

5318--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 15, 2011

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Introduced by M. of A. SWEENEY, PEOPLES-STOKES, ZEBROWSKI, GUNTHER, TITONE, REILLY, SPANO, JACOBS, PAULIN, SCHIMEL, ENGLEBRIGHT, HOYT -- Multi-Sponsored by -- M. of A. BRENNAN, GABRYSZAK, MARKEY, McENENY, M. MILLER, PHEFFER, ROBINSON -- (at request of the Department of Environmental Conservation) -- 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:

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

LBD08389-03-1

1 a. To [acquire or take] MAKE a water [supply] WITHDRAWAL FROM AN  
2 EXISTING OR NEW SOURCE or an [additional] INCREASED water [supply] WITH-  
3 DRAWAL from an existing [approved] PERMITTED source; [or]  
4 b. To take or condemn lands for THE PROTECTION OF ANY EXISTING SOURCES  
5 OF PUBLIC WATER SUPPLY; OR FOR THE DEVELOPMENT OR PROTECTION OF any new  
6 or additional sources of PUBLIC water supply [or for the utilization of  
7 such supplies]; [or]  
8 c. To commence or undertake the construction of any works or projects  
9 in connection with the proposed [plans] WITHDRAWAL; or  
10 d. [To exercise any franchise hereafter granted to supply water to any  
11 inhabitants of the state; or  
12 e.] To extend its supply or distribution mains into [a municipality,  
13 water district, water supply district, or other civil division of the  
14 state wherein it] ANY NEW WATER SERVICE AREA OR EXTENSION THAT has not  
15 [heretofore legally supplied water] BEEN APPROVED BY THE DEPARTMENT OR A  
16 PREDECESSOR COMMISSION; or  
17 [f. To construct any extension of its supply mains except within a  
18 service area approved by the department after public hearing; or  
19 g. To extend the boundaries of a water district; or  
20 h. To supply water in or for use in any other municipality or civil  
21 division of the state which owns and operates a water supply system  
22 therein, or in any duly organized water supply or fire district supplied  
23 with water by another person or public corporation]  
24 E. TO MAKE A SIGNIFICANT CHANGE IN THE PRINCIPAL USE OF THE WATER  
25 WITHDRAWAL SYSTEM FROM THAT SPECIFIED IN THE PERMIT, OR PERMIT APPLICA-  
26 TION.  
27 2. [A permit shall not be necessary for the extension of supply or  
28 distributing mains or pipes of a municipal water supply plant into and  
29 for the purpose of supplying water in any territory within the limits of  
30 the municipality owning such plant, including territory which has not  
31 been heretofore supplied with water by such plant, nor for the recon-  
32 struction or replacement of existing facilities in connection with an  
33 existing plant wherein the capacity of the plant is in no way increased,  
34 nor for the construction of filtration or other treatment facilities  
35 which will not in any way increase the amount of water which can be made  
36 available from the present sources of supply. A permit shall not be  
37 necessary for the extension of supply or distributing mains or pipes of  
38 a county water authority into and for the purpose of supplying water in  
39 any territory assigned to such county water authority within the limits  
40 of the county but excluding territory specifically assigned to private  
41 or other municipal water companies by the department which has not been  
42 heretofore supplied with water by such county water authority, nor for  
43 the reconstruction or replacement of existing facilities in connection  
44 with an existing plant wherein the capacity of the plant is in no way  
45 increased, nor for the construction of filtration or other treatment  
46 facilities which will not in any way increase the amount of water which  
47 can be made available from the present sources of supply, provided,  
48 however, that nothing herein contained shall be held to authorize such  
49 county water authority to enter into competition with, for the purpose  
50 of service in the area served by the mains, the transmission or distrib-  
51 ution mains of any other water works system, either publicly or private-  
52 ly owned, already legally established in said county for the sale of  
53 water at wholesale or retail, or which hereafter may legally be estab-  
54 lished for said purpose; or to sell water to any other water works  
55 system, either publicly or privately owned, and not now served by said  
56 county authority] ALL VALID PUBLIC WATER SUPPLY PERMITS AND APPROVALS

ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE PURPOSE OF SATISFYING 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. UNTIL THE DEPARTMENT PROMULGATES REGULATIONS PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, NOTHING CONTAINED IN SUBDIVISION ONE OF THIS SECTION CONCERNING PERMITS FROM THE DEPARTMENT SHALL BE APPLICABLE TO WATER WITHDRAWALS OTHER THAN FOR A PUBLIC WATER SUPPLY SYSTEM.

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 AND BOTTLED WATER FACILITIES, 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] FEBRUARY 15, 2012, 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 WHICH SHALL ESTABLISH: (A) MINIMUM STANDARDS FOR OPERATION AND NEW CONSTRUCTION OF WATER WITHDRAWAL SYSTEMS; (B) MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS; AND (C) PROTECTIONS FOR PRESENT AND FUTURE NEEDS FOR SOURCES OF POTABLE WATER SUPPLY. SUCH REGULATIONS MAY ESTABLISH QUANTITATIVE STANDARDS THAT MAINTAIN STREAM FLOWS PROTECTIVE OF AQUATIC LIFE, CONSISTENT WITH THE POLICY OBJECTIVES OF THIS ARTICLE AND ANY OTHER CONDITIONS, LIMITATIONS AND RESTRICTIONS THAT THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF HEALTH, 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. 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.

1 7. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE PERMIT REQUIRE-  
2 MENTS ESTABLISHED BY THIS SECTION: (A) WITHDRAWALS USED FOR FIRE  
3 SUPPRESSION OR PUBLIC EMERGENCY PURPOSES; (B) WITHDRAWALS THAT HAVE  
4 RECEIVED AN APPROVAL FROM A COMPACT BASIN COMMISSION WHICH ADMINISTERS A  
5 PROGRAM GOVERNING WATER WITHDRAWALS; (C) CLOSED LOOP, STANDING COLUMN,  
6 OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; (D) WITHDRAWALS FOR  
7 WHICH A PERMIT HAS BEEN ISSUED PURSUANT TO THE REQUIREMENTS OF SECTION  
8 15-1527 OF THIS TITLE; (E) EXISTING WITHDRAWALS FOR AGRICULTURAL  
9 PURPOSES PROVIDED THE WITHDRAWAL HAS BEEN REGISTERED WITH THE DEPARTMENT  
10 PURSUANT TO THE REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR  
11 REPORTED TO THE DEPARTMENT PURSUANT TO THE REQUIREMENTS OF TITLE THIR-  
12 TY-THREE OF THIS ARTICLE ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND  
13 TWELVE; AND (F) WITHDRAWALS AT REMEDIATION SITES CONDUCTED PURSUANT TO A  
14 FEDERAL OR STATE COURT ORDER OR FEDERAL OR STATE GOVERNMENT AGENCY  
15 AGREEMENT OR ORDER.

16 8. THE DEPARTMENT SHALL ESTABLISH A WATER CONSERVATION AND EFFICIENCY  
17 PROGRAM WITH THE GOALS OF (A) ENSURING IMPROVEMENT OF THE WATERS AND  
18 WATER DEPENDENT NATURAL RESOURCES, (B) PROTECTING AND RESTORING THE  
19 HYDROLOGIC AND ECOSYSTEM INTEGRITY OF WATERSHEDS THROUGHOUT THE STATE,  
20 (C) RETAINING THE QUANTITY OF SURFACE WATER AND GROUNDWATER IN THE  
21 STATE, (D) ENSURING SUSTAINABLE USE OF STATE WATERS, AND (E) PROMOTING  
22 THE EFFICIENCY OF USE AND REDUCING LOSSES AND WASTE OF WATER.

23 9. THE DEPARTMENT SHALL ISSUE AN INITIAL PERMIT, SUBJECT TO APPROPRI-  
24 ATE TERMS AND CONDITIONS AS REQUIRED UNDER THIS ARTICLE, TO ANY PERSON  
25 NOT EXEMPT FROM THE PERMITTING REQUIREMENTS OF THIS SECTION, FOR THE  
26 MAXIMUM WATER WITHDRAWAL CAPACITY REPORTED TO THE DEPARTMENT PURSUANT TO  
27 THE REQUIREMENTS OF TITLE SIXTEEN OR TITLE THIRTY-THREE OF THIS ARTICLE  
28 ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE.

29 S 2. Section 15-1502 of the environmental conservation law is amended  
30 by adding ten new subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 to  
31 read as follows:

32 7. "AGRICULTURAL PURPOSE" SHALL MEAN THE PRACTICE OF FARMING FOR  
33 CROPS, PLANTS, VINES AND TREES, AND THE KEEPING, GRAZING, OR FEEDING OF  
34 LIVESTOCK FOR SALE OF LIVESTOCK OR LIVESTOCK PRODUCTS, AND THE ON-FARM  
35 PROCESSING OF CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS.

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

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

53 10. "INTERBASIN DIVERSION" SHALL MEAN THE TRANSFER OF WATER OR WASTE-  
54 WATER FROM ONE NEW YORK MAJOR DRAINAGE BASIN TO ANOTHER DRAINAGE BASIN.

55 11. "PERSON" SHALL MEAN ANY INDIVIDUAL, PUBLIC OR PRIVATE CORPORATION,  
56 POLITICAL SUBDIVISION, GOVERNMENT AGENCY, DEPARTMENT OR BUREAU OF THE

STATE, MUNICIPALITY, INDUSTRY, CO-PARTNERSHIP, ASSOCIATION, FIRM, TRUST, ESTATE OR ANY OTHER LEGAL ENTITY WHATSOEVER.

12. "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.

13. "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.

14. "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; PROVIDED THAT FOR AGRICULTURAL PURPOSES THE THRESHOLD VOLUME SHALL MEAN A WITHDRAWAL OF WATER OF A VOLUME IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE THIRTY-DAY PERIOD.

15. "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.

16. "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 DEPARTMENT RELATIVE TO THE WITHDRAWAL, USE AND DISCHARGE OF WATER, INCLUDING:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 B. the QUANTITY OF supply will be adequate[, whether there will be  
18 proper protection of the supply and watershed or whether there will be  
19 proper treatment of any additional supply, whether] FOR THE PROPOSED  
20 USE;

21 C. the project is just and equitable to all affected municipalities  
22 and their inhabitants [and in particular] with regard to their present  
23 and future needs for sources of POTABLE water supply[, whether there is  
24 provision for fair and equitable determinations of and payments of any  
25 direct and indirect legal damages to persons or property that will  
26 result from the acquisition of any lands in connection with the proposed  
27 project or from the execution of the proposed project, and whether the  
28 applicant has developed and implemented a water conservation program in  
29 accordance with local water resource needs and conditions. If the  
30 proposed project is a multi-purpose project, in whole or in part author-  
31 ized by a general plan adopted and approved pursuant to title 11 of this  
32 article, the department in addition shall determine if the proposed  
33 project is in conformity with the general plan];

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

37 E. THE PROPOSED WATER WITHDRAWAL IS LIMITED TO QUANTITIES THAT ARE  
38 CONSIDERED REASONABLE FOR THE PURPOSES FOR WHICH THE WATER USE IS  
39 PROPOSED;

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

44 G. THE PROPOSED WATER WITHDRAWAL WILL BE IMPLEMENTED IN A MANNER THAT  
45 INCORPORATES ENVIRONMENTALLY SOUND AND ECONOMICALLY FEASIBLE WATER  
46 CONSERVATION MEASURES; AND

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

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

1 a. methods of identifying and determining the cost effectiveness of  
2 distribution system rehabilitation to correct sources of lost water;  
3 b. measures which encourage proper maintenance and water conservation;  
4 c. a public information program to promote water conservation, includ-  
5 ing industrial and commercial recycling and reuse;  
6 d. household conservation measures; and  
7 e. contingency measures for limiting water use during seasonal or  
8 drought shortages.

9 4. The department may grant or deny a permit or grant a permit with  
10 such conditions as may be necessary to provide satisfactory compliance  
11 by the applicant with the matters subject to department determination  
12 pursuant to subdivision 2 of this section, or to bring into cooperation  
13 all persons [or public corporations] that may be affected by the  
14 project, but it shall make a reasonable effort to meet the needs of the  
15 applicant, with due regard to the actual or prospective needs, interests  
16 and rights of others that may be affected by the project.

17 5. The rules and regulations adopted by the department to implement  
18 this title and the provisions of article 70 of this chapter and rules  
19 and regulations adopted thereunder shall govern permit applications,  
20 renewals, modifications, suspensions and revocations under this title.

21 6. A NEW PERMIT FOR A WATER WITHDRAWAL SYSTEM AND ANY SUBSEQUENT  
22 RENEWAL THEREOF SHALL BE VALID FOR A PERIOD OF TIME NOT TO EXCEED TEN  
23 YEARS FROM THE DATE OF ISSUANCE. A NEW PERMIT OR PERMIT MODIFICATION  
24 MUST BE OBTAINED FROM THE DEPARTMENT PRIOR TO ANY TRANSFER OR CHANGE OF  
25 OWNERSHIP OF A WATER WITHDRAWAL SYSTEM.

26 S 4. The environmental conservation law is amended by adding a new  
27 section 15-1504 to read as follows:

28 S 15-1504. WATER WITHDRAWALS FOR AGRICULTURAL PURPOSES.

29 1. APPLICABILITY.

30 A. THIS SECTION APPLIES TO WITHDRAWALS OF WATER FOR AGRICULTURAL  
31 PURPOSES THAT HAVE BEEN REGISTERED WITH THE DEPARTMENT PURSUANT TO THE  
32 REQUIREMENTS OF TITLE SIXTEEN OF THIS ARTICLE OR REPORTED TO THE DEPART-  
33 MENT PURSUANT TO THE REQUIREMENTS OF TITLE THIRTY-THREE OF THIS ARTICLE  
34 ON OR BEFORE FEBRUARY FIFTEENTH, TWO THOUSAND TWELVE.

35 B. ALL PERSONS MAKING A WITHDRAWAL OF WATER FOR AGRICULTURAL PURPOSES  
36 SHALL ANNUALLY REGISTER OR REPORT THE WITHDRAWAL TO THE DEPARTMENT UNDER  
37 THE PROVISIONS OF THIS SECTION BY MARCH THIRTY-FIRST OF EACH YEAR.

38 2. WHEN USED IN THIS SECTION:

39 A. "GREAT LAKES BASIN" SHALL MEAN THE WATERSHED OF THE GREAT LAKES AND  
40 THE ST. LAWRENCE RIVER, UPSTREAM FROM TROIS-RIVIERES, QUEBEC, CONSISTING  
41 IN NEW YORK STATE OF THE LAKE ERIE-NIAGARA RIVER, LAKE ONTARIO MINOR  
42 TRIBUTARIES, GENESEE RIVER, SENECA-ONEIDA-OSWEGO RIVER, BLACK RIVER, ST.  
43 LAWRENCE RIVER AND LAKE CHAMPLAIN DRAINAGE BASINS.

44 B. "GREAT LAKES WATER" SHALL MEAN THE WATER CONTAINED IN THE  
45 WATERSHED, INCLUDING THE LAKES AND RIVERS, OF THE GREAT LAKES BASIN.

46 3. REGISTRATION OF WATER WITHDRAWALS IN THE GREAT LAKES BASIN.

47 A. ALL PERSONS WITHDRAWING GREAT LAKES WATER FOR AGRICULTURAL PURPOSES  
48 IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY  
49 CONSECUTIVE THIRTY-DAY PERIOD SHALL ANNUALLY REGISTER SUCH WITHDRAWAL  
50 WITH THE DEPARTMENT.

51 B. EACH REGISTRATION SHALL BE ON A FORM AND CONTAIN SUCH INFORMATION  
52 AS MAY BE PRESCRIBED BY THE DEPARTMENT AND CONSIST OF A STATEMENT OF AND  
53 SUPPORTING DOCUMENTATION WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE  
54 FOLLOWING:

55 (1) THE PLACE AND SOURCE OF THE PROPOSED OR EXISTING WITHDRAWAL;

56 (2) THE LOCATION OF ANY DISCHARGE OR RETURN FLOW;

(3) THE LOCATION AND NATURE OF THE PROPOSED OR EXISTING WATER USE;

(4) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND RATES OF WITHDRAWAL; AND

(5) THE ACTUAL OR ESTIMATED AVERAGE ANNUAL AND MONTHLY VOLUMES AND RATES OF WATER LOSS FROM THE WITHDRAWAL.

C. IN CALCULATING THE TOTAL AMOUNT OF AN EXISTING OR PROPOSED WITHDRAWAL FOR THE PURPOSE OF DETERMINING THE APPLICABILITY OF THIS SUBDIVISION, A PERSON SHALL COMBINE ALL SEPARATE WITHDRAWALS WHICH THE PERSON MAKES OR PROPOSES TO MAKE, WHETHER OR NOT SUCH WITHDRAWALS ARE FOR A SINGLE AGRICULTURAL PURPOSE OR ARE FOR RELATED BUT SEPARATE AGRICULTURAL PURPOSES.

D. REGISTRATIONS SHALL BE VALID FOR A PERIOD OF ONE YEAR.

E. A REGISTRATION MAY BE TRANSFERRED BY SUBMITTING A NOTICE OF TRANSFER TO THE DEPARTMENT PRIOR TO THE DATE OF A TRANSFER OR CHANGE OF OWNERSHIP OF A WATER WITHDRAWAL SYSTEM ASSOCIATED WITH A REGISTERED WITHDRAWAL.

F. THE DEPARTMENT MAY COOPERATE WITH STATE SOIL AND WATER CONSERVATION DISTRICTS FOR THE PREPARATION AND DISTRIBUTION OF INFORMATIONAL MATERIALS TO PERSONS WHO WITHDRAW WATER FOR AGRICULTURAL PURPOSES, REGARDING THE PURPOSES, BENEFITS AND REQUIREMENTS OF THIS SECTION, AND WHICH MAY ALSO PROVIDE INFORMATION ON COMPLYING WITH THE REGISTRATION PROGRAM AND ON ANY GENERAL OR APPLICABLE METHODS FOR CALCULATING OR ESTIMATING WATER WITHDRAWALS OR WATER LOSS.

#### 4. WATER WITHDRAWAL REPORTING.

A. ANY PERSON WHO WITHDRAWS WATER FOR AGRICULTURAL PURPOSES IN EXCESS OF AN AVERAGE OF ONE HUNDRED THOUSAND GALLONS PER DAY IN ANY CONSECUTIVE THIRTY-DAY PERIOD SHALL ANNUALLY REPORT TO THE DEPARTMENT. THE REPORT SHALL BE MADE ON A FORM AND CONTAIN SUCH INFORMATION AS MAY BE PRESCRIBED BY THE DEPARTMENT AND SHALL BE BASED ON THE WATER WITHDRAWALS FOR THE PREVIOUS CALENDAR YEAR, AND SHALL INCLUDE BUT NOT BE LIMITED TO:

(1) THE WATER SOURCE, THE LOCATION OF THE WATER SOURCE AND THE SOURCE CAPACITY IF KNOWN;

(2) THE AMOUNT OF WATER WITHDRAWN FOR THE REPORTING PERIOD, INCLUDING THE AVERAGE OR PEAK WITHDRAWALS FOR INTERVALS SPECIFIED BY THE DEPARTMENT;

(3) A DESCRIPTION OF THE USE OF THE WATER WITHDRAWN; AND

(4) ESTIMATED AMOUNTS OF WATER TO BE RETURNED, IF ANY, THE LOCATIONS OF SUCH RETURNS AND THE METHOD OF SUCH RETURNS.

B. THE FOLLOWING WATER WITHDRAWALS ARE EXEMPT FROM THE REPORTING REQUIREMENTS OF THIS SUBDIVISION:

(1) A WITHDRAWAL REGISTERED WITH THE DEPARTMENT UNDER SUBDIVISION THREE OF THIS SECTION;

(2) A WITHDRAWAL PERMITTED PURSUANT TO SECTION 15-1501 OF THIS TITLE;

(3) A WITHDRAWAL REPORTED TO THE DEPARTMENT UNDER ANY PROGRAM THAT REQUIRES THE REPORTING OF SUBSTANTIALLY SIMILAR DATA, INCLUDING WITHDRAWALS REGULATED BY THE SUSQUEHANNA RIVER BASIN COMMISSION AND THE DELAWARE RIVER BASIN COMMISSION;

(4) A WITHDRAWAL PERMITTED UNDER SECTION 15-1527 OF THIS TITLE;

(5) CLOSED LOOP, STANDING COLUMN, OR SIMILAR NON-EXTRACTIVE GEOTHERMAL HEAT PUMPS; AND

(6) RECLAIMED WASTEWATER WITHDRAWN FOR REUSE.

5. WITHDRAWALS OF WATER FOR AGRICULTURAL PURPOSES REGISTERED OR REPORTED TO THE DEPARTMENT UNDER THE REQUIREMENTS OF THIS SECTION SHALL BE DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE SIXTEEN AND TITLE THIRTY-THREE OF THIS ARTICLE, AS APPLICABLE.



1 S 5. 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 FEBRUARY FIFTEENTH, TWO THOUSAND THIRTEEN, ALL EXISTING INTERBASIN  
17 DIVERSIONS IN EXCESS OF ONE MILLION GALLONS PER DAY, AS DETERMINED BY  
18 THE LIMITING MAXIMUM CAPACITY OF THE TREATMENT OR CONVEYANCE SYSTEM,  
19 SHALL BE REGISTERED WITH THE DEPARTMENT.

20 3. REGISTRATION IS NOT REQUIRED FOR AN INTERBASIN DIVERSION WHICH IS  
21 PART OF A WATER WITHDRAWAL SYSTEM FOR WHICH THE DEPARTMENT HAS ISSUED A  
22 PERMIT UNDER THIS TITLE, OR WHICH IS OPERATING PURSUANT TO A DULY  
23 AUTHORIZED PERMIT ISSUED BY THE DEPARTMENT OR ITS PREDECESSORS.

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

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

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

41 S 6. Section 15-1521 of the environmental conservation law, as amended  
42 by chapter 233 of the laws of 1979, is amended to read as follows:

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

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

1 as the department may impose. The PRICE TO BE PAID FOR THE amount of  
2 water so to be taken [and the price to be paid therefor] may be agreed  
3 upon between the applicant and the taker of the water, or if they cannot  
4 agree, fair and reasonable amounts and rates shall be, after due hear-  
5 ings thereon, fixed by the [department, provided however, that such  
6 department shall have no power to fix rates in any case where the Public  
7 Service Commission has such power, and provided further, that nothing in  
8 this section contained shall be construed as diminishing the powers of  
9 said Public Service Commission in respect to rates of water works compa-  
10 nies subject to its jurisdiction] PUBLIC SERVICE COMMISSION. Any such  
11 agreement or determination of the [department] PUBLIC SERVICE COMMISSION  
12 may from time to time be modified by further agreement between the  
13 parties affected thereby or by the further order of the [department]  
14 COMMISSION.

15 S 7. 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 DRAWAL 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 THAT THE WATER WITHDRAWAL  
26 SYSTEM HAS BEEN FULLY COMPLETED IN ACCORDANCE WITH THE APPROVED ENGI-  
27 NEERING REPORT, PLANS AND SPECIFICATIONS, AND THE PERMIT ISSUED BY THE  
28 DEPARTMENT PURSUANT TO THIS TITLE. THE OWNER SHALL NOT COMMENCE OPERA-  
29 TION OF THE NEW OR MODIFIED WATER WITHDRAWAL SYSTEM PRIOR TO THE DEPART-  
30 MENT RECEIVING SUCH CERTIFICATE AND PRIOR TO APPROVAL OF THE SYSTEM BY  
31 THE DEPARTMENT OF HEALTH OR ITS DESIGNEE AS MAY BE REQUIRED BY THE STATE  
32 SANITARY CODE.

33 S 8. Title 16 of article 15 of the environmental conservation law is  
34 REPEALED.

35 S 9. Title 33 of article 15 of the environmental conservation law is  
36 REPEALED.

37 S 10. 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 11. This act shall take effect February 15, 2012; provided, however  
55 that section four of this act shall take effect immediately; and  
56 provided, further that sections eight and nine of this act shall take

1 effect December 31, 2013, and provided further that any application for  
2 an adjudication of water rates pursuant to section 15-1521 of the envi-  
3 ronmental conservation law that is filed with the department of environ-  
4 mental conservation and for which the department has issued a notice of  
5 hearing prior to February 15, 2012 shall remain under the jurisdiction  
6 of the department of environmental conservation.