

**SENATE AMENDMENT 1,
TO 2007 SENATE BILL 523**

March 5, 2008 – Offered by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 17, line 9: delete lines 9 to 23.

3 **2.** Page 62, line 15: after that line insert:

4 “(j) “Facility” means an operating plant or establishment providing electricity
5 to the public or carrying on any manufacturing activity, trade, or business on one site,
6 including similar plants or establishments under common ownership or control
7 located on contiguous properties.”.

8 **3.** Page 64, line 23: after that line insert:

9 “(wp) “Water supply system,” when not preceded by “public,” means one of the
10 following:

11 1. Except as provided in subd. 2., the equipment handling water from the point
12 of intake of the water to the first point at which the water is used.

1 2. For a system for providing a public water supply, the equipment from the
2 point of intake of the water to first point at which the water is distributed.”.

3 **4.** Page 65, line 14: delete “common distribution system” and substitute
4 “single facility or public water supply system”.

5 **5.** Page 67, line 21: delete “1. Except as provided in subd. 2., if” and substitute
6 “If”.

7 **6.** Page 68, line 3: delete lines 3 to 7.

8 **7.** Page 78, line 10: delete “subd. 2.” and substitute “subds. 2. and 3e.”.

9 **8.** Page 78, line 15: delete “If” and substitute “Except as provided in subd. 3e.,
10 if”.

11 **9.** Page 78, line 19: after that line insert:

12 “3e. If water is withdrawn through more than one water supply system to serve
13 a facility, the department shall determine the amount under subd. 1. for each of the
14 water supply systems to which subd. 2. does not apply and shall determine the
15 amount under subd. 2. for each of the water supply systems to which subd. 2. applies
16 and shall provide an estimate of the initial withdrawal amount that is equal to the
17 sum of the amounts determined for each of the water supply systems.”.

18 **10.** Page 79, line 12: delete that line and substitute:

19 “7. Other relevant information.”.

20 **11.** Page 80, line 12: after “dates,” insert “except as provided in sub. (4s) (bm),”.

21 **12.** Page 81, line 1: delete “reporting, metering, and surveillance” and
22 substitute “estimating the amount withdrawn, monitoring the withdrawal, if
23 necessary, and reporting the results of the estimating and monitoring”.

1 **13.** Page 81, line 5: delete lines 5 to 8.

2 **14.** Page 81, line 15: after “permit” insert “, except as provided in par. (bm)”.

3 **15.** Page 81, line 17: after that line insert:

4 “(bm) *Waiver.* The department may waive the requirement to obtain coverage
5 under a general permit for a person making a withdrawal that is covered by a permit
6 under s. 30.18 (2) (a).”.

7 **16.** Page 82, line 25: after “approvals” insert “that are required for the
8 withdrawal”.

9 **17.** Page 83, line 1: delete “that are required for the withdrawal,”.

10 **18.** Page 83, line 2: after “is” insert “, except as provided in subd. 3e.,”.

11 **19.** Page 83, line 11: after that line insert:

12 “3e. If water is withdrawn through more than one water supply system to serve
13 a facility, the department shall determine the smallest amounts under subd. 3. a. or
14 b. for each of the water supply systems and shall specify a withdrawal amount that
15 is equal to the sum of the amounts determined for each of the water supply systems.”.

16 **20.** Page 84, line 15: after “approvals” insert “that are required for modifying
17 the withdrawal”.

18 **21.** Page 84, line 16: delete the material beginning with “that” and ending
19 with “withdrawal,” on line 17.

20 **22.** Page 84, line 18: after “amount” insert “ that is, except as provided in subd.
21 3e.,”.

22 **23.** Page 85, line 2: after that line insert:

1 “3e. If water is withdrawn through more than one water supply system to serve
2 a facility, the department shall determine the smallest amount under subd. 3. a. or
3 b. for each of the water supply systems and shall specify a withdrawal amount that
4 is equal to the sum of the amounts determined for each of the water supply systems.”.

5 **24.** Page 85, line 20: before “compliance” insert “substantial”.

6 **25.** Page 86, line 1: delete “relevant facts or” and substitute “material facts or
7 substantially”.

8 **26.** Page 86, line 14: delete “or 3m. or (e) 3.” and substitute “, 3e., or 3m. or (e)
9 3., 3e.”.

10 **27.** Page 86, line 16: delete “reporting, metering, and surveillance” and
11 substitute “estimating the amount withdrawn, monitoring the withdrawal, if
12 necessary, and reporting the results of the estimating and monitoring”.

13 **28.** Page 86, line 23: after that line insert:

14 “6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
15 (a).”.

16 **29.** Page 86, line 24: delete the material beginning with that line and ending
17 with page 87, line 2.

18 **30.** Page 88, line 4: after “approvals” insert “that are required for the
19 withdrawal”.

20 **31.** Page 88, line 5: delete “that are required for the withdrawal,”.

21 **32.** Page 88, line 7: after “is” insert “, except as provided in subd. 3e.”.

22 **33.** Page 88, line 15: after that line insert:

1 “3e. If water is withdrawn through more than one water supply system to serve
2 a facility, the department shall determine the smaller of the amounts under subd. 3.
3 a. or b. for each of the water supply systems and shall specify a withdrawal amount
4 that is equal to the sum of the amounts determined for each of the water supply
5 systems.”.

6 **34.** Page 89, line 8: after “approvals” insert “that are required for modifying
7 the withdrawal”.

8 **35.** Page 89, line 9: delete the material beginning with “that” and ending with
9 “withdrawal,” on line 10.

10 **36.** Page 89, line 11: after “amount” insert “ that is, except as provided in subd.
11 3e.”.

12 **37.** Page 89, line 19: after that line insert:

13 “3e. If water is withdrawn through more than one water supply system to serve
14 a facility, the department shall determine the smallest amount under subd. 3. a. or
15 b. for each of the water supply systems and shall specify a withdrawal amount that
16 is equal to the sum of the amounts determined for each of the water supply systems.”.

17 **38.** Page 90, line 10: before “compliance” insert “substantial”.

18 **39.** Page 90, line 15: delete “relevant”.

19 **40.** Page 90, line 16: delete “facts or” and substitute “material facts or
20 substantially”.

21 **41.** Page 90, line 17: delete that line and substitute:

22 “(i) *Transfer of control.* A permit is not transferable to any person except after
23 notice to the department. A person who proposes to assume control over a permitted

1 withdrawal shall file with the department a permit application and a statement of
2 acceptance of the permit. The department may require modification or revocation
3 and reissuance of the permit to change the name of the permittee.”.

4 **42.** Page 90, line 24: after that line insert:

5 “(7m) EMERGENCY ORDER. The department may, without a prior hearing, order
6 a person to whom the department has issued an individual permit or notice of
7 coverage under a general permit under this section to immediately stop a withdrawal
8 if the department determines that there is a danger of imminent harm to the public
9 health, safety, or welfare, to the environment, or to the water resources or related
10 land resources of this state. The order shall specify the date on which the withdrawal
11 must be stopped and the date, if any, on which it may be resumed. The order shall
12 notify the person that the person may request a contested case hearing under ch. 227.
13 The hearing shall be held as soon as practicable after receipt of a request for a
14 hearing. An emergency order remains in effect pending the result of the hearing.”.

15 **43.** Page 94, line 2: after that line insert:

16 “(13m) EXCEEDANCES. It is not a violation of this section to inadvertently
17 withdraw an amount of water that exceeds the withdrawal amount specified in a
18 permit issued under sub. (5) or in the database under sub. (4s) (i).”.

19 **44.** Page 94, line 10: delete “defendant” and substitute “violation”.

20 **45.** Page 96, line 21: after that line insert:

21 “(j) “Facility” means an operating plant or establishment providing electricity
22 to the public or carrying on any manufacturing activity, trade, or business on one site,
23 including similar plants or establishments under common ownership or control
24 located on contiguous properties.”.

- 1 **46.** Page 99, line 5: after that line insert:
2 “(wp) “Water supply system,” when not preceded by “public,” means one of the
3 following:
4 1. Except as provided in subd. 2., the equipment handling water from the point
5 of intake of the water to the first point at which the water is used.
6 2. For a system for providing a public water supply, the equipment from the
7 point of intake of the water to first point at which the water is distributed.”.
- 8 **47.** Page 99, line 23: delete “common distribution system” and substitute
9 “single facility or public water supply system”.
- 10 **48.** Page 100, line 12: delete that line.
- 11 **49.** Page 100, line 15: delete the material beginning with “There” and ending
12 with “use.” on line 16.
- 13 **50.** Page 100, line 20: delete that line.
- 14 **51.** Page 102, line 18: delete “1. Except as provided in subd. 2., if” and
15 substitute “If”.
- 16 **52.** Page 102, line 24: delete the material beginning with that line and ending
17 with page 103, line 3.
- 18 **53.** Page 112, line 5: after “(5)” insert “, except as provided in sub. (4s) (bm)”.
- 19 **54.** Page 112, line 13: delete “reporting, metering, and surveillance” and
20 substitute “estimating the amount withdrawn, monitoring the withdrawal, if
21 necessary, and reporting the results of the estimating and monitoring”.
- 22 **55.** Page 112, line 17: delete lines 17 to 20.
- 23 **56.** Page 113, line 2: after “(4s)” insert “, except as provided in par. (bm)”.

1 **57.** Page 113, line 4: after that line insert:

2 “(bm) *Waiver*. The department may waive the requirement to obtain coverage
3 under a general permit for a person making a withdrawal that is covered by a permit
4 under s. 30.18 (2) (a).”.

5 **58.** Page 113, line 21: after “approvals” insert “that are required for the
6 withdrawal”.

7 **59.** Page 113, line 22: delete “that are required for the withdrawal,”.

8 **60.** Page 113, line 23: after “is” insert “, except as provided in subd. 3e.,”.

9 **61.** Page 114, line 8: after that line insert:

10 “3e. If water is withdrawn through more than one water supply system to serve
11 a facility, the department shall determine the smallest amount under subd. 3. a. or
12 b. for each of the water supply systems and shall specify a withdrawal amount that
13 is equal to the sum of the amounts determined for each of the water supply systems.”.

14 **62.** Page 115, line 15: after “approvals” insert “that are required for modifying
15 the withdrawal”.

16 **63.** Page 115, line 16: delete the material beginning with “that” and ending
17 with “withdrawal,” on line 17.

18 **64.** Page 115, line 18: after “amount” insert “ that is, except as provided in
19 subd. 3e.,”.

20 **65.** Page 115, line 19: substitute “a.” for “1.”.

21 **66.** Page 116, line 1: substitute “b.” for “2.”.

22 **67.** Page 116, line 2: after that line insert:

1 “3e. If water is withdrawn through more than one water supply system to serve
2 a facility, the department shall determine the smallest amount under subd. 3. a. or
3 b. for each of the water supply systems and shall specify a withdrawal amount that
4 is equal to the sum of the amounts determined for each of the water supply systems.”.

5 **68.** Page 117, line 1: before “compliance” insert “substantial”.

6 **69.** Page 117, line 7: delete “relevant facts or” and substitute “material facts
7 or substantially”.

8 **70.** Page 117, line 20: delete the material beginning with “or 3m., (g)” and
9 ending with “3.” on line 21 and substitute “, 3e., or 3m., (g) 3., 3e., or 3m., or (j) 3., 3e.,”.

10 **71.** Page 117, line 22: after “tracking” insert “substantial”.

11 **72.** Page 118, line 1: delete “reporting, metering, and surveillance” and
12 substitute “estimating the amount withdrawn, monitoring the withdrawal, if
13 necessary, and reporting the results of the estimating and monitoring”.

14 **73.** Page 118, line 8: after that line insert:

15 “6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
16 (a).”.

17 **74.** Page 118, line 13: delete lines 13 to 16.

18 **75.** Page 119, line 2: after “approvals” insert “that are required for the
19 withdrawal”.

20 **76.** Page 119, line 3: delete “that are required for the withdrawal,”.

21 **77.** Page 119, line 5: after “is” insert “, except as provided in subd. 3e.,”.

22 **78.** Page 119, line 15: after that line insert:

1 “3e. If water is withdrawn through more than one water supply system to serve
2 a facility and subd. 3. c. does not apply, the department shall determine the smallest
3 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
4 a withdrawal amount that is equal to the sum of the amounts determined for each
5 of the water supply systems.”.

6 **79.** Page 120, line 15: delete the material beginning with “and” and ending
7 with “(6m)” on line 18.

8 **80.** Page 120, line 19: after “in” insert “subd. 3. or”.

9 **81.** Page 120, line 25: delete the material beginning with “and” and ending
10 with “(6m)” on page 121, line 2.

11 **82.** Page 121, line 2: after that line insert:

12 “3. A person who submits an application under par. (d) 1., to which subd. 2.
13 would otherwise apply, may choose to demonstrate, using procedures specified in
14 rules promulgated by the department, the water loss that will result from the
15 withdrawal. If the person demonstrates that the water loss would average less than
16 5,000,000 gallons per day in every 90–day period, the state decision–making
17 standard under sub. (5m), rather than the compact decision–making standard under
18 sub. (6), applies to the withdrawal.”.

19 **83.** Page 121, line 11: delete the material beginning with “and” and ending
20 with “(6m)” on line 14.

21 **84.** Page 121, line 15: after “in” insert “subd. 3. or”.

22 **85.** Page 121, line 22: delete the material beginning with “and” and ending
23 with “(6m)” on line 24.

1 **86.** Page 121, line 24: after that line insert:

2 “3. A person who submits an application under par. (d) 1., to which subd. 2.
3 would otherwise apply, may choose to demonstrate, using procedures specified in
4 rules promulgated by the department, the water loss that will result from the
5 increase in the withdrawal over the withdrawal amount as of the later of the dates
6 under subd. 2. If the person demonstrates that the resulting increase in water loss
7 would average less than 5,000,000 gallons per day in every 90–day period, the state
8 decision–making standard under sub. (5m), rather than the compact
9 decision–making standard under sub. (6), applies to the increase in the
10 withdrawal.”.

11 **87.** Page 122, line 12: after “approvals” insert “that are required for modifying
12 the withdrawal”.

13 **88.** Page 122, line 13: delete the material beginning with “that” and ending
14 with “withdrawal,” on line 14.

15 **89.** Page 122, line 15: after “is” insert “, except as provided in subd. 3e.”.

16 **90.** Page 123, line 2: after that line insert:

17 “3e. If water is withdrawn through more than one water supply system to serve
18 a facility and subd. 3. c. does not apply, the department shall determine the smallest
19 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
20 a withdrawal amount that is equal to the sum of the amounts determined for each
21 of the water supply systems.”.

22 **91.** Page 124, line 4: delete the material beginning with “and” and ending with
23 “(ks)” on line 7.

24 **92.** Page 124, line 8: after “in” insert “subd. 3. or”.

1 **93.** Page 124, line 15: delete the material beginning with “and” and ending
2 with “(ks)” on line 18.

3 **94.** Page 124, line 18: after that line insert:

4 “3. A person who submits an application under par. (g) 1., to which subd. 2.
5 would otherwise apply, may choose to demonstrate, using procedures specified in
6 rules promulgated by the department, the water loss that will result from the
7 increase in the withdrawal over the withdrawal amount as of the latest of the dates
8 under subd. 2. If the person demonstrates that the resulting increase in water loss
9 would average less than 5,000,000 gallons per day in every 90–day period, the state
10 decision–making standard under sub. (5m), rather than the compact
11 decision–making standard under sub. (6), applies to the increase in the
12 withdrawal.”.

13 **95.** Page 125, line 6: before “compliance” insert “substantial”.

14 **96.** Page 125, line 7: after “approvals” insert “that are required for the
15 withdrawal”.

16 **97.** Page 125, line 8: delete “that are required for the withdrawal,”.

17 **98.** Page 125, line 12: after “amount” insert “ that is, except as provided in
18 subd. 3e.,”.

19 **99.** Page 125, line 23: after that line insert:

20 “3e. If water is withdrawn through more than one water supply system to serve
21 a facility and subd. 3. c. does not apply, the department shall determine the smallest
22 amount under subd. 3. a. or b. for each of the water supply systems and shall specify

1 a withdrawal amount that is equal to the sum of the amounts determined for each
2 of the water supply systems.”.

3 **100.** Page 126, line 2: before “compliance” insert “substantial”.

4 **101.** Page 127, line 2: delete the material beginning with “and” and ending
5 with “(ks)” on line 5.

6 **102.** Page 127, line 6: after “in” insert “subd. 3. or”.

7 **103.** Page 127, line 13: delete the material beginning with “and” and ending
8 with “(ks)” on line 16.

9 **104.** Page 127, line 16: after that line insert:

10 “3. A person who submits an application under par. (j) 1., to which subd. 2.
11 would otherwise apply, may choose to demonstrate, using procedures specified in
12 rules promulgated by the department, the water loss that will result from the
13 increase in the withdrawal over the withdrawal amount as of the latest of the dates
14 under subd. 2. If the person demonstrates that the resulting increase in water loss
15 would average less than 5,000,000 gallons per day in every 90–day period, the state
16 decision–making standard under sub. (5m), rather than the compact
17 decision–making standard under sub. (6), applies to the increase in the
18 withdrawal.”.

19 **105.** Page 127, line 17: delete the material beginning with that line and
20 ending with page 128, line 6.

21 **106.** Page 128, line 25: delete “, (6), or (6m)” and substitute “or (6)”.

22 **107.** Page 129, line 8: delete “, (6), or” and substitute “or (6)”.

23 **108.** Page 129, line 9: delete “(6m)”.

1 **109.** Page 129, line 12: delete “relevant facts or” and substitute “material
2 facts or substantially”.

3 **110.** Page 129, line 14: delete lines 14 and 15 and substitute:

4 “(q) *Transfer of control.* A permit is not transferable to any person except after
5 notice to the department. A person who proposes to assume control over a permitted
6 withdrawal shall file with the department a permit application and a statement of
7 acceptance of the permit. The department may require modification or revocation
8 and reissuance of the permit to change the name of the permittee.”.

9 **111.** Page 129, line 24: delete the material beginning with “and” and ending
10 with “(6m)” on page 130, line 2.

11 **112.** Page 130, line 3: after “date,” insert “except as provided in subd. 3.,”.

12 **113.** Page 130, line 9: delete the material beginning with “and” and ending
13 with “(6m)” on line 12.

14 **114.** Page 130, line 12: after that line insert:

15 “3. A person who submits a water supply service area plan under s. 281.348,
16 that provides for a new withdrawal to which subd. 2. would otherwise apply, may
17 choose to demonstrate, using procedures specified in rules promulgated by the
18 department, the water loss that will result from the withdrawal. If the person
19 demonstrates that the water loss would average less than 5,000,000 gallons per day
20 in every 90–day period, the state decision–making standard under sub. (5m), rather
21 than the compact decision–making standard under sub. (6), applies to the
22 withdrawal.”.

1 **115.** Page 130, line 21: delete the material beginning with “and” and ending
2 with “(6m)” on line 24.

3 **116.** Page 131, line 1: after “date,” insert “except as provided in subd. 3.,”.

4 **117.** Page 131, line 8: delete the material beginning with “and” and ending
5 with “(6m)” on line 11.

6 **118.** Page 131, line 11: after that line insert:

7 “3. A person who submits a water supply service area plan under s. 281.348,
8 that provides for an increase in a withdrawal to which subd. 2. would otherwise
9 apply, may choose to demonstrate, using procedures specified in rules promulgated
10 by the department, the water loss that will result from the increase in the withdrawal
11 over the withdrawal amount as of the later of the dates under subd. 2. If the person
12 demonstrates that the resulting increase in water loss would average less than
13 5,000,000 gallons per day in every 90–day period, the state decision–making
14 standard under sub. (5m), rather than the compact decision–making standard under
15 sub. (6), applies to the increase in the withdrawal.”.

16 **119.** Page 131, line 22: delete the material beginning with “and” and ending
17 with “(6m)” on line 25.

18 **120.** Page 132, line 1: after “date,” insert “except as provided in subd. 3.,”.

19 **121.** Page 132, line 9: delete the material beginning with “and” and ending
20 with “(6m)” on line 12.

21 **122.** Page 132, line 12: after that line insert:

22 “3. A person who submits a water supply service area plan under s. 281.348,
23 that provides for an increase in a withdrawal to which subd. 2. would otherwise

1 apply, may choose to demonstrate, using procedures specified in rules promulgated
2 by the department, the water loss that will result from the increase in the withdrawal
3 over the withdrawal amount as of the latest of the dates under subd. 2. If the person
4 demonstrates that the resulting increase in water loss would average less than
5 5,000,000 gallons per day in every 90-day period, the state decision-making
6 standard under sub. (5m), rather than the compact decision-making standard under
7 sub. (6), applies to the increase in the withdrawal.”.

8 **123.** Page 133, line 20: delete lines 20 and 21.

9 **124.** Page 135, line 6: delete lines 6 to 23.

10 **125.** Page 136, line 5: after that line insert:

11 **“(7m) EMERGENCY ORDER.** The department may, without a prior hearing, order
12 a person to whom the department has issued an individual permit or notice of
13 coverage under a general permit under this section or s. 281.344 to immediately stop
14 a withdrawal if the department determines that there is a danger of imminent harm
15 to the public health, safety, or welfare, to the environment, or to the water resources
16 or related land resources of this state. The order shall specify the date on which the
17 withdrawal must be stopped and the date, if any, on which it may be resumed. The
18 order shall notify the person that the person may request a contested case hearing
19 under ch. 227. The hearing shall be held as soon as practicable after receipt of a
20 request for a hearing. An emergency order remains in effect pending the result of
21 the hearing.”.

22 **126.** Page 138, line 3: after “(5)” insert “to which the state decision-making
23 standard under sub. (5m) or the compact decision-making standard under sub. (6)
24 applies”.

1 **127.** Page 142, line 19: after that line insert:

2 “(13m) EXCEEDANCES. It is not a violation of this section to inadvertently
3 withdraw an amount of water that exceeds the withdrawal amount specified in a
4 permit issued under sub. (5) or in the database under sub. (4s) (i).”.

5 **128.** Page 143, line 2: delete “defendant” and substitute “violation”.

6 **129.** Page 147, line 18: after that line insert:

7 “**SECTION 12m.** 281.35 (1) (a) of the statutes is amended to read:
8 281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or
9 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.”.

10 **130.** Page 147, line 22: after “281.34,” insert “281.344 (5), 281.346 (5).”.

11 **131.** Page 148, line 6: delete lines 6 to 11.

12 **132.** Page 148, line 8: after that line insert:

13 “**SECTION 18g.** 281.35 (4) (a) 4. of the statutes is created to read:
14 281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
15 has been issued or who is required to obtain a permit under one of those provisions
16 before beginning or increasing a withdrawal.

17 **SECTION 18r.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

18 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
19 withdrawal or increase the amount of an existing withdrawal, the person shall apply
20 to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new
21 approval or a modification of its existing approval if either of the following conditions
22 applies:”.

23 **133.** Page 149, line 8: delete lines 8 to 18.

