

2001 Jr2 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB1)

Received: 03/11/2002

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Bonderud**

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

Drafter: **traderc**

May Contact:

Addl. Drafters:

Subject: **Environment - water quality**

Extra Copies:

Submit via email: **NO**

Pre Topic:

LFB:.....Bonderud -

Topic:

Require DNR to provide water quality planning services for Dane County

Instructions:

See Attached

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>
/1	traderc 03/12/2002	hhagen 03/12/2002	pgreensl 03/13/2002	_____	lrb_docadmin 03/13/2002		
/2	traderc 03/13/2002	hhagen 03/13/2002	pgreensl 03/13/2002	_____	lrb_docadmin 03/13/2002		

FE Sent For:

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FE Sent For:

12 hmp
3/13/02

3/13
PY

SEU

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1?	traderc	11 hmk 3/12	3/12 p8	3/12 p8/LE			

FE Sent For:

<END>

Budget Amendments 2002

[REDACTED]

Skindrud

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Alan Colvin

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This amendment requires that the state Department of Natural Resources (DNR) provide water quality planning services for Dane County.

Prohibit the Governor from designating, or the DNR from recommending designation of, a water quality planning agency that is not a multi-county regional planning commission. This provision expires October 1, 2005.

Also, prohibit the DNR from selecting an outside consultant to do water quality planning for a county with a population of more than 400,000 which is not included in a multi-county regional planning commission.

All adopted water quality plans of the Dane County Regional Planning Commission shall remain in effect after the RPC dissolves on October 1, 2002 and shall be applied by the DNR.

[REDACTED]

[REDACTED]

[REDACTED]

1

3/12/02 Per Kendra - The Dane Co. Regional Planning Commission does the water quality planning for Dane Co. - has mainly to do with urban sewer system boundaries and system extensions. The RPC ceases to exist on 10/1/02. The intent is for DNR to take over the planning role - and not to hire a consultant to do it.

All of this proposal should sunset on 10/1/2005.

They don't want DNR to start from scratch with planning. Start with current plan & DNR work from there. Not necessarily.

NR 121



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2405/1
RCT:hmb

January 2002 Special Session

SCON (in 3/12)

LFB:.....Bonderud – Require DNR to provide water quality planning services for Dane County

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO ASSEMBLY BILL 1

Note

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 182, line 16: after that line insert:

3 "SECTION 369u. 283.835 of the statutes is created to read:

4 283.835 Limitations on water quality planning. (1) Beginning on October
5 1, 2002, and ending on October 1, 2005, all of the following apply:

6 (a) The governor may not designate, and the department may not recommend
7 for designation, a local agency for water quality planning that is not a multicounty
8 regional planning commission.

9 (b) The department shall provide water quality planning services for a county
10 with a population of more than 400,000 that is not within the jurisdiction of a

1 multicounty regional planning commission and the department may not enter into
2 an agreement under which another person provides water quality planning services
3 for the county on behalf of the department.

4 (2) An approved water quality plan that is in effect on September 30, 2002, for
5 a county for which the department provides water quality services under sub. (1) (b)
6 remains in effect after September 1, 2002. As long as the department provides water
7 quality planning services for the county, the department shall apply the ^{approved} water
8 quality plan as it exists on September 30, 2002, or may amend the plan and apply
9 the amended plan.”

10

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2405/1dn
RCT. *hmh*

Date

Kendra Bonderud:

Here is a first try at the proposal concerning water quality planning services for Dane County. It looked to me as though there might be a desire not to name the county in the statute. This draft does not name the county.

The request indicated that DNR should be prohibited from selecting an outside "consultant" to do water quality planning for the county. I was reluctant to use the word "consultant" because I thought that the intent might be to prohibit DNR from selecting a local governmental unit to do the planning and was not certain that "consultant" would be interpreted to include a local governmental unit.

As we discussed, the Federal Water Pollution Control Act contains provisions about designation of local agencies for water quality planning (33USC 1288). It is difficult to tell whether the federal law might be interpreted to overrule this proposal.

A Wisconsin court could find that this proposal constitutes a "private or local bill" which, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as a single-subject legislation. If so, it cannot validly be enacted as part of this bill, which clearly encompasses more than one subject.

The Wisconsin Supreme Court has created two tests to determine whether a bill is "private or local." One test applies to bills that are specific as to persons, places or things. See *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79 (1986). The other test applies to legislation that is general on its face but applicable only to a particular class. See *City of Brookfield v. Milwaukee Metropolitan Sewerage District*, 144 Wis. 2d 896 (1988), and *Davis v. Grover*, 166 Wis. 2d 501 (1992).

This proposal is general on its face but applicable only to a particular class. Under the *Brookfield* test, this is unconstitutional unless all of the following are true:

1. The classification is based upon substantial distinctions that make one class really different from another.
2. The classification is germane to the purpose of the law.
3. The class is open to additional members.

4. The law applies equally to all members of the class.
5. The characteristics of each class are so different from those of the other classes that substantially different treatment is justified.

It is difficult to predict the potential for and outcome of any court action on this proposal.

Please let me know if you have questions or comments on this draft.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb2405/1dn
RCT:hmh:pg

March 12, 2002

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State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session
SDAN

LRBb2405/2 2
RCT:hmh:pg

ym

LFB:.....Bonderud – Require DNR to provide water quality planning services
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10 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2405/2
RCT:hmh:pg

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