

6335

2009-2010 Regular Sessions

I N S E N A T E

December 9, 2009

Introduced by Sen. THOMPSON -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to regulating the use of the state's water resources; and to repeal title 33 of article 15 of such law relating to 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; permit.  
5 1. Except as otherwise provided in this title, no person [or public  
6 corporation] who is authorized and engaged in, or proposing to engage  
7 in, the [acquisition, conservation, development, use and distribution of  
8 water for potable purposes, for the irrigation of agricultural lands,  
9 for projects taken pursuant to Article 5-D of the County Law, or for  
10 multi-purpose projects authorized by a general plan adopted and approved  
11 pursuant to title 11 of this article,] OPERATION OF A WATER WITHDRAWAL  
12 SYSTEM WITH A CAPACITY OF GREATER THAN OR EQUAL TO THE THRESHOLD VOLUME,  
13 shall have any power to do the following until such person [or public  
14 corporation] has first obtained a permit OR PERMIT MODIFICATION from the  
15 department pursuant to this title:  
16 a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM A NEW  
17 SOURCE or an [additional] INCREASED water [supply] WITHDRAWAL from an  
18 existing approved source; [or]  
19 b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES  
20 OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new  
21 or additional sources of PUBLIC water supply [or for the utilization of  
22 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 has not heretofore legally supplied water; 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

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

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

23 5. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMIT-  
24 TING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESH-  
25 OLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION. SUCH REGU-  
26 LATIONS MAY ESTABLISH: (A) EXEMPTIONS FROM PERMITTING REQUIREMENTS IN  
27 ADDITION TO THOSE EXEMPTIONS SPECIFIED IN THIS SECTION; (B) MINIMUM  
28 STANDARDS FOR CONSTRUCTION AND OPERATION OF WATER WITHDRAWAL SYSTEMS;  
29 (C) REPORTING AND RECORDKEEPING REQUIREMENTS; (D) REQUIREMENTS FOR  
30 PERSONS WHO OWN OR OPERATE PUBLIC WATER SUPPLY SYSTEMS TO ENSURE SAFE  
31 AND RELIABLE SERVICE TO USERS AND POTENTIAL USERS OF SUCH SYSTEMS; (E)  
32 PROTECTIONS FOR PRESENT AND FUTURE NEEDS FOR SOURCES OF POTABLE WATER  
33 SUPPLY; AND (F) ANY OTHER CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT  
34 THE DEPARTMENT DETERMINES ARE NECESSARY TO PROTECT THE ENVIRONMENT AND  
35 THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER MANAGE-  
36 MENT OF THE WATERS OF THE STATE.

37 6. THE DEPARTMENT IS AUTHORIZED TO CONSOLIDATE EXISTING WATER SUPPLY  
38 PERMITS FOR A PUBLIC WATER SUPPLY SYSTEM INTO ONE PERMIT, AND MAY  
39 REQUIRE SUBMISSION OF AN APPLICATION FOR SUCH PERMIT WHERE THE DEPART-  
40 MENT DETERMINES THAT SUCH ACTIONS ARE NECESSARY TO PROTECT THE ENVIRON-  
41 MENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO ENSURE THE PROPER  
42 MANAGEMENT OF THE WATERS OF THE STATE.

43 7. EACH PERSON WHO IS REQUIRED UNDER THIS SECTION TO HOLD A PERMIT  
44 SHALL ANNUALLY, ON A FORM PRESCRIBED BY THE DEPARTMENT, REPORT ALL  
45 INFORMATION REQUESTED BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO  
46 WATER CONSERVATION PRACTICES AND MEASURES UNDERTAKEN DURING THE REPORT-  
47 ING PERIOD.

48 8. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIRE-  
49 MENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE  
50 SUPPRESSION OR PUBLIC EMERGENCY PURPOSES; (B) WITHDRAWALS SUBJECT TO THE  
51 PERMITTING REQUIREMENTS OF A COMPACT BASIN COMMISSION WHICH ADMINISTERS  
52 A PERMITTING PROGRAM GOVERNING SUCH WATER WITHDRAWALS; (C) CLOSED LOOP,  
53 STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; AND  
54 (D) WITHDRAWALS FOR WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE  
55 REQUIREMENTS OF SECTION 15-1527 OF THIS TITLE.

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

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

9 8. "INTERBASIN DIVERSION" SHALL MEAN THE WITHDRAWAL, DIVERSION, OR  
10 PUMPING OF SURFACE WATER FROM ONE SUBREGIONAL DRAINAGE BASIN OR THE  
11 WITHDRAWAL OF GROUNDWATER FROM A POINT LOCATED WITHIN OR BENEATH ONE  
12 SUBREGIONAL DRAINAGE BASIN AND RELEASE OF ALL OR ANY PART OF THE WATER  
13 IN ANOTHER SUBREGIONAL DRAINAGE BASIN. A SUBREGIONAL DRAINAGE BASIN IS  
14 DEFINED BY THE FOUR DIGIT HYDROLOGIC UNIT CODE OF THE U.S. GEOLOGICAL  
15 SURVEY.

16 9. "PERSON" SHALL MEAN ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,  
17 POLITICAL SUBDIVISION, GOVERNMENT AGENCY, DEPARTMENT OR BUREAU OF THE  
18 STATE, MUNICIPALITY, INDUSTRY, CO-PARTNERSHIP, ASSOCIATION, FIRM, TRUST,  
19 ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

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

22 11. "PUBLIC WATER SUPPLY SYSTEM" SHALL MEAN A PERMANENTLY INSTALLED  
23 WATER WITHDRAWAL SYSTEM INCLUDING ITS SOURCE, COLLECTION, PUMPING,  
24 TREATMENT, TRANSMISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN  
25 CONNECTION WITH SUCH SYSTEM, WHICH PROVIDES PIPED WATER TO THE PUBLIC  
26 FOR POTABLE PURPOSES, IF SUCH SYSTEM HAS AT LEAST FIVE SERVICE  
27 CONNECTIONS USED BY YEAR-ROUND RESIDENTS.

28 12. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME  
29 OF ONE HUNDRED THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE  
30 LIMITING MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEY-  
31 ANCE SYSTEM.

32 13. "WATER CONSERVATION PRACTICES AND MEASURES" SHALL MEAN THOSE PRAC-  
33 TICES AND MEASURES WHICH ARE ENVIRONMENTALLY SOUND, ECONOMICALLY FEASI-  
34 BLE AND COST EFFECTIVE AND DESIGNED TO ACCOMPLISH ANY OF THE FOLLOWING:  
35 (A) REDUCE THE DEMAND FOR WATER; (B) IMPROVE EFFICIENCY IN WATER USE;  
36 (C) REDUCE LEAKAGE, LOSSES AND WASTE OF WATER; (D) IMPROVE REUSE AND  
37 RECYCLING OF WATER; AND (E) IMPROVE LAND MANAGEMENT PRACTICES TO  
38 CONSERVE WATER OR TO PRESERVE OR INCREASE GROUNDWATER RECHARGE.

39 14. "WATER WITHDRAWAL SYSTEM" SHALL MEAN A PHYSICAL INTERCONNECTED  
40 INFRASTRUCTURE OPERATED AND MAINTAINED FOR THE PROVISION OF WATER  
41 INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANS-  
42 MISSION, STORAGE AND DISTRIBUTION FACILITIES USED IN CONNECTION WITH THE  
43 WITHDRAWAL OF WATER.

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

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

49 1. A permit application or request for a permit renewal or modifica-  
50 tion shall be made on [forms provided] A FORM PRESCRIBED by the depart-  
51 ment and shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY  
52 THE DEPARTMENT RELATIVE TO THE WATER WITHDRAWAL, USE AND DISCHARGE,  
53 INCLUDING:

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

1 B. such exhibits as may be necessary clearly to indicate the scope of  
2 the proposed project[ , ];  
3 C. a map of any lands to be acquired [and];  
4 D. project plans[. The application shall also indicate];  
5 E. A STATEMENT OF the need for and the reasons why the proposed source  
6 or sources of supply were selected among the alternative sources which  
7 are or may become available[ , ] AND the adequacy of the supply selected  
8 [and the method proposed to determine and provide for the proper compen-  
9 sation for any direct and indirect legal damages to persons or property  
10 that will result from the acquisition of any lands in connection with  
11 the proposed project or from the execution of the proposed project. The  
12 application shall also contain, in accordance with local water resource  
13 needs and conditions,]; AND  
14 F. a description of the applicant's near term and long range water  
15 conservation program, including implementation and enforcement proce-  
16 dures, effectiveness to date and any planned modifications for the  
17 future. [Such] FOR A PUBLIC WATER SUPPLY SYSTEM, THE WATER CONSERVATION  
18 program may include but [shall] NEED not be limited to:  
19 [a.] I. the identification of and cost effectiveness of distribution  
20 system rehabilitation to correct sources of lost water;  
21 [b.] II. measures which encourage proper maintenance and water conser-  
22 vation;  
23 [c.] III. a public information program to promote water conservation,  
24 including industrial and commercial recycling and reuse;  
25 [d.] IV. household conservation measures; and  
26 [e.] V. contingency measures for limiting water use during seasonal or  
27 drought shortages. If the proposed project provides for the use of water  
28 for potable purposes, the application shall also include adequate proof  
29 of the character and purity of the water supply to be acquired or used  
30 and the proposed method of treatment.  
31 2. In making its decision to grant or deny a permit or to grant a  
32 permit with conditions, the department shall determine whether:  
33 A. the proposed [project is justified by the public necessity, whether  
34 it] WATER WITHDRAWAL takes proper consideration of other sources of  
35 supply that are or may become available[ , whether all work connected  
36 with the project will be proper and construction safe, whether];  
37 B. the QUANTITY OF supply will be adequate[ , whether there will be  
38 proper protection of the supply and watershed or whether there will be  
39 proper treatment of any additional supply, whether] FOR THE PROPOSED  
40 USE;  
41 C. the [project is just and equitable] PROPOSED WITHDRAWAL MAY RESULT  
42 IN SIGNIFICANT ADVERSE IMPACTS to [all affected] PROXIMATE munici-  
43 palities and their inhabitants [and in particular] with regard to their  
44 present and future needs for sources of POTABLE water supply[ , whether  
45 there is provision for fair and equitable determinations of and payments  
46 of any direct and indirect legal damages to persons or property that  
47 will result from the acquisition of any lands in connection with the  
48 proposed project or from the execution of the proposed project, and  
49 whether the applicant has developed and implemented a water conservation  
50 program in accordance with local water resource needs and conditions.  
51 If the proposed project is a multi-purpose project, in whole or in part  
52 authorized by a general plan adopted and approved pursuant to title 11  
53 of this article, the department in addition shall determine if the  
54 proposed project is in conformity with the general plan];

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

4 E. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE  
5 CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS  
6 PROPOSED;

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

11 G. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT  
12 INCORPORATES WATER CONSERVATION PRACTICES AND MEASURES; AND

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

16 3. In order to assist the development of local water conservation  
17 plans FOR PUBLIC WATER SUPPLY SYSTEMS, the department shall[, by the  
18 effective date of this subdivision,] CONTINUE TO publish and distribute  
19 a [model local water conservation plan] WATER CONSERVATION MANUAL that  
20 includes beneficial near term and long range water conservation proce-  
21 dures which reflect local water resource needs and conditions. Such  
22 plan shall include examples of:

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

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

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

28 d. household conservation measures; and

29 e. contingency measures for limiting water use during seasonal or  
30 drought shortages.

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

39 5. The rules and regulations adopted by the department to implement  
40 this title and the provisions of article 70 of this chapter and rules  
41 and regulations adopted thereunder shall govern permit applications,  
42 renewals, modifications, suspensions and revocations under this title.

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

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

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

54 1. No person or public corporation shall transport or carry through  
55 pipes, conduits, ditches or canals the waters of any fresh water lake,  
56 pond, brook, river, stream, or creek in this state or any well, subsur-

1 face or percolating waters of this state into any other state for use  
2 therein without first obtaining a permit from the department pursuant to  
3 this title.

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

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

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

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

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

35 On any application for a new or additional WITHDRAWAL OF WATER FOR A  
36 PUBLIC water supply [or source of water supply], the department may  
37 require or authorize [any] THE applicant to make provisions for the  
38 supply and to supply PUBLIC water to any area of the state which as  
39 determined by the department in its decision on that application proper-  
40 ly should be supplied with PUBLIC water from the source or sources of  
41 water supply sought by the applicant. The owner or operator of any  
42 existing or proposed [water works] PUBLIC WATER SUPPLY system within  
43 such area may apply to the department for a permit to take water from  
44 that source of water supply or from any part of the PUBLIC water supply  
45 system of the applicant supplied in whole or in part from that source.  
46 If the department so requires, or if it grants a permit, it shall be the  
47 duty of the applicant so to supply water, subject to such requirements  
48 as the department may impose. The amount of water so to be taken and the  
49 price to be paid therefor may be agreed upon between the applicant and  
50 the taker of the water, or if they cannot agree, fair and reasonable  
51 amounts and rates shall be, after due hearings thereon, fixed by the  
52 department, provided however, that such department shall have no power  
53 to fix rates in any case where the Public Service Commission has such  
54 power, and provided further, that nothing in this section contained  
55 shall be construed as diminishing the powers of said Public Service  
56 Commission in respect to rates of water works companies subject to its

1 jurisdiction. Any such agreement or determination of the department may  
2 from time to time be modified by further agreement between the parties  
3 affected thereby or by the further order of the department.

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

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

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

21 S 7. The environmental conservation law is amended by adding a new  
22 section 15-1531 to read as follows:

23 S 15-1531. REPORTING.

24 THE COMMISSIONER SHALL, WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS  
25 SECTION, AND THEREAFTER AS OFTEN AS THE COMMISSIONER DEEMS APPROPRIATE,  
26 REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE IMPLEMENTATION OF THIS  
27 TITLE. THE REPORT MAY INCLUDE BUT NEED NOT BE LIMITED TO RECOMMENDATIONS  
28 FOR MODIFICATIONS TO THIS TITLE, INCLUDING BUT NOT LIMITED TO MODIFICA-  
29 TIONS TO THE THRESHOLD VOLUME PROVIDED IN THIS TITLE FOR PARTICULAR  
30 WATER SOURCES, WATERSHEDS, WATER BODIES OR REGIONS, WHERE THE DEPARTMENT  
31 HAS DETERMINED THAT SUCH WATER SOURCES, WATERSHEDS, WATER BODIES OR  
32 REGIONS ARE IN NEED OF SPECIAL PROTECTION BECAUSE OF THE NATURE OR  
33 VOLUME OF DEMANDS MADE UPON THEM AND A MODIFICATION IS NECESSARY TO  
34 PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

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

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

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

54 S 10. Article 72 of the environmental conservation law is amended by  
55 adding a new title 8 to read as follows:

TITLE 8

WATER SUPPLY PERMIT PROGRAM FEES

SECTION 72-0801. DEFINITIONS.

72-0803. WATER SUPPLY PERMIT PROGRAM FEES.

S 72-0801. DEFINITIONS.

WHEN USED IN THIS TITLE:

1. "AGRICULTURAL PURPOSE" SHALL MEAN THE PRACTICE OF FARMING FOR CROPS, PLANTS, VINES AND TREES; AND THE KEEPING, GRAZING, OR FEEDING OF LIVESTOCK FOR SALE OF LIVESTOCK OR LIVESTOCK PRODUCTS.

2. "PUBLIC WATER SUPPLY PURPOSE" SHALL MEAN WATER USE BY A PUBLIC WATER SUPPLY SYSTEM.

3. "WATER SUPPLY PERMIT PROGRAM" MEANS THOSE ACTIVITIES OF THE DEPARTMENT AS SPECIFIED IN TITLE FIFTEEN OF ARTICLE FIFTEEN OF THIS CHAPTER RELATED TO THE WITHDRAWAL OF WATERS OF THE STATE AND ANY RELATED ENFORCEMENT ACTIVITIES.

S 72-0803. WATER SUPPLY PERMIT PROGRAM FEES.

1. EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, ALL PERSONS, EXCEPT A POLITICAL SUBDIVISION OF THE STATE, OR AN AGENCY, DEPARTMENT, BUREAU, OR PUBLIC AUTHORITY OF THE STATE, REQUIRED TO OBTAIN A PERMIT PURSUANT TO THE WATER SUPPLY PERMIT PROGRAM SHALL SUBMIT ANNUALLY TO THE DEPARTMENT A FEE, FOR EACH WATER WITHDRAWAL SYSTEM, IN AN AMOUNT TO BE DETERMINED AS FOLLOWS:

A. FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF LESS THAN ONE MILLION GALLONS PER DAY, USED PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

B. ONE HUNDRED TWENTY-FIVE DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF BETWEEN ONE MILLION AND NINE MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, USED PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

C. TWO HUNDRED FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF TEN MILLION GALLONS PER DAY OR MORE, USED PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

D. ONE HUNDRED DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF LESS THAN ONE MILLION GALLONS PER DAY, FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

E. TWO HUNDRED FIFTY DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF BETWEEN ONE MILLION AND NINE MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

F. FIVE HUNDRED DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF BETWEEN TEN MILLION AND FORTY-NINE MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE GALLONS PER DAY, FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES;

G. ONE THOUSAND DOLLARS FOR A WATER WITHDRAWAL SYSTEM WITH A CAPACITY OF FIFTY MILLION GALLONS PER DAY OR MORE, FOR ANY AND ALL USES WHICH ARE NOT PRIMARILY FOR AGRICULTURAL OR PUBLIC WATER SUPPLY PURPOSES.

2. FOR THE PURPOSE OF DETERMINING THE APPROPRIATE FEE REQUIRED BY SUBDIVISION ONE OF THIS SECTION, THE AMOUNT OF RECLAIMED WASTEWATER, WHICH A PERSON WITHDRAWS FOR REUSE, SHALL NOT BE INCLUDED IN THE TOTAL CAPACITY OF THE WATER WITHDRAWAL.

S 11. This act shall take effect immediately; provided, however that section eight of this act shall take effect December 31, 2012.