

11436

I N A S S E M B L Y

June 14, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Sweeney) --
(at request of the Governor) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to regulating the use of the state's water resources; and to repeal titles 16 and 33 of article 15 of such law relating to Great Lakes water conservation and management and water withdrawal reporting

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 15-1501 of the environmental conservation law, as
2 amended by chapter 233 of the laws of 1979, is amended to read as
3 follows:
4 S 15-1501. [New or additional sources of water supply] WATER
5 WITHDRAWALS; permit.
6 1. Except as otherwise provided in this title, no person [or public
7 corporation] who is [authorized and] engaged in, or proposing to engage
8 in, the [acquisition, conservation, development, use and distribution of
9 water for potable purposes, for the irrigation of agricultural lands,
10 for projects taken pursuant to Article 5-D of the County Law, or for
11 multi-purpose projects authorized by a general plan adopted and approved
12 pursuant to title 11 of this article,] OPERATION OF A WATER WITHDRAWAL
13 SYSTEM WITH A CAPACITY OF GREATER THAN OR EQUAL TO THE THRESHOLD VOLUME,
14 shall have any power to do the following until such person [or public
15 corporation] has first obtained a permit OR PERMIT MODIFICATION from the
16 department pursuant to this title:
17 a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM AN
18 EXISTING OR NEW SOURCE or an [additional] INCREASED water [supply] WITH-
19 DRAWAL from an existing [approved] PERMITTED source; [or]
20 b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES
21 OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new
22 or additional sources of PUBLIC water supply [or for the utilization of
23 such supplies]; [or]
24 c. To commence or undertake the construction of any works or projects
25 in connection with the proposed [plans] WITHDRAWAL; or

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD12079-06-0

1 d. [To exercise any franchise hereafter granted to supply water to any
2 inhabitants of the state; or

3 e. To extend its supply or distribution mains into [a municipality,
4 water district, water supply district, or other civil division of the
5 state wherein it] ANY NEW WATER SERVICE AREA OR EXTENSION THAT has not
6 [heretofore legally supplied water] BEEN APPROVED BY THE DEPARTMENT OR A
7 PREDECESSOR COMMISSION; or

8 f. [To construct any extension of its supply mains except within a
9 service area approved by the department after public hearing; or

10 g. To extend the boundaries of a water district; or

11 h. To supply water in or for use in any other municipality or civil
12 division of the state which owns and operates a water supply system
13 therein, or in any duly organized water supply or fire district supplied
14 with water by another person or public corporation] TO MAKE A SIGNIF-
15 ICANT CHANGE IN THE PRINCIPAL USE OF THE WATER WITHDRAWAL SYSTEM FROM
16 THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICATION.

17 2. [A permit shall not be necessary for the extension of supply or
18 distributing mains or pipes of a municipal water supply plant into and
19 for the purpose of supplying water in any territory within the limits of
20 the municipality owning such plant, including territory which has not
21 been heretofore supplied with water by such plant, nor for the recon-
22 struction or replacement of existing facilities in connection with an
23 existing plant wherein the capacity of the plant is in no way increased,
24 nor for the construction of filtration or other treatment facilities
25 which will not in any way increase the amount of water which can be made
26 available from the present sources of supply. A permit shall not be
27 necessary for the extension of supply or distributing mains or pipes of
28 a county water authority into and for the purpose of supplying water in
29 any territory assigned to such county water authority within the limits
30 of the county but excluding territory specifically assigned to private
31 or other municipal water companies by the department which has not been
32 heretofore supplied with water by such county water authority, nor for
33 the reconstruction or replacement of existing facilities in connection
34 with an existing plant wherein the capacity of the plant is in no way
35 increased, nor for the construction of filtration or other treatment
36 facilities which will not in any way increase the amount of water which
37 can be made available from the present sources of supply, provided,
38 however, that nothing herein contained shall be held to authorize such
39 county water authority to enter into competition with, for the purpose
40 of service in the area served by the mains, the transmission or distrib-
41 ution mains of any other water works system, either publicly or private-
42 ly owned, already legally established in said county for the sale of
43 water at wholesale or retail, or which hereafter may legally be estab-
44 lished for said purpose; or to sell water to any other water works
45 system, either publicly or privately owned, and not now served by said
46 county authority] ALL PERSONS REQUIRED TO OBTAIN A PERMIT UNDER THIS
47 SECTION SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE IN AN AMOUNT
48 PRESCRIBED IN TITLE EIGHT OF ARTICLE SEVENTY-TWO OF THIS CHAPTER;
49 PROVIDED, HOWEVER, THAT NO PERSON SHALL BE REQUIRED TO PAY SUCH FEE
50 UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVISION
51 FIVE OF THIS SECTION.

52 3. UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVI-
53 SION FIVE OF THIS SECTION, NOTHING CONTAINED IN SUBDIVISION ONE OF THIS
54 SECTION CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE APPLICABLE TO
55 WATER WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY SYSTEM. UNTIL AND
56 UNLESS OTHERWISE PROVIDED BY SUCH REGULATIONS, ALL VALID PUBLIC WATER

SUPPLY PERMITS ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE AND EFFECT AND SHALL BE DEEMED TO SATISFY THE PERMIT REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION FOR EXISTING WATER WITHDRAWALS FROM A SOURCE AND IN AN AMOUNT AUTHORIZED BY THE PERMIT.

4. Nothing CONTAINED in this [section provided] TITLE CONCERNING PERMITS FROM THE DEPARTMENT FOR WATER WITHDRAWALS shall be deemed to nullify the requirements of [Regulation 2, Chapter V] SECTION 5-1.22 of the State Sanitary Code, as in effect on [January 1, 1960, that plans for a new water treatment plant for the treatment of an existing public water supply or for any addition to or modification of an existing water treatment plant, or for any addition to or modification of a public water supply system which will or may affect the quality of the public water supply, shall be submitted to and approved by the Commissioner of Health, which regulation has no application to a new or additional source or sources of public water supply of a permanent character which require a permit from the Department of Environmental Conservation under the provisions of this article] APRIL 25, 2001, AS MAY BE AMENDED FROM TIME TO TIME. NO SUPPLIER OF WATER SHALL MAKE, INSTALL OR CONSTRUCT, OR ALLOW TO BE MADE, INSTALLED OR CONSTRUCTED, A PUBLIC WATER SUPPLY SYSTEM OR ANY ADDITION OR DELETION TO OR MODIFICATION OF A PUBLIC WATER SUPPLY SYSTEM UNTIL THE PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED TO AND APPROVED BY THE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE.

5. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMITTING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESHOLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION. SUCH REGULATIONS MAY ESTABLISH: (A) MINIMUM STANDARDS FOR CONSTRUCTION AND OPERATION OF WATER WITHDRAWAL SYSTEMS; (B) MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS; (C) PROTECTIONS FOR PRESENT AND FUTURE NEEDS FOR SOURCES OF POTABLE WATER SUPPLY; AND (D) ANY OTHER CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER MANAGEMENT OF THE WATERS OF THE STATE, INCLUDING, BUT NOT LIMITED TO, MINIMUM STREAM FLOWS PROTECTIVE OF AQUATIC LIFE. THE REGULATIONS MAY ESTABLISH EXEMPTIONS FROM PERMITTING REQUIREMENTS IN ADDITION TO THOSE EXEMPTIONS SPECIFIED IN THIS SECTION.

6. THE DEPARTMENT IS AUTHORIZED TO CONSOLIDATE EXISTING WATER SUPPLY PERMITS FOR A PUBLIC WATER SUPPLY SYSTEM INTO ONE PERMIT, AND MAY REQUIRE SUBMISSION OF AN APPLICATION FOR SUCH PERMIT WHERE THE DEPARTMENT DETERMINES THAT SUCH ACTIONS ARE NECESSARY TO PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER MANAGEMENT OF THE WATERS OF THE STATE.

7. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO HOLD A PERMIT SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO WATER USAGE AND WATER CONSERVATION MEASURES UNDERTAKEN DURING THE REPORTING PERIOD. INFORMATION ON WATER USAGE AND WATER CONSERVATION MEASURES SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

8. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIREMENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE SUPPRESSION OR PUBLIC EMERGENCY PURPOSES; (B) WITHDRAWALS THAT HAVE RECEIVED AN APPROVAL FROM A COMPACT BASIN COMMISSION WHICH ADMINISTERS A PROGRAM GOVERNING WATER WITHDRAWALS; (C) CLOSED LOOP, STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; AND (D) WITHDRAWALS FOR WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION 15-1527 OF THIS TITLE.

1 9. THE DEPARTMENT SHALL ESTABLISH A WATER CONSERVATION AND EFFICIENCY
2 PROGRAM WITH THE GOALS OF (A) ENSURING IMPROVEMENT OF THE WATERS AND
3 WATER DEPENDENT NATURAL RESOURCES, (B) PROTECTING AND RESTORING THE
4 HYDROLOGIC AND ECOSYSTEM INTEGRITY OF WATERSHEDS THROUGHOUT THE STATE,
5 (C) RETAINING THE QUANTITY OF SURFACE WATER AND GROUNDWATER IN THE
6 STATE, (D) ENSURING SUSTAINABLE USE OF STATE WATERS, AND (E) PROMOTING
7 THE EFFICIENCY OF USE AND REDUCING LOSSES AND WASTE OF WATER.

8 S 2. Section 15-1502 of the environmental conservation law is amended
9 by adding nine new subdivisions 7, 8, 9, 10, 11, 12, 13, 14 and 15 to
10 read as follows:

11 7. "COMPACT BASIN COMMISSION" SHALL MEAN AN INTERSTATE COMMISSION
12 HAVING JURISDICTION WITH RESPECT TO THE REGULATION OF WATER RESOURCES
13 WITHIN A BASIN IN THE STATE, CREATED BY INTERSTATE COMPACT OR
14 FEDERAL-INTERSTATE COMPACT, INCLUDING BUT NOT LIMITED TO, THE SUSQUEHAN-
15 NA RIVER BASIN COMMISSION AND THE DELAWARE RIVER BASIN COMMISSION.

16 8. "ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER CONSERVATION
17 MEASURES" SHALL MEAN THOSE MEASURES, METHODS, TECHNOLOGIES OR PRACTICES
18 FOR EFFICIENT WATER USE AND FOR REDUCTION OF WATER LOSS AND WASTE OR FOR
19 REDUCING A WITHDRAWAL, CONSUMPTIVE USE OR DIVERSION THAT: (I) ARE ENVI-
20 RONMENTALLY SOUND; (II) REFLECT BEST PRACTICES APPLICABLE TO THE WATER
21 USE SECTOR; (III) ARE TECHNICALLY FEASIBLE AND AVAILABLE; (IV) ARE
22 ECONOMICALLY FEASIBLE AND COST EFFECTIVE BASED ON AN ANALYSIS THAT
23 CONSIDERS DIRECT AND AVOIDED ECONOMIC AND ENVIRONMENTAL COSTS; AND (V)
24 CONSIDER THE PARTICULAR FACILITIES AND PROCESSES INVOLVED, TAKING INTO
25 ACCOUNT THE ENVIRONMENTAL IMPACT, AGE OF EQUIPMENT AND FACILITIES
26 INVOLVED, THE PROCESSES EMPLOYED, ENERGY IMPACTS AND OTHER APPROPRIATE
27 FACTORS.

28 9. "INTERBASIN DIVERSION" SHALL MEAN THE TRANSFER OF WATER OR WASTEWA-
29 TER FROM ONE NEW YORK MAJOR DRAINAGE BASIN TO ANOTHER DRAINAGE BASIN.

30 10. "PERSON" SHALL MEAN ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,
31 POLITICAL SUBDIVISION, GOVERNMENT AGENCY, DEPARTMENT OR BUREAU OF THE
32 STATE, MUNICIPALITY, INDUSTRY, CO-PARTNERSHIP, ASSOCIATION, FIRM, TRUST,
33 ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

34 11. "POTABLE" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION THAT
35 MEETS THE REQUIREMENTS ESTABLISHED BY 10 NYCRR 5-1.

36 12. "PUBLIC WATER SUPPLY SYSTEM" SHALL MEAN A PERMANENTLY INSTALLED
37 WATER WITHDRAWAL SYSTEM INCLUDING ITS SOURCE, COLLECTION, PUMPING,
38 TREATMENT, TRANSMISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN
39 CONNECTION WITH SUCH SYSTEM, WHICH PROVIDES PIPED WATER TO THE PUBLIC
40 FOR POTABLE PURPOSES, IF SUCH SYSTEM HAS AT LEAST FIVE SERVICE
41 CONNECTIONS USED BY YEAR-ROUND RESIDENTS.

42 13. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME
43 OF ONE HUNDRED THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE
44 LIMITING MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEY-
45 ANCE SYSTEM.

46 14. "WATER WITHDRAWAL SYSTEM" SHALL MEAN ANY EQUIPMENT OR INFRASTRUC-
47 TURE OPERATED OR MAINTAINED FOR THE PROVISION OR WITHDRAWAL OF WATER
48 INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANSPOR-
49 TATION, TRANSMISSION, STORAGE, AND DISTRIBUTION.

50 15. "WITHDRAWAL" OR "WITHDRAWAL OF WATER" SHALL MEAN THE REMOVAL OR
51 TAKING OF WATER FOR ANY PURPOSE FROM THE WATERS OF THE STATE.

52 S 3. Section 15-1503 of the environmental conservation law, as amended
53 by chapter 364 of the laws of 1988, is amended to read as follows:

54 S 15-1503. Permits.

55 1. A permit application or request for a permit renewal or modifica-
56 tion shall be made on forms [provided] PRESCRIBED by the department and

1 shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE
2 DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER,
3 INCLUDING:

4 A. WITH RESPECT TO A PUBLIC WATER SUPPLY SYSTEM, proof of adequate
5 authorization for the proposed project[,];

6 B. such exhibits as may be necessary clearly to indicate the scope of
7 the proposed project[,];

8 C. a map of any lands to be acquired [and];

9 D. project plans[. The application shall also indicate];

10 E. A STATEMENT OF the need for and the reasons why the proposed source
11 or sources of supply were selected among the alternative sources which
12 are or may become available[,] AND the adequacy of the supply selected
13 [and the method proposed to determine and provide for the proper compen-
14 sation for any direct and indirect legal damages to persons or property
15 that will result from the acquisition of any lands in connection with
16 the proposed project or from the execution of the proposed project. The
17 application shall also contain, in accordance with local water resource
18 needs and conditions,]; AND

19 F. a description of the applicant's PROPOSED near term and long range
20 water conservation program THAT INCORPORATES ENVIRONMENTALLY SOUND AND
21 ECONOMICALLY FEASIBLE WATER CONSERVATION MEASURES, including implementa-
22 tion and enforcement procedures, effectiveness to date and any planned
23 modifications for the future. [Such] FOR A PUBLIC WATER SUPPLY SYSTEM,
24 THE WATER CONSERVATION program may include but [shall] NEED not be
25 limited to:

26 [a.] I. the identification of and cost effectiveness of distribution
27 system rehabilitation to correct sources of lost water;

28 [b.] II. measures which encourage proper maintenance and water conser-
29 vation;

30 [c.] III. a public information program to promote water conservation,
31 including industrial and commercial recycling and reuse;

32 [d.] IV. household conservation measures; and

33 [e.] V. contingency measures for limiting water use during seasonal or
34 drought shortages. [If the proposed project provides for the use of
35 water for potable purposes, the application shall also include adequate
36 proof of the character and purity of the water supply to be acquired or
37 used and the proposed method of treatment.]

38 2. In making its decision to grant or deny a permit or to grant a
39 permit with conditions, the department shall determine whether:

40 A. the proposed [project is justified by the public necessity, whether
41 it] WATER WITHDRAWAL takes proper consideration of other sources of
42 supply that are or may become available[, whether all work connected
43 with the project will be proper and construction safe, whether];

44 B. the QUANTITY OF supply will be adequate[, whether there will be
45 proper protection of the supply and watershed or whether there will be
46 proper treatment of any additional supply, whether] FOR THE PROPOSED
47 USE;

48 C. the project is just and equitable to all affected municipalities
49 and their inhabitants [and in particular] with regard to their present
50 and future needs for sources of POTABLE water supply[, whether there is
51 provision for fair and equitable determinations of and payments of any
52 direct and indirect legal damages to persons or property that will
53 result from the acquisition of any lands in connection with the proposed
54 project or from the execution of the proposed project, and whether the
55 applicant has developed and implemented a water conservation program in
56 accordance with local water resource needs and conditions. If the

1 proposed project is a multi-purpose project, in whole or in part author-
2 ized by a general plan adopted and approved pursuant to title 11 of this
3 article, the department in addition shall determine if the proposed
4 project is in conformity with the general plan];

5 D. THE NEED FOR ALL OR PART OF THE PROPOSED WATER WITHDRAWAL CANNOT BE
6 REASONABLY AVOIDED THROUGH THE EFFICIENT USE AND CONSERVATION OF EXIST-
7 ING WATER SUPPLIES;

8 E. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE
9 CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS
10 PROPOSED;

11 F. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER TO
12 ENSURE IT WILL RESULT IN NO SIGNIFICANT INDIVIDUAL OR CUMULATIVE ADVERSE
13 IMPACTS ON THE QUANTITY OR QUALITY OF THE WATER SOURCE AND WATER DEPEND-
14 ENT NATURAL RESOURCES;

15 G. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT
16 INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER
17 CONSERVATION MEASURES; AND

18 H. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT
19 IS CONSISTENT WITH APPLICABLE MUNICIPAL, STATE AND FEDERAL LAWS AS WELL
20 AS REGIONAL INTERSTATE AND INTERNATIONAL AGREEMENTS.

21 3. In order to assist the development of local water conservation
22 [plans] PROGRAMS FOR PUBLIC WATER SUPPLY SYSTEMS, the department shall[,
23 by the effective date of this subdivision,] CONTINUE TO publish and
24 distribute a [model local water conservation plan] WATER CONSERVATION
25 MANUAL that includes beneficial near term and long range water conserva-
26 tion procedures which reflect local water resource needs and conditions.
27 Such [plan] MANUAL shall include examples of:

28 a. methods of identifying and determining the cost effectiveness of
29 distribution system rehabilitation to correct sources of lost water;

30 b. measures which encourage proper maintenance and water conservation;

31 c. a public information program to promote water conservation, includ-
32 ing industrial and commercial recycling and reuse;

33 d. household conservation measures; and

34 e. contingency measures for limiting water use during seasonal or
35 drought shortages.

36 4. The department may grant or deny a permit or grant a permit with
37 such conditions as may be necessary to provide satisfactory compliance
38 by the applicant with the matters subject to department determination
39 pursuant to subdivision 2 of this section, or to bring into cooperation
40 all persons [or public corporations] that may be affected by the
41 project, but it shall make a reasonable effort to meet the needs of the
42 applicant, with due regard to the actual or prospective needs, interests
43 and rights of others that may be affected by the project.

44 5. The rules and regulations adopted by the department to implement
45 this title and the provisions of article 70 of this chapter and rules
46 and regulations adopted thereunder shall govern permit applications,
47 renewals, modifications, suspensions and revocations under this title.

48 6. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM SHALL BE VALID FOR A
49 PERIOD OF TIME NOT TO EXCEED TEN YEARS FROM THE DATE OF ISSUANCE, UPON
50 WHICH TIME A REQUEST FOR A RENEWAL MUST BE FILED WITH THE DEPARTMENT. A
51 RENEWAL SHALL BE VALID FOR A PERIOD OF TIME SPECIFIED BY THE DEPARTMENT
52 NOT TO EXCEED TEN YEARS. A PERMIT APPLICATION MUST BE FILED WITH THE
53 DEPARTMENT UPON ANY TRANSFER OR CHANGE OF OWNERSHIP OF A WATER WITH-
54 DRAWAL SYSTEM.

55 S 4. Section 15-1505 of the environmental conservation law, as amended
56 by chapter 233 of the laws of 1979, is amended to read as follows:

1 S 15-1505. [Water] INTERBASIN DIVERSIONS AND WATER supply to other
2 states.

3 1. No person [or public corporation] shall transport or carry through
4 pipes, conduits, ditches or canals the waters of any fresh water lake,
5 pond, brook, river, stream, or creek in this state or any well, subsur-
6 face or percolating waters of this state into any other state for use
7 therein without first obtaining a permit from the department pursuant to
8 this title.

9 2. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH
10 RESULTS IN A DIVERSION IN EXCESS OF ONE MILLION GALLONS PER DAY AS
11 DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEY-
12 ANCE SYSTEM, OR CONSTRUCT FACILITIES OR EQUIPMENT THEREFOR, UNTIL SUCH
13 PERSON HAS REGISTERED THE DIVERSION WITH THE DEPARTMENT. NO LATER THAN
14 ONE YEAR FROM THE EFFECTIVE DATE OF THIS SUBDIVISION, ALL EXISTING
15 INTERBASIN DIVERSIONS IN EXCESS OF ONE MILLION GALLONS PER DAY SHALL BE
16 REGISTERED WITH THE DEPARTMENT.

17 3. THE DEPARTMENT IS AUTHORIZED TO ASSESS AN ANNUAL REGISTRATION FEE
18 OF TWO HUNDRED DOLLARS FOR ALL PERSONS REQUIRED TO REGISTER AN INTERBA-
19 SIN DIVERSION. THE FEE SHALL BE PAID AT THE TIME OF REGISTRATION OR
20 REGISTRATION RENEWAL. ALL FEES COLLECTED PURSUANT TO THIS SECTION SHALL
21 BE PAID INTO THE ENVIRONMENTAL CONSERVATION SPECIAL REVENUE FUND TO THE
22 CREDIT OF THE ENVIRONMENTAL REGULATORY ACCOUNT. THE REGISTRATION FEE
23 SHALL NOT BE APPLICABLE TO AN INTERBASIN DIVERSION WHICH IS PART OF A
24 WATER WITHDRAWAL SYSTEM FOR WHICH THE DEPARTMENT HAS ISSUED A PERMIT
25 UNDER THIS TITLE. REGISTRATION SHALL BE RENEWED EVERY YEAR OR WHENEVER
26 TITLE TO THE FACILITIES WHICH CREATE AN INTERBASIN DIVERSION IS TRANS-
27 FERRED, WHICHEVER OCCURS FIRST. REGISTRATION SHALL BE MADE ON FORMS
28 PRESCRIBED BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUESTED
29 BY THE DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE.
30 EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO HOLD A REGISTRATION
31 SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL
32 INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING THE AMOUNT OF WATER
33 DIVERTED. INFORMATION ON INTERBASIN DIVERSIONS SHALL BE POSTED ON THE
34 DEPARTMENT'S WEBSITE.

35 4. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH
36 RESULTS IN A SIGNIFICANT ADVERSE IMPACT ON THE WATER QUANTITY OF THE
37 SOURCE NEW YORK MAJOR DRAINAGE BASIN.

38 5. DIVERSIONS FROM THE GREAT LAKES-ST. LAWRENCE RIVER BASIN ARE
39 PROHIBITED BY THE GREAT LAKES-ST. LAWRENCE RIVER BASIN WATER RESOURCES
40 COMPACT, AS ENACTED IN TITLE TEN OF ARTICLE TWENTY-ONE OF THIS CHAPTER.
41 LIMITED EXCEPTIONS FOR PUBLIC WATER SUPPLY SYSTEMS WILL ONLY BE CONSID-
42 ERED WHEN IN COMPLIANCE WITH THAT COMPACT.

43 S 5. Section 15-1521 of the environmental conservation law, as amended
44 by chapter 233 of the laws of 1979, is amended to read as follows:

45 S 15-1521. Supply of water to other public water supply systems.

46 On any application for a new or additional WITHDRAWAL OF WATER FOR A
47 PUBLIC water supply [or source of water supply], the department may
48 require or authorize [any] THE applicant to make provisions for the
49 supply and to supply PUBLIC water to any area of the state which as
50 determined by the department in its decision on that application proper-
51 ly should be supplied with PUBLIC water from the source or sources of
52 water supply sought by the applicant. The owner or operator of any
53 existing or proposed [water works] PUBLIC WATER SUPPLY system within
54 such area may apply to the department for a permit to take water from
55 that source of water supply or from any part of the PUBLIC water supply
56 system of the applicant supplied in whole or in part from that source.

1 If the department so requires, or if it grants a permit, it shall be the
2 duty of the applicant so to supply water, subject to such requirements
3 as the department may impose. The amount of water so to be taken and the
4 price to be paid therefor may be agreed upon between the applicant and
5 the taker of the water, or if they cannot agree, fair and reasonable
6 amounts and rates shall be, after due hearings thereon, fixed by the
7 [department, provided however, that such department shall have no power
8 to fix rates in any case where the] Public Service Commission [has such
9 power, and provided further, that nothing in this section contained
10 shall be construed as diminishing the powers of said Public Service
11 Commission in respect to rates of water works companies subject to its
12 jurisdiction]. Any such agreement or determination of the department may
13 from time to time be modified by further agreement between the parties
14 affected thereby or by the further order of the department.

15 S 6. Section 15-1529 of the environmental conservation law is amended
16 to read as follows:

17 S 15-1529. [Final approval of work] APPROVAL OF COMPLETED WATER WITH-
18 DRAVAL SYSTEMS.

19 [Before any project authorized to be developed or carried out under
20 this title 15 shall be operated, it must, as completed, have been
21 approved by the department] THE CONSTRUCTION OF ANY NEW OR MODIFIED
22 WATER WITHDRAWAL SYSTEM AUTHORIZED UNDER THIS TITLE SHALL BE UNDER THE
23 GENERAL SUPERVISION OF A PERSON OR FIRM LICENSED TO PRACTICE PROFES-
24 SIONAL ENGINEERING IN THE STATE. UPON COMPLETION OF CONSTRUCTION, SUCH
25 PERSON OR FIRM SHALL CERTIFY TO THE DEPARTMENT AND THE OWNER THAT THE
26 WATER WITHDRAWAL SYSTEM HAS BEEN FULLY COMPLETED IN ACCORDANCE WITH THE
27 APPROVED ENGINEERING REPORT, PLANS AND SPECIFICATIONS, AND THE PERMIT
28 ISSUED BY THE DEPARTMENT PURSUANT TO THIS TITLE. THE OWNER SHALL NOT
29 COMMENCE OPERATION OF THE NEW OR MODIFIED WATER WITHDRAWAL SYSTEM PRIOR
30 TO THE DEPARTMENT RECEIVING SUCH CERTIFICATE AND BEFORE APPROVAL, IF
31 NECESSARY, BY THE DEPARTMENT OF HEALTH OR ITS DESIGNEE.

32 S 7. Title 16 of article 15 of the environmental conservation law is
33 REPEALED.

34 S 8. Title 33 of article 15 of the environmental conservation law is
35 REPEALED.

36 S 9. Subdivision 1 of section 71-1127 of the environmental conserva-
37 tion law, as amended by chapter 640 of the laws of 1977, is amended to
38 read as follows:

39 1. Any person who violates any of the provisions of, or who fails to
40 perform any duty imposed by article 15 except section 15-1713, or who
41 violates or who fails to comply with any rule, regulation, determination
42 or order of the department heretofore or hereafter promulgated pursuant
43 to article 15 except section 15-1713, or any condition of a permit
44 issued pursuant to article 15 of this chapter, or any determination or
45 order of the former water resources commission or the [Department of
46 Environmental Conservation] DEPARTMENT heretofore promulgated pursuant
47 to former article 5 of the Conservation Law, shall be liable for a civil
48 penalty of not more than TWO THOUSAND five hundred dollars for such
49 violation and an additional civil penalty of not more than [one] FIVE
50 hundred dollars for each day during which such violation continues, and,
51 in addition thereto, such person may be enjoined from continuing such
52 violation as otherwise provided in article 15 except section 15-1713.

53 S 10. This act shall take effect April 1, 2011; provided, however that
54 sections seven and eight of this act shall take effect December 31,
55 2013.