

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 289 (Substitute S-3)
Sponsor: Senator Patricia L. Birkholz
Committee: Natural Resources and Environmental Affairs

Date Completed: 4-29-03

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to do the following:

- **Require the Department of Environmental Quality (DEQ) to prepare a Statewide groundwater inventory and map within two years after the bill's effective date.**
- **Create the Groundwater Advisory Council within the DEQ to study the sustainability of the State's groundwater use, monitor implementation the Great Lakes Charter Annex 2001, and make recommendations on statutory conformance.**
- **Increase water use reporting fees for industrial, processing, and irrigation facilities with a capacity to pump over 100,000 gallons per day from \$50 to \$100, and require that the fees be used in part to prepare the groundwater inventory and map.**
- **Require agricultural irrigation facilities with a capacity to pump over 100,000 gallons a day either to register with the DEQ and pay the water use reporting fee, or to submit a water use conservation plan to the Michigan Department of Agriculture (MDA).**
- **Require the MDA to use the information in the conservation plan to determine an estimate of water use and consumptive use data for each township in the State, and then forward the data to the DEQ for inclusion in the groundwater inventory and map.**
- **Require the DEQ, the MDA, and Michigan State University to validate and use a formula or model to estimate the consumptive use of withdrawals made for agricultural purposes.**
- **Expand the definition of "agricultural purpose".**

The bill is tie-barred to House Bill 4087, which would require the DEQ Director or the MDA Director to investigate and resolve complaints about groundwater withdrawal conflicts.

100,000-Gallon Facilities

Registration. Currently, the Act requires that owners of industrial or processing facilities or irrigation facilities register with the DEQ if the facilities have the capacity to withdraw over 100,000 gallons of water per day from the waters of the Great Lakes basin in any consecutive 30-day period. This requirement would continue under the bill.

Report. The Act provides that facilities required to register with the DEQ must submit to the Department an annual report stating the rate of water withdrawn on an annual and monthly basis, the source of the water supply, the use of the water, and the amount of consumptive water use. The bill would require that this report also contain the amount of water withdrawn on an annual and monthly basis; and the location of the well or wells from which the water was withdrawn in latitude and longitude collected using a global positioning system having a wide area augmentation system capable receiver with accuracy to within 15 feet.

Fee. Currently, owners of facilities who file the required annual report must remit a water use reporting fee of \$50 to the DEQ. The bill would increase the fee to \$100. The Act provides that money collected from the fee be credited to the Water Use Protection Fund, which the DEQ may use only for implementation and administration of Part 327 (Great Lakes Preservation). Under the bill, money in the Fund also could be used for the preparation for the Statewide groundwater inventory and map required under the bill.

Agricultural Facilities

Conservation Plan. Currently, the term "irrigation facility" does not include irrigation for an agricultural purpose, which means that the registration, reporting, and fee requirements described above do not apply to agricultural irrigation facilities. Under the bill, "irrigation facility" would include irrigation for an agricultural purpose, and an irrigation facility that was irrigating solely for an agricultural purpose would have to register and report beginning one year after the bill's effective date. The registration, reporting, and fee requirements would not apply, however, if the owner of an agricultural irrigation facility registered with the MDA by submitting the farm address and a water use conservation plan to the MDA, beginning one year after the effective date of the bill. The conservation plan would have to include all of the following information: the amount and rate of water withdrawn on an annual and monthly basis in either gallons or acre inches; the type of crop irrigated; the acreage of each irrigated crop; and the source or sources of the water supply. The MDA would have to use this information to determine an estimate of water use and consumptive use data for each township in the State. The MDA would have to forward the township water use and consumptive use data to the DEQ for inclusion in the Statewide groundwater inventory and map.

Definition. Currently, the Act defines "agricultural purpose" as the agricultural production of forestry, livestock, food, feed, or fiber. The bill would define it as the agricultural production of those plants and animals useful to human beings produced by agriculture and including, but not limited to, forages and sod crops, grains and feed crops, field crops, dairy 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 Michigan Commission of Agriculture, that incorporated the use of food, feed, fiber, or fur.

Groundwater Inventory & Map

Under the bill, the DEQ would have to use existing sources of groundwater data, where available, to prepare a Statewide groundwater inventory and map within two years after the bill's effective date. The Department would have to use the information reported by the industrial or processing facilities and irrigation facilities, as well as information reported under the Safe Drinking Water Act. The DEQ could supplement the data through additional studies if the data were incomplete.

Following completion of the initial statewide groundwater inventory and map, the DEQ would have to update the inventory and map as new information became available. The Department would have to include in the inventory and map data on all of the following:

- Location and water yielding capabilities of aquifers in the State.
- Aquifer recharge rates in the State.
- Static water levels of groundwater in the State.
- Base flow of rivers and streams in the State.
- Conflict areas in the State.
- Surface waters, including designated trout lakes and streams, that were identified on the natural features inventory (maintained by the Department of Natural Resources (DNR)).

- The location and pumping capacity of all industrial, processing, or irrigation facilities required to be registered under the Act, as well as the location of public water supply systems that having the capacity to withdraw over 100,000 gallons of groundwater per day average in any consecutive 30-day period.
- Aggregate agricultural water use and consumptive use, by township.

The DEQ would have to make the map and inventory available to the general public.

(The bill would define "groundwater" as water below the land surface in a zone of saturation. "Aquifer" would be any water bearing bed or stratum of earth or rock capable of yielding groundwater to water well in sufficient quantities that could be withdrawn. "Base flow" would mean groundwater discharge to rivers and streams. "Conflict areas" would mean an aquifer or a portion of an aquifer in which the DEQ had determined that there was reasonable, clear and convincing, scientifically based evidence of a pattern of groundwater withdrawal conflicts, or a single extended groundwater withdrawal conflict.

"Groundwater withdrawal conflict" would mean the failure of an existing water well that was constructed in compliance with Part 127 of the Public Health Code (Water Supply and Sewer Systems) to furnish its normal supply of groundwater because of a progressive decline of the static water level within the aquifer due to the withdrawal of groundwater from the aquifer by a high-capacity well or sump, as determined based on reasonable, clear and convincing, scientifically based evidence. "Static water level" would mean the distance between the ground surface and the water level within a well that was not being pumped, or was not under the influence of a well that was being pumped.)

Advisory Council

The bill would create the Groundwater Conservation Advisory Council within the DEQ. The Council would have to consist of all of the following members:

- Three individuals appointed by the Senate Majority Leader representing business interests, utilities, and conservation organizations.
- Three individuals appointed by the Speaker of the House of Representatives representing well drilling contractors, local units of government, and agricultural interests.
- Three individuals representing the DEQ, the MDA, and the DNR.
- Four individuals appointed by the Director of the DEQ representing nonagricultural irrigators, the aggregate industry, environmental organizations, and the general public.

The Council would have to do both of the following: 1) study the sustainability of the State's groundwater use and whether the State should provide additional oversight of groundwater withdrawals, and 2) monitor Annex 2001 implementation efforts and make recommendations on Michigan's statutory conformance with Annex 2001, including whether groundwater withdrawals should be subject to best management practices or certification requirements and whether groundwater withdrawals had an impact on water-dependent natural features.

(The bill would define "Annex 2001" as the Great Lakes Charter Annex signed by the governors and premiers of the Great Lakes region on June 18, 2001.)

Within two years after the bill's effective date, the Council would have to submit a report on its findings and recommendations to the Senate Majority Leader, the Speaker of the House, and the standing committees of the Legislature with jurisdiction primarily related to natural resources and the environment. The Council would be disbanded effective six months after it submitted its findings and recommendations.

FISCAL IMPACT

The bill would double the current water use reporting fee from \$50 to \$100 annually. Revenue from the fee would double from \$46,805 in FY 2001-02 to \$93,610. According to data provided by the Department, the program requires approximately \$150,000 to operate. The remaining costs are supported by the General Fund.

The bill would require the development of a Statewide groundwater inventory within two years of the bill's effective date. While maintenance of the database would be considered part of the program and factored into the fee structure, implementation costs could require additional appropriations. The bill would allow revenue from the water use reporting fee to be used for preparation of the Statewide groundwater inventory.

Agricultural irrigation facilities are currently exempt from paying water use reporting fees and the bill would maintain that exemption if the facility registered with the Department of Agriculture.

Fiscal Analyst: Jessica Runnels