

AN ACT concerning conservation.

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

Section 5. The Water Use Act of 1983 is amended by changing Sections 3, 4, 5, and 5.1 and by adding Section 5.3 as follows:

(525 ILCS 45/3) (from Ch. 5, par. 1603)

Sec. 3. Purpose. The general purpose and intent of this Act is to establish a means of reviewing potential water conflicts before damage to any person is incurred and to establish a rule for mitigating water shortage conflicts by:

(a) Providing authority for County Soil and Water Conservation Districts to receive notice of incoming substantial users of water.

(b) Authorizing Soil and Water Conservation Districts to recommend restrictions on withdrawals of groundwater in emergencies.

(c) Establishing a "reasonable use" rule for groundwater withdrawals.

~~The requirements of Section 5 and 5.1 of this Act shall not apply to the region governed by the provisions of "An Act in relation to the regulation and maintenance of the levels in Lake Michigan and to the Diversion and apportionment of water from the Lake Michigan watershed", approved June 18, 1929, as~~

~~amended.~~

(Source: P.A. 85-1330.)

(525 ILCS 45/4) (from Ch. 5, par. 1604)

Sec. 4. Definitions. As used in this Act, unless the context otherwise requires:

~~(a)~~ "Department" means the Illinois Department of Agriculture.

~~(b)~~ "District" or "Soil and Water Conservation District" means a public body, corporate and political, organized under the "Soil and Water Conservation Districts Act".

"Geological Survey" means the Illinois State Geological Survey.

~~(c)~~ "Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.

"High-capacity intake" means a surface water intake located on a parcel of property where the rate or capacity of water withdrawal of all intakes for the property is equal to or in excess of 100,000 gallons during any 24-hour period.

"High-capacity well" means a well located on a parcel of property where the rate or capacity of water withdrawal of all wells on the property is equal to or in excess of 100,000 gallons during any 24-hour period.

~~(d)~~ "Land occupier" or "occupier of land" includes any

individual, firm or corporation, other than the owner, who is in legal possession of any land in the State of Illinois whether as a lessee, renter, tenant or otherwise.

~~(e)~~ "Person" means any owner of land or the owners' designated agent including any individual, partnership, firm, association, joint venture, corporation, trust, estate, commission, board, public or private institution, unit of local government, school district, political subdivision of this state, state agency, any interstate body or any other legal entity.

~~(f)~~ "Point of withdrawal" means that point at which underground water is diverted by a person from its natural state.

"Public water supply" means all mains, pipes, and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks, and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year.

~~(g)~~ "Reasonable use" means the use of water to meet natural wants and a fair share for artificial wants. It does not include water used wastefully or maliciously.

~~(h)~~ "State" means the State of Illinois.

"Surface water" means a pond, lake, reservoir, stream, creek, or river.

"Water authority" means a local governmental body established by referendum under the Water Authorities Act (70 ILCS 3715/).

"Water survey" means the Illinois State Water Survey.

(Source: P.A. 85-1330.)

(525 ILCS 45/5) (from Ch. 5, par. 1605)

Sec. 5. Water Conflict Resolution. In the event that a land occupier or person proposes to develop a new point of withdrawal, and ~~withdrawals from~~ the new point is a high-capacity well ~~can reasonably be expected to occur in excess of 100,000 gallons on any day,~~ the land occupier or person shall notify the District before construction of the well begins. The District shall in turn notify other local units of government with water systems who may be impacted by the proposed withdrawal. The District shall then review with the assistance of the Illinois State Water Survey and the State Geological Survey the proposed point of withdrawal's effect upon other users of the water. The review shall be completed within 30 days of receipt of the notice. The findings of such reviews shall be made public.

(Source: P.A. 85-1330.)

(525 ILCS 45/5.1) (from Ch. 5, par. 1605.1)

Sec. 5.1. Groundwater Emergency Restrictions.

(a) Each District within any county in Illinois through which the Iroquois River flows, and each District within any county in Illinois with a population in excess of 100,000 through which the Mackinaw River flows, is authorized to recommend to the Department of Agriculture restrictions on groundwater withdrawal as provided by this Section.

A land occupier or person who possesses land which contains an existing ~~a~~ point of withdrawal that is a high-capacity well ~~or is proposing a new point of withdrawal that is a high-capacity well~~ ~~capable of producing more than 100,000 gallons of water on any day~~ shall register that point of withdrawal with the District and shall furnish such reasonable data in such form as may be required by the District.

(b) The District, with the assistance and approval of the Department of Agriculture, shall issue recommended guidelines for the construction of points of withdrawal and the type and setting of pumps for use in those points of withdrawal. Copies of the guidelines shall be made available from the District upon request.

(c) Within 2 working days after receiving a written complaint from a land occupier or a person whose point of withdrawal has failed to furnish its normal supply of water, the District shall schedule an on-site investigation. If the investigation discloses (1) that the point of withdrawal fails to furnish its normal supply of water, (2) that the failure is

caused by a substantial lowering of the level of groundwater in the area, and (3) that the point of withdrawal and its equipment conform to the recommended guidelines of the District issued under subsection (b), the District may recommend to the Department of Agriculture that the Department restrict the quantity of water that a person may extract from any high-capacity well ~~point of withdrawal~~ within the District's boundaries ~~which is capable of producing more than 100,000 gallons on any day~~. The restriction shall be expressed in gallons of water, may apply to one or more points of withdrawal within the District, and may be broadened or narrowed as appropriate. The restrictions shall be lifted as soon as justified by changed conditions.

(d) When a District determines that restriction of the withdrawal of water at a particular point within the District is necessary to preserve an adequate water supply for all residents in the District, the District may recommend to the Department of Agriculture that the Department restrict the quantity of water that may be extracted from any point of withdrawal within the District which is a high-capacity well ~~capable of producing more than 100,000 gallons of water on any day~~. The Department shall review the District's recommendation and if it agrees with such recommendation shall restrict the withdrawal of water within the District in accordance with subsection (c) and shall notify each land occupier or person who possesses land which contains a registered point of

withdrawal affected by the restriction.

If the Department disagrees with the District's recommendation, it shall notify the District, the land occupier or the person who possesses land which contains a registered point of withdrawal affected by the recommendation and the complainant, giving the reason for the failure to affirm the recommendation. The Department may propose an alternate recommendation.

If the District, the respondent or the complainant disagrees with the decision of the Department, such person may request an administrative hearing to be conducted by the Department in accordance with the Illinois Administrative Procedure Act to show cause concerning its decision.

Final decisions of the Department pursuant to this Section may be appealed in accordance with the Administrative Review Law.

(e) The Department is authorized to promulgate rules and regulations, including emergency rules, for the implementation of this amendatory Act of 1987. The Department may set the general policy for the Districts to follow in the administration of this Act.

(Source: P.A. 91-357, eff. 7-29-99.)

(525 ILCS 45/5.3 new)

Sec. 5.3. Water use reporting. Any person or land occupier that is responsible for a point of withdrawal classified as a

high-capacity well, high-capacity intake, or public water supply shall participate in the Illinois State Water Survey's Illinois Water Inventory Program. However, high-capacity wells used for agricultural irrigation and high-capacity intakes used for agricultural irrigation are exempt from this Section for the first 5 years after the effective date of this amendatory Act of the 96th General Assembly. A person or land occupier that is responsible for a point of withdrawal classified as a high-capacity well or high-capacity intake used for irrigation for agriculture shall determine water use through estimation methods deemed acceptable by the Illinois State Water Survey. A person or land occupier that is responsible for a point of withdrawal that is classified as a high-capacity well or a high-capacity intake used for irrigation that lies within the boundaries of a water authority or other local government entity that estimates irrigation withdrawals through a method deemed acceptable by the Illinois State Water Survey is exempt from participating as an individual in the Illinois Water Inventory Program.

Section 99. Effective date. This Act takes effect January 1, 2010.