



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2184

Introduced 2/20/2009, by Sen. Susan Garrett

#### SYNOPSIS AS INTRODUCED:

525 ILCS 45/3	from Ch. 5, par. 1603
525 ILCS 45/4	from Ch. 5, par. 1604
525 ILCS 45/5	from Ch. 5, par. 1605
525 ILCS 45/5.1	from Ch. 5, par. 1605.1
525 ILCS 45/5.3 new	

Amends the Water Use Act of 1983. Provides that a high-capacity well is a well located on a parcel of property where the rate or capacity of water withdrawals of all wells on the property is in excess of 70 gallons per minute or 100,000 gallons during any 24-hour period. Provides that a high-capacity surface water intake is a surface water intake located on a parcel of property where the rate or capacity of water withdrawals is the same as that of a high-capacity well. Requires persons who are interested in developing a high-capacity well to notify the District before constructing the well (now, only when "the withdrawals from the new point can reasonably be expected to" exceed 100,000 gallons on any day). Requires existing and proposed high-capacity wells to register with the District. Provides that the District may recommend that the Department of Agriculture restrict the quantity of water that a person may extract from high-capacity wells (now, under certain circumstances, from other wells). Requires a person or land occupier who is responsible for a high-capacity well, high-capacity intake, or public water supply to participate in the Illinois Water Inventory Program, but exempts high-capacity intakes used for agricultural irrigation and high-capacity wells used for agricultural irrigation from this requirement for 5 years. Effective January 1, 2010.

LRB096 09188 JDS 19338 b

1 AN ACT concerning conservation.

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

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

6 (525 ILCS 45/3) (from Ch. 5, par. 1603)

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

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

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

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

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

1 ~~amended.~~

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

3 (525 ILCS 45/4) (from Ch. 5, par. 1604)

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

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

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

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

15 "High-capacity intake" means a surface water intake  
16 located on a parcel of property where the rate or capacity of  
17 water withdrawal of all intakes for the property is in excess  
18 of 70 gallons per minute or 100,000 gallons during any 24-hour  
19 period.

20 "High-capacity well" means a well located on a parcel of  
21 property where the rate or capacity of water withdrawal of all  
22 wells on the property is in excess of 70 gallons per minute or  
23 100,000 gallons during any 24-hour period.

24 ~~(d)~~ "Land occupier" or "occupier of land" includes any  
25 individual, firm or corporation, other than the owner, who is

1 in legal possession of any land in the State of Illinois  
2 whether as a lessee, renter, tenant or otherwise.

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

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

13 "Public water supply" means all mains, pipes, and  
14 structures through which water is obtained and distributed to  
15 the public, including wells and well structures, intakes and  
16 cribs, pumping stations, treatment plants, reservoirs, storage  
17 tanks, and appurtenances, collectively or severally, actually  
18 used or intended for use for the purpose of furnishing water  
19 for drinking or general domestic use and which serve at least  
20 15 service connections or which regularly serve at least 25  
21 persons at least 60 days per year.

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

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

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

1 (525 ILCS 45/5) (from Ch. 5, par. 1605)

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

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

17 (525 ILCS 45/5.1) (from Ch. 5, par. 1605.1)

18 Sec. 5.1. Groundwater Emergency Restrictions.

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

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

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

14           (c) Within 2 working days after receiving a written  
15 complaint from a land occupier or a person whose point of  
16 withdrawal has failed to furnish its normal supply of water,  
17 the District shall schedule an on-site investigation. If the  
18 investigation discloses (1) that the point of withdrawal fails  
19 to furnish its normal supply of water, (2) that the failure is  
20 caused by a substantial lowering of the level of groundwater in  
21 the area, and (3) that the point of withdrawal and its  
22 equipment conform to the recommended guidelines of the District  
23 issued under subsection (b), the District may recommend to the  
24 Department of Agriculture that the Department restrict the  
25 quantity of water that a person may extract from any  
26 high-capacity well ~~point of withdrawal~~ within the District's

1 boundaries which is capable of producing more than 100,000  
2 gallons on any day. The restriction shall be expressed in  
3 gallons of water, may apply to one or more points of withdrawal  
4 within the District, and may be broadened or narrowed as  
5 appropriate. The restrictions shall be lifted as soon as  
6 justified by changed conditions.

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

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

1 recommendation.

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

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

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

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

16 (525 ILCS 45/5.3 new)

17 Sec. 5.3. Water use reporting. Any person or land occupier  
18 that is responsible for a point of withdrawal classified as a  
19 high-capacity well, high-capacity intake, or public water  
20 supply shall participate in the Illinois State Water Survey's  
21 Illinois Water Inventory Program. However, high-capacity wells  
22 used for agricultural irrigation and high-capacity intakes  
23 used for agricultural irrigation are exempt from this Section  
24 for the first 5 years after the effective date of this  
25 amendatory Act of the 96th General Assembly. A person or land



1 occupier that is responsible for a high-capacity well used for  
2 irrigation for agriculture shall determine water use by a water  
3 meter or through estimation methods deemed acceptable by the  
4 Illinois State Water Survey.

5 Section 99. Effective date. This Act takes effect January  
6 1, 2010.