



State of Wisconsin
2007 - 2008 LEGISLATURE

April 2008 Special Session

Today
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stays
rmmr

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NO changes
PP 165 & 166

regen. cat.

1 **AN ACT to repeal** 196.98, 281.35 (2) (a), 281.35 (3), 281.35 (8) and 281.35 (10) (a)
2 **4.; to renumber** 281.35 (2) (b) and 283.83; **to renumber and amend** 281.35
3 (11) (f); **to amend** 196.49 (2), 281.34 (5) (e) 1., 281.35 (1) (a), 281.35 (1) (b) 2.,
4 281.35 (4) (b) (intro.), 281.35 (5) (a) 13., 281.35 (5) (b), 281.35 (6) (a) (intro.),
5 281.35 (9) (a), 281.35 (11) (intro.), 281.35 (12) (c), 281.41 (1) (c), 281.94 (1),
6 281.95 and 281.98 (1); and **to create** 14.95, 30.208 (3m), 281.34 (5) (dm),
7 281.343, 281.344, 281.346, 281.348, 281.35 (1) (bm), 281.35 (4) (a) 4., 281.35 (6)
8 (am), 281.35 (9) (d), 281.41 (4), 283.41 (3) and 283.83 (2) of the statutes;
9 **relating to:** the Great Lakes–St. Lawrence River Basin Water Resources
10 Compact, withdrawals of water from the Great Lakes Basin, water withdrawal
11 and use, water supply planning, water conservation, granting rule-making
12 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill ratifies the Great Lakes—St. Lawrence River Basin Water Resources Compact and creates provisions for implementing the compact in this state. The bill

also includes provisions that apply statewide relating to the registration and reporting of water withdrawals, to water conservation, and to water supply planning for public water supply systems (water utilities).

CURRENT FEDERAL LAW

A current federal law, commonly known as the Water Resources Development Act (WRDA), provides that no water may be diverted or exported from the Great Lakes, or any tributary of any of the Great Lakes, for use outside the Great Lakes basin unless the diversion or exporting is approved by the governor of each of the Great Lakes states: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. WRDA does not contain standards that governors must use in deciding whether to approve a proposal to divert or export water.

THE GREAT LAKES—ST. LAWRENCE RIVER BASIN WATER RESOURCES COMPACT

IN GENERAL

The Great Lakes—St. Lawrence River Basin Water Resources Compact (the compact) was endorsed by the governors of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin (the states) on December 13, 2005. The compact will take effect if and when it is ratified in substantively the same form by the legislature of each of the states and is consented to by the U.S. Congress. Any change in the compact would also have to be ratified by each state's legislature and consented to by Congress. The compact may be terminated by a majority vote of the states.

The compact relates to the withdrawal and use of water (both groundwater and surface water) from the watersheds of the Great Lakes and the St. Lawrence River (the Great Lakes basin). Part of northern Wisconsin is in the Lake Superior watershed and part of eastern Wisconsin is in the Lake Michigan watershed. The rest of the state is in the upper Mississippi River basin.

A compact is basically an agreement among states for dealing with a subject of common concern. Unlike some other compacts, a number of the provisions of this compact are not self-executing. The compact tells states what they must do. Additional state laws or administrative rules are necessary to do the things that the compact requires. The compact gives the states wide choices in how to implement some of its provisions. For example, the compact allows states to determine the threshold size for regulating water withdrawals from the Great Lakes basin. In other cases, the compact specifies regulatory requirements that a state may make more, but not less, restrictive.

The compact creates the Great Lakes—St. Lawrence River Basin Water Resources Council (the council) consisting of the governors of the states. The compact authorizes a governor to designate an alternate to act in the governor's absence. The council oversees the implementation of the compact and has responsibilities such as identifying and reviewing water conservation and efficiency objectives and approving certain proposals that involve diverting water from the watershed of one of the Great Lakes, as explained below. If any member of the council votes to disapprove a proposal for which council approval is required, the proposal is disapproved. The compact requires the members of the council to use the

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standards set forth in the compact, such as the exception standard described below, in deciding whether to approve or disapprove a proposal that is subject to council approval but also authorizes the council to revise these standards using procedures specified in the compact.

The compact also provides for review of some proposals by the regional body, which consists of the members of the council and the premiers of Ontario and Quebec, Canada. The regional body has no decision-making authority.

REGISTRATION AND REPORTING

The compact requires any person who makes a withdrawal of water from the Great Lakes basin that averages 100,000 gallons per day (GPD) or more in any 30-day period, or who diverts any amount of water, to register with the state and provide information about the withdrawal or diversion. Persons who are required to register must also annually report information about the monthly amounts of water withdrawn.

The compact requires the states to annually report to the council the information gathered through registration and reporting. The compact also requires each state to develop and maintain a water resources inventory for the collection, exchange, and dissemination of information about water resources.

REGULATION OF DIVERSIONS

A diversion is either the transfer of water out of the Great Lakes basin or the transfer of water out of the watershed of one of the Great Lakes into the watershed of another of the Great Lakes. The compact generally prohibits new diversions and prohibits increases in the amount of diversions that exist when the compact takes effect. There are three exceptions to the prohibition on new or increased diversions, described below.

The compact requires states to treat the removal of water from the Great Lakes basin in containers larger than 5.7 gallons as a diversion. The compact gives the states discretion to determine how to regulate proposals to remove water from the basin in containers of 5.7 gallons or less (proposals to bottle water).

Straddling communities

A straddling community is a community that is partly within the Great Lakes basin and partly outside of the basin when the compact takes effect, but that is wholly within a county that is partly within the basin. The first exception to the prohibition on diversions allows a new or increased transfer of water to the part of a straddling community that is outside of the Great Lakes basin.

The exception only applies if all of the diverted water is used to supply water to the public and if an amount of water equal to the amount diverted, less an allowance for consumptive use, will be returned to the Great Lakes basin (such as through a sewage system). A consumptive use is a use of water that results in less of the water being returned to surface water or groundwater than was withdrawn (due to evaporation, for example). The proposal for the new or increased diversion must maximize the amount of water that originated in the basin that is returned to the basin and minimize the amount of water that originated outside of the basin that is returned to the basin.

If the proposed new diversion or increase in an existing diversion would result from a new or increased withdrawal that averages 100,000 GPD or more in any 90-day period, the diversion must meet the exception standard, described below. A proposal for a diversion to a straddling community that results in a very large new or increased water loss to the Great Lakes basin (5,000,000 GPD or greater average over 90 days) must also be reviewed by the regional body before the state decides whether to approve the diversion.

Intrabasin transfers

An intrabasin transfer is the transfer of water from the watershed of one of the Great Lakes into the watershed of another of the Great Lakes. In Wisconsin, that would mean a transfer from the Lake Superior watershed to the Lake Michigan watershed or vice versa.

The compact allows a state to decide whether and how to regulate an intrabasin transfer that averages less than 100,000 GPD in any 90-day period.

For a larger intrabasin transfer it must be shown that there is no feasible, cost-effective, and environmentally sound alternative for obtaining water in the watershed to which the water will be transferred and the exception standard applies, except that the diverted water is not required to be returned to the watershed from which it was withdrawn, unless there is a very large new or increased water loss. In addition, the state must notify the other states before it decides whether to approve the intrabasin transfer. An intrabasin transfer that results in a very large new or increased water loss must also be reviewed by the regional body and must be approved by the council with no disapproving votes.

Communities in straddling counties

The third exception to the prohibition on new or increased diversions is to provide water to a community in a straddling county. A community in a straddling county is a community no part of which is in the Great Lakes basin, but that is wholly within a county that is partly in the Great Lakes basin.

A proposal for a diversion to a community in a straddling county is only allowed under the compact if all of the following apply:

1. All of the water is used to supply water to the public.
2. The community is otherwise without an adequate supply of water that is safe to drink.
3. The diversion satisfies the exception standard.
4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.
5. There is no reasonable water supply alternative in the basin in which the community is located (in Wisconsin, that would be the upper Mississippi River basin).
6. The proposal is reviewed by the regional body.
7. The proposal is approved by the council with no disapproving votes.

Exception standard

As explained above, some diversions that are approvable under the compact are subject to what is called the exception standard. A proposal for a new or increased

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diversion meets the exception standard under the compact if it satisfies several criteria including the following:

1. The need for the diversion cannot be avoided through the efficient use and conservation of existing water supplies.
2. The amount of water diverted will be limited to quantities that are reasonable to meet the need.
3. An amount of water equal to the amount diverted, less an allowance for consumptive use, will be returned to the watershed from which it was withdrawn.
4. No water from outside of the source watershed will be returned to the source watershed unless it comes from a wastewater system that combines water from inside and outside of that watershed and is treated to satisfy water quality standards and to prevent the introduction of invasive species.
5. The diversion will not result in adverse impacts to the quantity or quality of the waters of the Great Lakes basin or related natural resources.
6. Environmentally sound and economically feasible water conservation measures will be used to minimize the amount of water withdrawn and the amount of water lost to the Great Lakes basin.

**MANAGEMENT AND REGULATION OF NEW AND INCREASED WITHDRAWALS;
DECISION-MAKING STANDARD**

The compact requires each state to regulate new and increased withdrawals of water from the Great Lakes basin. Each state is required to set thresholds for the regulation of withdrawals and consumptive uses. A withdrawal that exceeds the threshold set by a state is subject to what the compact calls the decision-making standard. The decision-making standard consists of several requirements, including that the withdrawal will not result in significant adverse impacts to the quantity or quality of the waters of the Great Lakes basin or to related natural resources, that environmentally sound and economically feasible water conservation measures will be used in implementing the withdrawal, and that the proposed use of the water is reasonable, based on a consideration of factors specified in the compact.

The compact requires states to establish baselines for existing withdrawals. A baseline basically grandfathers withdrawals that exist when the compact takes effect. The decision-making standard applies when the increase in an existing withdrawal over its baseline, during a ten-year period, exceeds the threshold set by the state. If a withdrawal is never increased by the threshold amount, the decision-making standard need never be applied.

Under the compact, baselines may be set in only two ways, either on the basis of the actual capacity of the water withdrawal system when the compact takes effect or on the basis of existing withdrawal approvals (such as permits) issued by the state before the compact takes effect. This bill provides for the issuance of approvals for existing withdrawals before the compact's effective date in order to use the second method of setting baselines.

The compact requires a state to notify the other members of the regional body of a proposal that will result in a new or increased water loss to the Great Lakes basin of 5,000,000 GPD or greater average in any 90 day period. The compact also

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authorizes a majority of members of the regional body to request regional review of a regionally significant or potentially precedent setting proposal that is not otherwise subject to regional review.

WATER CONSERVATION AND EFFICIENCY

The compact includes water conservation and efficiency goals for the Great Lakes basin. The council will identify water conservation and efficiency objectives for the basin. The compact requires each state to develop water conservation and efficiency goals and objectives, consistent with the goals and objectives for the Great Lakes basin, and requires each state to develop and implement a water conservation and efficiency program, which may be voluntary or mandatory. The compact also requires states to promote environmentally sound and economically efficient water conservation measures, such as demand-side and supply-side incentives for water conservation.

PUBLIC PARTICIPATION

The compact requires the states to have procedures that facilitate public participation in the review of proposals for diversions and withdrawals that are regulated under the compact. The compact also requires states to consult with federally recognized American Indian tribes concerning proposals for which council approval or regional review is required.

OTHER PROVISIONS

The compact includes procedures for appealing decisions made by the council and by the states under the compact, including alternative dispute resolution for disputes among the states.

The compact specifies that, in general, withdrawals, consumptive uses, and diversions of Great Lakes water within Illinois are governed by the terms of the U.S. Supreme Court decree in *Wisconsin et al. v. Illinois et al.* and are not subject to regulation under the compact.

PROVISIONS THAT TAKE EFFECT BEFORE THE COMPACT TAKES EFFECT

Some provisions of the bill take effect before the compact is approved by the states and Congress. These provisions stay in effect if the compact never goes into effect.

REGULATION OF INTERBASIN TRANSFERS

The bill requires any person who transfers water out of the Great Lakes basin to register with the Department of Natural Resources (DNR). The bill calls such a transfer an interbasin transfer in the portions of the bill that apply before the compact takes effect and a diversion in the parts of the bill that apply once the compact takes effect. A person who makes an interbasin transfer must also annually report information about the transfer to DNR.

Approval required

The bill requires an approval from DNR for any new or increased interbasin transfer. The bill provides procedures for public participation in the review of proposals for new and increased interbasin transfers.

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Each interbasin transfer must have an interbasin transfer amount in its approval. Any increase in the amount of an interbasin transfer over the interbasin transfer amount is subject to the restrictions described below on increases in interbasin transfers.

Automatic approval for existing interbasin transfers

The bill requires DNR to automatically issue an approval to a person who operates a public water supply system receiving water from an interbasin transfer that begins before the compact takes effect if the public water supply system delivers the water to customers in an area that is outside of the Great Lakes basin and that is in a sewer service area that provides for return of wastewater to the Great Lakes basin, as authorized in the sewer service area provisions of an areawide water quality management plan approved by DNR before December 31, 2007.

The bill requires DNR to determine the initial interbasin transfer amount for a public water supply system entitled to an automatic permit to be the amount of water necessary to provide water for public water supply services in the area described above.

The bill also requires DNR to automatically issue an approval to a person who makes an interbasin transfer when this bill is enacted if the transfer is not for public water supply purposes. DNR determines the interbasin transfer amount in the same way that it determines initial withdrawal amounts, described below.

New and increased interbasin transfers

Beginning on enactment, the bill generally prohibits new interbasin transfers, other than those for which DNR is required to issue automatic approvals, and also generally prohibits increases in existing interbasin transfers. There are three exceptions to the prohibition, which generally apply in the same situations as the exceptions to the prohibition on diversions in the compact, described above.

Some public water supply systems buy water from other entities, which actually withdraw the water. For an interbasin transfer made for the purpose of supplying water to the public, the person operating the public water supply system that receives the water from the transfer must obtain the approval from DNR.

If an applicant for approval of a new or increased interbasin transfer will not be the person who withdraws the water from the Great Lakes basin, the bill requires the applicant to identify any entities that may withdraw the water and provide evidence of support from those entities in the form of a letter or resolution. Also, if an applicant for a new or increased interbasin transfer will not directly return the water to the Great Lakes basin, the applicant must identify any entities that may return the water and provide evidence of support from those entities in the form of a letter or resolution.

The interbasin transfer amount for a new or increased interbasin transfer is the quantity of water that DNR determines is reasonable for the purposes for which the interbasin transfer is made.

Straddling communities

A straddling community is a community that is partly within the Great Lakes basin and partly outside of the basin, but that is wholly within a county that is partly within the basin. The first exception to the prohibition on interbasin transfers allows

a new or increased transfer of water to the part of a straddling community that is outside of the Great Lakes basin.

The exception only applies if all of the transferred water is used to supply water to the public and if an amount of water equal to the amount transferred, less an allowance for consumptive use, will be returned to the Great Lakes basin. The proposal must maximize the amount of water that originated in the basin that is returned to the basin and minimize the amount of water that originated outside of the basin that is returned to the basin. The proposal must also be consistent with an approved water supply plan under the planning provisions described below. If the proposed new or increased interbasin transfer would result from a new or increased withdrawal that averages 100,000 GPD or more in any 90-day period, the interbasin transfer must also meet the exception standard, in the manner described below.

Intrabasin transfers

The bill authorizes DNR to approve an intrabasin transfer (from the Lake Superior watershed to the Lake Michigan watershed or vice versa) that would average less than 100,000 GPD over 90 days if the proposal satisfies the requirements under laws related to high capacity wells, the withdrawal of water from streams, or the approval of plans for public water supply systems or, if none of those laws apply, if the proposal satisfies the requirements set by DNR by rule, and, if the water will be used for public water supply purposes, the proposal is consistent with an approved water supply plan.

For a larger intrabasin transfer, it must be shown that there is no feasible, cost-effective, and environmentally sound alternative for obtaining water in the watershed to which the water will be transferred and the exception standard applies, in the manner described below, except that it does not matter whether the transferred water is returned to the watershed from which it was withdrawn (unless there is a very large new or increased water loss). If the water will be used for public water supply purposes, the proposal must be consistent with an approved water supply plan.

Communities in straddling counties and other communities

The third exception to the prohibition on new or increased interbasin transfers is to provide water to a community in a straddling county. A community in a straddling county is a community no part of which is in the Great Lakes basin, but that is wholly within a county that is partly in the Great Lakes basin (a straddling county). The bill also allows a new or increased interbasin transfer to a community that would be a community in a straddling county except that it extends beyond the straddling county into a county that lies entirely outside the Great Lakes basin, as long as the water is only used in the part of the community that is in the straddling county.

An interbasin transfer to one of the these types of communities is only allowed under the bill if all of the following apply:

1. All of the water is used to supply water to the public.
2. The community is without a water supply that is economically and environmentally sustainable in the long term to meet reasonable demands, that is

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available at a reasonable cost, and that has adverse environmental impacts that are less than those likely to result from the interbasin transfer.

3. The interbasin transfer satisfies the exception standard, in the manner described below.

4. The proposal maximizes the amount of water that originated in the basin that is returned to the basin and minimizes the amount of water that originated outside of the basin that is returned to the basin.

5. There is no reasonable water supply alternative in the basin in which the community is located.

6. The proposal is consistent with an approved water supply plan.

Exception standard

As mentioned above, some interbasin transfers that may be approved under the bill (when the compact is not in effect) are subject to the exception standard. The bill provides two different methods in which the exception standard is applied before the compact takes effect.

If, before the compact takes effect DNR receives an application for approval of an interbasin transfer for a straddling community or for a community in a straddling county or a community that would be a community in a straddling county except that it extends beyond the straddling county, then DNR determines whether to approve the application through the water supply planning process that is described below.

In that planning process, DNR must consider the criteria contained in the exception standard in the compact (described above) as factors in determining whether the proposal provides for a water supply system that will minimize monetary costs and environmental and other nonmonetary costs and maximize environmental benefits during the planning period while complying with all other applicable legal requirements. DNR must also consider, in making that determination, whether the place at which the water is returned to the Great Lakes basin is as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, DNR must consider whether the physical, chemical, and biological integrity of the stream is protected and sustained.

If, before the compact takes effect, DNR receives an application for approval of an intrabasin transfer, the proposed intrabasin transfer only meets the exception standard if it satisfies all of the criteria contained in the exception standard in the compact. In addition, the place at which the water is returned to the Great Lakes basin must be as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, the physical, chemical, and biological integrity of the stream must be protected and sustained.

STATEWIDE WATER SUPPLY PLANNING FOR PUBLIC WATER SUPPLY SYSTEMS

The bill requires DNR to administer a water supply planning process for public water supply systems statewide. A plan may cover a period of not more than 20 years. The bill requires a public water supply system that serves a population of

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10,000 or more and that withdraws water from the waters of the state to be covered by a plan approved by DNR no later than December 31, 2025, but public water supply systems may obtain approval of plans before that date. The bill authorizes regional planning commissions to prepare water supply plans for public water supply systems. A plan may cover more than one public water supply system.

The bill requires a person preparing a water supply plan to identify the sources and quantities of water supplies in the area for which the plan is prepared and to forecast the expected population of the area during the planning period and the demand for water in the area during that period. The person must identify alternatives for supplying water in the area and compare the costs and benefits of the alternatives. A plan must delineate service areas for the public water supply systems in the area covered by the plan. In an area of the state for which an areawide water quality planning agency has been designated under the federal Clean Water Act, that agency delineates the service areas for the public water supply systems in its planning area.

DNR may not approve a water supply plan unless it determines that the water supply plan provides for a water supply system that is cost-effective, that is, one that will minimize monetary costs and environmental and other nonmonetary costs and maximize environmental benefits during the planning period while complying with all other applicable legal requirements. The bill also requires that a water supply plan be consistent with any applicable local development plans or master plans and with areawide water quality management plans (which, among other provisions, specify service areas for sewage systems).

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

The bill requires any person in this state who, three years after this bill becomes law, has a water supply system with the capacity to make a withdrawal of water that averages 100,000 GPD or more in a 30-day period (such as a high capacity well) to register the withdrawal with DNR and provide information about the system and the withdrawal. Any person who proposes to start a withdrawal with that capacity more than three years after this bill becomes law must also register with DNR. If the withdrawal is from the Great Lakes basin and it equals an average of 100,000 GPD or more in any 30 day period, the person must include in the registration an estimate of the maximum capacity of the most restrictive part of the water supply system used to make the withdrawal.

If a person who is required to register a withdrawal withdraws an average of 100,000 GPD or more in any 30-day period, the person must annually report to DNR information about the withdrawal, including the monthly volume of water withdrawn.

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN

Permit requirement

This bill generally prohibits a person from making a withdrawal of water from the Great Lakes basin that averages 100,000 GPD or more in any 30-day period unless the withdrawal is covered by a general or individual water withdrawal permit. This requirement takes effect seven years after the bill becomes law. The

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bill authorizes DNR to begin issuing permits before the date on which permits are required for existing withdrawals.

Initial withdrawal amounts

Each withdrawal that is covered by a permit must have a withdrawal amount. For a withdrawal that is covered by a permit before the compact's effective date, the withdrawal amount on the compact's effective date is the baseline and is used to determine when a withdrawal has increased by the threshold amount that triggers certain requirements after the compact takes effect, as described below. The bill requires DNR to determine initial withdrawal amounts for existing withdrawals.

Generally, DNR estimates an initial withdrawal amount based on the maximum capacity of the most restrictive part of an existing water supply system. If DNR has issued an approval for the water supply system under another statute and that approval contains a limit on the amount of water that may be withdrawn, DNR provides an estimate equal to that limit.

After a person making a withdrawal receives an estimate from DNR, the person may provide information to DNR relating to matters such as plans for expanding the capacity of the water supply system and successful water conservation efforts by persons using the water that is withdrawn. DNR determines an initial withdrawal amount for a withdrawal based on the estimate and its evaluation of any relevant information provided by the person making the withdrawal.

For a public water supply system that has approval under current law to transfer water from the Great Lakes basin to supply water to the public in an area outside of the basin and that has approval to return the wastewater that results from the use of that water to the Great Lakes basin through its sewage system, the initial withdrawal amount is the amount of water necessary to provide water for public water supply purposes in the sewer service area for that sewage system specified in the areawide water quality management plan approved by DNR before December 31, 2007.

General permits

This bill requires DNR to issue one or more general permits to cover withdrawals from the Great Lakes basin that average 100,000 GPD or more in any 30-day period but that do not equal 1,000,000 GPD for any 30 consecutive days. A general permit covers numerous withdrawals with similar characteristics, as specified by DNR. DNR is required to include requirements for reporting and for water conservation in a general permit, in accordance with rules that DNR promulgates. A general permit has a 25-year term.

The bill requires DNR to automatically issue a notice of coverage under a general permit to persons who make withdrawals from the Great Lakes basin that average 100,000 GPD or more in any 30-day period but that do not equal 1,000,000 GPD for any 30 consecutive days and who comply with the registration and reporting requirements in the bill. In an automatic notice of coverage, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

A person who proposes to begin a withdrawal, after the date on which the permit requirement applies but before the compact takes effect, that averages

100,000 GPD or more in any 30-day period but that does not equal 1,000,000 GPD for any 30 consecutive days must apply to DNR for coverage under a general permit. Generally, if DNR determines that the withdrawal qualifies for coverage under a general permit and DNR has issued any approvals that are required under other laws for the withdrawal, such as high capacity well approvals or approvals for any structures on the bed of a navigable water that are needed for the withdrawal, DNR must issue a notice of coverage under the general permit. In the notice, DNR specifies a withdrawal amount equal to the lesser of the capacity of the most restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

If the withdrawal is for the purpose of providing water to a public water supply system that is covered by an approved water supply plan, the requirement for previous issuance of other approvals that are needed for the withdrawal does not apply, but DNR may not issue a notice of coverage unless the withdrawal is consistent with the water supply plan. For such a withdrawal, DNR specifies a withdrawal amount equal to the withdrawal amount in the water supply plan. The withdrawal amount in a water supply plan is generally the amount that DNR determines is needed to provide a public water supply in accordance with the plan during the period covered by the plan.

The bill authorizes DNR to require a person who would otherwise qualify for coverage under a general permit to obtain an individual permit if the withdrawal is located in a groundwater protection area or a groundwater management area.

If a person making a withdrawal that is covered by a general permit proposes to increase the amount of the withdrawal over the withdrawal amount specified by DNR, but does not propose to withdraw at least 1,000,000 GPD for any 30 consecutive days, the person must apply to DNR for modification of the withdrawal amount. The conditions for increasing the withdrawal amount are the same as the conditions for granting coverage under a general permit.

Coverage under a general permit ends on the date that the term of the general permit ends. A person who intends to continue a withdrawal covered by a general permit must apply for redetermination of coverage under a new general permit at least 180 days before the end of the term of the current general permit.

Individual permits

The bill requires a person who makes a withdrawal from the Great Lakes basin that equals at least 1,000,000 GPD for any 30 consecutive days to have an individual permit. DNR must include in an individual permit a withdrawal amount, and, in accordance with rules promulgated by DNR, requirements for reporting and for water conservation and limits on the locations, dates, and seasons of the withdrawal and on the allowable uses of the water.

The bill requires DNR to automatically issue individual permits to persons who make withdrawals from the Great Lakes basin that equal at least 1,000,000 GPD for any 30 consecutive days and who comply with the registration and reporting requirements in the bill before the date on which the permit requirement applies.

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In the permit, DNR specifies a withdrawal amount equal to the initial withdrawal amount determined as described above.

A person who proposes to begin a withdrawal, after the date on which the permit requirement applies, that equals at least 1,000,000 GPD for any 30 consecutive days must apply to DNR for an individual permit. Generally, if DNR has issued any approvals that are required under other laws for the withdrawal, such as high capacity well approvals or approvals for any structures on the bed of a navigable water that are needed for the withdrawal, DNR must issue an individual permit. In the permit, DNR specifies a withdrawal amount equal to the lesser of the capacity of the most restrictive component that will be used in the water supply system or any limit on the amount of water that may be withdrawn specified in other approvals needed for the withdrawal.

If the withdrawal is for the purpose of providing water to a public water supply system that is covered by an approved water supply plan, the requirement for previous issuance of other approvals that are needed for the withdrawal does not apply, but DNR may not issue a permit unless the withdrawal is consistent with the water supply plan. For such a withdrawal, DNR specifies a withdrawal amount equal to the withdrawal amount in the water supply plan.

If a person with an individual permit proposes to increase the amount of the withdrawal over the withdrawal amount in the permit, the person must apply to DNR for modification of the permit to increase the withdrawal amount. The conditions for increasing the withdrawal amount are the same as the conditions for issuing the individual permit.

An individual permit has a ten-year term. A person who intends to continue a withdrawal covered by an individual permit must apply for reissuance of the permit at least 180 days before the end of the current permit term.

Interim approval

The bill provides that if, before the compact takes effect, DNR has not automatically issued a notice of coverage by a general permit or automatically issued an individual permit to a person who qualified for automatic issuance, registration of the withdrawal constitutes an approval of the withdrawal and the estimate of the maximum capacity of the most restrictive part of the water supply system used to make the withdrawal included in the registration is, generally, the withdrawal amount for the withdrawal.

The bill requires DNR, after the compact takes effect, to automatically issue a notice of coverage by a general permit or an individual permit to a person who qualifies for an interim approval. It also requires DNR to use the process for setting initial withdrawal amounts, described above, to determine whether to modify the withdrawal amount for a withdrawal that is covered by an interim approval and, if DNR does modify the withdrawal amount, provides that the modified withdrawal amount is the baseline for the purposes of the compact.

STATEWIDE WATER CONSERVATION

The bill requires DNR to specify water conservation and efficiency goals for all of the waters of this state. The bill also requires DNR to develop and implement a voluntary statewide water conservation and efficiency program that includes the

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promotion of environmentally sound and economically feasible water conservation measures. DNR must consult with the Department of Commerce and the Public Service Commission in specifying the goals and objectives and in developing and implementing the program.

The bill also requires DNR to promulgate rules specifying water conservation and efficiency measures for withdrawals required to be covered by general or individual permits. In the rules, DNR may not require retrofitting of existing fixtures, appliances, or equipment.

PROVISIONS THAT TAKE EFFECT AFTER THE COMPACT TAKES EFFECT

REGULATION OF DIVERSIONS

Approval required

Under this bill, no person may begin or increase a diversion without an approval from DNR. An interbasin transfer approval issued by DNR before the compact takes effect continues to be valid after the compact takes effect, but if the amount of the interbasin transfer (called a diversion in this part of the bill) is proposed to be increased over the interbasin transfer amount in the approval, the postcompact provisions related to diversions, described below, apply.

This bill does not treat a proposal to remove water from the basin in containers of 5.7 gallons or less (a proposal to bottle water) as a diversion. The provisions relating to withdrawals, described below, apply to such a proposal.

New and increased diversions

The general prohibition on new diversions and on increases in existing diversions and the three exceptions to the prohibition continue to apply after the compact takes effect.

Straddling communities

In addition to the requirements that apply before the compact takes effect, a proposal for a diversion to a straddling community that results in a very large new or increased water loss to the Great Lakes basin must be reviewed by the regional body before DNR decides whether to approve the proposal.

Intrabasin transfers

In addition to the requirements that apply before the compact takes effect, a proposal for an intrabasin transfer that results in a very large new or increased water loss to the Great Lakes basin must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

Communities in straddling counties and other communities

In addition to the requirements that apply before the compact takes effect, a proposal for a diversion to a community in a straddling county or a community that would be a community in a straddling county except that it extends beyond the straddling county into a county that lies entirely outside the Great Lakes basin must be reviewed by the regional body and DNR may not approve the proposal unless the council approves the proposal with no disapproving votes.

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Exception standard

After the compact takes effect, a proposed diversion does not meet the exception standard unless it meets all of the criteria included in the exception standard in the compact. In addition, the place at which the water is returned to the Great Lakes basin must be as close as practicable to the place at which the water is withdrawn, unless that would not be cost-effective, environmentally sound, or in the interest of public health. Also, if the water is returned through a stream tributary to Lake Michigan or Lake Superior, the physical, chemical, and biological integrity of the stream must be protected and sustained.

WATER SUPPLY PLANNING

The statewide water supply planning provisions described above continue in effect after the compact takes effect, but, for some public water supply systems that withdraw water from the Great Lakes basin, new requirements are added.

Once the compact takes effect, DNR may not approve a water supply plan that covers a water supply system serving a population of more than 10,000 if the plan provides for a new withdrawal from the basin, or for the increase in an existing withdrawal from the basin, that exceeds the threshold for application of one of the decision-making standards, as described below, unless DNR determines that the new withdrawal or increase in the existing withdrawal meets the applicable decision-making standard. In other words, for withdrawals by a public water supply system serving a population of more than 10,000, the decision-making standards are applied through the water supply planning process instead of through the withdrawal permitting process.

STATEWIDE REGISTRATION AND REPORTING OF WITHDRAWALS

The statewide requirement for registration and reporting of withdrawals, described above, continues after the compact takes effect.

PERMITTING OF WITHDRAWALS IN THE GREAT LAKES BASIN

Permit requirement

The permitting requirement for a withdrawal of water from the Great Lakes basin that averages 100,000 GPD or more in any 30-day period continues after the compact takes effect. A notice of coverage under a general permit or an individual permit issued before the compact takes effect continues to be valid, but postcompact decision-making standards apply to withdrawals that are proposed to be increased by one of the threshold amounts, as described below.

General permits

The provisions relating to coverage under a general permit generally do not change after the compact takes effect. However, after the compact takes effect, DNR may not issue a notice of coverage under a general permit for a withdrawal for the purpose of providing water to a public water supply system that serves a population of more than 10,000 unless the withdrawal is covered by an approved water supply plan.

Individual permits

The process for issuing and modifying individual water supply permits does not generally change when the compact takes effect.

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After the compact takes effect, the bill conditions the issuance of an individual permit for a new withdrawal that equals at least 1,000,000 GPD, but less than 10,000,000 GPD, for any 30 consecutive days on compliance with the state decision-making standard, described below. The bill conditions the issuance of an individual permit for a new withdrawal that equals at least 10,000,000 GPD for any 30 consecutive days on compliance with the compact decision-making standard, except that if the person applying for the permit demonstrates that the water loss resulting from the withdrawal averages less than 5,000,000 GPD in every 90-day period, the state decision-making standard applies.

If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 1,000,000 GPD, but not 10,000,000 GPD, for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the state or compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the state decision-making standard. If a person proposes to increase the amount of a withdrawal that is covered by a water supply permit so that it equals at least 10,000,000 GPD for any 30 consecutive days over the withdrawal amount for the withdrawal as of the beginning of the current permit term, the compact's effective date, or the last date on which the compact decision-making standard was applied to an increase in the withdrawal, whichever is latest, approval of the increase is conditioned on compliance with the compact decision-making standard, except that if the person applying for the permit demonstrates that the water loss resulting from the increase in the withdrawal averages less than 5,000,000 GPD in every 90-day period, the state decision-making standard applies.

If a proposal will result in a new water loss or an increase in water loss that averages 5,000,000 gallons or more in any 90-day period, DNR is required to provide notice of the proposal to the other states and to Ontario and Quebec. Also, if a majority of the members of the regional body request regional review of a regionally significant or potentially precedent setting proposal for a withdrawal and DNR determines that the withdrawal will result in a water loss that averages at least 5,000,000 GPD in any 90-day period, DNR must submit the proposal for regional review and may not act on the proposal until the regional review is complete, unless regional review takes more than 90 days.

State decision-making standard

A proposal meets the state decision-making standard if it satisfies several criteria, including the following:

1. The amount of the withdrawal is needed to meet the projected needs of the persons who will use the water.
2. Cost-effective conservation practices will be implemented to ensure efficient use of the water.
3. One of the following applies:
 - a. The withdrawal will cause no significant adverse environmental impacts to the waters of the state.

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b. If the withdrawal is from a surface water body, the withdrawal will not result in the violation of water quality standards or impair fish populations.

c. DNR has issued an approval for the withdrawal under laws related to high capacity wells, the withdrawal of water from streams, or the placement of structures in navigable waters.

Compact decision-making standard

What the bill calls the compact decision-making standard is very similar to the decision-making standard in the compact itself. A proposal meets the compact decision-making standard if it satisfies several criteria, including the following:

1. The withdrawal will not result in significant adverse impacts to the quantity or quality of the waters of the Great Lakes basin, to related natural resources, or, if the withdrawal is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

2. Environmentally sound and economically feasible water conservation measures will be used in implementing the withdrawal.

3. The proposed use of the water is reasonable, based on a consideration of factors specified in the bill.

STATEWIDE WATER CONSERVATION

The requirement for a statewide water conservation and efficiency program continues to apply after the compact takes effect. The bill requires DNR to specify water conservation and efficiency goals and objectives for the waters of the Great Lakes basin that are consistent with the goals in the compact and the objectives specified by the council. By two years after the compact's effective date, DNR must implement a water conservation and efficiency program, for all users of waters of the Great Lakes basin, that is designed to achieve those goals and objectives.

Legislative oversight

The bill authorizes the governor to designate the secretary of natural resources to be the governor's alternate on the council in the governor's absence. Any designee other than the secretary is subject to senate confirmation.

Under the bill, before voting on a regulation of the council for the implementation or enforcement of the compact, or on a regulation that amends the exception standard or the compact's decision-making standard, other than a regulation that deals solely with the internal management of the council, the governor must submit a report describing his or her proposed vote on the proposed regulation to the joint committee on legislative organization. The bill provides for passive review of the report. If the committee meets and takes action on the report within the periods provided in the bill, the governor may only vote on the proposed regulation in accordance with the position taken by the committee by majority vote.

PUBLIC PARTICIPATION

The bill includes procedures that provide for public participation in the review of proposals for diversions, proposals for withdrawals for which individual permits are required, for proposed general permits, and for proposed water supply plans. The bill also requires consultation with a federally recognized American Indian tribe

concerning a proposal for which council approval or regional review is required if the proposal may affect the tribe.

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

1 SECTION 1. 14.95 of the statutes is created to read:

2 **14.95 Great Lakes—St. Lawrence River Basin Water Resources**
3 **Council.** (1) There is created a Great Lakes—St. Lawrence River Basin Water
4 Resources Council as specified in s. 281.343 (2) (a). The governor may take such
5 actions as are necessary for the initial organization and operation of the Great
6 Lakes—St. Lawrence River Basin Water Resources Council.

7 (2) The governor shall serve as this state's representative on the Great
8 Lakes—St. Lawrence River Basin Water Resources Council. In discharging his or
9 her responsibilities under s. 281.343 (2) and (3), the governor may designate the
10 secretary of natural resources as the governor's alternate to attend all meetings of
11 the Great Lakes—St. Lawrence River Basin Water Resources Council and to vote at
12 all meetings of the Great Lakes—St. Lawrence River Basin Water Resources Council
13 in the absence of the governor. Any designee other than the secretary of natural
14 resources shall be nominated by the governor, and with the advice and consent of the
15 senate appointed, to serve at the pleasure of the governor.

16 (3) In discharging his or her responsibilities under s. 281.343 (2) and (3), the
17 governor may appoint an advisor to attend all meetings of the Great Lakes—St.
18 Lawrence River Basin Water Resources Council and its committees. The governor's
19 advisor may not vote at meetings of the council. If the governor appoints an advisor,
20 the governor shall appoint an individual with knowledge of and experience with
21 Great Lakes water management issues.

1 **(3m)** (a) In this subsection, “standard of review and decision” means the
2 exception standard under s. 281.343 (4n) (d), the decision-making standard under
3 s. 281.343 (4r), and reviews under s. 281.343 (4) to (4z) that do not deal solely with
4 the internal management of the council.

5 (b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1., or on a
6 regulation under s. 281.343 (3) (a) 2. that amends the standard of review and
7 decision, other than a rule or regulation that deals solely with the internal
8 management of the council or its property, the governor or his or her alternate shall
9 submit a report describing the governor’s or alternate’s proposed vote on the
10 proposed rule or regulation to the joint committee on legislative organization. The
11 governor or his or her alternate may not vote on the rule or regulation before the 30th
12 day after the date of submission. If the cochairpersons of the committee do not notify
13 the governor or his or her alternate within 30 days after the date of the submission
14 that the committee has scheduled a meeting for the purpose of reviewing the
15 proposed rule or regulation, the governor or his or her alternate may vote on the
16 proposed rule or regulation in accordance with the report. If, within 30 days after
17 the date of the submission by the governor or his or her alternate, the cochairpersons
18 of the committee notify the governor or his or her alternate that the committee has
19 scheduled a meeting for the purpose of reviewing the proposed rule or regulation, the
20 governor or his or her alternate may not vote on the proposed rule or regulation
21 before the 60th day after the date of submission. If, within 60 days after the date of
22 submission, the committee does not take action on the report, the governor or his or
23 her alternate may vote on the proposed rule or regulation in accordance with the
24 report. If, within 30 days after the date of submission, the cochairpersons notify the
25 governor or his or her alternate that the committee has scheduled a meeting for the

1 purpose of reviewing the proposed rule or regulation and, within 60 days after the
2 date of submission, the committee takes action on the proposed rule or regulation,
3 the governor or his or her alternate may only vote on the proposed rule or regulation
4 in accordance with the position expressed by majority vote of the committee.

5 **SECTION 2.** 30.18 (title) and (2) of the statutes are amended to read:

6 **30.18 (title) Diversions Withdrawal of water from lakes and streams. (2)**

7 PERMIT REQUIRED. (a) *Streams.* No person may ~~divert~~ withdraw water from a stream
8 in this state without an individual permit under this section if the ~~diversion~~
9 withdrawal meets either of the following conditions:

10 1. The ~~diversion~~ withdrawal is for the purpose of maintaining or restoring the
11 normal level of a navigable lake or the normal flow of a navigable stream, regardless
12 of whether the navigable lake or navigable stream is located within the watershed
13 of the stream from which the water is ~~diverted~~ withdrawn.

14 2. The ~~diversion~~ withdrawal is for the purpose of agriculture or irrigation.

15 (b) *Streams or lakes.* No person, except a person required to obtain an approval
16 under s. 281.41, may ~~divert~~ withdraw water from any lake or stream in this state
17 without an individual permit under this section if the ~~diversion~~ withdrawal will
18 result in a water loss averaging 2,000,000 gallons per day in any 30-day period above
19 the person's authorized base level of water loss.

20 **SECTION 3.** 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

21 **30.18 (3) (a) 1.** Except as provided in par. (b), an applicant for a permit required
22 under sub. (2) (a) shall file the application with the department setting forth the
23 name and post-office address of the applicant, the name of the stream from which
24 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is
25 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location

1 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the
2 location and description of the canal, tunnel or pipes and other works through which
3 the water is to be ~~diverted~~ withdrawn and transferred, the amount of water to be
4 ~~diverted~~ withdrawn, the periods of time when it is proposed to ~~divert~~ withdraw such
5 water, the time required for the completion of the canal and other structures
6 necessary for the completed project and, if required by the department, 4 copies of
7 plans showing cross sections and profiles for any canal, tunnel, pipes or other
8 ~~diversion~~ works for withdrawing and transferring the water and any dam and
9 control works at the point of ~~diversion~~ withdrawal and at the point of discharge.

10 2. For a ~~diversion~~ withdrawal under sub. (2) (a) 1., a map or maps shall
11 accompany the application with a scale of not less than one inch per 2,000 feet,
12 showing the land topography and the probable course of the proposed ~~diversion~~ canal
13 and other works, and the ownership of all lands upon which will be located the canal,
14 tunnel, pipes and all other works for the completed project.

15 3. For a ~~diversion~~ withdrawal under sub. (2) (a) 2., the application shall include
16 written statements of consent to the ~~diversion~~ withdrawal from all riparian owners
17 who are making beneficial use of the water proposed to be ~~diverted~~ withdrawn.

18 **SECTION 4.** 30.18 (3) (b) of the statutes is amended to read:

19 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required
20 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If
21 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the
22 application shall also comply with par. (a).

23 **SECTION 5.** 30.18 (4) (a) of the statutes is amended to read:

24 30.18 (4) (a) Upon receipt of a complete application, the department shall
25 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to

1 providing notice as required under s. 30.208 (3) to (5), the department shall mail a
2 copy of the notice to every person upon whose land any part of the canal or any other
3 structure will be located, to the clerk of the next town downstream, to the clerk of any
4 village or city in which the lake or stream is located and which is adjacent to any
5 municipality in which the ~~diversion~~ withdrawal will take place and to each person
6 specified in s. 281.35 (5) (b) or (6) (f), if applicable.

7 **SECTION 6.** 30.18 (5) (a) 1. and 2. of the statutes are amended to read:

8 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any
9 public rights in navigable waters.

10 2. That the water to be ~~diverted~~ withdrawn is surplus water, or if it is not
11 surplus water, that all riparians who may be adversely affected by the ~~diversion~~
12 withdrawal have consented to the proposed ~~diversion~~ withdrawal.

13 **SECTION 7.** 30.18 (6) (a) of the statutes is amended to read:

14 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
15 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and
16 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit
17 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

18 **SECTION 8.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

19 30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus
20 water, except that the department may allow the ~~diversion~~ withdrawal to continue
21 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent
22 to it.

23 2. If the ~~diversion~~ withdrawal is from a stream designated by the department
24 as a trout stream, that the revocation is desirable for conservation purposes.

25 **SECTION 9.** 30.18 (6m) (b) of the statutes is amended to read:

1 30.18 (6m) (b) The department may revoke any permit issued under sub. (5)
2 (a), which is not subject to sub. (2) (b), if it finds that the ~~diversion~~ withdrawal is
3 detrimental to the stream from which the water is ~~diverted~~ withdrawn.

4 **SECTION 10.** 30.18 (7) of the statutes is amended to read:

5 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION. After an application under
6 this section has been filed with the department, the applicant may enter any land
7 through which it is proposed to ~~divert~~ withdraw or transfer the water for the
8 purposes of making any surveys required for drafting the plans for the project, but
9 no work shall be commenced on the canal, headworks or other structures necessary
10 for the project until the plans for the same have been approved by the department.
11 Any person having received a permit required under sub. (2) (a) may construct upon
12 the land of another the canal and other works authorized by the permit after the
13 damage which will be sustained by the owner or owners of such land has been
14 satisfied, or has been determined as provided for in ch. 32, and after the final sum
15 so determined and all costs have been paid to the persons entitled thereto or to the
16 clerk of the circuit court on their account.

17 **SECTION 11.** 30.208 (3m) of the statutes is created to read:

18 30.208 (3m) NOTICE TO DOWNSTREAM COMMUNITIES. When the department
19 receives an application for an individual permit under s. 30.12 for a structure
20 through which water transferred from the Great Lakes basin would be returned to
21 the source watershed through a stream tributary to one of the Great Lakes, the
22 department shall provide notice of the application to the governing body of each city,
23 village, and town through which the stream flows or that is adjacent to the stream
24 downstream from the point at which the water would enter the stream.

25 **SECTION 12.** 196.49 (2) of the statutes is amended to read:

1 196.49 (2) No public utility may begin the construction, installation or
2 operation of any new plant, equipment, property or facility, nor the construction or
3 installation of any extension, improvement or addition to its existing plant,
4 equipment, property, apparatus or facilities unless the public utility has complied
5 with any applicable rule or order of the commission ~~and with s. 281.35, if applicable.~~
6 If a cooperative association has been incorporated under ch. 185 for the production,
7 transmission, delivery or furnishing of light or power and has filed with the
8 commission a map of the territory to be served by the association and a statement
9 showing that a majority of the prospective consumers in the area are included in the
10 project, no public utility may begin any such construction, installation or operation
11 within the territory until after the expiration of 6 months from the date of filing the
12 map and notice. If the cooperative association has entered into a loan agreement
13 with any federal agency for the financing of its proposed system and has given
14 written notice of the agreement to the commission, no public utility may begin any
15 construction, installation or operation within the territory until 12 months after the
16 date of the loan agreement.

17 **SECTION 13.** 196.98 of the statutes is repealed.

18 **SECTION 14.** 281.34 (5) (dm) of the statutes is created to read:

19 281.34 (5) (dm) *Water supply service area plan.* If a proposed high capacity well
20 is covered by an approved water supply service area plan under s. 281.348, the
21 department may not approve the high capacity well unless it is consistent with that
22 plan.

23 **SECTION 15.** 281.34 (5) (e) 1. of the statutes is amended to read:

1 281.34 (5) (e) 1. If s. 281.35 (4) applies to a proposed high capacity well, the
2 department shall include in the approval conditions that ensure that the high
3 capacity well complies with s. 281.35 (4) to (6).

4 SECTION 16. 281.343 of the statutes is created to read:

5 **281.343 Great Lakes—St. Lawrence River Basin Water Resources**
6 **Compact. (1) LEGISLATIVE DETERMINATION.** The legislature determines that it is in
7 the interests of this state to ratify the Great Lakes—St. Lawrence River Basin Water
8 Resources Compact. Nothing in this section may be interpreted to change the
9 application of the public trust doctrine under article IX, section 1, of the Wisconsin
10 Constitution or to create any new public trust rights.

11 **(1b) RATIFICATION.** The Great Lakes—St. Lawrence River Basin Water
12 Resources Compact, contained in subs. (1e) to (9), is ratified and approved, as
13 implemented and interpreted in ss. 14.95, 281.346, and 281.348.

14 **(1e) DEFINITIONS.** In this section, except as otherwise required by the context:

15 (a) “Adaptive management” means a water resources management system that
16 provides a systematic process for evaluation, monitoring, and learning from the
17 outcomes of operational programs and adjustment of policies, plans, and programs
18 based on experience and the evolution of scientific knowledge concerning water
19 resources and water dependent natural resources.

20 (am) “Agreement” means the Great Lakes—St. Lawrence River Basin
21 Sustainable Water Resources Agreement.

22 (b) “Applicant” means a person who is required to submit a proposal that is
23 subject to management and regulation under this compact. “Application” has a
24 corresponding meaning.

1 (c) "Basin" or "Great Lakes—St. Lawrence River Basin" means the watershed
2 of the Great Lakes and the St. Lawrence River upstream from Trois-Rivieres,
3 Quebec within the jurisdiction of the parties.

4 (cm) "Basin ecosystem" or "Great Lakes—St. Lawrence River Basin ecosystem"
5 means the interacting components of air, land, water, and living organisms,
6 including humankind, within the basin.

7 (d) "Community within a straddling county" means any incorporated city,
8 town, or the equivalent thereof, that is located outside the basin but wholly within
9 a county that lies partly within the basin and that is not a straddling community.

10 (dm) "Compact" means this compact.

11 (e) "Consumptive use" means that portion of the water withdrawn or withheld
12 from the basin that is lost or otherwise not returned to the basin due to evaporation,
13 incorporation into products, or other processes.

14 (em) "Council" means the Great Lakes—St. Lawrence River Basin Water
15 Resources Council, created by this compact.

16 (f) "Council review" means the collective review by the council members as
17 described in subs. (4) to (4z).

18 (fm) "County" means the largest territorial division for local government in a
19 state. The county boundaries shall be defined as those boundaries that exist as of
20 December 13, 2005.

21 (g) "Cumulative impacts" means the impact on the basin ecosystem that results
22 from incremental effects of all aspects of a withdrawal, diversion, or consumptive use
23 in addition to other past, present, and reasonably foreseeable future withdrawals,
24 diversions, and consumptive uses regardless of who undertakes the other
25 withdrawals, diversions, and consumptive uses. Cumulative impacts can result

1 from individually minor but collectively significant withdrawals, diversions, and
2 consumptive uses taking place over a period of time.

3 (gm) "Decision-making standard" means the decision-making standard
4 established by sub. (4r) for proposals subject to management and regulation in sub.
5 (4p).

6 (h) "Diversion" means a transfer of water from the basin into another
7 watershed, or from the watershed of one of the Great Lakes into that of another by
8 any means of transfer, including but not limited to a pipeline, canal, tunnel,
9 aqueduct, channel, modification of the direction of a water course, a tanker ship,
10 tanker truck, or rail tanker but does not apply to water that is used in the basin or
11 a Great Lake watershed to manufacture or produce a product that is then transferred
12 out of the basin or watershed. "Divert" has a corresponding meaning.

13 (i) "Environmentally sound and economically feasible water conservation
14 measures" mean those measures, methods, technologies, or practices for efficient
15 water use and for reduction of water loss and waste or for reducing a withdrawal,
16 consumptive use, or diversion that are environmentally sound, reflect best practices
17 applicable to the water use sector, are technically feasible and available, are
18 economically feasible and cost-effective based on an analysis that considers direct
19 and avoided economic and environmental costs, and consider the particular facilities
20 and processes involved, taking into account the environmental impact, age of
21 equipment and facilities involved, the processes employed, energy impacts, and
22 other appropriate factors.

23 (im) "Exception" means a transfer of water that is excepted under sub. (4n)
24 from the prohibition against diversions in sub. (4m).

1 (j) "Exception standard" means the standard for exceptions established in sub.
2 (4n) (d).

3 (jm) "Intrabasin transfer" means the transfer of water from the watershed of
4 one of the Great Lakes into the watershed of another Great Lake.

5 (k) "Measures" means any legislation, law, regulation, directive, requirement,
6 guideline, program, policy, administrative practice, or other procedure.

7 (km) "New or increased diversion" means a new diversion, an increase in an
8 existing diversion, or the alteration of an existing withdrawal so that it becomes a
9 diversion.

10 (L) "New or increased withdrawal or consumptive use" means a new
11 withdrawal or consumptive use or an increase in an existing withdrawal or
12 consumptive use.

13 (Lm) "Originating party" means the party within whose jurisdiction an
14 application or registration is made or required.

15 (n) "Party" means a state that is a party to this compact.

16 (nm) "Person" means a human being or a legal person, including a government
17 or a nongovernmental organization, including any scientific, professional, business,
18 nonprofit, or public interest organization or association that is neither affiliated
19 with, nor under the direction of a government.

20 (o) 1. "Product" means something produced in the basin by human or
21 mechanical effort or through agricultural processes and used in manufacturing,
22 commercial, or other processes or intended for intermediate or end use consumers.

23 2. Water used as part of the packaging of a product shall be considered to be
24 part of the product.

1 3. Other than water used as part of the packaging of a product, water that is
2 used primarily to transport materials in or out of the basin is not a product or part
3 of a product.

4 4. Except as provided in subd. 2., water that is transferred as part of a public
5 or private supply is not a product or part of a product.

6 5. Water in its natural state such as in lakes, rivers, reservoirs, aquifers, or
7 water basins is not a product.

8 (om) "Proposal" means a withdrawal, diversion, or consumptive use of water
9 that is subject to this compact.

10 (p) "Province" means Ontario or Quebec.

11 (pm) "Public water supply purposes" means water distributed to the public
12 through a physically connected system of treatment, storage, and distribution
13 facilities serving a group of largely residential customers that may also serve
14 industrial, commercial, and other institutional operators. Water withdrawn directly
15 from the basin and not through such a system shall not be considered to be used for
16 public water supply purposes.

17 (q) "Regional body" means the members of the council and the premiers of
18 Ontario and Quebec or their designee as established by the agreement.

19 (qm) "Regional review" means the collective review by the regional body as
20 described in sub. (4h).

21 (r) "Source watershed" means the watershed from which a withdrawal
22 originates. If water is withdrawn directly from a Great Lake or from the St.
23 Lawrence River, then the source watershed shall be considered to be the watershed
24 of that Great Lake or the watershed of the St. Lawrence River, respectively. If water
25 is withdrawn from the watershed of a stream that is a direct tributary to a Great

1 Lake or a direct tributary to the St. Lawrence River, then the source watershed shall
2 be considered to be the watershed of that Great Lake or the watershed of the St.
3 Lawrence River, respectively, with a preference to the direct tributary stream
4 watershed from which it was withdrawn.

5 (rm) "Standard of review and decision" means the exception standard,
6 decision-making standard, and reviews as outlined in subs. (4) to (4z).

7 (s) "State" means one of the states of Illinois, Indiana, Michigan, Minnesota,
8 New York, Ohio, or Wisconsin or the Commonwealth of Pennsylvania.

9 (t) "Straddling community" means any incorporated city, town, or the
10 equivalent thereof, wholly within any county that lies partly or completely within the
11 basin, whose corporate boundary existing as of the effective date of this compact is
12 partly within the basin or partly within 2 Great Lakes watersheds.

13 (u) "Technical review" means a detailed review conducted to determine
14 whether or not a proposal that requires regional review under this compact meets
15 the standard of review and decision following procedures and guidelines as set out
16 in this compact.

17 (v) "Water" means groundwater or surface water contained within the basin.

18 (w) "Water dependent natural resources" means the interacting components of
19 land, water, and living organisms affected by the waters of the basin.

20 (x) "Waters of the basin" or "basin water" means the Great Lakes and all
21 streams, rivers, lakes, connecting channels, and other bodies of water, including
22 tributary groundwater, within the basin.

23 (y) "Withdrawal" means the taking of water from surface water or
24 groundwater. "Withdraw" has a corresponding meaning.

1 **(1m)** FINDINGS AND PURPOSES. The legislative bodies of the respective parties
2 hereby find and declare:

3 (a) Findings:

4 1. The waters of the basin are precious public natural resources shared and
5 held in trust by the states;

6 2. The waters of the basin are interconnected and part of a single hydrologic
7 system;

8 3. The waters of the basin can concurrently serve multiple uses. Such multiple
9 uses include municipal, public, industrial, commercial, agriculture, mining,
10 navigation, energy development and production, recreation, the subsistence,
11 economic, and cultural activities of native peoples, water quality maintenance, and
12 the maintenance of fish and wildlife habitat and a balanced ecosystem. And, other
13 purposes are encouraged, recognizing that such uses are interdependent and must
14 be balanced;

15 4. Future diversions and consumptive uses of basin water resources have the
16 potential to significantly impact the environment, economy, and welfare of the Great
17 Lakes—St. Lawrence River region;

18 5. Continued sustainable, accessible, and adequate water supplies for the
19 people and economy of the basin are of vital importance; and

20 6. The parties have a shared duty to protect, conserve, restore, improve, and
21 manage the renewable but finite waters of the basin for the use, benefit, and
22 enjoyment of all their citizens, including generations yet to come. The most effective
23 means of protecting, conserving, restoring, improving, and managing the basin
24 waters is through the joint pursuit of unified and cooperative principles, policies, and
25 programs mutually agreed upon, enacted, and adhered to by all parties.

1 (b) Purposes:

2 1. To act together to protect, conserve, restore, improve, and effectively manage
3 the waters and water dependent natural resources of the basin under appropriate
4 arrangements for intergovernmental cooperation and consultation because current
5 lack of full scientific certainty should not be used as a reason for postponing
6 measures to protect the basin ecosystem;

7 2. To remove causes of present and future controversies;

8 3. To provide for cooperative planning and action by the parties with respect
9 to such water resources;

10 4. To facilitate consistent approaches to water management across the basin
11 while retaining state management authority over water management decisions
12 within the basin;

13 5. To facilitate the exchange of data, strengthen the scientific information base
14 upon which decisions are made, and engage in consultation on the potential effects
15 of proposed withdrawals and losses on the waters and water dependent natural
16 resources of the basin;

17 6. To prevent significant adverse impacts of withdrawals and losses on the
18 basin's ecosystems and watersheds;

19 7. To promote interstate and state-provincial comity; and

20 8. To promote an adaptive management approach to the conservation and
21 management of basin water resources that recognizes, considers, and provides
22 adjustments for the uncertainties in, and evolution of, scientific knowledge
23 concerning the basin's waters and water dependent natural resources.

1 **(1s) SCIENCE.** (a) The parties commit to provide leadership for the development
2 of a collaborative strategy with other regional partners to strengthen the scientific
3 basis for sound water management decision making under this compact.

4 (b) The strategy shall guide the collection and application of scientific
5 information to support:

6 1. An improved understanding of the individual and cumulative impacts of
7 withdrawals from various locations and water sources on the basin ecosystem and
8 to develop a mechanism by which impacts of withdrawals may be assessed;

9 2. The periodic assessment of cumulative impacts of withdrawals, diversions,
10 and consumptive uses on a Great Lake and St. Lawrence River watershed basis;

11 3. Improved scientific understanding of the waters of the basin;

12 4. Improved understanding of the role of groundwater in basin water resources
13 management; and

14 5. The development, transfer, and application of science and research related
15 to water conservation and water use efficiency.

16 **(2) ORGANIZATION.** (a) *Council created.* The Great Lakes—St. Lawrence River
17 Basin Water Resources Council is hereby created as a body politic and corporate,
18 with succession for the duration of this compact, as an agency and instrumentality
19 of the governments of the respective parties.

20 (b) *Council membership.* The council shall consist of the governors of the
21 parties, ex officio.

22 (c) *Alternates.* Each member of the council shall appoint at least one alternate
23 who may act in his or her place and stead, with authority to attend all meetings of
24 the council and with power to vote in the absence of the member. Unless otherwise
25 provided by law of the party for which he or she is appointed, each alternate shall

1 serve during the term of the member appointing him or her, subject to removal at the
2 pleasure of the member. In the event of a vacancy in the office of alternate, it shall
3 be filled in the same manner as an original appointment for the unexpired term only.

4 (d) *Voting.* 1. Each member is entitled to one vote on all matters that may come
5 before the council.

6 2. Unless otherwise stated, the rule of decision shall be by a simple majority.

7 3. The council shall annually adopt a budget for each fiscal year and the amount
8 required to balance the budget shall be apportioned equitably among the parties by
9 unanimous vote of the council. The appropriation of such amounts shall be subject
10 to such review and approval as may be required by the budgetary processes of the
11 respective parties.

12 4. The participation of council members from a majority of the parties shall
13 constitute a quorum for the transaction of business at any meeting of the council.

14 (e) *Organization and procedure.* The council shall provide for its own
15 organization and procedure, and may adopt rules and regulations governing its
16 meetings and transactions, as well as the procedures and timeline for submission,
17 review, and consideration of proposals that come before the council for its review and
18 action. The council shall organize, annually, by the election of a chairperson and vice
19 chairperson from among its members. Each member may appoint an advisor, who
20 may attend all meetings of the council and its committees, but shall not have voting
21 power. The council may employ or appoint professional and administrative
22 personnel, including an executive director, as it may deem advisable, to carry out the
23 purposes of this compact.

24 (f) *Use of existing offices and agencies.* It is the policy of the parties to preserve
25 and utilize the functions, powers, and duties of existing offices and agencies of

1 government to the extent consistent with this compact. Further, the council shall
2 promote and aid the coordination of the activities and programs of the parties
3 concerned with water resources management in the basin. To this end, but without
4 limitation, the council may:

5 1. Advise, consult, contract, assist, or otherwise cooperate with any and all such
6 agencies;

7 2. Employ any other agency or instrumentality of any of the parties for any
8 purpose; and

9 3. Develop and adopt plans consistent with the water resources plans of the
10 parties.

11 (g) *Jurisdiction.* The council shall have, exercise, and discharge its functions,
12 powers, and duties within the limits of the basin. Outside the basin, it may act in
13 its discretion, but only to the extent such action may be necessary or convenient to
14 effectuate or implement its powers or responsibilities within the basin and subject
15 to the consent of the jurisdiction wherein it proposes to act.

16 (h) *Status, immunities, and privileges.* 1. The council, its members and
17 personnel in their official capacity and when engaged directly in the affairs of the
18 council, its property, and its assets, wherever located and by whomsoever held, shall
19 enjoy the same immunity from suit and every form of judicial process as is enjoyed
20 by the parties, except to the extent that the council may expressly waive its immunity
21 for the purposes of any proceedings or by the terms of any contract.

22 2. The property and assets of the council, wherever located and by whomsoever
23 held, shall be considered public property and shall be immune from search,
24 requisition, confiscation, expropriation, or any other form of taking or foreclosure by
25 executive or legislative action.

1 3. The council, its property and its assets, income, and the operations it carries
2 out pursuant to this compact shall be immune from all taxation by or under the
3 authority of any of the parties or any political subdivision thereof; provided, however,
4 that in lieu of property taxes the council may make reasonable payments to local
5 taxing districts in annual amounts that shall approximate the taxes lawfully
6 assessed upon similar property.

7 (i) *Advisory committees.* The council may constitute and empower advisory
8 committees, which may be comprised of representatives of the public and of federal,
9 state, tribal, county, and local governments, water resources agencies, water-using
10 industries and sectors, water-interest groups, and academic experts in related
11 fields.

12 **(3) GENERAL POWERS AND DUTIES.** (a) *General.* 1. The waters and water
13 dependent natural resources of the basin are subject to the sovereign right and
14 responsibilities of the parties, and it is the purpose of this compact to provide for joint
15 exercise of such powers of sovereignty by the council in the common interests of the
16 people of the region, in the manner and to the extent provided in this compact. The
17 council and the parties shall use the standard of review and decision and procedures
18 contained in or adopted pursuant to this compact as the means to exercise their
19 authority under this compact.

20 2. The council may revise the standard of review and decision, after
21 consultation with the provinces and upon unanimous vote of all council members, by
22 regulation duly adopted in accordance with par. (c) and in accordance with each
23 party's respective statutory authorities and applicable procedures.

1 3. The council shall identify priorities and develop plans and policies relating
2 to basin water resources. It shall adopt and promote uniform and coordinated
3 policies for water resources conservation and management in the basin.

4 (b) *Council powers.* The council may plan; conduct research and collect,
5 compile, analyze, interpret, report, and disseminate data on water resources and
6 uses; forecast water levels; conduct investigations; institute court actions; design,
7 acquire, construct, reconstruct, own, operate, maintain, control, sell, and convey real
8 and personal property and any interest therein as it may deem necessary, useful, or
9 convenient to carry out the purposes of this compact; make contracts; receive and
10 accept such payments, appropriations, grants, gifts, loans, advances, and other
11 funds, properties, and services as may be transferred or made available to it by any
12 party or by any other public or private agency, corporation, or individual; and
13 exercise such other and different powers as may be delegated to it by this compact
14 or otherwise pursuant to law, and have and exercise all powers necessary or
15 convenient to carry out its express powers or that may be reasonably implied
16 therefrom.

17 (c) *Rules and regulations.* 1. The council may promulgate and enforce such
18 rules and regulations as may be necessary for the implementation and enforcement
19 of this compact. The council may adopt by regulation, after public notice and public
20 hearing, reasonable application fees with respect to those proposals for exceptions
21 that are subject to council review under sub. (4n). Any rule or regulation of the
22 council, other than one that deals solely with the internal management of the council
23 or its property, shall be adopted only after public notice and hearing.

24 2. Each party, in accordance with its respective statutory authorities and
25 applicable procedures, may adopt and enforce rules and regulations to implement

1 and enforce this compact and the programs adopted by such party to carry out the
2 management programs contemplated by this compact.

3 (d) *Program review and findings.* 1. Each party shall submit a report to the
4 council and the regional body detailing its water management and conservation and
5 efficiency programs that implement this compact. The report shall set out the
6 manner in which water withdrawals are managed by sector, water source, quantity,
7 or any other means, and how the provisions of the standard of review and decision
8 and conservation and efficiency programs are implemented. The first report shall
9 be provided by each party one year from the effective date of this compact and
10 thereafter every 5 years.

11 2. The council, in cooperation with the provinces, shall review its water
12 management and conservation and efficiency programs and those of the parties that
13 are established in this compact and make findings on whether the water
14 management program provisions in this compact are being met, and if not,
15 recommend options to assist the parties in meeting the provisions of this compact.
16 Such review shall take place:

- 17 a. Thirty days after the first report is submitted by all parties; and
18 b. Every 5 years after the effective date of this compact; and
19 c. At any other time at the request of one of the parties.

20 3. As one of its duties and responsibilities, the council may recommend a range
21 of approaches to the parties with respect to the development, enhancement, and
22 application of water management and conservation and efficiency programs to
23 implement the standard of review and decision reflecting improved scientific
24 understanding of the waters of the basin, including groundwater, and the impacts
25 of withdrawals on the basin ecosystem.