

Environmental Conservation

ARTICLE 21 POLLUTION CONTROL COMPACTS

TITLE 9 GREAT LAKES BASIN COMPACT

- Section 21-0901. Great Lakes basin compact.
- 21-0903. Representation on the commission.
- 21-0905. Budget.
- 21-0907. Examination of commission accounts.
- 21-0909. Transmittal of documents.
- 21-0911. Inconsistent provisions.
- 21-0913. Appraisal of commission.
- 21-0915. Termination.
- 21-0917. The Great Lakes Basin advisory council.

§ 21-0901. Great Lakes Basin Compact.

The Great Lakes Basin Compact, as first enacted by chapter 643 of the laws of 1960, as reenacted by chapter 473 of the laws of 1961, and as renumbered by chapter 73 of the laws of 1962, is hereby continued. The compact is as follows:

The party states solemnly agree:

ARTICLE I

The purposes of this compact are, through means of joint or cooperative action:

1. To promote the orderly, integrated, and comprehensive development, use, and conservation of the water resources of the Great Lakes Basin (hereinafter called the Basin).
2. To plan for the welfare and development of the water resources of the Basin as a whole as well as for those portions of the Basin which may have problems of special concern.
3. To make it possible for the states of the Basin and their people to derive the maximum benefit from utilization of public works, in the form of navigational aids or otherwise, which may exist or which may be constructed from time to time.
4. To advise in securing and maintaining a proper balance among industrial, commercial, agricultural, water supply, residential, recreational, and other legitimate uses of the water resources of the Basin.
5. To establish and maintain an intergovernmental agency to the end that the purposes of this compact may be accomplished more effectively.

ARTICLE II

A. This compact shall enter into force and become effective and binding when it has been enacted by the legislatures of any four of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin and thereafter shall enter into force and become effective and binding as to any other of said states when enacted by the legislature thereof.

B. The Province of Ontario and the Province of Quebec, or either of them, may become states party to this compact by taking such action as their laws and the laws of the Government of Canada may prescribe for adherence thereto. For the purpose of this compact the word "state"

shall be construed to include a Province of Canada.

ARTICLE III

The Great Lakes Commission created by Article IV of this compact shall exercise its powers and perform its functions in respect to the Basin which, for the purposes of this compact, shall consist of so much of the following as may be within the party states:

1. Lakes Erie, Huron, Michigan, Ontario, St. Clair, Superior, and the St. Lawrence River, together with any and all natural or man-made water interconnections between or among them.

2. All rivers, ponds, lakes, streams, and other watercourses which, in their natural state or in their prevailing condition, are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair, and Superior or any of them or which comprise part of any watershed draining into any of said lakes.

ARTICLE IV

A. There is hereby created an agency of the party states to be known as The Great Lakes Commission, (hereinafter called the Commission). In that name the Commission may sue and be sued, acquire, hold and convey real and personal property and any interest therein. The Commission shall have a seal with the words "The Great Lakes Commission" and such other design as it may prescribe engraved thereon by which it shall authenticate its proceedings. Transactions involving real or personal property shall conform to the laws of the state in which the property is located, and the Commission may by bylaws provide for the execution and acknowledgment of all instruments in its behalf.

B. The Commission shall be composed of not less than three commissioners nor more than five commissioners from each party state designated or appointed in accordance with the law of the state which they represent and serving and subject to removal in accordance with such law.

C. Each state delegation shall be entitled to three votes in the Commission. The presence of commissioners from a majority of the party states shall constitute a quorum for the transaction of business at any meeting of the Commission. Actions of the Commission shall be by a majority of the votes cast except that any recommendations made pursuant to Article VI of this compact shall require an affirmative vote of not less than a majority of the votes cast from each of a majority of the states present and voting.

D. The commissioners of any two or more party states may meet separately to consider problems of particular interest to their states but no action taken at any such meeting shall be deemed an action of the Commission unless and until the Commission shall specifically approve the same.

E. In the absence of any commissioner, his vote may be cast by another representative or commissioner of his state provided that said commissioner or other representative casting said vote shall have a written proxy in proper form as may be required by the Commission.

F. The Commission shall elect annually from among its members a chairman and vice-chairman. The Commission shall appoint an Executive Director who shall also act as secretary-treasurer, and who shall be bonded in such amount as the Commission may require. The Executive Director shall serve at the pleasure of the Commission and at such compensation and under such terms and conditions as may be fixed by it. The Executive Director shall be custodian of the records of the Commission with authority to affix the Commission's official seal and to attest to and certify such records or copies thereof.

G. The Executive Director, subject to the approval of the Commission

in such cases as its bylaws may provide, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Commission's functions. Subject to the aforesaid approval, the Executive Director may fix their compensation, define their duties, and require bonds of such of them as the Commission may designate.

H. The Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may borrow, accept, or contract for the services of personnel from any state or government or any subdivision or agency thereof, from any intergovernmental agency, or from any institution, person, firm or corporation; and may accept for any of the Commission's purposes and functions under this compact any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from any state or government or any subdivision or agency thereof or intergovernmental agency or from any institution, person, firm or corporation and may receive and utilize the same.

I. The Commission may establish and maintain one or more offices for the transacting of its business and for such purposes the Executive Director, on behalf of, as trustee for, and with the approval of the Commission, may acquire, hold and dispose of real and personal property necessary to the performance of its functions.

J. No tax levied or imposed by any party state or any political subdivision thereof shall be deemed to apply to property, transactions, or income of the Commission.

K. The Commission may adopt, amend and rescind bylaws, rules and regulations for the conduct of its business.

L. The organization meeting of the Commission shall be held within six months from the effective date of this compact.

M. The Commission and its Executive Director shall make available to the party states any information within its possession and shall always provide free access to its records by duly authorized representatives of such party states.

N. The Commission shall keep a written record of its meetings and proceedings and shall annually make a report thereof to be submitted to the duly designated official of each party state.

O. The Commission shall make and transmit annually to the legislature and Governor of each party state a report covering the activities of the Commission for the preceding year and embodying such recommendations as may have been adopted by the Commission. The Commission may issue such additional reports as it may deem desirable.

ARTICLE V

A. The members of the Commission shall serve without compensation, but the expenses of each commissioner shall be met by the state which he represents in accordance with the law of that state. All other expenses incurred by the Commission in the course of exercising the powers conferred upon it by this compact, unless met in some other manner specifically provided by this compact, shall be paid by the Commission out of its own funds.

B. The Commission shall submit to the executive head or designated officer of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

C. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Detailed commission budgets shall be recommended by a majority of the votes cast, and the costs shall be allocated equitably among the party states in accordance with their respective interests.

D. The Commission shall not pledge the credit of any party state. The Commission may meet any of its obligations in whole or in part with funds available to it under Article IV (II) of this compact, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligations to be met in whole or in part in this manner. Except where the Commission makes use of funds available to it under Article IV (H) hereof, the Commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.

E. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under the bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

F. The accounts of the Commission shall be open at any reasonable time for inspection by such agency, representative or representatives of the party states as may be duly constituted for that purpose and by others who may be authorized by the Commission.

ARTICLE VI

The Commission shall have power to:

A. Collect, correlate, interpret, and report on data relating to the water resources and the use thereof in the Basin or any portion thereof.

B. Recommend methods for the orderly, efficient, and balanced development, use, and conservation of the water resources of the Basin or any portion thereof to the party states and to any other governments or agencies having interests in or jurisdiction over the Basin or any portion thereof.

C. Consider the need for and desirability of public works and improvements relating to the water resources in the Basin or any portion thereof.

D. Consider means of improving navigation and port facilities in the Basin or any portion thereof.

E. Consider means of improving and maintaining the fisheries of the Basin or any portion thereof.

F. Recommend policies relating to water resources including the institution and alteration of flood plain and other zoning laws, ordinances and regulations.

G. Recommend uniform or other laws, ordinances, or regulations relating to the development, use and conservation of the Basin's water resources to the party states or any of them and to other governments, political subdivisions, agencies or intergovernmental bodies having interests in or jurisdiction sufficient to affect conditions in the Basin or any portion thereof.

H. Consider and recommend amendments or agreements supplementary to this compact to the party states or any of them, and assist in the formulation and drafting of such amendments or supplementary agreements.

I. Prepare and publish reports, bulletins, and publications appropriate to this work and fix reasonable sale prices therefor.

J. With respect to the water resources of the Basin or any portion thereof, recommend agreements between the governments of the United States and Canada.

K. Recommend mutual arrangements expressed by concurrent or reciprocal legislation on the part of Congress and the Parliament of Canada including but not limited to such agreements and mutual arrangements as are provided for by Article XIII of the Treaty of 1909 Relating to

Boundary Waters and Questions Arising Between the United States and Canada. (Treaty Series, No. 548).

L. Cooperate with the governments of the United States and of Canada, the party states and any public or private agencies or bodies having interests in or jurisdiction sufficient to affect the Basin or any portion thereof.

M. At the request of the United States, or in the event that a Province shall be a party state, at the request of the Government of Canada, assist in the negotiation and formulation of any treaty or other mutual arrangement or agreement between the United States and Canada with reference to the Basin or any portion thereof.

N. Make any recommendation and do all things necessary and proper to carry out the powers conferred upon the Commission by this compact, provided that no action of the Commission shall have the force of law in, or be binding upon, any party state.

ARTICLE VII

Each party state agrees to consider the action the Commission recommends in respect to:

A. Stabilization of lake levels.

B. Measures for combating pollution, beach erosion, floods, and shore inundation.

C. Uniformity in navigation regulations within the constitutional powers of the states.

D. Proposed navigation aids and improvements.

E. Uniformity or effective coordinating action in fishing laws and regulations and cooperative action to eradicate destructive and parasitical forces endangering the fisheries, wild life and other water resources.

F. Suitable hydroelectric power developments.

G. Cooperative programs for control of soil and bank erosion for the general improvement of the Basin.

H. Diversion of waters from and into the Basin.

I. Other measures the Commission may recommend to the states pursuant to Article VI of this compact.

ARTICLE VIII

This compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as it may choose and as may be valid and effective to repeal a statute of said state, provided that such renunciation shall not become effective until six months after notice of such action shall have been officially communicated in writing to the executive head of the other party states.

ARTICLE IX

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any state, agency, person or circumstance shall not be affected thereby, provided further that if this compact shall be held contrary to the constitution of the United States, or in the case of a Province, to the British North America Act of 1867 as amended, or of any party state, the compact shall remain in full force and effect as to the remaining states and in full force and

effect as to the state affected as to all severable matters.

§ 21-0903. Representation on the commission.

In pursuance of article four of the compact there shall be five commissioners. One shall be the Commissioner of Environmental Conservation or, if designated by him, one of his principal deputies. The other four commissioners shall be designated by the Governor to serve at his pleasure. Each commissioner shall have three-fifths of one vote and is hereby given all of the powers conferred on a commissioner by the compact or which shall be necessary or incidental to the performance of his functions as such a commissioner. It is hereby specifically recognized that the interests and activities of the Great Lakes Commission contemplate many aspects of the great lakes and of their relation to the member states. Accordingly, it is declared to be the legislative intent that each of the New York commissioners, and such commissioners as a group, shall confer and consult with all other agencies and officers of the state government whenever appropriate to coordinate or make known the views and policies of such agencies and officers with respect to the work of the commission or the interests of the state in the great lakes basin.

§ 21-0905. Budget.

1. The Great Lakes Commission shall submit annually to the Commissioner of Environmental Conservation, in accordance with the laws and practice of this state, for study and consideration by such commissioner, an estimate of moneys required to administer, manage and support the commission during the ensuing fiscal year. Such estimate shall include any requests for appropriation of funds by New York state and shall be accompanied by a tabulation of similar requests which the commission expects to make to each other member state and the formula or factors upon which such respective requests are based.

2. The Commissioner of Environmental Conservation shall include a suitable item or items of estimated expenditures for the Great Lakes Commission in the budget estimates of his department.

§ 21-0907. Examination of commission accounts.

In accordance with paragraph F of article five of the compact, the state Comptroller is hereby authorized and empowered from time to time to examine the accounts and books of the commission, including its receipts, disbursements and such other items referring to its financial standing as such Comptroller may deem proper and to report the results of such examination to the Governor.

§ 21-0909. Transmittal of documents.

The Secretary of State is hereby authorized and directed to transmit a duly authenticated copy of this title and the act by which it has been added to the Environmental Conservation Law to each jurisdiction party to the compact.

§ 21-0911. Inconsistent provisions.

No provision of the Conservation Law, and no provision of the Environmental Conservation Law, if such provision of the Environmental Conservation Law was derived from a provision of the Conservation Law, which is inconsistent with the provisions of the Great Lakes Basin Compact shall be applicable to the Great Lakes Commission or to any matter governed by the Great Lakes Basin Compact.

§ 21-0913. Appraisal of commission.

On August 15, 1964, and at intervals of four years thereafter, the Commissioner of Environmental Conservation shall evaluate the role of the Great Lakes Commission with respect to the interests of this state in the Great Lakes, and shall report to the commission thereon. The Commissioner of Environmental Conservation shall transmit a copy of such report to the Governor. The Commissioner of Environmental Conservation may make such additional reports to the Great Lakes Commission and the Governor as he deems appropriate.

§ 21-0915. Termination.

In accordance with article eight of the compact, termination of the participation of this state in such compact shall be evidenced by repeal of this title. Notice of intention to withdraw from the compact shall be executed and transmitted by the Governor.

§ 21-0917. The Great Lakes Basin advisory council.

1. As used in this section:

a. "Great Lakes Basin" means the watershed of the Great Lakes and the St. Lawrence River, upstream from Trois Rivieres, Quebec, consisting in New York State of the Lake Erie, Niagara River, Lake Ontario minor tributaries, Genesee River, Seneca-Oneida Oswego River, Black River, St. Lawrence River, and Lake Champlain drainage basins.

b. "Great Lakes region" means the geographic region composed of the states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin, the commonwealth of Pennsylvania, and the provinces of Ontario and Quebec, Canada.

2. There is hereby established within the department the Great Lakes Basin advisory council (hereinafter referred to as the "council") consisting of nineteen members to advise the governor and the commissioner on matters relating to the state's role in regional, federal, and international activities aimed at the protection of the quality and quantity of water in the Great Lakes, domestic, municipal, industrial and agricultural water supplies, navigation, hydroelectric power and energy production, recreation, fish and wildlife habitat, and a balanced ecosystem which are all vital to the future environmental, social, and economic health of New York State and the other states and provinces comprising the Great Lakes region.

a. The council shall:

(i) advise the commissioner and the governor on the implementation and any modifications to any comprehensive long-term Great Lakes management plan developed by the department;

(ii) advise the state's members on the board of directors of the Great Lakes protection fund;

(iii) annually identify specific research or program needs for funding

from the New York Great Lakes protection fund, after consultation with the Great Lakes protection fund, other Great Lakes states and other concerned parties. Such annual program, with as much detail on the scope and expectations of each project as is practical, shall be submitted to the commissioner, who shall select specific projects from the program, recommended by the council and shall submit such projects to the department for implementation; and

(iv) evaluate and report to the governor and the legislature on the projects funded by the New York Great Lakes protection fund.

b. The governor shall appoint nine members with one representing an institution that performs research on the issues and the problems of the Great Lakes, one representing a labor union whose members derive their livelihood from the Great Lakes, three representing environmental or conservation organizations with interests in the Great Lakes Basin, two representing business organizations whose commercial interest lies in activities in or around Lake Ontario, Lake Erie and/or the St. Lawrence River, one representing a municipality adjacent to Lake Erie, Lake Ontario or the St. Lawrence River, and one representing a county having a population of two hundred and fifty thousand people or less adjacent to Lake Erie, Lake Ontario or the St. Lawrence River. The temporary president of the Senate and the speaker of the Assembly shall each appoint two members who have a demonstrated knowledge in Great Lakes issues. The commissioner, the commissioners of the departments of state, health, transportation, economic development and the chairman of the power authority of the state of New York or their designated representative shall be ex-officio members. The appointed members of the council shall serve terms of three years; provided, however, that of the members first appointed by the governor, three shall be appointed for a term of three years, three shall be appointed for a term of two years and three shall be appointed for a term of one year. An appointment to fill a vacancy shall be made for the remainder of the affected term in the same manner as the original appointment was made. Such appointment shall be made within sixty days of the date the position becomes vacant. Members shall serve until their successor has been appointed. The governor shall designate the chairperson.

3. The advisory council shall meet at a minimum of two times annually.

4. Advisory council members shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred during the performance of their duties.

5. The council shall submit a report prior to January first beginning in nineteen hundred ninety and annually thereafter to the governor, the speaker of the Assembly, the temporary president of the Senate and the chairmen of the Senate and Assembly committees on environmental conservation. Such report should include an evaluation of the problems and conditions of the Great Lakes and recommendations for departmental or legislative solutions.