



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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

Date Transfer Requested: 05/09/2008 (Per: RCT)



☞ Appendix A ... Part 01 of 06

☞ The 2007 drafting file for LRB-4360

has been copied/added to the drafting file for

2007 LRB-4367

(Ap8 SB-1)

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2007 Ap8 DRAFTING REQUEST

Bill

Received: **05/08/2008**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Scott Gunderson (608) 266-3363**

By/Representing: **Mike Bruhn**

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: **Rep.Gunderson@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Great Lakes Water Resources Compact ratification and implementation

Instructions:

Incorporate amendments into the version that passed the Senate

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	btradewe 05/09/2008	lkunkel 05/09/2008	jfrantze 05/09/2008	_____	sbasford 05/09/2008		

FE Sent For:

<END>

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1?	btradewe	/1 lmk 5/1 bjk		Db ang 5/19 5/19	5/19		

FE Sent For:

<END>

Object Name	Drafter	Requester	Leg Topic
07a1595/1	btradewe	millier	SA1-SSA1-SB523
07a1694/P1	btradewe	gunderson	Allow Great Lakes basin water to be used in community that extends outside of straddling county
07a1696/P1	btradewe	gunderson	Allow applicant to identify more than one potential water supplier and wastewater treater
07a1697/P6	btradewe	gunderson	Modify exception standard and other precompact conditions related to interbasin transfers
07a1698/P1	btradewe	gunderson	Modify water conservation and efficiency provisions
07a1699/P1	btradewe	gunderson	Grandfather existing diversions other than public water supply systems
07a1700/P1	btradewe	gunderson	Legislative oversight of governor's vote
07a1701/P1	btradewe	gunderson	Public trust doctrine
07a1702/P1	btradewe	gunderson	Create appeals process
07a1703/P1	btradewe	gunderson	Regional review of withdrawals
07a1704/P2	btradewe	gunderson	Water use report
07a1705/P1	btradewe	gunderson	General permit term
07a1706/P2	btradewe	gunderson	Water supply planning changes
07a1707/P3	btradewe	gunderson	Baselines in case DNR does not issue automatic permits before compact takes effect
07a1708/P2	btradewe	gunderson	Water resources protection act
07a1709/P2	btradewe	Legislative Reference	Technical corrections
07a1727/P2	btradewe	gunderson	Eliminate the word diversion from ss. 30.18 and 293.65



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Date Transfer Requested: 05/09/2008 (Per: RCT)

- | | |
|---|---|
| A ☞ The <u>2007</u> drafting file for LRBa1595 | J ☞ The <u>2007</u> drafting file for LRBa1703 |
| B ☞ The <u>2007</u> drafting file for LRBa1694 | K ☞ The <u>2007</u> drafting file for LRBa1704 |
| C ☞ The <u>2007</u> drafting file for LRBa1696 | L ☞ The <u>2007</u> drafting file for LRBa1705 |
| D ☞ The <u>2007</u> drafting file for LRBa1697 | M ☞ The <u>2007</u> drafting file for LRBa1706 |
| E ☞ The <u>2007</u> drafting file for LRBa1698 | N ☞ The <u>2007</u> drafting file for LRBa1707 |
| F ☞ The <u>2007</u> drafting file for LRBa1699 | O ☞ The <u>2007</u> drafting file for LRBa1708 |
| G ☞ The <u>2007</u> drafting file for LRBa1700 | P ☞ The <u>2007</u> drafting file for LRBa1709 |
| H ☞ The <u>2007</u> drafting file for LRBa1701 | Q ☞ The <u>2007</u> drafting file for LRBa1727 |
| I ☞ The <u>2007</u> drafting file for LRBa1702 | |

2007 LRB _____ has been copied/added to the drafting file for

LRB a1729 Superamendment used to create

LRB-4360 () & LRB-4367 (Ap8 SB-1)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1729/P1
RCT...:jf

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

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

2 ✓ 1. Page 3, line 1: delete lines 1 to 7 and substitute:

3 “(b) Before voting on a rule or regulation under s. 281.343 (3) (c) 1., or on a
4 regulation under s. 281.343 (3) (a) 2. that amends the standard of review and
5 decision, other than a rule or regulation that deals solely with the internal
6 management of the council or its property, the governor or his or her alternate shall
7 submit a report describing the governor’s or alternate’s proposed vote on the
8 proposed rule or regulation to the joint committee on”.

9 ✓ 2. Page 3, line 13: after “regulation” insert “in accordance with the report”.

10 ✓ 3. Page 3, line 19: delete “object to the rule or regulation” and substitute “take
11 action on the report”.

12 ✓ 4. Page 3, line 20: after “regulation” insert “in accordance with the report”.

1 ~~X~~ 5. Page 3, line 24: delete "objects to" and substitute "takes action on".

2 ~~f~~ 6. Page 3, line 25: after that line insert:

3 "SECTION 2b. 30.18 (title) and (2) of the statutes are amended to read:

4 30.18 (title) ~~Diversion~~ Withdrawal of water from lakes and streams. (2)

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

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

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

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

18 SECTION 2e. 30.18 (3) (a) 1. to 3. of the statutes are amended to read:

19 30.18 (3) (a) 1. Except as provided in par. (b), an applicant for a permit required
20 under sub. (2) (a) shall file the application with the department setting forth the
21 name and post-office address of the applicant, the name of the stream from which
22 the water will be ~~diverted~~ withdrawn, the point in the stream from which it is
23 proposed to ~~divert~~ withdraw the water, the name of the lake or stream or the location
24 and riparian status of the land to which the water is to be ~~diverted~~ transferred, the

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

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

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

17 **SECTION 2h.** 30.18 (3) (b) of the statutes is amended to read:

18 30.18 (3) (b) *Application; streams or lakes.* An application for a permit required
19 under sub. (2) (b) shall be submitted in the form required under s. 281.35 (5) (a). If
20 the ~~diversion~~ withdrawal also meets either condition specified under sub. (2) (a), the
21 application shall also comply with par. (a).

22 **SECTION 2j.** 30.18 (4) (a) of the statutes is amended to read:

23 30.18 (4) (a) Upon receipt of a complete application, the department shall
24 follow the notice and hearing procedures under s. 30.208 (3) to (5). In addition to
25 providing notice as required under s. 30.208 (3) to (5), the department shall mail a

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

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

7 30.18 (5) (a) 1. That the proposed ~~diversion~~ withdrawal will not injure any
8 public rights in navigable waters.

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

12 **SECTION 2p.** 30.18 (6) (a) of the statutes is amended to read:

13 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
14 issued under this section the quantity of water that may be ~~diverted~~ withdrawn and
15 the times during which water may be ~~diverted~~ withdrawn. In addition, if the permit
16 is one which is required under sub. (2) (b), the permit shall comply with s. 281.35 (6).

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

18 30.18 (6m) (a) 1. That the water being ~~diverted~~ withdrawn is no longer surplus
19 water, except that the department may allow the ~~diversion~~ withdrawal to continue
20 if all riparians adversely affected by the ~~diversion~~ withdrawal continue to consent
21 to it.

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

24 **SECTION 2u.** 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 2y.** 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 ✓ **7.** Page 3, line 25: delete that line and substitute “alternate may only vote on
18 the proposed rule or regulation in accordance with the position expressed by majority
19 vote of the committee.”.

20 ✓ **8.** Page 5, line 12: delete lines 12 and 13 and substitute:

21 **“281.343 Great Lakes—St. Lawrence River Basin Water Resources**
22 **Compact.** (1) LEGISLATIVE DETERMINATION. The legislature determines that it is in
23 the interests of this state to ratify the Great Lakes—St. Lawrence River Basin Water
24 Resources Compact. Nothing in this section may be interpreted to change the

1 application of the public trust doctrine under article IX, section 1, of the Wisconsin
2 Constitution or to create any new public trust rights.

3 (1b) RATIFICATION. The Great Lakes—St. Lawrence River Basin Water”.

4 ✓ 9. Page 50, line 5: delete that line and substitute “(ps) “Reasonable water
5 supply alternative” means a water supply alternative that is similar”.

6 ✓ 10. Page 50, line 25: after that line insert:

7 “(tm) “Straddling county” means a county that lies partly within the Great
8 Lakes basin.”.

9 ✓ 11. Page 52, line 13: delete “and (t)” and substitute “, (t), and (tm)”.

10 ✓ 12. Page 52, line 16: delete “or s. 281.343”.

11 ✓ 13. Page 52, line 18: after “Constitution” insert “or to create any new public
12 trust rights”.

13 ✓ 14. Page 52, line 18: after that line insert:

14 “(f) *Water resources protection act.* 1. In this paragraph, “historic” means made
15 before the effective date of this subdivision [revisor inserts date].

16 2. The department may not change its historic interpretation or application of
17 42 USC 1962d-20 (d) to a public water supply for a community in this state until that
18 provision is amended. The department shall evaluate all applications under sub. (4)
19 (b) using the requirements in sub. (4) and shall apply those requirements
20 uniformly.”.

21 ✓ 15. Page 52, line 21: delete the material beginning with “or” and ending with
22 “sooner,” on line 22.

1 ✓ **16.** Page 53, line 2: after “rule.” insert “A person may register a withdrawal
2 or interbasin transfer before the first day of the 36th month beginning after the
3 effective date of this subdivision [revisor inserts date].”

4 ✓ **17.** Page 53, line 4: delete the material beginning with “or” and ending with
5 “sooner,” on line 5.

6 ✓ **18.** Page 53, line 10: delete the material beginning with “or” and ending with
7 “sooner,” on line 11.

8 ✓ **19.** Page 53, line 22: after that line insert:

9 “4m. For a withdrawal from the Great Lakes basin that averages 100,000
10 gallons per day or more in any 30 day period, an estimate of the maximum hydraulic
11 capacity of the most restrictive component in each water supply system used for the
12 withdrawal.”

13 ✓ **20.** Page 55, line 4: after “(3m)” insert “(a)”.

14 ✓ **21.** Page 55, line 6: delete “subsection” and substitute “par. (b)”.

15 ✓ **22.** Page 55, line 8: delete “under this subsection”.

16 ✓ **23.** Page 55, line 19: after that line insert:

17 “(d) Before issuing an automatic approval under sub. (3m) (b) for an interbasin
18 transfer to a person who does not operate a public water supply system, the
19 department shall determine the initial interbasin transfer amount for the interbasin
20 transfer. The department shall determine the interbasin transfer amount using the
21 process and standards that it uses under sub. (4e) to determine an initial withdrawal
22 amount.”

23 ✓ **24.** Page 55, line 20: after “TRANSFERS.” insert “(a)”.

1 ✓ **25.** Page 56, line 6: after "(3e)" insert "(b)".

2 ✓ **26.** Page 56, line 7: after that line insert:

3 "(b) Before the compact's effective date, the department shall automatically
4 issue an approval for an interbasin transfer that begins before the effective date of
5 this paragraph [revisor inserts date], and that is not for public water supply
6 purposes to the person who makes the interbasin transfer. In the automatic
7 approval, the department shall specify an interbasin transfer amount equal to the
8 amount determined under sub. (3e) (d).".

9 ✓ **27.** Page 56, line 12: after "(3m)" insert "(a)".

10 ✓ **28.** Page 56, line 18: after "(3m)" insert "(a)".

11 ✓ **29.** Page 56, line 19: after "(3m)" insert "(a)".

12 ✓ **30.** Page 56, line 21: after that line insert:

13 "4. No person may increase an interbasin transfer over the interbasin transfer
14 amount in an approval issued under sub. (3m) (b).".

15 ✓ **31.** Page 56, line 24: after "(3m)" insert "(a)".

16 ✓ **32.** Page 57, line 13: delete "the entity that will" and substitute "any entities
17 that may".

18 ✓ **33.** Page 57, line 14: delete "that entity" and substitute "each of those
19 entities".

20 ✓ **34.** Page 57, line 17: delete "the entity that will" and substitute "any entities
21 that may".

22 ✓ **35.** Page 57, line 18: delete "that entity" and substitute "each of those
23 entities".

1 ✓ **36.** Page 58, line 16: delete “within a straddling county” and substitute
2 “described in par. (e) 1. (intro.)”.

3 ✓ **37.** Page 61, line 12: after “county” insert “or, if a community is partly within
4 a straddling county and partly within a county that lies entirely outside the Great
5 Lakes basin, the water transferred will be used solely for public water supply
6 purposes in the portion of the community that is within the straddling county”.

7 ✓ **38.** Page 62, line 9: delete lines 9 and 10 and substitute:

8 “(f) *Exception standard.* A proposal to which par. (fm) does not apply meets the
9 exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.
10 (fm) applies meets the exception standard if the department considers, under par.
11 (fm), whether:”.

12 ✓ **39.** Page 62, line 22: delete “economically feasible” and substitute
13 “cost-effective”.

14 ✓ **40.** Page 63, line 22: delete “any precedent-setting aspects of”.

15 ✓ **41.** Page 64, line 6: after that line insert:

16 “(fm) *Approval of certain applications.* The department shall determine
17 whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.
18 through the water supply service area planning process under s. 281.348,
19 considering the items in par. (f) 1. to 7. as factors in the cost-effectiveness analysis
20 under s. 281.348 (3) (d) 1.”.

21 ✓ **42.** Page 64, line 13: delete the material beginning with “, based” and ending
22 with “measures” on line 16.

1 ✓ **43.** Page 67, line 12: delete “earliest of the following dates” and substitute
2 “first day of the 84th month beginning after the effective date of this subsection
3 [revisor inserts date]”.

4 ✓ **44.** Page 67, line 15: delete “(5):” and substitute “(5).”.

5 ✓ **45.** Page 67, line 16: delete lines 16 to 18.

6 ✓ **46.** Page 68, line 7: substitute “25” for “10”.

7 ✓ **47.** Page 68, line 8: delete “earlier of the dates” and substitute “date”.

8 ✓ **48.** Page 68, line 9: delete “(a) and (b)”.

9 ✓ **49.** Page 68, line 21: delete “earlier of the dates under sub. (4m) (a) or (b)” and
10 substitute “date under sub. (4m)”.

11 ✓ **50.** Page 68, line 25: delete the material beginning with “earlier” and ending
12 with “(b)” on page 69, line 1, and substitute “date under sub. (4m)”.

13 ✓ **51.** Page 69, line 3: delete “earlier of the dates under sub. (4m) (a) or (b)” and
14 substitute “date under sub. (4m)”.

15 ✓ **52.** Page 71, line 9: delete the material beginning with “or if” and ending with
16 “state” on line 11.

17 ✓ **53.** Page 73, line 14: delete “earlier of the dates under sub. (4m) (a) or (b)” and
18 substitute “date under sub. (4m)”.

19 ✓ **54.** Page 74, line 12: delete “earlier of the dates under sub. (4m) (a) or (b)” and
20 substitute “date under sub. (4m)”.

21 ✓ **55.** Page 74, line 15: delete the material beginning with “earlier” and ending
22 with “(b)” on line 16 and substitute “date under sub. (4m)”.

1 ✂ **56.** Page 74, line 20: delete “earlier of the dates under sub. (4m) (a) or (b)” and
2 substitute “date under sub. (4m)”.

3 ✂ **57.** Page 78, line 14: after that line insert:

4 “(5m) INTERIM APPROVAL. If a person making a withdrawal that averages
5 100,000 gallons per day or more in any 30-day period registers the withdrawal under
6 sub. (3) (a) 1. and reports as required under sub. (3) (e) and the department does not
7 automatically issue a notice of coverage under sub. (4s) (c) or an individual permit
8 under sub. (5) (c) for the withdrawal before the compact’s effective date, the
9 registration of the withdrawal constitutes an approval for the purposes of s. 281.343
10 (4t) (b) 1. The withdrawal amount is the total amount reported under sub. (3) (b) 4m.,
11 except that if there is a limit in an approval under s. 30.12, 30.18, 281.34, or 281.41
12 or s. 281.17, 2001 stats., on the amount of water that may be withdrawn by any water
13 supply system used for the withdrawal and that limit is less than the amount
14 reported under sub. (3) (b) 4m. for that water supply system, the withdrawal amount
15 is the total amount reported under sub. (3) (b) 4m. reduced by the difference between
16 the reported amount for that water supply system and the limit in the approval.”.

17 ✂ **58.** Page 79, line 20: after “measures” insert “through a voluntary statewide
18 program”.

19 ✂ **59.** Page 79, line 20: after that line insert:

20 “1m. Mandatory and voluntary conservation and efficiency measures for the
21 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), and
22 (5) and s. 281.348.”.

23 ✂ **60.** Page 80, line 3: delete “this section” and substitute “implementing par.
24 (b)”.

1 J **61.** Page 82, line 7: after that line insert:

2 “(11) WATER USE REPORT. Beginning no later than 8 years after the effective date
3 of this subsection [revisor inserts date], and every 5 years thereafter, the
4 department, using water use data reported under this section, shall publish a water
5 use report to summarize water usage, identify related trends, identify areas of future
6 water usage concerns, and recommend future actions to promote sustainable water
7 use. The department shall also include in the report water resource information
8 derived from reporting and data accumulation requirements under other water
9 regulatory laws.”.

10 J **62.** Page 82, line 8: delete “inadvertently”.

11 J **63.** Page 86, line 15: delete that line and substitute “(ps) “Reasonable water
12 supply alternative” means a water supply alternative that is similar”.

13 J **64.** Page 87, line 13: after that line insert:

14 “(tm) “Straddling county” means a county that lies partly within the Great
15 Lakes basin.”.

16 J **65.** Page 89, line 5: delete “and (t)” and substitute “, (t), and (tm)”.

17 J **66.** Page 89, line 13: after that line insert:

18 “1m. If a person making a withdrawal that averages 100,000 gallons per day
19 or more in any 30-day period registered the withdrawal under s. 281.344 (3) (a) 1.
20 and reported as required under s. 281.344 (3) (e) and the department did not
21 automatically issue a notice of coverage under s. 281.344 (4s) (c) or an individual
22 permit under s. 281.344 (5) (c) for the withdrawal, the baseline for the withdrawal
23 is the amount determined under s. 281.344 (5m) for the withdrawal or, if the

1 department determines a different amount under sub. (4e), the amount determined
2 under sub. (4e)."

3 ✓ **67.** Page 90, line 5: delete "or s. 281.343". ✓

4 ✓ **68.** Page 90, line 7: after "Constitution" insert "or to create any new public
5 trust rights". ✓

6 ✓ **69.** Page 92, line 22: delete "the entity that will" and substitute "any entities
7 that may". ✓

8 ✓ **70.** Page 92, line 23: delete "that entity" and substitute "each of those
9 entities". ✓

10 ✓ **71.** Page 93, line 2: delete "the entity that will" and substitute "any entities
11 that may". ✓

12 ✓ **72.** Page 93, line 3: delete "that entity" and substitute "each of those entities". ✓

13 ✓ **73.** Page 94, line 1: delete "within a straddling county" and substitute
14 "described in par. (e) 1. (intro.)". ✓

15 ✓ **74.** Page 97, line 13: after "county" insert "or, if a community is partly within
16 a straddling county and partly within a county that lies entirely outside the Great
17 Lakes basin, the water diverted will be used solely for public water supply purposes
18 in the portion of the community that is within the straddling county". ✓

19 ✓ **75.** Page 100, line 21: delete the material beginning with ", based" and ending
20 with "measures" on line 24. ✓

21 ✓ **76.** Page 101, line 4: after that line insert:

22 "(4e) DETERMINING WITHDRAWAL AMOUNTS FOR WITHDRAWALS WITH INTERIM

23 APPROVALS. (a) Before issuing automatic notice of coverage under a general permit

1 under sub. (4s) or an automatic individual permit under sub. (5) (c) for a withdrawal
2 from the Great Lakes basin that is covered by an interim approval under s. 281.344
3 (5m), the department shall determine a withdrawal amount for the withdrawal
4 under this subsection.

5 (b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall
6 estimate the withdrawal amount for a withdrawal based on the maximum hydraulic
7 capacity of the most restrictive component in the water supply system used for the
8 withdrawal as of the compact's effective date, based on information available to the
9 department.

10 2. Except as provided in subd. 3e., if the department has issued an approval
11 under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for
12 a withdrawal and the approval contains a limit on the amount of water that may be
13 withdrawn, the department shall provide an estimate of the withdrawal amount
14 equal to the limit in the approval.

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

21 (c) The department shall provide the estimate under par. (b) for a withdrawal
22 to the person making the withdrawal.

23 (d) After receiving an estimate under par. (c), a person making a withdrawal
24 may provide the department with information relating to any of the following:

25 1. The components of the water supply system used for the withdrawal.

1 2. Seasonal variations in the amount of water supplied by the water supply
2 system.

3 3. Plans for expanding the capacity of the water supply system submitted to
4 the department no later than 2 years after the effective date of this subdivision
5 [revisor inserts date].

6 4. Amounts withdrawn during the 5 years before the year in which the person
7 submits the information.

8 5. Successful water conservation efforts by persons using the water that is
9 withdrawn.

10 6. Water loss from consumptive uses of similar types of users compared to the
11 water loss from consumptive use of persons using the water that is withdrawn.

12 7. Other relevant information.

13 (e) Except as provided in par. (f), the department shall determine the
14 withdrawal amount for a withdrawal based on the estimate under par. (b) and the
15 department's evaluation of any information provided under par. (d). The department
16 may not consider information provided by any other person.

17 (f) For a public water supply system that, on the effective date of this paragraph
18 [revisor inserts date], has approval under s. 281.41 to provide water from the
19 Great Lakes basin for public water supply purposes outside of the Great Lakes basin
20 and approval under s. 283.31 to return the associated wastewater to the Great Lakes
21 basin, the department shall determine the withdrawal amount to be the amount of
22 water necessary to provide water for public water supply purposes in the service
23 territory specified in the sewer service area provisions of the areawide water quality
24 management plan under s. 283.83 approved by the department before December 31,
25 2007, based on the population and related service projections in those provisions.

1 (g) The department's determination of a withdrawal amount under par. (e) or
2 (f) is not subject to administrative review under ch. 227 except at the request of the
3 person making the withdrawal.

4 (h) If 2 or more public water supply systems merge after the department
5 determines their withdrawal amounts under par. (e) and before the department
6 issues the initial individual permits under sub. (5) (c) for the systems, the
7 withdrawal amount for the new system is the sum of the amounts determined under
8 par. (e) for the individual systems.

9 (i) For the purposes of sub. (5) (f) 1. and 2., (h) 1. and 2., and (k) 1. and 2., and
10 (5e) (b) 1. and 2., and (c) 1., and 2., a withdrawal amount determined under this
11 subsection for a withdrawal is considered to be the withdrawal amount for the
12 withdrawal as of the compact's effective date." ✓

13 ✓ **77.** Page 101, line 5: delete "(a)". ✓

14 ✓ **78.** Page 101, line 8: delete "or an" and substitute ", an". ✓

15 ✓ **79.** Page 101, line 9: after "s. 281.344 (5)" insert ", or an interim approval
16 under s. 281.344 (5m)". ✓

17 ✓ **80.** Page 101, line 23: substitute "25" for "10". ✓

18 ✓ **81.** Page 102, line 8: after that line insert:

19 "(c) *Automatic notice of coverage for withdrawals with interim approvals.* The
20 department shall automatically issue a notice of coverage under a general permit to
21 a person who makes a withdrawal that is covered by an interim approval under s.
22 281.344 (5m), if the withdrawal averages 100,000 gallons per day or more in any
23 30-day period but does not equal at least 1,000,000 gallons per day for any 30
24 consecutive days. If necessary, the department may request additional information

1 before issuing a notice under this paragraph. The department shall issue a notice
2 under this paragraph no later than one year after the compact's effective date. In the
3 notice provided under this paragraph for a withdrawal, the department shall specify
4 a withdrawal amount equal to the withdrawal amount determined under sub. (4e)
5 for the withdrawal." ✓

6 ✓ **82.** Page 104, line 13: delete the material beginning with "or if" and ending
7 with "state" on line 15. ✓

8 ✓ **83.** Page 107, line 8: delete "or s. 281.344 (3m) or (4e)" and substitute ", sub.
9 (4e), or s. 281.344 (4e) or (5) (d) 3., 3e., or 3m. or (e) 3., 3e., or 3m."

10 ✓ **84.** Page 107, line 9: delete lines 9 to 11 and substitute:

11 "2. Provisions for estimating and, if necessary, monitoring substantial
12 increases in water loss resulting from increases in withdrawal amounts during the
13 term of a permit and reporting the results of the estimating and monitoring, as
14 provided in rules promulgated by the department." ✓

15 ✓ **85.** Page 107, line 18: after that line insert:

16 "5m. If a decision-making standard under sub. (5m) or (6) applies to the
17 withdrawal, any limit on the amount of the withdrawal necessary to ensure
18 compliance with the decision-making standard." ✓

19 ✓ **86.** Page 108, line 2: after that line insert:

20 "(c) *Automatic issuance of individual permits for withdrawals with interim*
21 *approvals.* The department shall automatically issue an individual permit to a
22 person who makes a withdrawal from the Great Lakes basin that is covered by an
23 interim approval under s. 281.344 (5m), if the withdrawal equals at least 1,000,000
24 gallons per day for any 30 consecutive days. If necessary, the department may

1 request additional information before issuing a permit under this paragraph. The
2 department shall issue a permit under this paragraph no later than one year after
3 the compact's effective date. In the permit, the department shall specify a
4 withdrawal amount equal to the withdrawal amount determined under sub. (4e) for
5 the withdrawal." ✓

6 ✓ **87.** Page 118, line 13: delete the material beginning with "which" and ending
7 with "subsection" on line 14 and substitute "a withdrawal and the department
8 determines under s. 281.343 (4h) (b) 1. that the proposal is subject to regional
9 review". ✓

10 ✓ **88.** Page 118, line 15: after "department" insert "may not determine under s.
11 281.343 (4h) (b) 1. that the proposal is subject to regional review unless the proposal
12 will result in a water loss that will average more than 5,000,000 gallons per day in
13 any 90-day period. If the department submits the proposal for regional review, the
14 department". ✓

15 ✓ **89.** Page 118, line 18: after "proposal" insert "or until 90 days after the
16 department submits the proposal for regional review, whichever is sooner". ✓

17 ✓ **90.** Page 123, line 11: after "department" insert "under sub. (8) (d)". ✓

18 ✓ **91.** Page 126, line 20: after "measures" insert "through a voluntary statewide
19 program". ✓

20 ✓ **92.** Page 126, line 20: after that line insert:

21 "1m. Mandatory and voluntary conservation and efficiency measures for the
22 waters of the Great Lakes basin that are necessary to implement subs. (4), (4s), (5),
23 (5m), and (6) and s. 281.348." ✓

1 ✓ **93.** Page 127, line 12: delete “this section” and substitute “implementing par.

2 (b)”.

3 ✓ **94.** Page 132, line 19: after that line insert:

4 “(g) *Water use report.* Beginning no later than 8 years after the effective date
5 of this paragraph [revisor inserts date], or 5 years after the last report published
6 under s. 281.344 (11), whichever is earlier, and every 5 years thereafter, the
7 department, using water use data reported under this section, shall publish a water
8 use report to summarize water usage, identify related trends, identify areas of future
9 water usage concerns, and recommend future actions to promote sustainable water
10 use. The department shall also include in the report water resource information
11 derived from reporting and data accumulation requirements under other water
12 regulatory laws.”. ✓

13 ✓ **95.** Page 132, line 20: delete “inadvertently”. ✓

14 ✓ **96.** Page 132, line 22: after “(i)” insert “, unless the amount by which the
15 withdrawal exceeds the withdrawal amount would result in the application of the
16 state decision-making standard under sub. (5m) or the compact decision-making
17 standard under sub. (6)”. ✓

18 ✓ **97.** Page 134, line 10: after “establish” insert “, by rule.”. ✓

19 ✓ **98.** Page 135, line 8: after that line insert:

20 “(bm) A person preparing a plan under par. (a) shall consider existing regional
21 water needs assessments and other regional water supply planning information.”. ✓

22 ✓ **99.** Page 135, line 12: before “service” insert “supply”. ✓

23 ✓ **100.** Page 135, line 13: after “plan” insert “, except as provided in par. (cm)”. ✓

1 ✓ **101.** Page 135, line 19: delete lines 19 and 20 and substitute “for which the
2 plan is prepared and forecasts of the expected population of the area during the
3 period covered by the plan based on growth projections for the area and municipally
4 planned population densities.” ✓

5 ✓ **102.** Page 136, line 1: delete “, social,” ✓

6 ✓ **103.** Page 136, line 3: delete “maximize the use of” and substitute “utilize”. ✓

7 ✓ **104.** Page 136, line 11: after that line insert:

8 “(cm) For the purposes of plans under par. (a), an areawide water quality
9 planning agency designated by the governor under ch. NR 121, Wis. Adm. Code, shall
10 delineate the proposed water supply service areas for all of the public water supply
11 systems in the planning area for which the agency is designated. An areawide water
12 quality planning agency shall delineate proposed water supply service areas that are
13 consistent with the approved areawide water quality management plan under s.
14 283.83 for the planning area and that permit the development of plans that are
15 approvable under par. (d). An areawide water quality planning agency may also
16 provide regional water needs assessments and other regional water supply planning
17 information. The process for conducting regional activities under this subsection
18 may be the same as the process for regional water supply planning for a groundwater
19 management area designated under s. 281.34 (9).” ✓

20 ✓ **105.** Page 136, line 18: delete “maximize the use of” and substitute “utilize”. ✓

21 ✓ **106.** Page 137, line 6: after “plan.” insert “The department may not limit
22 water supply service areas based on jurisdictional boundaries, except as necessary
23 to prevent waters of the Great Lakes basin from being transferred from a county that

1 lies completely or partly within the Great Lakes basin into a county that lies entirely
2 outside the Great Lakes basin.”. ✓

3 ✓ **107.** Page 138, line 10: after that line insert:

4 “**SECTION 14m.** 281.35 (1) (cm) of the statutes is created to read:

5 281.35 (1) (cm) “Facility” means an operating plant or establishment providing
6 electricity to the public or carrying on any manufacturing activity, trade, or business
7 on one site, including similar plants or establishments under common ownership or
8 control located on contiguous properties.”. ✓

9 ✓ **108.** Page 138, line 12: delete that line and substitute:

10 “**SECTION 16b.** 281.35 (2) (b) of the statutes is renumbered 281.35 (2) and
11 amended to read:

12 281.35 (2) In calculating the total amount of an existing or proposed water loss
13 for purposes of determining the applicability of sub. (4), a person shall include all
14 separate interbasin diversions and consumptive uses, or combinations thereof,
15 which the person makes or proposes to make ~~for a single use or for related uses to~~
16 supply a single facility or public water supply system.”.

17 ✓ **109.** Page 140, line 5: after that line insert:

18 “**SECTION 23m.** 281.35 (6) (f) of the statutes is amended to read:

19 281.35 (6) (f) *Notice; right to hearing.* The department shall notify the person
20 to whom the approval has been issued and any other person who has in writing
21 requested notice of the receipt of a request to modify an approval or of the
22 department’s intent to modify or revoke an approval. The person to whom the
23 approval is issued is entitled to a contested case hearing under ch. 227 before a
24 revocation or modification takes effect. Any other person who may be adversely

1 affected by a proposed modification is entitled to a contested case hearing under ch.
2 227 ~~before a modification takes effect.~~ ✓

3 ✓ **110.** Page 142, line 4: after that line insert:

4 “**SECTION 32m.** 281.93 of the statutes is created to read:

5 **281.93 Hearings on certain water use actions. (1)** PERMIT OR APPROVAL
6 HOLDER OR APPLICANT; ORDER RECIPIENT. Any permit or approval, part of a permit or
7 approval, condition or requirement in a permit or approval, order, decision or
8 determination by the department under s. 281.344, 281.346, or 281.35 shall become
9 effective unless the permit or approval holder or applicant or the order recipient
10 seeks a hearing challenging the action in the following manner:

11 (a) *Petition.* The person seeking a hearing shall file a petition with the
12 department within 30 days after the date of the action sought to be reviewed. The
13 petition shall set forth specifically the issue sought to be reviewed, the interest of the
14 petitioner, the reasons why a hearing is warranted, and the relief desired. Upon
15 receipt of the petition, the department shall hold a hearing after at least 10 days’
16 notice.

17 (b) *Hearing.* The hearing shall be a contested case under ch. 227. At the
18 beginning of the hearing the petitioner shall present evidence in support of the
19 allegations made in the petition. Following the hearing the department’s action may
20 be affirmed, modified, or withdrawn.

21 **(1m) EFFECT OF A CHALLENGE.** If a permit or approval holder or applicant seeks
22 a hearing challenging part of a permit or approval or a condition or requirement in
23 a permit or approval under sub. (1), the remainder of the permit or approval shall
24 become effective and the permit or approval holder or applicant may, at its discretion,

1 begin the activity for which the application was submitted or for which the permit
2 or approval was issued.

3 (2) OTHER PERSONS. Except as provided in ss. 281.344 (4e) (g) and 281.346 (4e)
4 (g), any person who is not entitled to seek a hearing under sub. (1) (intro.) and who
5 meets the requirements of s. 227.42 (1) or who submitted comments in the public
6 comment process under s. 281.344, 281.346, or 281.35 may seek review under sub.
7 (1) of any permit or approval, part of a permit or approval, order, decision, or
8 determination by the department under s. 281.344, 281.346, or 281.35.

9 (3) MINING HEARING. Subsections (1) and (2) do not apply if a hearing on the
10 matter is conducted as a part of a hearing under s. 293.43.”

****NOTE: The reference in sub. (2) to s. 281.346 (4e) (g) is contingent on that
provision being created in another amendment. If that does not happen, the reference
must be deleted.

*Editor -
this
is supposed
to be deleted*

11 **111.** Page 144, line 2: after that line insert:

12 **“SECTION 38m. Nonstatutory provisions.**

13 (1) APPROVAL OF CERTAIN APPLICATIONS. The department of natural resources
14 shall determine whether to grant an approval under section 281.344 (4) (c) or (e) of
15 the statutes, as created by this act, of an application under section 281.344 (4) (b) 1.
16 of the statutes, as created by this act, that is submitted before the department
17 promulgates the rules required under s. 281.344 (4) (g), as created by this act, or July
18 1, 2010, whichever is earlier, through the water supply service area planning process
19 under s. 281.348 of the statutes, as created by this act, considering the items in
20 section 281.344 (4) (c) 1., 2., and 3., (e) 1. a. to e., and (f) 1. to 6. of the statutes, as
21 created by this act, that apply to the proposal for which the application is made as
22 factors in the cost-effectiveness analysis under section 281.348 (3) (d) 1. of the
23 statutes, as created by this act, notwithstanding the requirements in section 281.344

1 (4) (c) (intro.) or (e) (intro.) of the statutes, as created by this act, and section 281.344
2 (4) (f) (intro.) of the statutes, as created by this act, that all of the items following
3 those introductory provisions must apply to the proposal for which the application
4 is made.”.

5 √ **112.** Page 144, line 2: after that line insert:

6 “SECTION 38d. 293.65 (title), (1), (2) (title), (a), and (b) of the statutes are
7 amended to read:

8 **293.65 (title) Diversion Withdrawal of surface waters; withdrawal of**
9 **groundwater; damage claims.** (1) SCOPE. This section governs the withdrawal
10 ~~or diversion~~ of groundwaters or surface waters by persons engaged in prospecting or
11 mining. Discharges of waters are subject to ch. 283, construction of necessary dams
12 or other structures is subject to chs. 30 and 31 and construction of wells is subject to
13 ch. 280, to the extent applicable.

14 (2) (title) DIVERSION WITHDRAWAL OF SURFACE WATER; PERMIT REQUIRED. (a) Any
15 person intending to ~~divert~~ withdraw surface waters for prospecting or mining shall
16 apply to the department for a permit. The forms and procedures used under s. 30.18
17 apply to the extent practicable.

18 (b) The department, upon receipt of an application for a permit, shall determine
19 the minimum stream flow or lake level necessary to protect public rights, the
20 minimum flow or level necessary to protect the rights of affected riparians, the point
21 downstream beyond which riparian rights are not likely to be injured by the proposed
22 ~~diversion~~ withdrawal and the amount of surplus water, as defined in s. 30.01 (6d),
23 if any, at the point of the proposed ~~diversion~~ withdrawal.

24 SECTION 38e. 293.65 (2) (c) 1. of the statutes is amended to read:

1 293.65 (2) (c) 1. The public rights in the lake or stream and the related
2 environment which may be injured by the proposed diversion withdrawal;

3 **SECTION 38f.** 293.65 (2) (d) 2. of the statutes is amended to read:

4 293.65 (2) (d) 2. If the proposed diversion withdrawal will consume nonsurplus
5 waters, and will unreasonably injure rights of riparians identified by par. (b) who are
6 beneficially using such waters, the permit shall be denied unless a permit is granted
7 under par. (e) or all such riparians consent to the proposed diversion withdrawal.

8 **SECTION 38g.** 293.65 (2) (e) of the statutes is amended to read:

9 293.65 (2) (e) The department may require modification of a proposed diversion
10 withdrawal so as to avoid injury to public or riparian rights, and as modified, may
11 grant the permit.

12 **SECTION 38h.** 293.65 (2) (f) of the statutes is amended to read:

13 293.65 (2) (f) Water ~~diverted~~ withdrawn in accordance with a permit issued
14 under this subsection may be used on nonriparian property.

15 **SECTION 38i.** 293.65 (2) (h) of the statutes is amended to read:

16 293.65 (2) (h) Hearings on applications for diversion withdrawal permits under
17 this subsection shall be preceded by mailed notice to all parties or affected persons
18 and by publication in the affected area of a class 2 notice, under ch. 985. Hearings
19 may be conducted as part of a hearing on an application for a mining permit under
20 s. 293.37.”.

21 ^{see insert} **113.** Page 144, line 2: after that line, delete the material inserted by senate
22 amendment 1 and substitute:

23 (1f) SUBMISSION OF PROPOSED RULES. The department of natural resources shall
24 submit in proposed form the rules required under section 281.344 (4) (g) and 281.348

1 (3) of the statutes, as created by this act, to the legislative council staff under section
2 227.15 (1) of the statutes no later than the first day of the 18th month beginning after
3 the effective date of this subsection.”.

4

(END)