

Bill by Bill Overview of the “Protecting our Waters and Protecting Their Use” Legislation—SB 850, 851, 852, 854, 857

SB 850 (Birkholz) -- Main bill in the package, includes key definitions and water use protection standard and permitting program

As Passed the House:

1. Making a consistent use of standard “likely to cause or will cause.” The language used in SB 850 as passed the Senate is inconsistent with various use of the terms “has caused or is likely to cause” or “will not cause and is not likely to cause” or “will not cause and is not likely to cause”. The proposed amendments will make a consistent use of the terms throughout the bill. – **SB 850 found in various locations in the bill**
2. Clarifying what the current default provision is as it relates to what constitutes “baseline capacity”. Currently, the bill allows a person to use various choices of what constitutes baseline capacity—the amendment makes it clear that if a person chooses not to report under a specific category, the highest annual amount of water withdrawn as reported under this part for the calendar years 2002, 2003, 2004 or 2005 will become the baseline capacity. – **SB 850—Page 5, lines 4-5**
3. Clarification as to when initial reporting of annual water use will occur—this amendment will set a specific date of April 1, 2007 for the first annual water report for new registrants under this section. It will allow a new registrant to have until April of next year to complete and submit the annual water use report. Farmers reporting their water use under water conservation plans are also bound to the same reporting date. – **This date is referenced in SB 850, page 4, line 14**
4. Clarification of the authority of local units of government to pass water quality regulations—**SB 850, page 23, line 3.**
5. Makes a consistent use of the term “waters of the state” in order to exclude “waters used in the treatment of wastewater.” This amendment will bring in the full definition of waters of the state as it is found in Part 31 rules so as to specifically exclude waters such as ponds used in the treatment of wastewater. – **SB 850, page 8, line 22.**
6. This amendment will treat newly constructed, but not yet operating wells as existing users so that they are not covered by the provisions of the new act by exempting wells already physically completed and installed but not yet operating. –**SB 850, page 16, line 2**
7. An amendment that will allow a person operating a seasonal well where the withdrawal is less than 1.5 million gallons a year to simply register that well but not have to report water use if he or she certifies that they will not be using quantities of water in excess of this amount. Saves the person the expense of having to install devices to monitor the usage levels. Still have to report location of the well, but not subject to reporting water quantity. **SB 850, page 14, line 10.**
8. Deletion of language in SB 854 that confirms again that existing users are not subject to adverse resource actions under this new act. The following language was removed from the Senate passed version of SB 854 on page 2, line 13-- “If the recommended solution or other agreement that would

prevent adverse resource impacts is not implemented, the Department may take action as otherwise authorized under this act”

9. An amendment to clarify that those using a permit issued under Part 31 for their baseline simply means the amount authorized under either under that part or the rules under Part 22. – **SB 850, page 4, line 2**
10. An amendment to exempt a water withdrawal utilized solely for fire suppression from being prohibited in having an adverse impact on the resource. – **SB 850, page 16, line 5**
11. An amendment to direct the funds raised by the new permit into the Water Use Protection Fund. Changes are also included that clarifies that the fund can be used for the water assessment tool. – **SB 850, page 17, line 19**
12. Modify the definition of "waters of the state" to allow for the utilization of wastewater in place of fresh water without it being considered a withdrawal. – **SB 850, page 8, line 22**
13. Defining Diversion and Consumptive Use—consistent with Annex language, with specific reference to the 5.7 gallon figure and less as a consumptive use, along with the two exemptions from the definition of diversion for commercial travel and firefighting purposes.—**SB 850, pg 5, line 11, 25**
14. Provision for legislative approval—in the event that the current prohibition in Section 32703 against diversions is declared to be invalid in the courts, then a new subsection which requires legislative approval of any diversion will become effective—Amend SB 850, page 11, following line 10.

SB 851 (Patterson)—Establishes new charges for the Groundwater Advisory Council

As Passed the House

No substantive changes, simple removal of a tiebar

SB 852 (Van Woerkom)—Establishes new reporting and registration requirements:

As Passed the House:

The House added an amendment to include clarifying language in SB 852 that although some latitude is given as to when certain persons have to register under this act, they still are required to register. –**SB 852, page 2, line 26** and an amendment to include the Michigan Turfgrass Environmental Stewardship Program in a reference of generally accepted best water management programs that have been successful in SB 852. – **SB 852, page 6, line 6**

The House also added a provision for progress reports on adoption of conservation measures consistent with Annex —various sectors of water user groups are required to begin working on a set of sector specific guidelines for conserving water within the first 12 months after the effective date of the bill and they are then required to report their progress on developing these guidelines within the first 24 months of the effective date to the DEQ. DEQ then compiles a report of all of the sectors and reports to the legislature on the overall adoption of conservation measures

SB 854 (Basham)—Establishes community water users group and method for resolving water use conflicts

As Passed the House:

The House added an amendment to allow a person who wants to appeal an order of the DEQ to go directly to court and skip the administrative hearings process. – **SB 854, page 3, line 4**

SB 857 (Brater)—Applies no adverse resource impact standard to municipalities within the context of the Safe Drinking Water Act.

As Passed the House:

The House added an amendment to SB 857 to clarify that the exemption for permits for community water suppliers that hold a SDWA permit is only for water supply systems owned by political subdivisions. – **SB 857, page 2, line 24**

The most significant change made by the House would amend the Safe Drinking Water Act to require that all water bottling companies that withdraw in excess of 250,000 gallons a day must obtain a permit and that the conditions for that permit include:--No adverse resource impact, proposed use is reasonable under common law water principles, the person will undertake to address hydrologic impacts, shall consult with local government officials in assessing these impacts and must pay a \$5000 fee. The Department is required to provide public notice and opportunity for comment and there will be a specific exemption from the permit required in SB 850.—**SB 857, with water bottling operations being exempted from a SB 850 permit in SB 850, page 23, line 4**