



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/04/2008 (Per: RCT)



Appendix A ... Part 06 of 18

- ☞ The 2007 drafting file for LRBa1436/1
- ☞ The 2007 drafting file for LRBa1452/1
- ☞ The 2007 drafting file for LRBa1474/1
- ☞ The 2007 drafting file for LRBa1475/1
- ☞ The 2007 drafting file for LRBa1478/P1
- ☞ The 2007 drafting file for LRBa1491/P1
- ☞ The 2007 drafting file for LRBa1492/P1
- ☞ The 2007 drafting file for LRBa1493/P1
- ☞ The 2007 drafting file for LRBa1496/P1
- ☞ The 2007 drafting file for LRBa1500/P1
- ☞ The 2007 drafting file for LRBa1501/P1
- ☞ The 2007 drafting file for LRBa1502/P1
- ☞ The 2007 drafting file for LRBa1509/P1
- ☞ The 2007 drafting file for LRBa1510/P1
- ☞ The 2007 drafting file for LRBa1511/P1
- ☞ The 2007 drafting file for LRBa1512/P1
- ☞ The 2007 drafting file for LRBa1513/P1
- ☞ The 2007 drafting file for LRBa1514/P1

2007 LRBa1491 has been copied/added

to the drafting file for

2007 LRBa1529 (SA 1 to SB 523)

2007 DRAFTING REQUEST

Senate Amendment (SA-SB523)

Received: **02/29/2008**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Mark Miller (608) 266-9170**

By/Representing:

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

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - water quality**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Miller@legis.wisconsin.gov**

Carbon copy (CC:) to: **John.Stolzenberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Remove consumptive use decision-making standard and related provisions, provide alternative to having compact decision-making standard

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>
/?							
/P1	btradewe 03/02/2008	wjackson 03/02/2008	pgreensl 03/02/2008	_____	cduerst 03/03/2008		
	btradewe 03/03/2008	csicilia 03/03/2008	pgreensl 03/03/2008	_____			
/P2	btradewe 03/04/2008	csicilia 03/04/2008	jfrantze 03/04/2008	_____	lparisi 03/04/2008	lparisi 03/04/2008	
				_____	lparisi		

LRBa1491

03/04/2008 12:33:46 PM

Page 2

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

_____ 03/04/2008

FE Sent For:

<END>

2007 DRAFTING REQUEST

Senate Amendment (SA-SB523)

Received: 02/29/2008	Received By: btradewe
Wanted: Soon	Identical to LRB:
For: Mark Miller (608) 266-9170	By/Representing:
This file may be shown to any legislator: NO	Drafter: btradewe
May Contact:	Addl. Drafters:
Subject: Environment - water quality	Extra Copies:

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

Carbon copy (CC:) to: John.Stolzenberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Remove consumptive use decision-making standard and related provisions, provide alternative to having compact decision-making standard

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>
/?							
/P1	btradewe 03/02/2008	wjackson 03/02/2008	pgreensl 03/02/2008	_____	cduerst 03/03/2008		
	btradewe 03/03/2008	csicilia 03/03/2008	pgreensl 03/03/2008	_____			

FE Sent For: P2 ijs 3/4/08
 Jo 3/4
 J.P.G.
 END
 3/4

2007 DRAFTING REQUEST

Senate Amendment (SA-SB523)

Received: 02/29/2008

Received By: btradewe

Wanted: Soon

Identical to LRB:

For: Mark Miller (608) 266-9170

By/Representing:

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Environment - water quality

Extra Copies: #1

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

Carbon copy (CC:) to: John.Stolzenberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Remove consumptive use decision-making standard and related provisions, provide alternative to having compact decision-making standard

Instructions:

See Attached topic. If the permittee shows that increased water loss would average less than 5,000,000 gpd in every 30-day period -> state decision-making standard applies

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
1/2	btradewe	1/1 WJ 3/2	3/2 PS	3/2 PS/CMH			

FE Sent For:

<END>

3/3 ps/k

50. p. 120 – 132 replace all references to (6m) add a reference to (6) Compact decision making standard

Deleted: equal

51. p. 120 l. 13 “it will increase by at least”

52. p. 120 l. 16 “new or increased water loss...”

53. p. 120 l. 19 - 25 Paper Council will provide revised language

54. p. 121 l. 7 add “new or increased”

55. p. 121 l. 3-24 section (f) see changes in 37 – 41

56. p. 121 l. 22 “sub. (6). However a person may choose an alternative water loss threshold and using procedures specified in rules, demonstrate the expected water loss associated with the new or increased withdrawal. If the projected water loss would equal or exceed 5 MGD averaged over 30 days, the applicant must demonstrate that the water loss proposal meets the decision –making standard under sub (6m) and sub (6).” Add this language in p. 120 l. 25 and p. 127 l. 12

13?



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1491/P1
RCT.f:...

Man

WLj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2007 SENATE BILL 523

Wate

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

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

3 ✓ 2. Page 120, line 15: delete the material beginning with "and" and ending with
4 "(6m)" on line 18.

5 ✓ 3. Page 120, line 19: after "in" insert "subd. 3. or".

6 4. Page 120, line 25: delete the material beginning with "and" and ending with
7 "(6m)" on page 121, line 2.

8 ✓ 5. Page 121, line 2: after that line insert:

9 ~~9~~ "3. A person who submits an application under par. (d) 1. to which subd. 2.
10 would otherwise apply, may choose to demonstrate, using procedures specified in
11 rules promulgated by the department, the water loss that will result from the
12 withdrawal. If the person demonstrates that the water loss would average less than

1 5,000,000 gallons per day in every 30-day period, the state decision-making
2 standard under sub. (5m), rather than the compact decision-making standard under
3 sub. (6), applies to the withdrawal.”

4 ~~6.~~ Page 121, line 11: delete the material beginning with “and” and ending with
5 “(6m)” on line 14.

6 ↓ 7. Page 121, line 15: after “in” insert “subd. 3. or”.

7 ~~8.~~ Page 121, line 22: delete the material beginning with “and” and ending with
8 “(6m)” on line 24.

9 9. Page 121, line 24: after that line insert:

10 “3. A person who submits an application under par. (d) 1. to which subd. 2.
11 would otherwise apply, ^{STET} 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 later 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 30-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 ~~10.~~ Page 124, line 4: delete the material beginning with “and” and ending with
20 “(ks)” on line 7.

21 ↓ 11. Page 124, line 8: after “in” insert “subd. 3. or”.

22 ~~12.~~ Page 124, line 15: delete the material beginning with “and” and ending
23 with “(ks)” on line 18.

1 √ **13.** Page 124, line 18: after that line insert:

2 "3. A person who submits an application under par. (g) 1. to which subd. 2.
3 would otherwise apply^(STET) 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 latest 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 30-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 ~~√~~ **14.** Page 127, line 2: delete the material beginning with "and" and ending with
12 "(ks)" on line 5.

13 √ **15.** Page 127, line 6: after "in" insert "subd. 3. or".

14 ~~√~~ **16.** Page 127, line 13: delete the material beginning with "and" and ending
15 with "(ks)" on line 16.

16 √ **17.** Page 127, line 16: after that line insert:

17 "3. A person who submits an application under par. (j) 1. to which subd. 2. would
18 otherwise apply^(STET) may choose to demonstrate, using procedures specified in rules
19 promulgated by the department, the water loss that will result from the increase in
20 the withdrawal over the withdrawal amount as of the latest of the dates under subd.
21 2. If the person demonstrates that the resulting increase in water loss would average
22 less than 5,000,000 gallons per day in every 30-day period, the state
23 decision-making standard under sub. (5m), rather than the compact

1 decision-making standard under sub. (6),[✓] applies to the increase in the
2 withdrawal.”.

3 ↓ **18.** Page 127, line 17: delete the material beginning with that line and ending
4 with page 128, line 6.

5 ↓ **19.** Page 128, line 25: delete “, (6), or (6m)” and substitute “or (6)”.

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

7 ↓ **21.** Page 129, line 9: delete “(6m)”.

8 ↓ **22.** Page 129, line 24: delete the material beginning with “and”[✓] and ending
9 with “(6m)”[✓] on page 130, line 2.

10 ↓ **23.** Page 130, line 9: delete the material beginning with “and” and ending with
11 “(6m)” on line 12.

12 ✕ **24.** Page 130, line 21: delete the material beginning with “and” and ending
13 with “(6m)” on line 24.

14 ✕ **25.** Page 131, line 8: delete the material beginning with “and” and ending with
15 “(6m)” on line 11.

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

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

20 ↓ **28.** Page 135, line 6: delete lines 6 to 23.

21 ↓ **29.** Page 148, line 6: delete lines 6 to 11.

22 ↓ **30.** Page 149, line 8: delete lines 8 to 18.

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

LRBa1491/P1dn
RCT:.....

Wlj

1/24

This amendment deletes the consumptive use decision-making standard and related provisions and returns to current law on the approvals for water losses over 2,000,000 gallons per day under s. 281.35. The amendment also adds the option for a permit applicant to avoid the compact decision-making standard by showing that the water loss from the new withdrawal or the increase in the withdrawal would be less than 5,000,000 million gallons per day. 5

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

Tradewell, Becky

From: Stolzenberg, John
Sent: Sunday, March 02, 2008 5:09 PM
To: Tradewell, Becky
Subject: FW: Consumptive use-based option [#1; LRBa1491]

Beth called back. Based on the input she received from DNR staff, she would like the averaging period to be the 90-day average. This corresponds to the averaging period used in the compact and implementing statutes for water losses subject to regional reviews or prior notice. See, for example, page 128, lines 9 and 10.

From: Stolzenberg, John
Sent: Sunday, March 02, 2008 4:01 PM
To: Tradewell, Becky
Subject: RE: Consumptive use-based option

Beth is now checking on the averaging period with DNR staff. She also confirmed that the 5 million gallon water loss opt out provision should be included in the plan-based approvals.

From: Tradewell, Becky
Sent: Sunday, March 02, 2008 3:45 PM
To: Stolzenberg, John
Subject: RE: Consumptive use-based option

1. I do not remember it being brought up at the meetings.
2. I wondered about the averaging period, too, but since the DNR instructions used 30 days, I just did it. If you think that they might want it changed eventually, now is as good a time as any to bring it up with them, from my point of view.
3. Yes, I think so. This alternate treatment is supposed to be an option, so I don't think it should result in the compact decision-making standard being applied to anyone to whom it does not apply under the bill. I wouldn't bother to check, but it's your call.

From: Stolzenberg, John
Sent: Sunday, March 02, 2008 3:37 PM
To: Tradewell, Becky
Subject: RE: Consumptive use-based option

Yes, I think this option also needs to be given in the plan-based approvals. Wasn't that brought up at the meeting on Thursday or Friday?

Also, here are 2 other comments on the Cuall draft.

When I first read this draft, I was concerned about the averaging period for the 5 million GPD water loss (30-day average) versus other periods used in the bill and compact (30 consecutive days and 90-day average). As I thought about it a little more, a person with that large a water loss is likely to be operating fairly continuously, so practically speaking, I suspect the averaging period won't make much difference. Thus, I'm inclined to not change the draft now but call it to Sen. Miller's and other's attention later.

I understand the drafting instructions to require a 9 million GPD withdrawal with a 6 million GPD water loss to be subject to the state decision-making standard. Do you agree? I'm inclined to check on the treatment of this scenario with Sen. Miller, or Beth in his absence, given the scrutiny that this provision will be getting. Let me know if you agree that this point merits this check. If you concur but would prefer to deal with this later, I can do this checking tomorrow.

From: Tradewell, Becky
Sent: Sunday, March 02, 2008 12:18 PM
To: Stolzenberg, John
Subject: FW: Consumptive use-based option

John,

When I sent this earlier, I forgot to mention that the language so far does not provide the water loss-based option to public water supply systems that have water supply plans. Do you think that the option needs to be added to the planning provisions in sub. (5e)?

Becky

From: Tradewell, Becky
Sent: Sunday, March 02, 2008 11:21 AM
To: Stolzenberg, John
Subject: Consumptive use-based option

John,

This includes the language from yesterday going back to current law on water loss approvals under s. 281.35 plus my first attempt to provide for the option that a person may avoid having the compact decision-making standard apply if the person demonstrates that the increase in water loss resulting from the increased withdrawal would average less than 5,000,000 GPD in every 30-day period. I don't plan to have this submitted to Sen. Miller until you have had a chance to look it over.

Becky

<< File: Cualt >>



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1491/P1
RCT:wj:pg

This morning

fgs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2007 SENATE BILL 523

Note

bill list

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 17, line 9: delete lines 9 to 23.
- 3 **2.** Page 120, line 15: delete the material beginning with "and" and ending with
- 4 "(6m)" on line 18.
- 5 **3.** Page 120, line 19: after "in" insert "subd. 3. or".
- 6 **4.** Page 120, line 25: delete the material beginning with "and" and ending with
- 7 "(6m)" on page 121, line 2.
- 8 **5.** Page 121, line 2: after that line insert:
- 9 "3. A person who submits an application under par. (d) 1., to which subd. 2.
- 10 would otherwise apply, may choose to demonstrate, using procedures specified in
- 11 rules promulgated by the department, the water loss that will result from the
- 12 withdrawal. If the person demonstrates that the water loss would average less than

1 5,000,000 gallons per day in every ⁹⁰~~30~~-day period, the state decision-making
2 standard under sub. (5m), rather than the compact decision-making standard under
3 sub. (6), applies to the withdrawal.”

4 **6.** Page 121, line 11: delete the material beginning with “and” and ending with
5 “(6m)” on line 14.

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

7 **8.** Page 121, line 22: delete the material beginning with “and” and ending with
8 “(6m)” on line 24.

9 **9.** Page 121, line 24: after that line insert:

10 “3. A person who submits an application under par. (d) 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 later 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~~30~~-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 **10.** Page 124, line 4: delete the material beginning with “and” and ending with
20 “(ks)” on line 7.

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

22 **12.** Page 124, line 15: delete the material beginning with “and” and ending
23 with “(ks)” on line 18.

1 **13.** Page 124, line 18: after that line insert:

2 “3. A person who submits an application under par. (g) 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 latest 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~~30~~-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 **14.** Page 127, line 2: delete the material beginning with “and” and ending with
12 “(ks)” on line 5.

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

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

16 **17.** Page 127, line 16: after that line insert:

17 “3. A person who submits an application under par. (j) 1., to which subd. 2.
18 would otherwise apply, may choose to demonstrate, using procedures specified in
19 rules promulgated by the department, the water loss that will result from the
20 increase in the withdrawal over the withdrawal amount as of the latest of the dates
21 under subd. 2. If the person demonstrates that the resulting increase in water loss
22 would average less than 5,000,000 gallons per day in every ⁹⁰~~30~~-day period, the state
23 decision-making standard under sub. (5m), rather than the compact

1 decision-making standard under sub. (6), applies to the increase in the
2 withdrawal.”.

3 **18.** Page 127, line 17: delete the material beginning with that line and ending
4 with page 128, line 6.

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

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

7 **21.** Page 129, line 9: delete “(6m)”.

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

✓ *Insert*
104-9 → **23.** Page 130, line 9: delete the material beginning with “and” and ending with

✓ 11 “(6m)” on line 12.

Insert
41211 → **24.** Page 130, line 21: delete the material beginning with “and” and ending

✓ 13 with “(6m)” on line 24.

Insert
4-143 → **25.** Page 131, line 8: delete the material beginning with “and” and ending with

15 “(6m)” on line 11.

✓ *Insert*
4-15 → **26.** Page 131, line 22: delete the material beginning with “and” and ending

17 with “(6m)” on line 25.

✓ *Insert*
4-17 → **27.** Page 132, line 9: delete the material beginning with “and” and ending with

19 “(6m)” on line 12.

✓ *Insert*
4-19 → **28.** Page 135, line 6: delete lines 6 to 23.

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

22 **30.** Page 149, line 8: delete lines 8 to 18.

1 **31.** Page 149, line 18: after that line insert:

2 “**SECTION 23g.** 281.35 (6) (a) (intro.) of the statutes is amended to read:

3 281.35 (6) (a) *Issuance; contents.* (intro.) If Except as provided in par. (am),
4 if an application is approved under sub. (5), the department shall modify the
5 applicant’s existing approval or shall issue a new approval that specifies all of the
6 following:

7 **SECTION 23j.** 281.35 (6) (am) of the statutes is created to read:

8 281.35 (6) (am) *Water loss permit.* If the department approves an application
9 under sub. (5) for a withdrawal that is covered by an individual permit under s.
10 281.344 (5) or 281.346 (5), the department shall modify the individual permit to
11 specify the matters under par. (a).”.

12 **32.** Page 149, line 24: delete “and s. 281.344” and substitute “and, before the
13 compact’s effective date, s. 281.344”.

14

(END)

AMote

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1491/Plins
RCT:.....

1 **Insert 4-9**

2 **1.** Page 130, line 3: after "date," insert "except as provided in subd. 3.,".

3 **Insert 4-11**

4 **2.** Page 130, line 12: after that line insert:

5 "3. A person who submits a water supply service area plan under s. 281.348,
6 that provides for a new withdrawal to which subd. 2. would otherwise apply, may
7 choose to demonstrate, using procedures specified in rules promulgated by the
8 department, the water loss that will result from the withdrawal. If the person
9 demonstrates that the water loss would average less than 5,000,000 gallons per day
10 in every ~~30~~⁹⁰-day period, the state decision-making standard under sub. (5m), rather
11 than the compact decision-making standard under sub. (6), applies to the
12 withdrawal."

13 **Insert 4-13**

14 **3.** Page 131, line 1: after "date," insert "except as provided in subd. 3.,".

15 **Insert 4-15**

16 **4.** Page 131, line 11: after that line insert:

17 "3. A person who submits a water supply service area plan under s. 281.348,
18 that provides for an increase in a withdrawal to which subd. 2. would otherwise
19 apply, may choose to demonstrate, using procedures specified in rules promulgated
20 by the department, the water loss that will result from the increase in the withdrawal
21 over the withdrawal amount as of the later of the dates under subd. 2. If the person
22 demonstrates that the resulting increase in water loss would average less than
23 5,000,000 gallons per day in every ~~30~~⁹⁰-day period, the state decision-making

1 standard under sub. (5m), rather than the compact decision-making standard under
2 sub. (6), applies to the increase in the withdrawal.”

3 **Insert 4-17**

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

5 **Insert 4-19**

6 “3. A person who submits a water supply service area plan under s. 281.348
7 under par. (g) 1. that provides for an increase in a withdrawal to which subd. 2.
8 would otherwise apply, may choose to demonstrate, using procedures specified in
9 rules promulgated by the department, the water loss that will result from the
10 increase in the withdrawal over the withdrawal amount as of the latest of the dates
11 under subd. 2. If the person demonstrates that the resulting increase in water loss
12 would average less than 5,000,000 gallons per day in every ⁹⁰~~90~~-day period, the state
13 decision-making standard under sub. (5m), rather than the compact
14 decision-making standard under sub. (6), applies to the increase in the
15 withdrawal.”

④ #. Page 132, line 12: after
that line insert:

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

LRBa1491/P1dn
RCT:wlj:pg

March 2, 2008



This amendment deletes the consumptive use decision-making standard and related provisions and returns to current law on the approvals for water losses over 2,000,000 gallons per day under s. 281.35. The amendment also adds the option for a permit applicant to avoid the compact decision-making standard by showing that the water loss from the new withdrawal or the increase in the withdrawal would be less than 5,000,000 million gallons per day.

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

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

LRBa1491/P1dn
RCT:wlj:pg

March 3, 2008

This amendment deletes the consumptive use decision-making standard and related provisions and returns to current law on the approvals for water losses over 2,000,000 gallons per day under s. 281.35. The amendment also adds the option for a permit applicant to avoid the compact decision-making standard by showing that the water loss from the new withdrawal or the increase in the withdrawal would be less than 5,000,000 million gallons per day.

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



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1491/P# 2
RCT:wj:pg
P2
2
gjs
YMR

Now

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2007 SENATE BILL 523

At the locations indicated, amend the bill as follows:

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

2. Page 120, line 15: delete the material beginning with "and" and ending with
"(6m)" on line 18.

3. Page 120, line 19: after "in" insert "subd. 3. or".

4. Page 120, line 25: delete the material beginning with "and" and ending with
"(6m)" on page 121, line 2.

5. Page 121, line 2: after that line insert:

"3. A person who submits an application under par. (d) 1., to which subd. 2.
would otherwise apply, may choose to demonstrate, using procedures specified in
rules promulgated by the department, the water loss that will result from the
withdrawal. If the person demonstrates that the water loss would average less than

✓
1
2
Insert →
3
1-2

1 5,000,000 gallons per day in every 90-day period, the state decision-making
2 standard under sub. (5m), rather than the compact decision-making standard under
3 sub. (6), applies to the withdrawal.”.

4 **6.** Page 121, line 11: delete the material beginning with “and” and ending with
5 “(6m)” on line 14.

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

7 **8.** Page 121, line 22: delete the material beginning with “and” and ending with
8 “(6m)” on line 24.

9 **9.** Page 121, line 24: after that line insert:

10 “3. A person who submits an application under par. (d) 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 later 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 **10.** Page 124, line 4: delete the material beginning with “and” and ending with
20 “(ks)” on line 7.

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

22 **12.** Page 124, line 15: delete the material beginning with “and” and ending
23 with “(ks)” on line 18.

1 **13.** Page 124, line 18: after that line insert:

2 “3. A person who submits an application under par. (g) 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 latest 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 **14.** Page 127, line 2: delete the material beginning with “and” and ending with
12 “(ks)” on line 5.

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

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

16 **17.** Page 127, line 16: after that line insert:

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

1 decision-making standard under sub. (6), applies to the increase in the
2 withdrawal.”.

3 **18.** Page 127, line 17: delete the material beginning with that line and ending
4 with page 128, line 6.

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

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

7 **21.** Page 129, line 9: delete “(6m)”.

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

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

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

13 **25.** Page 130, line 12: after that line insert:

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

22 **26.** Page 130, line 21: delete the material beginning with “and” and ending
23 with “(6m)” on line 24.

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

2 **28.** Page 131, line 8: delete the material beginning with “and” and ending with
3 “(6m)” on line 11.

4 **29.** Page 131, line 11: after that line insert:

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

14 **30.** Page 131, line 22: delete the material beginning with “and” and ending
15 with “(6m)” on line 25.

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

17 **32.** Page 132, line 9: delete the material beginning with “and” and ending with
18 “(6m)” on line 12.

19 **33.** Page 132, line 12: after that line insert:

20 “3. A person who submits a water supply service area plan under s. 281.348,
21 that provides for an increase in a withdrawal to which subd. 2. would otherwise
22 apply, may choose to demonstrate, using procedures specified in rules promulgated
23 by the department, the water loss that will result from the increase in the withdrawal
24 over the withdrawal amount as of the latest of the dates under subd. 2. If the person

1 demonstrates that the resulting increase in water loss would average less than
2 5,000,000 gallons per day in every 90-day period, the state decision-making
3 standard under sub. (5m), rather than the compact decision-making standard under
4 sub. (6), applies to the increase in the withdrawal.”.

5
Insert
6-6

34. Page 135, line 6: delete lines 6 to 23.

35. Page 148, line 6: delete lines 6 to 11.

7
Insert
6-8

36. Page 149, line 8: delete lines 8 to 18.

37. Page 149, line 18: after that line insert:

Subject to

9 “SECTION 23g. 281.35 (6) (a) (intro.) of the statutes is amended to read:
10 281.35 (6) (a) *Issuance; contents.* (intro.) If ~~Except as provided in par. (am),~~
11 if an application is approved under sub. (5), the department shall modify the
12 applicant’s existing approval or shall issue a new approval that specifies all of the
13 following:

✓

14 SECTION 23j. 281.35 (6) (am) of the statutes is created to read:

Insert
15
6-14

15 ~~281.35 (6) (am) Water loss permit.~~ If the department approves an application
16 under sub. (5) for a withdrawal that is covered by an individual permit under s.
17 281.344 (5) or 281.346 (5), the department shall modify the individual permit to
18 specify the matters under par. (a).”

✓

19 38. Page 149, line 24: delete “and s. 281.344” and substitute “and, before the
20 compact’s effective date, s. 281.344”.

21 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1491/P2ins
RCT.....

✓
Insert 1-2

1. Page 86, line 23: after that line insert:

“6[^]m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
(a).” ✓

2. Page 118, line 8: after that line insert:

“6[^]m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
(a).”

✓ **Insert 6-5**

3. Page 147, line 18: after that line insert:

“SECTION 12[^]m. 281.35 (1) (a) of the statutes is amended to read:

281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or
281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.”

History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672; 2003 a. 310.

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

✓ **Insert 6-6**

5. Page 148, line 11 ⁸: after that line insert:

“SECTION 18^g. 281.35 (4) (a) 4. of the statutes is created to read:

281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
has been issued or who is required to obtain a permit under one of those provisions
before beginning or increasing a withdrawal.

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

281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
withdrawal or increase the amount of an existing withdrawal, the person shall apply

to the department under s. 30.18, 281.34, 281.344 (5), 281.346 (5), or 281.41 for a new approval or a modification of its existing approval if either of the following conditions applies:".

History: 1985 a. 60; 1987 a. 27, 186; 1987 a. 403 s. 256; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 32; 1991 a. 39; 1995 a. 227 s. 400; Stats., 1995 s. 281.35; 1999 a. 150 s. 672; 2003 a. 310.

Insert 6-14

281 281.35 (6) (am) *Water loss permit*. If the department approves an application under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s. 281.346 (5) and another approval, the department shall modify the permit under s. 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters under par. (a)."



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 03/04/2008 (Per: RCT)

Appendix A ... Part 06 of 18

- ☛ The 2007 drafting file for LRBa1436/P1
- ☛ The 2007 drafting file for LRBa1452/P1
- ☛ The 2007 drafting file for LRBa1474/P1
- ☛ The 2007 drafting file for LRBa1475/P1
- ☛ The 2007 drafting file for LRBa1478/P1
- ☛ The 2007 drafting file for LRBa1491/P1
- ☛ The 2007 drafting file for LRBa1492/P1
- ☛ The 2007 drafting file for LRBa1493/P1
- ☛ The 2007 drafting file for LRBa1496/P1
- ☛ The 2007 drafting file for LRBa1500/P1
- ☛ The 2007 drafting file for LRBa1501/P1
- ☛ The 2007 drafting file for LRBa1502/P1
- ☛ The 2007 drafting file for LRBa1509/P1
- ☛ The 2007 drafting file for LRBa1510/P1
- ☛ The 2007 drafting file for LRBa1511/P1
- ☛ The 2007 drafting file for LRBa1512/P1
- ☛ The 2007 drafting file for LRBa1513/P1
- ☛ The 2007 drafting file for LRBa1514/P1

2007 LRBa1491 has been copied/added

to the drafting file for

2007 LRBa1529 (SA 1 to SB 523)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1491/P2
RCT:wlj&cjs:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO 2007 SENATE BILL 523

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 17, line 9: delete lines 9 to 23.
- 3 **2.** Page 86, line 23: after that line insert:
- 4 “6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
- 5 (a).”.
- 6 **3.** Page 118, line 8: after that line insert:
- 7 “6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
- 8 (a).”.
- 9 **4.** Page 120, line 15: delete the material beginning with “and” and ending with
- 10 “(6m)” on line 18.
- 11 **5.** Page 120, line 19: after “in” insert “subd. 3. or”.

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

3 **7.** Page 121, line 2: after that line insert:

4 “3. A person who submits an application under par. (d) 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 withdrawal. If the person demonstrates that the water loss would average less than
8 5,000,000 gallons per day in every 90-day period, the state decision-making
9 standard under sub. (5m), rather than the compact decision-making standard under
10 sub. (6), applies to the withdrawal.”.

11 **8.** Page 121, line 11: delete the material beginning with “and” and ending with
12 “(6m)” on line 14.

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

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

16 **11.** Page 121, line 24: after that line insert:

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

1 decision-making standard under sub. (6), applies to the increase in the
2 withdrawal.”.

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

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

6 **14.** Page 124, line 15: delete the material beginning with “and” and ending
7 with “(ks)” on line 18.

8 **15.** Page 124, line 18: after that line insert:

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

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

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

21 **18.** Page 127, line 13: delete the material beginning with “and” and ending
22 with “(ks)” on line 16.

23 **19.** Page 127, line 16: after that line insert:

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

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

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

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

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

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

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

18 **26.** Page 130, line 9: delete the material beginning with “and” and ending with
19 “(6m)” on line 12.

20 **27.** Page 130, line 12: after that line insert:

21 “3. A person who submits a water supply service area plan under s. 281.348,
22 that provides for a new withdrawal to which subd. 2. would otherwise apply, may
23 choose to demonstrate, using procedures specified in rules promulgated by the

1 department, the water loss that will result from the withdrawal. If the person
2 demonstrates that the water loss would average less than 5,000,000 gallons per day
3 in every 90-day period, the state decision-making standard under sub. (5m), rather
4 than the compact decision-making standard under sub. (6), applies to the
5 withdrawal.”.

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

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

9 **30.** Page 131, line 8: delete the material beginning with “and” and ending with
10 “(6m)” on line 11.

11 **31.** Page 131, line 11: after that line insert:

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

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

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

1 **34.** Page 132, line 9: delete the material beginning with “and” and ending with
2 “(6m)” on line 12.

3 **35.** Page 132, line 12: after that line insert:

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

13 **36.** Page 135, line 6: delete lines 6 to 23.

14 **37.** Page 147, line 18: after that line insert:

15 “SECTION 12m. 281.35 (1) (a) of the statutes is amended to read:
16 281.35 (1) (a) “Approval” means a permit issued under s. 30.18, 281.344 (5), or
17 281.346 (5) or an approval under s. 281.17 (1), 2001 stats., or s. 281.34 or 281.41.”

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

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

20 **40.** Page 148, line 8: after that line insert:

21 “SECTION 18g. 281.35 (4) (a) 4. of the statutes is created to read:

1 281.35 (4) (a) 4. A person to whom a permit under s. 281.244 (5) or 281.346 (5)
2 has been issued or who is required to obtain a permit under one of those provisions
3 before beginning or increasing a withdrawal.

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

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

10 **41.** Page 149, line 8: delete lines 8 to 18.

11 **42.** Page 149, line 18: after that line insert:

12 "SECTION 23g. 281.35 (6) (a) (intro.) of the statutes is amended to read:

13 281.35 (6) (a) *Issuance; contents.* (intro.) If Subject to par. (am), if an
14 application is approved under sub. (5), the department shall modify the applicant's
15 existing approval or shall issue a new approval that specifies all of the following:

16 **SECTION 23j.** 281.35 (6) (am) of the statutes is created to read:

17 281.35 (6) (am) *Water loss permit.* If the department approves an application
18 under sub. (5) for a withdrawal that is covered by a permit under s. 281.344 (5) or s.
19 281.346 (5) and another approval, the department shall modify the permit under s.
20 281.344 (5) or 281.346 (5), rather than the other approval, to specify the matters
21 under par. (a)."

22 **43.** Page 149, line 24: delete "and s. 281.344" and substitute "and, before the
23 compact's effective date, s. 281.344".

24

(END)