

S T A T E   O F   N E W   Y O R K

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11436--A

I N   A S S E M B L Y

June 14, 2010

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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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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]

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

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1 c. To commence or undertake the construction of any works or projects  
2 in connection with the proposed [plans] WITHDRAWAL; or  
3 d. [To exercise any franchise hereafter granted to supply water to any  
4 inhabitants of the state; or  
5 e. To extend its supply or distribution mains into [a municipality,  
6 water district, water supply district, or other civil division of the  
7 state wherein it] ANY NEW WATER SERVICE AREA OR EXTENSION THAT has not  
8 [heretofore legally supplied water] BEEN APPROVED BY THE DEPARTMENT OR A  
9 PREDECESSOR COMMISSION; or  
10 f. [To construct any extension of its supply mains except within a  
11 service area approved by the department after public hearing; or  
12 g. To extend the boundaries of a water district; or  
13 h. To supply water in or for use in any other municipality or civil  
14 division of the state which owns and operates a water supply system  
15 therein, or in any duly organized water supply or fire district supplied  
16 with water by another person or public corporation] TO MAKE A SIGNIF-  
17 ICANT CHANGE IN THE PRINCIPAL USE OF THE WATER WITHDRAWAL SYSTEM FROM  
18 THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICATION.

19 2. [A permit shall not be necessary for the extension of supply or  
20 distributing mains or pipes of a municipal water supply plant into and  
21 for the purpose of supplying water in any territory within the limits of  
22 the municipality owning such plant, including territory which has not  
23 been heretofore supplied with water by such plant, nor for the recon-  
24 struction or replacement of existing facilities in connection with an  
25 existing plant wherein the capacity of the plant is in no way increased,  
26 nor for the construction of filtration or other treatment facilities  
27 which will not in any way increase the amount of water which can be made  
28 available from the present sources of supply. A permit shall not be  
29 necessary for the extension of supply or distributing mains or pipes of  
30 a county water authority into and for the purpose of supplying water in  
31 any territory assigned to such county water authority within the limits  
32 of the county but excluding territory specifically assigned to private  
33 or other municipal water companies by the department which has not been  
34 heretofore supplied with water by such county water authority, nor for  
35 the reconstruction or replacement of existing facilities in connection  
36 with an existing plant wherein the capacity of the plant is in no way  
37 increased, nor for the construction of filtration or other treatment  
38 facilities which will not in any way increase the amount of water which  
39 can be made available from the present sources of supply, provided,  
40 however, that nothing herein contained shall be held to authorize such  
41 county water authority to enter into competition with, for the purpose  
42 of service in the area served by the mains, the transmission or distrib-  
43 ution mains of any other water works system, either publicly or private-  
44 ly owned, already legally established in said county for the sale of  
45 water at wholesale or retail, or which hereafter may legally be estab-  
46 lished for said purpose; or to sell water to any other water works  
47 system, either publicly or privately owned, and not now served by said  
48 county authority] UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT  
49 TO SUBDIVISION FOUR OF THIS SECTION, NOTHING CONTAINED IN SUBDIVISION  
50 ONE OF THIS SECTION CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE  
51 APPLICABLE TO WATER WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY  
52 SYSTEM. UNTIL AND UNLESS OTHERWISE PROVIDED BY SUCH REGULATIONS, ALL  
53 VALID PUBLIC WATER SUPPLY PERMITS AND APPROVALS ISSUED BY THE DEPARTMENT  
54 OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE AND EFFECT AND SHALL BE  
55 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 SUCH PERMIT OR APPROVAL.

3. 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] of the State Sanitary Code[, as] APPLICABLE TO DRINKING WATER SUPPLIES, INCLUDING PUBLIC WATER SYSTEMS, 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 1, 2011, 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 AS MAY BE REQUIRED BY THE STATE SANITARY CODE.

4. 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.

5. 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.

6. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO OBTAIN 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.

7. 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 8. 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 WATER" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION  
35 THAT MEETS THE REQUIREMENTS FOR A PUBLIC WATER SYSTEM AS SET FORTH IN  
36 THE STATE SANITARY CODE.

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

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

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

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

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

1 1. A permit application or request for a permit renewal or modifica-  
2 tion shall be made on forms [provided] PRESCRIBED by the department and  
3 shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE  
4 DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER,  
5 INCLUDING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 applicant has developed and implemented a water conservation program in  
2 accordance with local water resource needs and conditions. If the  
3 proposed project is a multi-purpose project, in whole or in part author-  
4 ized by a general plan adopted and approved pursuant to title 11 of this  
5 article, the department in addition shall determine if the proposed  
6 project is in conformity with the general plan];

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

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

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

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

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

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

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

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

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

35 d. household conservation measures; and

36 e. contingency measures for limiting water use during seasonal or  
37 drought shortages.

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

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

50 6. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM SHALL BE VALID FOR A  
51 PERIOD OF TIME NOT TO EXCEED TEN YEARS FROM THE DATE OF ISSUANCE, UPON  
52 WHICH TIME A REQUEST FOR A RENEWAL MUST BE FILED WITH THE DEPARTMENT. A  
53 RENEWAL SHALL BE VALID FOR A PERIOD OF TIME SPECIFIED BY THE DEPARTMENT  
54 NOT TO EXCEED TEN YEARS. A NEW PERMIT OR PERMIT MODIFICATION MUST BE  
55 OBTAINED FROM THE DEPARTMENT PRIOR TO ANY TRANSFER OR CHANGE OF OWNER-  
56 SHIP OF A WATER WITHDRAWAL SYSTEM.

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

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

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

11 2. NO PERSON SHALL MAKE A NEW OR INCREASED INTERBASIN DIVERSION WHICH  
12 RESULTS IN A DIVERSION IN EXCESS OF ONE MILLION GALLONS PER DAY, AS  
13 DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEY-  
14 ANCE SYSTEM, OR CONSTRUCT FACILITIES OR EQUIPMENT THEREFOR, UNTIL SUCH  
15 PERSON HAS REGISTERED THE DIVERSION WITH THE DEPARTMENT. NO LATER THAN  
16 APRIL FIRST, TWO THOUSAND TWELVE, ALL EXISTING INTERBASIN DIVERSIONS IN  
17 EXCESS OF ONE MILLION GALLONS PER DAY, AS DETERMINED BY THE LIMITING  
18 MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM, SHALL BE REGIS-  
19 TERED WITH THE DEPARTMENT.

20 3. REGISTRATION SHALL BE RENEWED EVERY YEAR OR WHENEVER OWNERSHIP OF  
21 THE FACILITIES WHICH CREATE AN INTERBASIN DIVERSION IS TRANSFERRED,  
22 WHICHEVER OCCURS FIRST. REGISTRATION SHALL BE MADE ON FORMS PRESCRIBED  
23 BY THE DEPARTMENT AND SHALL CONTAIN ALL INFORMATION REQUESTED BY THE  
24 DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE. EACH  
25 PERSON WHO IS REQUIRED UNDER THIS SECTION TO REGISTER SHALL ANNUALLY, ON  
26 A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL INFORMATION REQUESTED BY  
27 THE DEPARTMENT, INCLUDING THE AMOUNT OF WATER DIVERTED. INFORMATION ON  
28 INTERBASIN DIVERSIONS SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE.

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

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

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

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

40 On any application for a new or [additional] INCREASED WITHDRAWAL OF  
41 WATER FOR A PUBLIC water supply [or source of water supply] SYSTEM, the  
42 department may require or authorize [any] THE applicant to make  
43 provisions for the supply and to supply water to any area of the state  
44 which as determined by the department in its decision on that applica-  
45 tion properly should be supplied with water from the source or sources  
46 of water supply sought by the applicant. The owner or operator of any  
47 existing or proposed [water works] PUBLIC WATER SUPPLY system within  
48 such area may apply to the department for a permit to take water from  
49 that source of water supply or from any part of the PUBLIC water supply  
50 system of the applicant supplied in whole or in part from that source.  
51 If the department so requires, or if it grants a permit, it shall be the  
52 duty of the applicant so to supply water, subject to such requirements  
53 as the department may impose. The PRICE TO BE PAID FOR THE amount of  
54 water so to be taken [and the price to be paid therefor] may be agreed  
55 upon between the applicant and the taker of the water, or if they cannot  
56 agree, fair and reasonable amounts and rates shall be, after due hear-

1 ings thereon, fixed by the [department, provided however, that such  
2 department shall have no power to fix rates in any case where the Public  
3 Service Commission has such power, and provided further, that nothing in  
4 this section contained shall be construed as diminishing the powers of  
5 said Public Service Commission in respect to rates of water works compa-  
6 nies subject to its jurisdiction] PUBLIC SERVICE COMMISSION. Any such  
7 agreement or determination of the [department] PUBLIC SERVICE COMMISSION  
8 may from time to time be modified by further agreement between the  
9 parties affected thereby or by the further order of the [department]  
10 COMMISSION.

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

13 S 15-1529. [Final approval of work] APPROVAL OF COMPLETED WATER WITH-  
14 DRAWAL SYSTEMS.

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

29 S 7. Title 16 of article 15 of the environmental conservation law is  
30 REPEALED.

31 S 8. Title 33 of article 15 of the environmental conservation law is  
32 REPEALED.

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

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

50 S 10. This act shall take effect April 1, 2011; provided, however that  
51 sections seven and eight of this act shall take effect December 31,  
52 2013.