



House Bill 416 (As Passed by the House) Great Lakes Compact

Sponsored by Representative Matt Dolan



Support

Summary of House Bill 416:

- Ratifies the Great Lakes-St. Lawrence River Basin Water Resources Compact (“the Compact”).
- Prohibits all new or increased diversions of water resources from the Great Lakes-St. Lawrence River Basin (“the Basin”) into another watershed, with the exception of diversions to counties that straddle the basin and to bottled water.
- Establishes an objective decision-making standard for the management and regulation of new or increased withdrawals from and consumptive uses of water resources within the Basin.
- Provides for the implementation of the Compact by a Great Lakes-St. Lawrence River Basin Water Resources Council (“the Council”) consisting of the governors of each of the eight Great Lakes states (IN, IL, MI, MN, NY, OH, PA, and WI).
- Requires the Governor to serve as Ohio’s administrator of the Compact, and establishes the Governor’s duties as administrator.
- Requires the Governor to obtain prior authorization from the General Assembly before casting a vote under the Compact to amend or revise the standard of review and decision. Requires General Assembly approval of any rule to be adopted by the DNR that has been adopted by the Council and that amends or revises the standard of review and decision.
- Creates an Advisory Board of diverse stakeholders to develop recommendations for legislation to implement the requirements and purposes of the Compact.
- Specifies that, “Nothing contained in the Compact shall be construed as affecting or intending to affect or in any way to interfere with each Great Lakes State’s common law Water rights.” and “The Compact does not give any property rights nor authorize any injury to private property or invasion of private rights.”
- Includes a statement of the General Assembly’s intent that Ohio shall interpret the Compact to require that a withdrawal or consumptive use will be implemented so as to ensure that the withdrawal or consumptive use will result in no significant individual or cumulative adverse impacts on the quantity or quality of the waters and water dependent natural resources of either (a) the Great Lakes Basin considered as a whole or (b) the applicable source watershed of Lake Erie considered as a whole. In addition, impacts of a withdrawal or consumptive use on the quantity or quality of waters and water dependent natural resources of more localized areas that affect less than the basin or an applicable source watershed as a whole are to be considered a part of the evaluation of reasonable use as provided in the Compact.
- Declares that if IL, IN, MI, MN, NY, PA, OR WI fails to enact the Compact not later than three years after the bill’s effective date, Ohio reserves the right to reconsider its enactment of the Compact and to repeal it if necessary.

Bill Ratings



This legislation will help resolve a serious problem that threatens Ohio’s environment, and demonstrates significant leadership for Ohio’s future.



This legislation will benefit Ohio’s environment, or shows foresight in setting future environmental policy.



This legislation will somewhat - or on balance - benefit Ohio’s environment.



This legislation will cause substantial harm to Ohio’s environment, and demonstrates serious disregard for Ohio’s future.



This legislation will harm Ohio’s environment, or sets the state on the wrong path for future environmental policy.



This legislation will somewhat - or on balance - harm Ohio’s environment.

OEC supports H.B. 416



Lower water levels have forced Great Lakes freighters that haul iron ore, steel, limestone, and other raw materials to lighten their loads and change their routes to avoid running aground in shallow harbors and waterways. (Source: *Washington Post*, January 27, 2008)

Lake Erie—economic dynamo, human lifeline, natural wonder

Our Great Lake Erie. It's a an economic dynamo, sustaining billions of dollars of commerce and industry, from agriculture to shipping, heavy manufacturing, electric power generation, sport and commercial fishing, and travel and tourism. It's a lifeline for people, supplying life-giving drinking water to 11 million people—3 million from Ohio—and relaxing, year-round recreational opportunities. And it's a natural wonder, providing habitat to countless plants and animals—including many rare, threatened, and endangered species—and producing more fish for human consumption than all of the other Great Lakes, combined.

Lake Erie—vast, but hydrologically vulnerable

The Great Lakes are a vast resource, but each year rainfall and snowmelt replenish only about one percent of the water in the Great Lakes Basin.¹ The other 99 percent is finite and nonrenewable. The shallowest of the Lakes, Lake Erie depends upon the upper Great Lakes (Huron, Michigan and Superior) for more than 80% of its water supply.² As such, a scheme to export Basin water by ocean-going tankers to Asia (which was proposed in 1998) or a proposal to withdraw a massive amount of water but not return an equal amount of water (minus an allowance for reasonable use) from within the Basin of an upper Great Lake could be especially harmful to Lake Erie. Given its heavy reliance on Lake Erie for industry, drinking water, and recreation, Ohio may have the most at stake over how the entire Basin's water supply is managed.

¹ United Nations Environment Programme
<http://www.unep.org/Geo/geo3/english/300.htm>

² Ohio Department of Natural Resources
<http://www.dnr.state.oh.us/geosurvey/lakeerie/lefact/tabid/7828/Default.aspx>

Lake Erie—legally vulnerable to diversions and overuse

Legal scholars warn that the 1986 Federal Water Resources Development Act (WRDA) may not be sufficient to protect Basin water from new out-of-Basin diversions—and certainly not from in-Basin overuse. WRDA contains no standards by which to judge whether a proposed diversion (or withdrawal) is reasonable, no process for citizen involvement, no enforcement provisions, and no water conservation standards. (The Compact includes each of these safeguards.) As such, WRDA arguably violates the U.S. Constitution and international free trade agreements—and could invite endless litigation. Under WRDA, any one state, for any undisclosed reason, could veto another state's proposed water diversion. Such an action could be challenged in court, but the conflict may not be resolved until after the damage is done.

The Compact—a fair balance between use and conservation

The Compact strikes a fair balance between the economic benefits of commercial use of water and the need for sustainable water use. On the one hand, the Compact provides a strong legal framework to restrict out-of-Basin diversions as well as minimum standards and objective criteria by which Ohio can judge in-Basin withdrawals. On the other hand, the Compact allows for diversion exceptions for straddling communities and counties and for bottled water; the explicit protection of private water rights; and Ohio-based decision making on all in-Basin withdrawals. Further, under the intent language of H.B. 416, an advisory board comprised of diverse stakeholders will help advise on Ohio's implementation of the Compact. This historic proposal is the product of nearly five years of open and transparent negotiation among diverse stakeholders—negotiations premised on intertwined economic and environmental considerations. The Compact truly represents compromise at its best—compromise for the better good so that all may continue to use and enjoy our Great Lake Erie.

The OEC supports H.B. 416



The Great Lakes hold one-fifth of the Earth's fresh surface water, yet only 1% of their volume is replenished each year by rain and snow.