

**SUBSTITUTE FOR
HOUSE BILL NO. 6123**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32801 and 32803 (MCL 324.32801 and 324.32803),
as amended by 2008 PA 189.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32801. As used in this part:

2 (a) "Annex 2001" means the Great Lakes charter annex signed by
3 the governors and premiers of the Great Lakes region on June 18,
4 2001.

5 (b) "Aquifer" means any water bearing bed or stratum of earth
6 or rock capable of yielding groundwater to a water well in
7 sufficient quantities that can be withdrawn.

1 **(C) "ASSESSMENT TOOL" MEANS THE WATER WITHDRAWAL ASSESSMENT**
2 **TOOL PROVIDED FOR IN PART 327.**

3 **(D)** ~~(e)~~—"Base flow" means groundwater discharge to rivers and
4 streams.

5 **(E)** ~~(d)~~—"Conflict areas" means an aquifer or a portion of an
6 aquifer in which the department has determined that there is
7 reasonable, scientifically based evidence of a pattern of
8 groundwater withdrawal conflicts or a single extended groundwater
9 withdrawal conflict.

10 **(F)** ~~(e)~~—"Council" means the water ~~resources conservation~~ **USE**
11 advisory council created under section 32803.

12 **(G)** ~~(f)~~—"Department" means the department of environmental
13 quality.

14 **(H)** ~~(g)~~—"Director" means the director of the department.

15 **(I)** ~~(h)~~—"Groundwater" means water below the land surface in a
16 zone of saturation.

17 **(J)** ~~(i)~~—"Groundwater withdrawal conflict" means the failure of
18 an existing water well that was constructed in compliance with part
19 127 of the public health code, 1978 PA 368, MCL 333.12701 to
20 333.12771, to furnish its normal supply of groundwater because of a
21 progressive decline of the static water level within the aquifer
22 due to the withdrawal of groundwater from the aquifer by a high-
23 capacity well or sump, as determined based on reasonable,
24 scientifically based evidence.

25 **(K)** ~~(j)~~—"Static water level" means the distance between the
26 ground surface and the water level within a well that is not being
27 pumped.

1 Sec. 32803. (1) The water ~~resources conservation~~**USE** advisory
2 council is created within the department. ~~of natural resources.~~The
3 council shall consist of all of the following members:

4 (a) Four individuals appointed by the senate majority leader
5 as follows:

6 (i) One individual representing business and manufacturing
7 interests.

8 (ii) One individual representing public utilities.

9 (iii) One individual representing a statewide angler
10 association.

11 (iv) One individual representing a statewide agricultural
12 organization.

13 (b) Four individuals appointed by the speaker of the house of
14 representatives as follows:

15 (i) One individual representing registered well drilling
16 contractors with hydrology **AND DRILLING FIELD** experience.

17 (ii) One individual representing local units of government.

18 (iii) One individual representing agricultural
19 ~~interests.~~**IRRIGATORS.**

20 (iv) One individual ~~with knowledge and expertise in~~
21 ~~limnology.~~**REPRESENTING WETLANDS CONSERVATION ORGANIZATIONS.**

22 (c) Five individuals appointed by the governor as follows:

23 (i) One individual representing municipal water suppliers.

24 (ii) One individual representing a statewide conservation
25 organization.

26 (iii) One individual representing a statewide riparian
27 landowners association.

1 (iv) One individual representing a ~~statewide tourism~~
 2 ~~organization~~. **PROFESSIONAL HYDROLOGISTS AND HYDROGEOLOGISTS, AS**
 3 **DEFINED IN SECTION 32706C, WITH HYDROGEOLOGY FIELD EXPERIENCE.**

4 (v) One individual representing Indian tribes.

5 (d) Four individuals appointed by the director as follows:

6 (i) One individual representing nonagriculture irrigators.

7 (ii) One individual representing the aggregate industry.

8 (iii) One individual representing environmental organizations.

9 (iv) One individual representing ~~the general public~~. **LOCAL**
 10 **WATERSHED COUNCILS.**

11 (e) ~~Four~~ **SIX** individuals **SERVING AS EX OFFICIO, NONVOTING**
 12 **MEMBERS**, representing the department, the department of agriculture
 13 **AND RURAL DEVELOPMENT**, the department of natural resources, **THE**
 14 **OFFICE OF THE GREAT LAKES, THE MICHIGAN GEOLOGICAL SURVEY**, and the
 15 attorney general.

16 (2) The appointments to the council under subsection (1) shall
 17 be made not later than ~~30~~ **60** days after the effective date of the
 18 **2018** amendatory act that ~~added this subsection~~. **AMENDED THIS**
 19 **SECTION**. The ~~person~~ **INDIVIDUAL** making the appointment under
 20 subsection (1) shall give consideration and deference to
 21 individuals ~~who served~~ **CURRENTLY SERVING** on the ~~former groundwater~~
 22 ~~conservation~~ **DEPARTMENT'S WATER USE** advisory council.

23 (3) **AN INDIVIDUAL APPOINTED TO THE COUNCIL SHALL SERVE FOR A**
 24 **TERM OF 4 YEARS, AND MAY BE REAPPOINTED. INDIVIDUALS APPOINTED TO**
 25 **THE COUNCIL SERVE WITHOUT COMPENSATION. A VACANCY ON THE COUNCIL**
 26 **SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.**

27 (4) **THE COUNCIL MAY ELECT CO-CHAIRS, FORM COMMITTEES, SET**

1 MEETING SCHEDULES AND WORK PLANS TO ADDRESS THE COUNCIL'S
2 RESPONSIBILITIES AS PROVIDED BY LAW, ADDRESS CHARGES FROM THE
3 DEPARTMENT, AND ESTABLISH PRIORITIES. MEMBERS OF THE COUNCIL MAY
4 PARTICIPATE IN ANY COMMITTEES CREATED BY THE COUNCIL. MEMBERS OF
5 THE COUNCIL SHALL STRIVE TO MAKE RECOMMENDATIONS BY CONSENSUS VOTE,
6 AND MAY SUBMIT OPPOSITION STATEMENTS THAT MUST BE INCLUDED IN THE
7 COUNCIL'S REPORT UNDER SUBSECTION (7).

8 (5) ~~(3)~~—The council shall ~~shall~~ **MAY** appoint a ~~technical advisory~~
9 ~~committee of individuals~~ **ADVISORS** with specific **SCIENTIFIC**,
10 technical, and ~~legal~~, **AND SIMILAR** expertise relevant to the
11 council's responsibilities. **TECHNICAL ADVISORS MAY PARTICIPATE IN**
12 **ANY COUNCIL MEETINGS, COMMITTEES, OR SUBGROUPS CREATED BY THE**
13 **COUNCIL BUT SHALL NOT VOTE ON RECOMMENDATIONS MADE BY THE COUNCIL**
14 **TO THE DEPARTMENT OR LEGISLATURE UNDER SUBSECTION (7).**

15 (6) **A MEETING OF THE COUNCIL MUST BE HELD IN COMPLIANCE WITH**
16 **THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.**

17 (7) ~~(4)~~—The council shall do all of the following:

18 ~~— (a) Not later than 6 months after the effective date of the~~
19 ~~amendatory act that added this subdivision, study and make~~
20 ~~recommendations to the senate majority leader, the speaker of the~~
21 ~~house of representatives, and the standing committees of the~~
22 ~~legislature with jurisdiction primarily related to natural~~
23 ~~resources and the environment, and the department on how the~~
24 ~~assessment tool could be updated to reconcile differences between~~
25 ~~baseline capacity and actual withdrawal amounts to assure the~~
26 ~~accuracy of the assessment tool's determinations.~~

27 ~~— (b) When the department makes the assessment tool available~~

1 ~~for testing and evaluation, conduct testing and evaluate the~~
 2 ~~operation and the accuracy of the assessment tool, including~~
 3 ~~implications of section 32706e. Not later than 9 months after the~~
 4 ~~effective date of the amendatory act that added this subdivision,~~
 5 ~~submit a report to the senate majority leader, the speaker of the~~
 6 ~~house of representatives, and the standing committees of the~~
 7 ~~legislature with jurisdiction primarily related to natural~~
 8 ~~resources and the environment, and the department that contains the~~
 9 ~~results of its testing and evaluation and any recommendations that~~
 10 ~~the council has to improve the operation of the assessment tool.~~

11 **(A) MAKE RECOMMENDATIONS TO THE DEPARTMENT, THE DEPARTMENT OF**
 12 **AGRICULTURE AND RURAL DEVELOPMENT, THE DEPARTMENT OF NATURAL**
 13 **RESOURCES, AND THE LEGISLATURE ON THE IMPLEMENTATION OF PART 327,**
 14 **INCLUDING ALL OF THE FOLLOWING:**

15 **(i) STRATEGIES FOR COLLECTION, VERIFICATION, AND USE OF DATA,**
 16 **INCLUDING GEOLOGY, AQUIFER CHARACTERISTICS, AND GROUNDWATER AND**
 17 **SURFACE WATER HYDROLOGY.**

18 **(ii) IMPROVEMENT, VERIFICATION, REGIONALIZATION, AND**
 19 **INTEGRATION OF MODELS USED IN THE WATER WITHDRAWAL ASSESSMENT TOOL**
 20 **AND SITE-SPECIFIC REVIEW, INCLUDING MODELS DEVELOPED BY PRIVATE AND**
 21 **PUBLIC ENTITIES, ORGANIZATIONS, OR INDIVIDUALS.**

22 **(iii) IDENTIFICATION OF RESEARCH, PUBLIC-PRIVATE PARTNERSHIPS,**
 23 **TRAINING, AND CHANGES TO THE WATER WITHDRAWAL ASSESSMENT TOOL**
 24 **NEEDED TO IMPROVE THE DEPARTMENT'S ABILITY TO IMPLEMENT PART 327**
 25 **AND TO IMPROVE THE WATER WITHDRAWAL ASSESSMENT PROCESS UNDER PART**
 26 **327.**

27 **(B) ~~(e)~~—Study and make recommendations, AS NEEDED OR AS**

1 **REQUESTED BY THE RELEVANT STANDING COMMITTEES OF THE LEGISLATURE OR**
 2 **THE DEPARTMENT**, regarding the development and refinement of the
 3 **WATER WITHDRAWAL** assessment ~~tool~~. **PROCESS UNDER PART 327.**

4 ~~—— (d) Study and make recommendations on whether and how the~~
 5 ~~definition of adverse resource impact in section 32701 should be~~
 6 ~~modified to more specifically address potential impacts to the~~
 7 ~~Great Lakes, inland lakes, and other aquatic systems due to large~~
 8 ~~quantity withdrawals.~~

9 **(C)** ~~(e)~~ Make recommendations on reconciling conflicts in state
 10 laws related to the use of the waters of the state.

11 ~~—— (f) Make recommendations on the development and implementation~~
 12 ~~of the state's water conservation and efficiency program under~~
 13 ~~section 4.2 of the compact.~~

14 ~~—— (g) Develop a framework for evaluating preventative measures~~
 15 ~~designed to prevent adverse resource impacts.~~

16 ~~—— (h) In consultation with academic institutions and other~~
 17 ~~nonprofit organizations, make recommendations regarding educational~~
 18 ~~materials related to the use and availability of water resources.~~

19 **(D)** ~~(i)~~ Not earlier than 3 **AT LEAST EVERY 2** years after the
 20 effective date of the **2018** amendatory act that ~~added~~ **AMENDED** this
 21 subdivision, ~~submit~~ **SECTION, PROVIDE** a report to the senate
 22 majority leader, the speaker of the house of representatives, and
 23 the standing committees of the legislature with jurisdiction
 24 primarily related to natural resources and the environment that
 25 makes recommendations regarding how the water withdrawal assessment
 26 process under part 327 could be improved. ~~in order to more~~
 27 ~~accurately assess adverse resource impacts.~~ The report shall

1 contain specific recommendations on the use of the assessment tool,
2 the site-specific review process, the permitting process, **THE**
3 **STAFFING, BUDGETARY, SOFTWARE, AND OTHER RESOURCES REQUIRED BY THE**
4 **DEPARTMENTS TO SUCCESSFULLY IMPLEMENT PART 327**, and any other
5 measure that the council determines would improve the water
6 withdrawal assessment process **UNDER PART 327**.

7 ~~—— (5) The council shall submit the following reports, approved~~
8 ~~by a majority of the voting members of the council, to the senate~~
9 ~~majority leader, the speaker of the house of representatives, and~~
10 ~~the standing committees of the legislature with jurisdiction~~
11 ~~primarily related to natural resources and the environment and to~~
12 ~~the department:~~

13 ~~—— (a) Not later than February 8, 2009, a progress report on the~~
14 ~~council's findings and recommendations under subsection (4)(c) to~~
15 ~~(h) as of that date.~~

16 ~~—— (b) Not later than August 8, 2009, the council's final report~~
17 ~~on its findings and recommendations under subsection (4)(c) to (h).~~

18 ~~—— (6) As used in this section, "assessment tool" means the water~~
19 ~~withdrawal assessment tool provided for in part 327.~~