



House Bills 5065-5073 and Senate Bills 721-729

Myths and Facts

House Bills 5065 – 5073 and Senate Bills 721 - 729 offer strong protections for our water resources and balance the needs of business, agricultural, domestic and recreational water users. The following provides an overview of some myths and the corresponding facts about these bill packages.

Public Waters, Public Control

The Michigan Supreme Court ruled that: *“So long as the water flows and fish swim in [the river], the people may fish at their pleasure in any part of the stream subject only to the restraints and regulations imposed by the State. In this right they are protected by a high, solemn and perpetual trust, which it is the duty of the State to forever maintain.”* Michigan’s waters are a shared or common resource that can be “reasonably used” but not owned.

When Michigan began exercising its public trust duties to protect the state’s water, scientists did not understand the connections between groundwater and surface waters. Today these connections are accepted as fact, and Michigan’s laws should be updated to reflect this scientific truth. Simply put, excluding groundwater from public trust protections is archaic.

Myth: Extending public trust to groundwater will diminish private property protections, which could result in a “takings” of private property rights.

Fact: These bill packages specifically reserve riparian rights and property rights for lawful use of water. The ‘takings’ would actually occur when corporations divert water from local watersheds and affect the rights of riparian users. As Cooley Law Professor Chris Shafer recently testified, the GLGM-backed legislation offers greater regulatory certainty and better public oversight of our water resources by lowering the threshold of withdrawals subject to regulatory review.

Myth: Extending public trust to groundwater will harm business interests.

Fact: These bill packages offer greater regulatory certainty for businesses by explicitly stating the public trust decision-making criteria in statute thereby requiring the Michigan Department of Environmental Quality to use these criteria in their permit review process.

Myth: Expanding public participation would create greater uncertainty when making water use determinations.

Fact: Public input is critical to ensuring proposed water withdrawal decisions reflect the values of local communities, and these bill packages offer two key mechanisms for public involvement:

- 1) Increased opportunities for public input in water use determinations and permitting; and
- 2) Public input via local water user committees.

Refer to the ‘Public Trust’ fact sheet for additional background.

Jobs: Now and for the Future

Michigan's water is our key to our past and present way of life, and the Great Lakes, Great Michigan coalition is striving to ensure we sustain our most prized natural resource for the future. Whether for agricultural, business, domestic or recreational use, we need to institute safeguards to assure water is available to serve our needs in the future.

Myth: These bill packages will increase costs and reduce the ability of business to use water, threatening their capacity to retain and create jobs.

Fact: The legislation protects current users while making plenty of water available for economic development. Roughly 90% of all current manufacturers are connected to public water systems, and the proposed legislation will not effect their water use. The remaining 10% will be guided to locations where water is available. If water shortages exist in local communities, the local users in those areas can make decisions to accommodate the additional water use. We have a responsibility to ensure the sustainability of our resources; failure to do so would seriously harm the state's economy and our Michigan way of life.

Bottled Water

Myth: By removing water in containers of 5.7 gallons or less from the definition of consumptive use, these bill packages will make it impossible for the bottled water industry to continue operating.

Fact: Existing bottled water facilities can continue operating under their current Michigan Safe Drinking Water Act permits; the only new requirement would be registration of their water use. While current Michigan law requires permits for bottled water facilities pumping 250,000 gallons per day, these bill packages would require new operations proposing to withdraw 100,000 gallons per day or more to obtain a permit under the Michigan Safe Drinking Water Act.

Refer to the 'Bottled Water' fact sheet for additional background.

Water Conservation

Myth: Proposed requirements to follow sector-developed conservation standards would create an undue burden on water users. Michigan's abundant water resources make it unnecessary to use water wisely.

Fact: The best defense is a good offense when it comes to protecting Michigan's water. In drought-stricken states, efficient water use is the standard. We must take measures to conserve our water if we hope to defend ourselves against potential water diversion proposals made by other states. Since current Michigan law already requires each sector to develop generally accepted conservation practices, this legislation would require the implementation of these standards by February 1, 2009.

Water Withdrawal Assessment Tool: Where the Science Begins

Myth: The assessment tool alone is sound science for making water use decisions therefore permitting and site-specific review of large water withdrawals are unnecessary.

Fact: The water withdrawal assessment tool will NOT tell us what percentage of fish is acceptable to lose. Nor does it tell us what the impacts will be to riparian and recreational users, navigation, wetlands and other water-dependent resources or to sediment loading in the affected stream reach. The assessment tool does provide a good, cutting-edge approach to assessing whether or not a water withdrawal may cause an adverse resource impact to a stream.

While GLGM supports the science behind the assessment tool, we advocate for the tool's conservative implementation.

Refer to the 'Water Withdrawal Assessment Tool Implementation' and 'Water Withdrawal Assessment Tool Science' fact sheets for additional background.

