

2001 DRAFTING REQUEST

Bill

Received: **09/11/2000**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - water quality**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Require protection of the waters of the state for high-capacity well approvals

Instructions:

1999 AB 775

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 09/13/2000	wjackson 09/20/2000		_____			State
/1			martykr 09/21/2000	_____	lrb_docadmin 09/21/2000	lrb_docadminState 09/27/2000	
/2	traderc 02/20/2001	wjackson 02/20/2001	rschluet 02/21/2001	_____	lrb_docadmin 02/21/2001	lrb_docadminState 02/21/2001	
/3	traderc 03/07/2001	wjackson 03/07/2001	pgreensl 03/07/2001	_____	gretski 03/07/2001	lrb_docadmin 03/07/2001	

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FE Sent For:		13 W4 3/7	3/1 pg	pg/km <END>			

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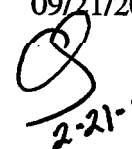
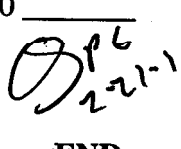
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FE Sent For:

 2-21-1
 2-21-1
 <END>

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1?	traderc	1/1 wly 9/20	vn 9/20	jt 9/20 sm/s, 9/21			

FE Sent For:

<END>

RCT:wj:MM
↑ stays ↑

2001

~~1999 ASSEMBLY BILL 775~~

DNF

February 17, 2000 - Introduced by Representative BRACK, cosponsored by Senator SHIBILSKI. Referred to Committee on Environment.

REGEN

1 AN ACT to amend 281.17 (1) of the statutes; relating to: approvals for
2 high-capacity wells.

Analysis by the Legislative Reference Bureau

* Current law prohibits a person from constructing or operating one or more wells on one property that withdraw a total of more than 100,000 gallons of water a day (high-capacity well ~~withdrawal~~) without the approval of the department of natural resources (DNR). If DNR finds that the proposed withdrawal will adversely affect the water supply of a public water utility, DNR must disapprove the ~~withdrawal~~ or condition its approval so that the water supply of the public water utility will not be impaired. *high capacity well*

* This bill provides that if DNR finds that a ^{withdrawal by a} proposed high-capacity well ~~withdrawal~~ will adversely affect public rights in navigable waters, DNR must disapprove the ~~withdrawal~~ or condition its approval so that public rights in navigable waters will be protected.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

high capacity well

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 281.17 (1) of the statutes is amended to read:

ASSEMBLY BILL 775

SECTION 1

1 281.17 (1) No wells ^{may} shall be constructed, installed ^{or} or operated to withdraw
2 water from underground sources for any purpose where the capacity and rate of
3 withdrawal of all wells on one property is in excess of 100,000 gallons a day without
4 first obtaining the approval of the department. If s. 281.35 applies to the proposed
5 construction, the application shall comply with s. 281.35 (5) (a). If the department
6 finds that the proposed withdrawal will adversely affect or reduce the availability of
7 water to any public utility in furnishing water to or for the public, ^{will} ~~adversely affect~~
8 public rights in navigable waters ^s or does not meet the grounds for approval specified
9 under s. 281.35 (5) (d), if applicable, it shall either withhold its approval or grant a
10 limited approval under which it imposes such conditions as to location, depth,
11 pumping capacity, rate of flow ^s and ultimate use so that the water supply of any public
12 utility engaged in furnishing water to or for the public will not be impaired, public
13 rights in navigable waters will be protected ^s and the withdrawal will conform to the
14 requirements of s. 281.35, if applicable. The department shall require each person
15 issued an approval under this subsection to report that person's volume and rate of
16 withdrawal, as defined under s. 281.35 (1) (m), and that person's volume and rate of
17 water loss, as defined under s. 281.35 (1) (L), if any, in the form and at the times
18 specified by the department. The department may issue general or special orders it
19 considers necessary to ensure prompt and effective administration of this
20 subsection.

21 →
INSET
(END)

INITIAL APPLICABILITY

INSERT

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # **[93** **]**. **Initial applicability;**

(#1) ()

The treatment of sections

of the statutes

first applies to

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # . **Initial applicability;** ①

(#1) This act first

applies to applications for approvals under section 28(1)(1)
of the statute that are submitted on the effective date of this subsection.

(end of insert)

Ret: WLj:

ONote

I have added an initial applicability provision to
proposal
this ~~part~~ to eliminate ~~any~~ uncertainty about which
~~the~~ proposed high-capacity wells are subject to ~~the~~
the new requirements. As drafted, the new requirements
would apply to ~~new~~ ^{high capacity wells for which} applications ^{are} filed ~~after~~ on the date that
takes effect ^{and thereafter}. Please let me know if you would prefer
a different applicability.

RLT

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0210/1dn
RCT:wlj:km

September 20, 2000

I have added an initial applicability provision to this proposal to eliminate uncertainty about which proposed high-capacity wells are subject to the new requirement. As drafted, the new requirement would apply to high-capacity wells for which applications are filed on the date that this proposal takes effect and thereafter. Please let me know if you would prefer a different applicability.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

September 21, 2000

MEMORANDUM

To: Representative Black

From: Rebecca C. Tradewell, Managing Attorney

Re: LRB-0210 Consider public rights in navigable waters for high-capacity well approvals

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7290 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

2/20/01 Per Susan McMurry -
They want this to apply to approvals issued
after 9/1/2000. We discussed the possibility that
a court would strike down retroactive application.



State of Wisconsin
2001 - 2002 LEGISLATURE
5000

LRB-0210/2 2
RCT:wjkm smy

DNote

2001 BILL

REGEN

1 AN ACT to amend 281.17 (1) of the statutes; relating to: approvals for
2 high-capacity wells.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from constructing or operating one or more wells on one property that withdraw a total of more than 100,000 gallons of water a day (high-capacity well) without the approval of the department of natural resources (DNR). If DNR finds that a proposed withdrawal will adversely affect the water supply of a public water utility, DNR must disapprove the high-capacity well or condition its approval so that the water supply of the public water utility will not be impaired.

This bill provides that if DNR finds that a withdrawal by a proposed high-capacity well will adversely affect public rights in navigable waters, DNR must disapprove the high-capacity well or condition its approval so that public rights in navigable waters will be protected.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 281.17 (1) of the statutes is amended to read:

BILL

1 281.17 (1) No wells ~~shall~~ may be constructed, installed, or operated to
2 withdraw water from underground sources for any purpose where the capacity and
3 rate of withdrawal of all wells on one property is in excess of 100,000 gallons a day
4 without first obtaining the approval of the department. If s. 281.35 applies to the
5 proposed construction, the application shall comply with s. 281.35 (5) (a). If the
6 department finds that the proposed withdrawal will adversely affect or reduce the
7 availability of water to any public utility in furnishing water to or for the public, will
8 adversely affect public rights in navigable waters, or does not meet the grounds for
9 approval specified under s. 281.35 (5) (d), if applicable, it shall either withhold its
10 approval or grant a limited approval under which it imposes such conditions as to
11 location, depth, pumping capacity, rate of flow, and ultimate use so that the water
12 supply of any public utility engaged in furnishing water to or for the public will not
13 be impaired, ^{the} public rights in navigable waters will be protected, and the withdrawal
14 will conform to the requirements of s. 281.35, if applicable. The department shall
15 require each person issued an approval under this subsection to report that person's
16 volume and rate of withdrawal, as defined under s. 281.35 (1) (m), and that person's
17 volume and rate of water loss, as defined under s. 281.35 (1) (L), if any, in the form
18 and at the times specified by the department. The department may issue general or
19 special orders it considers necessary to ensure prompt and effective administration
20 of this subsection.

Inset
2-20

SECTION 2. Initial applicability.

(1) ~~This act first applies to applications for approvals under section 281.17 (1)~~
of the statutes that are submitted on the effective date of this subsection.

(END)

D Note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0210/2ins
RCT.....

Insert 2-20

SECTION ~~A~~[#] Nonstatutory provisions.

(1) The treatment of section 281.17 (1)[✓] of the statutes by this act applies to any approval issued by the department of natural resources under section 281.17 (1) of the statutes after August 31, 2000. The department of natural resources shall review any approval that it issued under section 281.17 (1) of the statutes after August 31, 2000, and before the effective date of this subsection[✓]. If the department finds that such a withdrawal will adversely affect public rights in navigable waters, the department shall revoke the approval or impose conditions upon the approval so that public rights in navigable waters will be protected.

Note

Susan Mc Murry

As we discussed, it is difficult to predict what
a court would decide if ^{someone challenged} the application of this proposal
to ^{high capacity well for which an} approval ~~that~~ has already been issued. If you
would like me to research this issue please let me know.

RET

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0210/2dn
RCT:wlj:rs

February 21, 2001

Susan McMurry:

As we discussed, it is difficult to predict what a court would decide if someone challenged the application of this proposal to a high-capacity well for which an approval has already been issued. If you would like me to research this issue, please let me know.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: McMurray, Susan
Sent: Wednesday, March 07, 2001 10:39 AM
To: Tradewell, Becky
Cc: McMurray, Susan
Subject: LRB 0201 high cap wells

Hi Becky,

I left a message on your voice mail to ask you to call me about this. There's no need to call me if this message is clear to you.

Here's what Spencer wants:

1. remove the "retroactive" provision... go back to the language in the /1 version
2. specify that the test will be whether the wells "adversely affect the waters of the state".

I will send the jacket back to your office.

Thank you very much.

Susan McMurray
Rep. Black's office
266-7521



State of Wisconsin
2001 - 2002 LEGISLATURE

Today, if possible

LRB-021073

RCT:wjl/mj

2001 ASSEMBLY BILL

REGEN

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 5 proposed construction, the application shall comply with s. 281.35 (5) (a). If the
 6 department finds that the proposed withdrawal will adversely affect or reduce the
 7 availability of water to any public utility in furnishing water to or for the public, will
 8 ~~adversely affect public rights in navigable waters~~ ^{the} ~~or does not meet the grounds for~~ ^{of the state}
 9 approval specified under s. 281.35 (5) (d), if applicable, it shall either withhold its
 10 approval or grant a limited approval under which it imposes such conditions as to
 11 location, depth, pumping capacity, rate of flow, and ultimate use so that the water
 12 supply of any public utility engaged in furnishing water to or for the public will not
 13 be impaired, ~~the public rights in navigable waters~~ ^{of the state} ~~will be protected,~~ and the
 14 withdrawal will conform to the requirements of s. 281.35, if applicable. The
 15 department shall require each person issued an approval under this subsection to
 16 report that person's volume and rate of withdrawal, as defined under s. 281.35 (1)
 17 (m), and that person's volume and rate of water loss, as defined under s. 281.35 (1)
 18 (L), if any, in the form and at the times specified by the department. The department
 19 may issue general or special orders it considers necessary to ensure prompt and
 20 effective administration of this subsection.

INS
 21 **SECTION 2. Nonstatutory provisions.**

22 (1) The treatment of section 281.17 (1) of the statutes by this act applies to any
 23 approval issued by the department of natural resources under section 281.17 (1) of
 24 the statutes after August 31, 2000. The department of natural resources shall review
 25 any approval that it issued under section 281.17 (1) of the statutes after August 31,

ASSEMBLY BILL

1 2000, and before the effective date of this subsection. If the department finds that
2 such a withdrawal will adversely affect public rights in navigable waters, the
3 department shall revoke the approval or impose conditions upon the approval so that
4 public rights in navigable waters will be protected.

5

(END)

