

1 AN ACT concerning groundwater.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. This Act may be cited as the Water Quantity  
5 Protection Act of 2001.

6 Section 5. Legislative Findings. The General Assembly  
7 finds that (i) the continuing development and use of the  
8 groundwater and surface water resources of the State threaten  
9 the availability of those resources and (ii) concerns  
10 regarding the development of groundwater and surface water  
11 resources need to be addressed through the development, by  
12 the State of Illinois, of a water quantity protection program  
13 based on an understanding of public and private needs and the  
14 limitations of water resources. The General Assembly further  
15 finds that (i) the State of Illinois must manage, protect,  
16 and enhance the development of the waters of the State as  
17 natural and public resources; (ii) water has an essential and  
18 pervasive role in the social and economic well-being of the  
19 people of Illinois and is of vital importance to the general  
20 health, safety, and economic welfare; (iii) the water  
21 resources of the State must be used for beneficial and  
22 legitimate purposes; and (iv) waste and degradation of water  
23 resources must be prevented.

24 Section 10. Definitions. In this Act:

25 "Act" means the Water Quantity Protection Act of 2001.

26 "Board" means the Pollution Control Board.

27 "Consumptive use" means that portion of the water  
28 withdrawn or withheld from its source that is lost or  
29 otherwise not returned to the source due to evaporation  
30 during use, leakage, or incorporation into products during

1 industrial processes or that is assimilated by animals,  
2 humans, and plants.

3 "Department" means the Department of Natural Resources.

4 "Facilities" means any combination of mechanical devices  
5 and structures, such as pumps, pump stations, pipes, wells,  
6 and intakes, designed for the withdrawal of water from a  
7 natural groundwater or surface water source. For the purposes  
8 of this Act, "facilities" do not include wells serving single  
9 family homes.

10 Section 15. Approval of water withdrawals.

11 (a) No facilities for the withdrawal of groundwater or  
12 surface water for any purpose may be constructed, installed,  
13 or operated without first obtaining the approval of the  
14 Department when (i) the proposed rate of withdrawal of all  
15 facilities on one property or under one ownership is in  
16 excess of 2,000,000 gallons per day or (ii) the amount to be  
17 withdrawn is so substantial that it will significantly and  
18 adversely affect or reduce the availability of water for  
19 other uses. A significant and adverse affect or reduction  
20 shall be defined by rule.

21 (b) This Act does not apply to any groundwater or  
22 surface water withdrawal facility that was constructed or  
23 installed on or before the effective date of this Act.

24 Section 20. Information requirements for water  
25 withdrawals; final determination.

26 (a) Before granting approval for the withdrawal of  
27 groundwater or surface water, the Department may require  
28 information identifying the water supply source or sources;  
29 the type and location of water use; the anticipated duration  
30 of water use; the withdrawal point locations; maximum daily,  
31 maximum monthly, seasonal, and annual rates of withdrawal;  
32 water storage accommodations, if any; conservation measures

1 and reuse; estimated consumptive use; water shortage  
2 contingency plans; the anticipated effects, if any, of the  
3 proposed withdrawal on existing or proposed uses dependent on  
4 the same water source; the impact of the proposed withdrawal  
5 on other water sources hydraulically connected with the  
6 groundwater or surface water source or sources from which the  
7 withdrawal is to be made; and a description of alternative  
8 means for satisfying the water use demand if approval for the  
9 groundwater or surface water withdrawal is denied or made  
10 conditional. The completion of aquifer tests for groundwater  
11 withdrawals and instream flow need assessments for surface  
12 water withdrawals may be required by the Department when  
13 additional information regarding aquifer properties, stream  
14 flow hydrology, and aquatic habitat is needed to evaluate  
15 impacts of the proposed water withdrawals.

16 (b) The Department's final determination on any proposed  
17 water withdrawal must be in writing. If the Department  
18 denies or conditionally approves the application, the  
19 Department must set forth in the final determination a  
20 detailed explanation of the reasons for denying or  
21 conditionally approving the application.

22 Section 25. Cause for limitations on groundwater  
23 withdrawals. The Department must limit approvals for the  
24 withdrawal of groundwater to those withdrawals that will not  
25 cause:

26 (1) a long-term progressive lowering of groundwater  
27 levels, unless the levels are in compliance with  
28 management water levels established by the Department  
29 pursuant to rule;

30 (2) a significant interference with the withdrawals  
31 of other users of the groundwater, unless compensation  
32 for the injury that is satisfactory to the Department is  
33 provided;

1           (3) a violation of water quality standards under  
2 the Environmental Protection Act, the Illinois  
3 Groundwater Protection Act, or rules adopted under those  
4 Acts;

5           (4) significant permanent damage to aquifer storage  
6 and recharge capacity; or

7           (5) a substantial negative impact on the flow of  
8 hydraulically connected perennial streams, wetlands, or  
9 other surface water bodies.

10          Section 30. Cause for limitations on surface water  
11 withdrawals. The Department must limit approvals for the  
12 withdrawal of surface water to those rates that will not  
13 cause:

14           (1) a significant long-term decline in the  
15 environmental, ecological, recreational, or aesthetic  
16 values of the water source;

17           (2) a significant interference with the withdrawals  
18 of other users of the surface water source, unless  
19 compensation for the injury that is satisfactory to the  
20 Department is provided;

21           (3) a significant impairment to the capacity of the  
22 water source to assimilate pollutants; and

23           (4) a violation of water quality standards under  
24 the Environmental Protection Act, the Illinois  
25 Groundwater Protection Act, or rules adopted under those  
26 Acts.

27          Section 35. Review by the Board.

28           (a) If the Department denies or conditionally approves a  
29 request for the withdrawal of groundwater or surface water,  
30 the owner or operator of the proposed facility may, within 35  
31 days after the decision, petition for a hearing before the  
32 Board to contest the determination of the Department. The

1 Board has the authority to conduct hearings upon those  
2 petitions pursuant to the Environmental Protection Act.

3 (b) The Board must prepare a written opinion and order  
4 for all final decisions that must include findings of fact  
5 and conclusions of law on all material issues. Final  
6 decisions of the Board under this Act are subject to judicial  
7 review in accordance with the Environmental Protection Act.

8 Section 40. Water Quantity Protection Advisory  
9 Committee; rules.

10 (a) There is established a Water Quantity Protection  
11 Advisory Committee composed of the Directors of the  
12 Department of Agriculture, the Environmental Protection  
13 Agency, and the Department of Natural Resources, or their  
14 designees. The Director of Natural Resources, or his or her  
15 designee, shall serve as the Chair of the Advisory Committee.  
16 Members of the Advisory Committee may organize themselves as  
17 they deem necessary. Members of the Committee shall serve  
18 without compensation.

19 (b) The Advisory Committee shall review, evaluate, and  
20 make recommendations to the Department for any rules  
21 necessary to implement this Act. Based upon the  
22 recommendations of the Advisory Committee, the Department  
23 shall propose rules to implement this Act to the Board.

24 (c) After the Department proposes rules to the Board,  
25 the Board must hold hearings on and adopt rules for the  
26 implementation of this Act in the manner provided for in  
27 Sections 27 and 28 of the Environmental Protection Act.

28 (d) The Board shall adopt any other reasonable rules  
29 that are necessary for the Board to carry out its duties  
30 under this Act.

31 Section 45. Home rule. The regulation of groundwater and  
32 surface water resources is an exclusive power and function of

1 the State. A home rule unit may not regulate groundwater and  
2 surface water resources. This Section is a denial and  
3 limitation of home rule powers and functions under subsection  
4 (h) of Section 6 of Article VII of the Illinois Constitution.

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.