



Legislative Advisory
Prepared by Water Utility Committee
Michigan Section AWWA

New Water Withdrawal Legislation Introduced

August 20, 2007

Significant activity has occurred of late in the State Legislature related to water withdrawal legislation in Michigan. Much of this activity is related to the Annex Implementing Agreements, and a push within the Great Lakes region to adopt these agreements to move toward a comprehensive regional water management structure. Refer to the April 24, 2006 analysis of the Annex Implementation Agreements available on the Water Utility Committee page of the MI-AWWA website for additional background information (http://www.mi-water.org/miawwa/committees/Water_Utility/Annex%20ImpAgr%20Review%200406.pdf).

HB 4343 was introduced in February 2007 to ratify the Great Lakes-St. Lawrence River Basin Water Resources Compact ("Compact" - one of the Annex Implementing Agreements). More recently, a package of additional bills (HB 5065 through 5075; all tie-barred together and to HB 4343) has been introduced to provide further regulation of water withdrawals in Michigan.

The attached summary of the bills has been provided by the Michigan Municipal League. The MI-AWWA WUC has reviewed the proposed bills and identified the following concerns related to public water supplies (PWS's):

- HB 5071 is a proposed amendment to PA 399, and is specifically targeted at strengthening environmental protection in relation to municipal water supplies. Specifically, the bill proposes to reduce the threshold for environmental review of new/increased withdrawals from the current 5 mgd for withdrawals from the Great Lakes and connecting channels and 2 mgd from other than the Great Lakes and connecting channels, to 2 mgd/1 mgd, respectively. Such environmental review would include (consistent with HB 5068):
 - Hydrogeological study, including assessment of impacts to wells, groundwater, streams, etc.; and documenting precipitation and recharge data for the withdrawal location.
 - \$2,500 application fee.
 - Mandatory conservation (per adopted sector guidelines referenced in HB 5066).
 - Return flow must be to the same watershed where withdrawn, and all use must be within the source watershed.
 - No impacts to quality.

This bill appears to place significant additional burden on PWS's in securing approval for increased withdrawals to meet public health, fire protection, and economic activity. The proposed application fee can place undue burden on PWS's that already pay significant fees to support the DEQ's drinking water programs.

- HB 5066 revises the milestones set under recent water withdrawal regulation for preparation of water use/conservation guidelines by sector. Each sector would be required to prepare "Environmentally Sustainable and Economically Feasible Water Conservation Measures" by January 1, 2008, with DEQ approval by July 1, 2008. These guidelines would become mandatory for proposed new or increased withdrawals. Mandatory conservation measures, as opposed to ensuring efficient use when not impacting the resource, can limit PWS's ability to meet community needs.
- HB 5068 revises "baseline capacity" to the highest annual volume of water withdrawn in years 2003 through 2006. Therefore, any increased use (incremental or cumulative) above historical use would require permitting as described above. This change could lead to issues for PWS's to adequately recover capital expenditures made for existing infrastructure that had been planned for increasing demands. PWS facilities that have been permitted at rated capacities under PA 399 would now be limited in their ability utilize such capacity.

- HB 5069 directs the DEQ to develop and implement by February 28, 2008 an internet-based water withdrawal assessment tool for use in evaluating environmental impacts of proposed withdrawals. Given the complexity of our water resources, and unique site-specific attributes of any given withdrawal, the ability to produce a truly useful and accurate tool in such a timeframe is suspect.
- HB 5070 repeals the Groundwater Conservation Advisory Council. This Council has provided significant expert opinion and guidance on water use issues in our State, and it is not clear why its abolishment is proposed, especially when such wide-ranging regulation is proposed in this bill package.

All PWS's are urged to review the provisions of this bill package and to contact their legislators to discuss how these additional restrictions will affect their communities.

For more information, please contact Water Utility Committee Chair Terry Biederman at (248) 618-7451 or tbiederm@twp.waterford.mi.us.