

8280

I N S E N A T E

June 19, 2010

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 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.

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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] UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT
47 TO SUBDIVISION FOUR OF THIS SECTION, NOTHING CONTAINED IN SUBDIVISION
48 ONE OF THIS SECTION CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE
49 APPLICABLE TO WATER WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY
50 SYSTEM. UNTIL AND UNLESS OTHERWISE PROVIDED BY SUCH REGULATIONS, ALL
51 VALID PUBLIC WATER SUPPLY PERMITS AND APPROVALS ISSUED BY THE DEPARTMENT
52 OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE AND EFFECT AND SHALL BE
53 DEEMED TO SATISFY THE PERMIT REQUIREMENTS OF SUBDIVISION ONE OF THIS
54 SECTION FOR EXISTING WATER WITHDRAWALS FROM A SOURCE AND IN AN AMOUNT
55 AUTHORIZED BY SUCH PERMIT OR APPROVAL.

1 3. Nothing CONTAINED in this [section provided] TITLE CONCERNING
2 PERMITS FROM THE DEPARTMENT FOR WATER WITHDRAWALS shall be deemed to
3 nullify the requirements [of Regulation 2, Chapter V] of the State Sani-
4 tary Code[, as] APPLICABLE TO DRINKING WATER SUPPLIES, INCLUDING PUBLIC
5 WATER SYSTEMS, in effect on [January 1, 1960, that plans for a new water
6 treatment plant for the treatment of an existing public water supply or
7 for any addition to or modification of an existing water treatment
8 plant, or for any addition to or modification of a public water supply
9 system which will or may affect the quality of the public water supply,
10 shall be submitted to and approved by the Commissioner of Health, which
11 regulation has no application to a new or additional source or sources
12 of public water supply of a permanent character which require a permit
13 from the Department of Environmental Conservation under the provisions
14 of this article] APRIL 1, 2011, AS MAY BE AMENDED FROM TIME TO TIME. NO
15 SUPPLIER OF WATER SHALL MAKE, INSTALL OR CONSTRUCT, OR ALLOW TO BE MADE,
16 INSTALLED OR CONSTRUCTED, A PUBLIC WATER SUPPLY SYSTEM OR ANY ADDITION
17 OR DELETION TO OR MODIFICATION OF A PUBLIC WATER SUPPLY SYSTEM UNTIL THE
18 PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED TO AND APPROVED BY
19 THE COMMISSIONER OF HEALTH OR HIS OR HER DESIGNEE AS MAY BE REQUIRED BY
20 THE STATE SANITARY CODE.

21 4. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT A PERMIT-
22 TING PROGRAM FOR WATER WITHDRAWALS EQUAL TO OR GREATER THAN THE THRESH-
23 OLD VOLUME CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION. SUCH REGU-
24 LATIONS MAY ESTABLISH: (A) MINIMUM STANDARDS FOR CONSTRUCTION AND
25 OPERATION OF WATER WITHDRAWAL SYSTEMS; (B) MONITORING, REPORTING AND
26 RECORDKEEPING REQUIREMENTS; (C) PROTECTIONS FOR PRESENT AND FUTURE NEEDS
27 FOR SOURCES OF POTABLE WATER SUPPLY; AND (D) ANY OTHER CONDITIONS, LIM-
28 TATIONS AND RESTRICTIONS THAT THE DEPARTMENT DETERMINES ARE NECESSARY TO
29 PROTECT THE ENVIRONMENT AND THE PUBLIC HEALTH, SAFETY AND WELFARE AND TO
30 ENSURE THE PROPER MANAGEMENT OF THE WATERS OF THE STATE, INCLUDING, BUT
31 NOT LIMITED TO, MINIMUM STREAM FLOWS PROTECTIVE OF AQUATIC LIFE. THE
32 REGULATIONS MAY ESTABLISH EXEMPTIONS FROM PERMITTING REQUIREMENTS IN
33 ADDITION TO THOSE EXEMPTIONS SPECIFIED IN THIS SECTION.

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

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

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

54 8. THE DEPARTMENT SHALL ESTABLISH A WATER CONSERVATION AND EFFICIENCY
55 PROGRAM WITH THE GOALS OF (A) ENSURING IMPROVEMENT OF THE WATERS AND
56 WATER DEPENDENT NATURAL RESOURCES, (B) PROTECTING AND RESTORING THE

HYDROLOGIC AND ECOSYSTEM INTEGRITY OF WATERSHEDS THROUGHOUT THE STATE, (C) RETAINING THE QUANTITY OF SURFACE WATER AND GROUNDWATER IN THE STATE, (D) ENSURING SUSTAINABLE USE OF STATE WATERS, AND (E) PROMOTING THE EFFICIENCY OF USE AND REDUCING LOSSES AND WASTE OF WATER.

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

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

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

9. "INTERBASIN DIVERSION" SHALL MEAN THE TRANSFER OF WATER OR WASTEWATER FROM ONE NEW YORK MAJOR DRAINAGE BASIN TO ANOTHER DRAINAGE BASIN.

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

11. "POTABLE WATER" SHALL MEAN WATER INTENDED FOR HUMAN CONSUMPTION THAT MEETS THE REQUIREMENTS FOR A PUBLIC WATER SYSTEM AS SET FORTH IN THE STATE SANITARY CODE.

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

13. "THRESHOLD VOLUME" SHALL MEAN THE WITHDRAWAL OF WATER OF A VOLUME OF ONE HUNDRED THOUSAND GALLONS OR MORE PER DAY, DETERMINED BY THE LIMITING MAXIMUM CAPACITY OF THE WATER WITHDRAWAL, TREATMENT, OR CONVEYANCE SYSTEM.

14. "WATER WITHDRAWAL SYSTEM" SHALL MEAN ANY EQUIPMENT OR INFRASTRUCTURE OPERATED OR MAINTAINED FOR THE PROVISION OR WITHDRAWAL OF WATER INCLUDING, BUT NOT LIMITED TO, COLLECTION, PUMPING, TREATMENT, TRANSPORTATION, TRANSMISSION, STORAGE, AND DISTRIBUTION.

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

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

S 15-1503. Permits.

1. A permit application or request for a permit renewal or modification shall be made on forms [provided] PRESCRIBED by the department and shall [be accompanied by] CONTAIN ALL INFORMATION REQUESTED BY THE

1 DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER,
2 INCLUDING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 d. household conservation measures; and

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

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

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

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

54 S 4. Section 15-1505 of the environmental conservation law, as amended
55 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 APRIL FIRST, TWO THOUSAND TWELVE, ALL EXISTING INTERBASIN DIVERSIONS IN
15 EXCESS OF ONE MILLION GALLONS PER DAY, AS DETERMINED BY THE LIMITING
16 MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM, SHALL BE REGIS-
17 TERED WITH THE DEPARTMENT.

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

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

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

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

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

38 On any application for a new or [additional] INCREASED WITHDRAWAL OF
39 WATER FOR A PUBLIC water supply [or source of water supply] SYSTEM, the
40 department may require or authorize [any] THE applicant to make
41 provisions for the supply and to supply water to any area of the state
42 which as determined by the department in its decision on that applica-
43 tion properly should be supplied with water from the source or sources
44 of water supply sought by the applicant. The owner or operator of any
45 existing or proposed [water works] PUBLIC WATER SUPPLY system within
46 such area may apply to the department for a permit to take water from
47 that source of water supply or from any part of the PUBLIC water supply
48 system of the applicant supplied in whole or in part from that source.
49 If the department so requires, or if it grants a permit, it shall be the
50 duty of the applicant so to supply water, subject to such requirements
51 as the department may impose. The PRICE TO BE PAID FOR THE amount of
52 water so to be taken [and the price to be paid therefor] may be agreed
53 upon between the applicant and the taker of the water, or if they cannot
54 agree, fair and reasonable amounts and rates shall be, after due hear-
55 ings thereon, fixed by the [department, provided however, that such
56 department shall have no power to fix rates in any case where the Public

1 Service Commission has such power, and provided further, that nothing in
2 this section contained shall be construed as diminishing the powers of
3 said Public Service Commission in respect to rates of water works compa-
4 nies subject to its jurisdiction] PUBLIC SERVICE COMMISSION. Any such
5 agreement or determination of the [department] PUBLIC SERVICE COMMISSION
6 may from time to time be modified by further agreement between the
7 parties affected thereby or by the further order of the [department]
8 COMMISSION.

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

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

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

27 S 7. Title 16 of article 15 of the environmental conservation law is
28 REPEALED.

29 S 8. Title 33 of article 15 of the environmental conservation law is
30 REPEALED.

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

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

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