUR, AND DOCUMENTATION OF ANY PERTINENT AGREEMENTS, EASEMENTS,
4 AND RIGHTS-OF-WAY OBTAINED FROM LANDOWNERS REGARDING THE
5 WITHDRAWAL.

6 (I) THE MEANS FOR MONITORING AND DOCUMENTING RETURN FLOW.

7 (M) THE ECOSYSTEM STATUS OF THE WATERS THAT WILL RECEIVE THE
8 RETURN FLOW, AND THE EXPECTED IMPACT OF RETURN FLOW ON THAT
9 STATUS.

10 (N) THE APPLICANT'S NEED FOR THE WATER PROPOSED TO BE WITH-
11 DRAWN, AND THE ALTERNATIVES TO THE WITHDRAWAL THAT THE APPLICANT
12 HAS INVESTIGATED.

13 (O) MEASURES THAT WILL BE TAKEN BY THE APPLICANT TO DO BOTH
14 OF THE FOLLOWING:

15 (i) IMPLEMENT ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASI-
16 BLE WATER CONSERVATION MEASURES.

17 (ii) IMPROVE THE WATERS OF THE GREAT LAKES BASIN AND THE
18 WATER-DEPENDENT NATURAL RESOURCES OF THE GREAT LAKES BASIN.

19 SEC. 32805. UPON RECEIPT OF A PERMIT APPLICATION UNDER
20 SECTION 32803, THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

21 (A) PUBLISH NOTICE OF THE APPLICATION IN THE MICHIGAN
22 REGISTER AND POST THE NOTICE ON THE DEPARTMENT'S WEBSITE.

23 (B) IF THE APPLICATION PROPOSES A RETURN FLOW, NOTIFY ALL
24 LOCAL UNITS OF GOVERNMENT AS TO THE RETURN FLOW PROCESS.

25 (C) MAKE THE NOTICE AND PROPOSED PERMIT PUBLICLY AVAILABLE
26 FOR A MINIMUM OF 30 DAYS FOR PUBLIC COMMENT ON THE APPROVAL OR
27 REJECTION OF THE APPLICATION.

1 (D) CONSIDER ALL TIMELY COMMENTS SUBMITTED BY THE PUBLIC.

2 (E) IF REQUESTED BY ANY AFFECTED PERSON, HOLD A HEARING
3 PRIOR TO DECIDING WHETHER TO ISSUE A PERMIT.

4 (F) IN ADDITION TO THE NOTICE PROVIDED TO THE PUBLIC, NOTIFY
5 ALL INDIAN TRIBES OF A PROPOSED WITHDRAWAL IF THE WITHDRAWAL MAY
6 AFFECT THEIR TRIBALLY OWNED LANDS OR TREATY-CEDED TERRITORIES OR
7 THE WATERS THAT RUN THROUGH THOSE LANDS AND TERRITORIES.

8 SEC. 32806. (1) THE DEPARTMENT SHALL NOT APPROVE A PERMIT
9 APPLICATION UNDER SECTION 32803 UNLESS THE APPLICANT CAN DEMON-
10 STRATE THAT THE WITHDRAWAL WILL MEET ALL OF THE FOLLOWING STAN-
11 DARDS AND THE DEPARTMENT MAKES THESE STANDARDS A CONDITION OF THE
12 PERMIT:

13 (A) THERE IS A DEMONSTRATED NEED FOR THE PROPOSED
14 WITHDRAWAL.

15 (B) THE WITHDRAWAL AND ITS ASSOCIATED USE OR TRANSPORT OF
16 WATER WILL PREVENT OR MINIMIZE WATER LOSS FROM THE WATERSHED
17 THROUGH RETURN FLOW AND IMPLEMENTATION OF ENVIRONMENTALLY SOUND
18 AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES.

19 (C) THE WITHDRAWAL WILL RESULT IN NO SIGNIFICANT ADVERSE
20 INDIVIDUAL OR CUMULATIVE IMPACTS TO THE QUANTITY AND QUALITY OF
21 THE WATERS OF THE GREAT LAKES BASIN AND WATER-DEPENDENT NATURAL
22 RESOURCES OF THE GREAT LAKES BASIN.

23 (D) THE WITHDRAWAL WILL NOT ADVERSELY AFFECT OTHER USERS OF
24 THE SAME AQUIFER.

25 (E) THE WITHDRAWAL IS CONSISTENT WITH THE FUTURE WATER USE
26 NEEDS IDENTIFIED IN ANY MASTER LAND USE OR ZONING PLAN ADOPTED BY

1 THE LOCAL UNIT OF GOVERNMENT IN WHICH THE WITHDRAWAL IS
2 PROPOSED.

3 (2) A PERMIT THAT IS ISSUED UNDER THIS PART IS SUBJECT TO
4 ALL OF THE FOLLOWING:

5 (A) THE PERMIT SHALL BE ISSUED FOR A PERIOD OF 10 YEARS.
6 UPON EXPIRATION OF THE PERMIT, A PERSON WHO WISHES TO RENEW HIS
7 OR HER PERMIT SHALL SUBMIT AN APPLICATION AS PROVIDED FOR IN
8 SECTION 32803.

9 (B) THE PERMIT IS NOT ASSIGNABLE OR TRANSFERABLE UNLESS IT
10 IS ASSIGNED OR TRANSFERRED IN CONJUNCTION WITH MAINTAINING THE
11 SAME USE OF WATER IN THE SAME LOCATION.

12 (C) THE PERMIT SHALL REQUIRE THE APPLICANT TO COMPLY WITH
13 ALL APPLICABLE LAWS.

14 (3) A PERSON WHO IS ADVERSELY AFFECTED BY A DECISION OF THE
15 DEPARTMENT TO ISSUE OR DENY A PERMIT UNDER THIS SECTION MAY
16 DEMAND A CONTESTED CASE HEARING UNDER THE ADMINISTRATIVE PROCE-
17 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

18 Enacting section 1. Sections 32705, 32706, 32707, 32708,
19 32709, 32711, and 32712 of the natural resources and environmen-
20 tal protection act, 1994 PA 451, MCL 324.32705, 324.32706,
21 324.32707, 324.32708, 324.32709, 324.32711, and 324.32712, are
22 repealed.

23 Enacting section 2. This amendatory act does not take
24 effect unless all of the following bills of the 91st Legislature
25 are enacted into law:

26 (a) Senate Bill No. 1198.

27

1 (b) Senate Bill No. 1199.

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3 (c) Senate Bill No. 1200.

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