

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5067

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 32706c and 32706d;
and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 32706C. (1) IF THE ASSESSMENT TOOL DETERMINES THAT A
2 PROPOSED WITHDRAWAL IS A ZONE B WITHDRAWAL IN A COLD-TRANSITIONAL
3 RIVER SYSTEM, OR A ZONE C OR ZONE D WITHDRAWAL, THE PROPERTY OWNER
4 SHALL SUBMIT TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC
5 REVIEW. ADDITIONALLY, IF THE ASSESSMENT TOOL DETERMINES THAT A
6 PROPOSED WITHDRAWAL IS A ZONE A WITHDRAWAL, OR A ZONE B WITHDRAWAL
7 IN A COOL RIVER SYSTEM OR A WARM RIVER SYSTEM AND THE PROPERTY
8 OWNER WISHES TO HAVE A SITE-SPECIFIC REVIEW, THE PROPERTY OWNER MAY

1 SUBMIT TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC REVIEW. A
2 REQUEST FOR A SITE-SPECIFIC REVIEW SHALL BE SUBMITTED TO THE
3 DEPARTMENT IN A FORM REQUIRED BY THE DEPARTMENT AND SHALL INCLUDE
4 ALL OF THE FOLLOWING:

5 (A) THE INFORMATION DESCRIBED IN SECTION 32706A(3).

6 (B) THE INTENDED MAXIMUM MONTHLY AND ANNUAL VOLUMES AND RATES
7 OF THE PROPOSED WITHDRAWAL, IF DIFFERENT FROM THE CAPACITY OF THE
8 EQUIPMENT USED FOR MAKING THE PROPOSED WITHDRAWAL.

9 (C) IF THE AMOUNT AND RATE OF THE PROPOSED WITHDRAWAL WILL
10 HAVE SEASONAL FLUCTUATIONS, THE RELEVANT INFORMATION RELATED TO THE
11 SEASONAL USE OF THE PROPOSED WITHDRAWAL.

12 (D) A DESCRIPTION OF HOW THE WATER WILL BE USED AND THE
13 LOCATION, AMOUNT, AND RATE OF ANY RETURN FLOW.

14 (E) ANY OTHER INFORMATION THE PROPERTY OWNER WOULD LIKE THE
15 DEPARTMENT TO CONSIDER IN MAKING ITS DETERMINATION UNDER THIS
16 SECTION.

17 (2) UPON RECEIPT OF A REQUEST FOR A SITE-SPECIFIC REVIEW, THE
18 DEPARTMENT SHALL CONSIDER THE INFORMATION SUBMITTED TO THE
19 DEPARTMENT UNDER SUBSECTION (1) AND SHALL CONSIDER THE ACTUAL
20 STREAM OR RIVER FLOW DATA OF ANY AFFECTED STREAM REACH. THE
21 DEPARTMENT SHALL ALSO APPLY THE DRAINAGE AREA AGGREGATION STANDARDS
22 PROVIDED IN SECTION 32706A(2)(A), (B), AND (C), IF APPLICABLE, AND
23 ACCOUNT FOR CUMULATIVE WITHDRAWALS AS PROVIDED FOR IN SECTION
24 32706E. THE DEPARTMENT SHALL NOT RELY ON THE ASSESSMENT TOOL'S
25 DETERMINATION IN MAKING ITS DETERMINATION UNDER A SITE-SPECIFIC
26 REVIEW.

27 (3) THE DEPARTMENT SHALL COMPLETE ITS SITE-SPECIFIC REVIEW

1 WITHIN 10 WORKING DAYS OF SUBMITTAL OF A REQUEST FOR A SITE-
2 SPECIFIC REVIEW. IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-
3 SPECIFIC REVIEW, THAT THE PROPOSED WITHDRAWAL IS A ZONE A OR A ZONE
4 B WITHDRAWAL, THE DEPARTMENT SHALL PROVIDE WRITTEN NOTIFICATION TO
5 THE PROPERTY OWNER AND THE PROPERTY OWNER MAY REGISTER THE
6 WITHDRAWAL AND MAY PROCEED WITH THE WITHDRAWAL.

7 (4) SUBJECT TO SUBSECTION (5), IF THE DEPARTMENT DETERMINES IN
8 CONDUCTING A SITE-SPECIFIC REVIEW THAT THE PROPOSED WITHDRAWAL IS A
9 ZONE C WITHDRAWAL, THE PROPERTY OWNER MAY REGISTER THE WITHDRAWAL
10 AND PROCEED TO MAKE THE WITHDRAWAL IF THE PROPERTY OWNER SELF-
11 CERTIFIES THAT HE OR SHE IS IMPLEMENTING APPLICABLE ENVIRONMENTALLY
12 SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES
13 PREPARED UNDER SECTION 32708A THAT THE PROPERTY OWNER CONSIDERS TO
14 BE REASONABLE OR HAS SELF-CERTIFIED THAT HE OR SHE IS IMPLEMENTING
15 APPLICABLE ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER
16 CONSERVATION MEASURES DEVELOPED FOR THE WATER USE ASSOCIATED WITH
17 THAT SPECIFIC WITHDRAWAL THAT THE PROPERTY OWNER CONSIDERS TO BE
18 REASONABLE.

19 (5) EXCEPT FOR WITHDRAWALS EXEMPT FROM OBTAINING A WATER
20 WITHDRAWAL PERMIT UNDER SECTION 32723, IF A SITE-SPECIFIC REVIEW
21 DETERMINES THAT A PROPOSED WITHDRAWAL IS A ZONE C WITHDRAWAL WITH
22 CAPACITY IN EXCESS OF 1,000,000 GALLONS OF WATER PER DAY FROM THE
23 WATERS OF THE STATE TO SUPPLY A COMMON DISTRIBUTION SYSTEM, THE
24 PERSON PROPOSING THE WITHDRAWAL SHALL NOT REGISTER THE WITHDRAWAL
25 AND SHALL NOT PROCEED WITH MAKING THE WITHDRAWAL UNLESS THE PERSON
26 OBTAINS A WATER WITHDRAWAL PERMIT UNDER SECTION 32723.

27 (6) IF THE DEPARTMENT DETERMINES, BASED UPON A SITE-SPECIFIC

1 REVIEW, THAT THE PROPOSED WITHDRAWAL IS A ZONE D WITHDRAWAL, THE
2 PROPERTY OWNER SHALL NOT REGISTER THE WITHDRAWAL AND SHALL NOT MAKE
3 THE WITHDRAWAL UNLESS HE OR SHE APPLIES FOR A WATER WITHDRAWAL
4 PERMIT UNDER SECTION 32723 AND THE WITHDRAWAL IS AUTHORIZED UNDER
5 THAT SECTION.

6 (7) AFTER A PROPERTY OWNER REGISTERS A WITHDRAWAL FOLLOWING A
7 SITE-SPECIFIC REVIEW, IF, IN DEVELOPING THE CAPACITY TO MAKE THE
8 WITHDRAWAL, THE CONDITIONS OF THE WITHDRAWAL DEVIATE FROM THE
9 SPECIFIC DATA THAT WERE EVALUATED IN THE SITE-SPECIFIC REVIEW, THE
10 PROPERTY OWNER SHALL NOTIFY THE DEPARTMENT OF THE CORRECTED DATA
11 AND THE DEPARTMENT SHALL CONFIRM ITS DETERMINATION UNDER THE SITE-
12 SPECIFIC REVIEW. IF THE CORRECTED DATA DO NOT CHANGE THE
13 DETERMINATION UNDER THE SITE-SPECIFIC REVIEW, THE PROPERTY OWNER
14 MAY PROCEED WITH THE WITHDRAWAL. IF THE CORRECTED DATA CHANGE THE
15 DETERMINATION UNDER THE SITE-SPECIFIC REVIEW, THE PROPERTY OWNER
16 SHALL PROCEED UNDER THE PROVISIONS OF THIS PART RELATED TO THE
17 CORRECTED DETERMINATION.

18 (8) SUBJECT TO SUBSECTION (9), PRIOR TO THE IMPLEMENTATION
19 DATE OF THE ASSESSMENT TOOL UNDER SECTION 32706A, A PROPERTY OWNER
20 PROPOSING TO DEVELOP WITHDRAWAL CAPACITY ON HIS OR HER PROPERTY TO
21 MAKE A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL MAY SUBMIT TO THE
22 DEPARTMENT A REQUEST FOR AN INTERIM SITE-SPECIFIC REVIEW UNDER THIS
23 SUBSECTION TO DETERMINE WHETHER OR NOT THE PROPOSED WITHDRAWAL IS
24 LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT. THE DEPARTMENT, UPON
25 REQUEST, SHALL CONDUCT AN INTERIM SITE-SPECIFIC REVIEW UNDER THIS
26 SUBSECTION WITHIN A REASONABLE TIME PERIOD NOT TO EXCEED 30 DAYS
27 BASED UPON AN EVALUATION OF REASONABLY AVAILABLE INFORMATION. FOR

PURPOSES OF THIS PART, A DETERMINATION UNDER AN INTERIM SITE-SPECIFIC REVIEW UNDER THIS SUBSECTION SHALL BE AFFORDED THE SAME STATUS AS A SITE-SPECIFIC REVIEW OTHERWISE CONDUCTED UNDER THIS SECTION.

(9) EXCEPT FOR WITHDRAWALS EXEMPT FROM OBTAINING A PERMIT UNDER SECTION 32723, A PROPERTY OWNER WHO, PRIOR TO THE IMPLEMENTATION OF THE ASSESSMENT TOOL UNDER SECTION 32706A, INTENDS TO DEVELOP WITHDRAWAL CAPACITY ON HIS OR HER PROPERTY TO MAKE A NEW OR INCREASED LARGE QUANTITY WITHDRAWAL OF MORE THAN 1,000,000 GALLONS OF WATER PER DAY FROM THE WATERS OF THE STATE TO SUPPLY A COMMON DISTRIBUTION SYSTEM SHALL OBTAIN AN INTERIM SITE-SPECIFIC REVIEW UNDER SUBSECTION (8). IF THE INTERIM SITE-SPECIFIC REVIEW DETERMINES THAT THE PROPOSED WITHDRAWAL IS A ZONE C WITHDRAWAL, THE PROPERTY OWNER SHALL NOT PROCEED WITH MAKING THE WITHDRAWAL UNLESS THE PERSON OBTAINS A WATER WITHDRAWAL PERMIT UNDER SECTION 32723.

SEC. 32706D. (1) THE DEPARTMENT SHALL DEVELOP A PROTOCOL FOR THE COLLECTION OF STREAM OR RIVER FLOW MEASUREMENTS BY PERSONS OTHER THAN THE DEPARTMENT FOR USE BY THE DEPARTMENT IN THE ADMINISTRATION OF THIS PART. THE PROTOCOL MAY SPECIFY A MINIMUM NUMBER OF MEASUREMENTS, STREAM OR RIVER FLOW AND WEATHER CONDITIONS WHEN THE MEASUREMENTS ARE TO BE MADE, AND ANY OTHER CONDITIONS NECESSARY TO ENSURE THE ADEQUACY AND QUALITY OF THE MEASUREMENTS. THE PROTOCOL SHALL ENSURE THAT STREAM OR RIVER FLOW MEASUREMENTS COLLECTED FOR THIS PURPOSE MEET THE SAME DATA QUALITY STANDARDS AS STREAM OR RIVER FLOW MEASUREMENTS COLLECTED BY THE UNITED STATES GEOLOGICAL SURVEY. THE DEPARTMENT SHALL CONSULT WITH THE UNITED STATES GEOLOGICAL SURVEY AND OTHER RECOGNIZED SCIENTIFIC EXPERTS IN

1 DEVELOPING THIS PROTOCOL.

2 (2) THE DEPARTMENT MAY USE STREAM OR RIVER FLOW DATA COLLECTED
3 USING THE PROTOCOL UNDER SUBSECTION (1) IN CONDUCTING SITE-SPECIFIC
4 REVIEWS, IN MAKING WATER WITHDRAWAL PERMIT DECISIONS UNDER SECTION
5 32723, IN ISSUING PERMITS UNDER THE SAFE DRINKING WATER ACT, 1976
6 PA 399, MCL 325.1001 TO 325.1023, IN UPDATING THE WATER WITHDRAWAL
7 ASSESSMENT TOOL AS APPROPRIATE, OR IN OTHER ACTIONS REQUIRING AN
8 EVALUATION OF STREAM OR RIVER FLOW.

9 (3) THE DEPARTMENT MAY ESTABLISH A PROGRAM TO TRAIN AND
10 CERTIFY INDIVIDUALS IN THE COLLECTION OF STREAM OR RIVER FLOW
11 MEASUREMENTS. THE DEPARTMENT SHALL CHARGE A FEE SUFFICIENT TO
12 REIMBURSE THE DEPARTMENT FOR THE COST OF A PROGRAM DEVELOPED UNDER
13 THIS SUBSECTION. THE DEPARTMENT MAY ENTER INTO A COOPERATIVE
14 AGREEMENT WITH THE UNITED STATES GEOLOGICAL SURVEY TO PROVIDE
15 TRAINING AND CERTIFICATION UNDER THIS SECTION.

16 Enacting section 1. Section 32724 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.32724, is
18 repealed.

19 Enacting section 2. This amendatory act does not take effect
20 unless all of the following bills of the 94th Legislature are
21 enacted into law:

22 (a) Senate Bill No. 212.

23 (b) Senate Bill No. 723.

24 (c) Senate Bill No. 727.

25 (d) Senate Bill No. 858.

26 (e) Senate Bill No. 859.

27 (f) Senate Bill No. 860.

- 1 (g) House Bill No. 4343.
- 2 (h) House Bill No. 5065.
- 3 (i) House Bill No. 5066.
- 4 (j) House Bill No. 5069.
- 5 (k) House Bill No. 5073.