State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

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

☞ Appendix B ... Part 05 of 18

☞ The <u>2007</u> drafting file for LRBa1729

has been <u>copied/added</u> to the drafting file for

<u>2007</u> 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.

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

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

☞ Compile Draft – Appendix D

A ☞ The 2007 drafting file for LRBa1595

B ☞ The 2007 drafting file for LRBa1694

C ☞ The 2007 drafting file for LRBa1696

D ☞ The 2007 drafting file for LRBa1697

E ☞ The 2007 drafting file for LRBa1698

F ☞ The 2007 drafting file for LRBa1699

G ☞ The 2007 drafting file for LRBa1700

H ☞ The 2007 drafting file for LRBa1701

I ☞ The 2007 drafting file for LRBa1702

J ☞ The 2007 drafting file for LRBa1703

K ☞ The 2007 drafting file for LRBa1704

L ☞ The 2007 drafting file for LRBa1705

M ☞ The 2007 drafting file for LRBa1706

N ☞ The 2007 drafting file for LRBa1707

O ☞ The 2007 drafting file for LRBa1708

P ☞ The 2007 drafting file for LRBa1709

Q ☞ The 2007 drafting file for LRBa1727

2007 LRBa1697 has been copied/added to the drafting file for

LRB a1729 Superamendment used to create

LRB–4360 (   ) & LRB–4367 (Ap8 SB–1)

2007 DRAFTING REQUEST

Assembly Amendment (AA-SB523)

Received: **04/08/2008**   Received By: **btradewe**

Wanted: **Soon**   Identical to LRB:

For: **Scott Gunderson (608) 266-3363**   By/Representing:

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

May Contact: Addl. Drafters:

Subject: **Environment - water quality**   Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gunderson@legis.wisconsin.gov**

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

Pre Topic:

No specific pre topic given

Topic:

Modify exception standard and other precompact conditions related to interbasin transfers

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	btradewe 04/11/2008	kfollett 04/11/2008	jfrantze 04/11/2008	_____	sbasford 04/14/2008		
	btradewe 04/12/2008	jdyer 04/14/2008	jfrantze 04/14/2008	_____			
/P2	btradewe 04/21/2008	bkraft 04/21/2008	nnatzke 04/21/2008	_____	cduerst 04/21/2008		
/P3	btradewe	kfollett	rschluet	_____	sbasford		

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	04/24/2008	04/24/2008	04/24/2008 _____		04/24/2008		
/P4	btradewe 04/29/2008	kfollett 04/29/2008	pgreensl 04/29/2008 _____		sbasford 04/29/2008		
/P5	btradewe 05/06/2008	kfollett 05/06/2008	rschluet 05/06/2008 _____		cduerst 05/06/2008		
/P6	btradewe 05/07/2008	kfollett 05/07/2008	jfrantze 05/07/2008 _____		sbasford 05/07/2008		

FE Sent For:

<END>

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/P3	btradewe	kfollett	rschluet	_____	sbasford		

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/P5	btradewe	kfollett	rschluet	_____	cduerst		
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/PS6F
5/6

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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FE Sent For: /P2 bjk 4/21 nwm 4/21 nwm/rs 4/21

2007 DRAFTING REQUEST

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No specific pre topic given

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Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	btradewe	/Plkf 4/11	4/5 Jilb				

FE Sent For: /P2 4/14 jld

The idea of the first part of this item is to provide a process similar to that in the nonstatutory provision in the adopted senate amendment for all precompact applications for interbasin transfers for public water supply systems. The amendment should delete the senate's nonstatutory provision. $\int_{\mathcal{U}}$

4.   New or Increased Interbasin Transfers

Amend s. 281.344 (4) (f) [page 62] as follows:
(f) *Exception standard.* A proposal meets the exception standard if all of the following ~~apply~~ factors are considered:

Amend s. 281.344 (4) (f) 3m [page 62, lines 19-22] as follows:
3m. The place at which the water is returned to the source watershed is as close as practicable to the place at which the water is withdrawn, unless the applicant demonstrates that returning the water at that place is one of the following:
      a. Not ~~economically feasible.~~ Cost effective

Amend s. 281.344 (4) (f) 5. [page 63] as follows:
5. The interbasin transfer will result in no significant adverse individual impacts or cumulative impacts to the quantity or quality of the waters of the Great Lakes basin or to water dependent natural resources, including cumulative impacts that might result due to ~~any precedent-setting aspects of~~ the proposed interbasin transfer, based upon a determination that the proposed interbasin transfer will not have any significant adverse impacts on the sustainable management of the waters of the Great Lakes basin.

Amend s. 281.344 (4) (g) [page 64, lines 7-16] as follows:
(g) *Conservation and efficient use of existing water supplies.* The department shall promulgate rules specifying the requirements for an applicant for a new, increased, or expanded interbasin transfer subject to par. (f) to demonstrate the efficient use and conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the water conservation planning and analysis used to identify the water conservation and efficiency measures that the applicant determined were feasible~~, based on an analysis that considered direct and avoided economic and environmental costs, and that the applicant implemented and requiring the applicant to quantify the amount of water conserved through those efficiency and conservation measures~~.

Amend s. 281.346 (4) (g) [page 100, lines 15-24] as follows:
(g) *Conservation and efficient use of existing water supplies.* The department shall promulgate rules specifying the requirements for an applicant for a new or increased diversion subject to par. (f) to demonstrate the efficient use and conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e) 1. d., and (f) 1., including requiring the applicant to document the water conservation planning and analysis used to identify the water conservation and efficiency measures that the applicant determined were feasible~~, based on an analysis that considered direct and avoided economic and environmental costs, and that the applicant implemented and requiring the applicant to~~

quantify the amount of water conserved through those efficiency and conservation measures.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2   amendment 1, as follows:

3   **1.** Page 62, line 9: after "proposal" insert "for an interbasin transfer to provide

4   water solely for public water supply purposes meets the exception standard if the

5   department considers, in the cost-effectiveness analysis under s. 281.348 (3) (d) 1.,

6   whether subds. 1. to 7. apply to the proposal and determines through that analysis

7   that the proposal is cost-effective. A proposal for an interbasin transfer that is not

8   for the purpose of providing water solely for public water supply purposes".

9   **2.** Page 62, line 22: delete "economically feasible" and substitute "cost-

10   effective".

11   **3.** Page 63, line 22: delete "precedent-setting aspects of".

1   **4.** Page 64, line 13: delete the material beginning with ", based" and ending

2 with "measures" on line 16.

3   **5.** Page 100, line 21: delete the material beginning with ", based" and ending

4 with "measures" on line 24.

5   **6.** Page 144, line 2: after that line, delete the material inserted by senate

6 amendment 1.

7   **(END)**

Date

Mike Bruhn:

This draft corresponds to item 4 on the amendment list, relating primarily to standards for approving interbasin transfers.

Under the substitute amendment, only public water supply systems can get approval for interbasin transfers for straddling communities and communities in straddling counties, but approval for intrabasin transfers (transfers from the Lake Superior watershed to the Lake Michigan watershed or vice versa) may be given for purposes other than providing a public water supply. As requested, this draft provides that for public water supply systems, the exception standard is applied by considering the items in s. 281.344 (4) (f) through the cost-effectiveness analysis in the water supply planning process.

Because the water supply planning process only applies to public water supply systems, it is not possible to apply the exception standard through the water supply planning process for transfers made for purposes other than providing a public water supply. Thus, this draft does not change the way that the exception standard is applied to proposed intrabasin transfers that are not for the purpose of providing a public water supply.

Please contact me with any questions or redraft instructions.

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

Stays P1

Monday a.m.

Note

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2 amendment 1, as follows:

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4 water solely for public water supply purposes meets the exception standard if the

5 department considers, in the cost–effectiveness analysis under s. 281.348 (3) (d) 1.,

6 whether subds. 1. to 7. *the proposal meets* ~~apply to the proposal~~ and determines through that analysis

7 that the proposal is cost–effective. A proposal for an interbasin transfer that is not

8 for the purpose of providing water solely for public water supply purposes".

9   **2.** Page 62, line 22: delete "economically feasible" and substitute

10 "cost–effective".

11   **3.** Page 63, line 22: delete "any precedent–setting aspects of".

1   **4.** Page 64, line 13: delete the material beginning with ", based" and ending

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5   **6.** Page 144, line 2: after that line, delete the material inserted by senate

6   amendment 1.

7   **(END)**

v)Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1697/P1dn
RCT:kjf:jf

April 11, 2008 3 new date

Mike Bruhn:

This draft corresponds to item 4 on the amendment list, relating primarily to standards for approving interbasin transfers.

Under the substitute amendment, only public water supply systems can get approval for interbasin transfers for straddling communities and communities in straddling counties, but approval for intrabasin transfers (transfers from the Lake Superior watershed to the Lake Michigan watershed or vice versa) may be given for purposes other than providing a public water supply. As requested, this draft provides that for public water supply systems, the exception standard is applied by considering the items in s. 281.344 (4) (f) through the cost–effectiveness analysis in the water supply planning process.

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Please contact me with any questions or redraft instructions.

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

April 14, 2008

Mike Bruhn:

This draft corresponds to item 4 on the amendment list, relating primarily to standards for approving interbasin transfers.

Under the substitute amendment, only public water supply systems can get approval for interbasin transfers for straddling communities and communities in straddling counties, but approval for intrabasin transfers (transfers from the Lake Superior watershed to the Lake Michigan watershed or vice versa) may be given for purposes other than providing a public water supply. As requested, this draft provides that for public water supply systems, the exception standard is applied by considering the items in s. 281.344 (4) (f) through the cost–effectiveness analysis in the water supply planning process.

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Please contact me with any questions or redraft instructions.

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

Tradewell, Becky

From:	Bruhn, Mike
Sent:	Tuesday, April 15, 2008 11:53 AM
To:	Tradewell, Becky
Subject:	FW: Draft review: LRB 07a1697/P1 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Becky,

The proposed changes to page 62, line 9 seems to now tie a "cost-effectiveness" analysis that is part of a water supply planning process to a section that was simply limited to a "cost effectiveness analysis for the physical location of the return flow.

1. Page 62, line 9: after "proposal" insert "for an interbasin transfer to provide water solely for public water supply purposes meets the exception standard if the department considers, in the cost−effectiveness analysis under s. 281.348 (3) (d) 1., whether the proposal meets subds. 1. to 7. and determines through that analysis that the proposal is cost−effective. A proposal for an interbasin transfer that is not for the purpose of providing water solely for public water supply purposes".

[handwritten: reasonable considering whether]

I suggest sticking with our simple amendment.

Amend s. 281.344 (4) (f) [page 62] as follows:
    (f) *Exception standard.* A proposal meets the exception standard if all of the following ~~apply~~ factors are considered:

Second, I think you removed the text from Page 144, line 2 that was added in by the Senate. This is the "Nonstatutory Provisions" that the City of Waukesha negotiated with Senator Miller, and it is <u>very</u> important.

The rest of the edits were fine.

04/15/2008

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

LRB Research (608–266–0341) Library (608–266–7040) Legal (608–266–3561) **LRB**

4/16/08 Meeting with Mike Bruhn, Jordan Lamb, Hank Ketzel, Dale Shaver, and John Stolzenberg.

They understand that the amendment needs to be worded differently than they proposed because as proposed it does not express a standard. They do not want to use the cost-effectiveness analysis for this. They want to have the listed items to be considered in determining whether the standard is satisfied.

If Waukesha accepts the new language, there may be no objection to deleting the nonstatutory provision.

Tradewell, Becky

From:	Bruhn, Mike
Sent:	Monday, April 21, 2008 8:41 AM
To:	Tradewell, Becky; Stolzenberg, John
Subject:	FW: Proposal for LRB-1697

Becky,

We have evaluated John's comments on the proposed revisions to LRB-1697 and we agree with his advice to direct the department to evaluate the exception standard based on a reasonableness test. However, this requires the maintenance of the non-statutory provisions contained in SA1 to SSA1 to SB 523, which we discussed on Wednesday. Accordingly, we suggest the following language:

1. Page 62, line 9: after "proposal" insert "for an interbasin transfer to provide water solely for public water supply purposes meets the exception standard **if the department considers subds. 1. to 7. and determines through that analysis that the proposal is reasonable.** A proposal for an interbasin transfer that is not for the purpose of providing water solely for public water supply purposes".

2. Page 62, line 22: delete "economically feasible" and substitute "cost-effective".

3. No change to the nonstatutory provisions contained in SA1 to SSA1 to SB 523.

Thanks,

Mike

→ *Today*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

Inserts

Note

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2   with "measures" on line 16.

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4   with "measures" on line 24.

5   **6.** Page 144, line 2: after that line, delete the material inserted by senate

6   amendment 1.

7   **(END)**

Insert 1-2

1. Page 62, line 9: delete the material beginning with "all" and ending with "apply" on line 10 and substitute "the department determines, through a consideration of whether the proposal meets the following, that the proposal is reasonable". ✓

Insert 2-5

2. Page 144, line 2: after that line, on page 3, line 17 of the material inserted by senate amendment 1, delete the material beginning with "that" and ending with "made" on line 19. ✓

end of insert

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1697/P2dn
RCT:....:....

$b_{ɔ}$ k

$\mathcal{D}a$ te

Mike Bruhn:

As we discussed in the first meeting on the amendments, in order to make the exception standard a balancing test rather than a "checklist," the concept of whether a proposal meets the items in the exception standard (the items at page 62, line 11 to page 64, line 6) must be incorporated into the amendment. To avoid rewording each item, it was decided to incorporate "whether" into the introductory language and this redraft does that. An alternative would be to require DNR to determine "the extent to which" the listed items apply to the proposal.

As I mentioned this morning, a technical change is needed in the nonstatutory provision inserted by senate amendment 1 because there is language in that provision that describes the items listed in the exception standard as requirements (or, put another way, as a checklist). Under this amendment, that is no longer the case. Therefore, the last item in this redraft deletes that language.

Please let me know if you have any questions. ✓

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

April 21, 2008

Mike Bruhn:

As we discussed in the first meeting on the amendments, in order to make the exception standard a balancing test rather than a "checklist," the concept of whether a proposal meets the items in the exception standard (the items at page 62, line 11 to page 64, line 6) must be incorporated into the amendment. To avoid rewording each item, it was decided to incorporate "whether" into the introductory language and this redraft does that. An alternative would be to require DNR to determine "the extent to which" the listed items apply to the proposal.

As I mentioned this morning, a technical change is needed in the nonstatutory provision inserted by senate amendment 1 because there is language in that provision that describes the items listed in the exception standard as requirements (or, put another way, as a checklist). Under this amendment, that is no longer the case. Therefore, the last item in this redraft deletes that language.

Please let me know if you have any questions.

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

Tradewell, Becky

From:	Bruhn, Mike
Sent:	Tuesday, April 22, 2008 3:06 PM
To:	Tradewell, Becky; Stolzenberg, John
Subject:	FW: Draft review: LRB 07a1697/P2 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Becky,

We have reviewed the new draft of LRB-1697/2 and have the following suggestions:

First, we request that the reference to the proposal "meeting" the seven criteria be removed because this appears to be a requirement to *meet* all seven as opposed to consider all seven. Accordingly, we request the following change:

1. Page 62, line 9: delete the material beginning with "all" and ending with "apply" on line 10 and substitute "the department determines, through a consideration of ~~whether the proposal meets~~ the following, that the proposal is reasonable".

Second, we have reviewed the change to the nonstatutory provision and believe that a better way to address the nonstatutory language might be to simply delete the cross-reference to the exception standard and to keep the cross-reference to the straddling counties and communities in straddling counties provisions. That way it would still say that these items are considered *notwithstanding the language in those sections that ALL the following must apply.* The alternative, of course, is to replace the all of the following language with your new language in those other two sections.

We have highlighted where we would suggest deleting the cross-reference:

13. Page 144, line 2: after that line insert:
"**SECTION 38m.0Nonstatutory provisions.** (1) APPROVAL OF CERTAIN APPLICATIONS. The department of natural resources shall determine whether to grant an approval under section 281.344 (4) (c) or (e) of the statutes, as created by this act, of an application under section 281.344 (4) (b) 1. of the statutes, as created by this act, that is submitted before the department promulgates the rules required under s. 281.344 (4) (g), as created by this act, or July 1, 2010, whichever is earlier, through the water supply service area planning process under s. 281.348 of the statutes, as created by this act, considering the items in section 281.344 (4) (c) 1., 2., and 3., (e) 1. a. to e., and (f) 1. to 6. of the statutes, as created by this act, that apply to the proposal for which the application is made as factors in the cost−effectiveness analysis under section 281.348 (3) (d) 1. of the statutes, as created by this act, notwithstanding the requirements in section 281.344 (4) (c) (intro.) or (e) (intro.) of the statutes, as created by this act, ~~and section 281.344 (4) (f) (intro.) of the statutes, as created by this act,~~ that all of the items following those introductory provisions must apply to the proposal for which the application is made.".

Thanks,

04/24/2008

Mike

No virus found in this incoming message.
Checked by AVG.
Version: 7.5.519 / Virus Database: 269.23.0/1382 - Release Date: 4/16/2008 5:34 PM

No virus found in this outgoing message.
Checked by AVG.
Version: 7.5.519 / Virus Database: 269.23.0/1382 - Release Date: 4/16/2008 5:34 PM

From:	Tradewell, Becky
Sent:	Wednesday, April 23, 2008 11:18 AM
To:	Bruhn, Mike
Cc:	Stolzenberg, John
Subject:	Redraft of LRBa1697/P2

Mike,

On the two parts of the redrafting instructions for LRBa1697/P2:

1. I understand that there is a concern about using "meets" on page 1, line 5 of LRBa1697/P2, although the language does not in fact require all of the criteria to be met. It requires a **consideration** of whether the criteria are met.

The proposed change to the introductory language on page 62, lines 9 and 10 in the most recent email leads back to a fundamental difficulty, raised by the initial drafting instructions, with changing the exception standard into a balancing test, which I sense that I have not communicated clearly. The criteria in (f) 1. to 7. are written as items on a checklist, as absolutes. Ordinarily, a balancing test would be structured to have a department weigh qualities that would have a range of possible values, such as cost. Compare par. (f) 6. (on page 64, lines 1 to 3) to something like, "Considering the water conservation measures that the applicant commits to implementing." for an example of a balancing test, see the language in the compact that begins on page 34, line 7 of the substitute amendment.

It must be possible, in any statute that has an introduction, to put the introductory language together with each of the items that follow it and have the result be grammatically correct and logically sound.

One cannot say: A proposal meets the exception standard if the department determines that the proposal is reasonable through a consideration of [among other things] the need for the proposed interbasin transfer cannot reasonably be avoided through the efficient use and conservation of existing water supplies.

One cannot say: A proposal meets the exception standard if the department determines that the proposal is reasonable through a consideration of [among other things] an amount of water equal to the amount of water withdrawn from the Great Lakes basin will be returned to the source watershed, less an allowance to consumptive use.

Those sentences need the word "whether" or some other change.

One can say: A proposal meets the exception standard if the department determines that the proposal is reasonable through a consideration of whether [among other things] the need for the interbasin transfer can be reasonably avoided through the efficient use and conservation of existing water supplies.

Or: A proposal meets the exception standard if the department determines that the proposal is reasonable through a consideration of [among other things], the need for the proposed interbasin transfer.

Here are some alternative approaches for wording this part of the amendment:

a. Put the word "whether" into each of the criteria. For most it could go right at the beginning. Also, there are three criteria that would read better if changed from negative statements into positive ones. For example: 5. Whether the interbasin transfer will result in significant adverse ...

[With this approach, the introduction could be the same as proposed in the latest email (or I could work on similar wording). This is the alternative that I recommend. I think that it captures what is intended. If I am incorrect about what this amendment is intended to mean, we need to discuss that.]

b. A proposal meets the exception standard if the department determines, through a consideration of whether the following apply, that the proposal is reasonable:

c. A proposal meets the exception standard if the department determines, through a consideration of whether the following are applicable, that the proposal is reasonable:

d. A proposal meets the exception standard if the department determines that the proposal is reasonable, considering whether:

If none of these alternatives seems acceptable, I will develop others.

2. My understanding is that the intent here is to make no substantive change in the nonstatutory provision inserted into the bill by Senate Amendment 1. If that is the case, the exception standard should apply to a proposal that is submitted to DNR while the nonstatutory provision is in effect as part of the process set forth in the nonstatutory provision (note the reference to paragraph (f) [the exception standard] on page 3, line 12 of Senate Amendment 1).

The way that the exception standard would apply under the changes made by the statutory part (the first part) of this amendment is not the same as the way that it would apply under the nonstatutory provision. The statute would use a reasonableness test while the nonstatutory provision uses the cost-effectiveness analysis. This amendment must clarify which way the exception standard should be applied to a proposal submitted while the nonstatutory language is in effect. If I am correct in understanding that the intent is to make no substantive change in the nonstatutory provision, it is necessary to "notwithstand" the introductory language to the exception standard in the statute, even though under the modified introductory language the criteria are no longer treated as item on a checklist.

I would suggest that the nonstatutory provision end like this:

... notwithstanding the requirements in section 281.344 (4) (c) (intro.) or (e) (intro.) of the statutes, as created by this act, that all of the items following those introductory provisions must apply to the proposal for which the application is made, and notwithstanding the way in which section 281.344 (4) (f) (intro.) of the statutes requires the items following that introductory provision to be considered.

Please let me know if you have questions about these issues. I am available to meet to discuss this amendment or any other issues related to the compact legislation.

Becky Tradewell

4/24/08 - Per Mike -
1. They prefer alternative 1.d. from my email on the first issue.
2. They want to make a substantive change in the nonstatutory provision because they would prefer to have the reasonableness test apply for the Exception standard under the nonstatutory provision (rather than the cost-effectiveness test),

Pat

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2   amendment 1, as follows:

3   **1.** Page 62, line 9: delete the material beginning with "all" and ending with

4   "apply" on line 10 and substitute "the department determines, through a

5   consideration of whether the proposal meets the following that the proposal is

6   reasonable".

7   **2.** Page 62, line 22: delete "economically feasible" and substitute

8   "cost-effective".

9   **3.** Page 63, line 22: delete "any precedent-setting aspects of".

10   **4.** Page 64, line 13: delete the material beginning with ", based" and ending

11   with "measures" on line 16.

1   **5.** Page 100, line 21: delete the material beginning with ", based" and ending

2   with "measures" on line 24.

3   **6.** Page 144, line 2: after that line, on page 3, line 17 of the material inserted

4   by senate amendment 1, delete the material beginning with ", that" and ending with

5   "made" on line 19.

6   **(END)**

Insert

Insert

1. Page 144, line 2: after that line, on page 3, line 12 of the material inserted by senate amendment 1, delete ", (e) 1. a. to e., and (f) 1. to 6." and substitute "and (e) 1. a. to e.".

2. Page 144, line 2: after that line, on page 3, line 16 of the material inserted by senate amendment 1, delete the material beginning with "and" and ending with "act," on line 17.

4/29 Per Rep. Gunderson –

(inserted by SA2)   (281.344)

1. Move the nonstatutory provisions into the statutes and modify it so that the items in pars. (c) and (e) are still requirements. The sunset should remain.

2. Change the introduction to the exception standard to provide that for a proposal to which the provision described in point 1 applies, the department considers the items following the introduction in the cost-effectiveness analysis (they are not requirements).

RH

Today

rmr

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2   amendment 1, as follows:

Insert 1

3   **1.** Page 62, line 9: delete the material beginning with "all" and ending with

4   "apply" on line 10 and substitute "the department determines that the proposal is

5   reasonable, considering whether".

6   **2.** Page 62, line 22: delete "economically feasible" and substitute

7   "cost–effective".

Insert 2

8   **3.** Page 63, line 22: delete "any precedent–setting aspects of".

9   **4.** Page 64, line 13: delete the material beginning with ", based" and ending

10   with "measures" on line 16.

11   **5.** Page 100, line 21: delete the material beginning with ", based" and ending

12   with "measures" on line 24.

1   **6.** Page 144, line 2: after that line, on page 3, line 12 of the material inserted

2   by senate amendment 1, delete ", (e) 1. a. to e., and (f) 1. to 6." and substitute "and

3   (e) 1. a. to e.".

4   **7.** Page 144, line 2: after that line, on page 3, line 16 of the material inserted

5   by senate amendment 1 delete the material beginning with "and" and ending with

6   "act," on line 17.

7   **(END)**

Insert 1

1. Page 62, line 9: delete lines 9 and 10 and substitute:

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

Insert 2

2. Page 64, line 6: after that line insert:

"(fm) *Approval of certain applications.* The department shall determine whether to grant an approval under par. (c) or (e) of an application under par. (b) 1. that is submitted before the department promulgates the rules required under par. (g) or July 1, 2010, whichever is earlier, through the water supply service area planning process under s. 281.348, considering the items in par. (f) 1. to 7. as factors in the cost–effectiveness analysis under s. 281.348 (3) (d) 1.".

5/6/08 Call from Mike:

1. Delete the date from par. (fm) so that the provision lasts throughout the pre-compact period

2. Require DNR to get rule to Leg Council within 18 months of bill's effective date.

Rut

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2 amendment 1, as follows:

3   **1.** Page 62, line 9: delete lines 9 and 10 and substitute:

4 "(f) *Exception standard.* A proposal to which par. (fm) does not apply meets the

5 exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.

6 (fm) applies meets the exception standard if the department considers, under par.

7 (fm), whether:".

8   **2.** Page 62, line 22: delete "economically feasible" and substitute

9 "cost–effective".

10   **3.** Page 63, line 22: delete "any precedent–setting aspects of".

11   **4.** Page 64, line 6: after that line insert:

1   "(fm) *Approval of certain applications.* The department shall determine

2   whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.

3   that is submitted before the department promulgates the rules required under par.

4   (g) or July 1, 2010, whichever is earlier, through the water supply service area

5   planning process under s. 281.348, considering the items in par. (f) 1. to 7. as factors

6   in the cost–effectiveness analysis under s. 281.348 (3) (d) 1.".

7   **5.** Page 64, line 13: delete the material beginning with ", based" and ending

8   with "measures" on line 16.

9   **6.** Page 100, line 21: delete the material beginning with ", based" and ending

10   with "measures" on line 24.

11   **7.** Page 144, line 2: after that line, delete the material inserted by senate

12   amendment 1, and substitute:

13

(END)

Insert 2-12

Insert 2–12

"**SECTION 38g. Nonstatutory provisions.**

(1m) SUBMISSION OF PROPOSED RULES. The department of natural resources shall submit in proposed form the rules required under section 281.344 (4) (g) of the statutes, as created by this act, no later than the first day of the 18th month beginning after the effective date of this subsection.".

Tradewell, Becky

From:	Bruhn, Mike
Sent:	Wednesday, May 07, 2008 1:04 PM
To:	Tradewell, Becky
Subject:	RE: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Let's make an executive decision and: "add a rule-making requirement to s. 281.348 (but not to the nonstatutory provision because a rule-making requirement is not temporary)." Also, fix the omission that John identified.

From: Tradewell, Becky
Sent: Wednesday, May 07, 2008 1:01 PM
To: Bruhn, Mike
Subject: RE: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Mike,

No, I have not talked with (or heard from) them.

Becky

From: Bruhn, Mike
Sent: Wednesday, May 07, 2008 12:50 PM
To: Tradewell, Becky
Subject: RE: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Becky,

Have you talked with DNR about your issue with their email from, yesterday?

Mike

From: Tradewell, Becky
Sent: Wednesday, May 07, 2008 7:57 AM
To: Bruhn, Mike
Cc: Stolzenberg, John; Henderson, Patrick W - DOA; Ledin, Charles R - DNR
Subject: RE: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Mike,

The difficulty is that s. 281.348 does not require DNR to promulgate rules (although it is expected that DNR will do so). Thus, the amendment cannot refer to rules required under s. 281.348 (3). We could add a rule-making requirement to s. 281.348 (but not to the nonstatutory provision because a rule-making requirement is not

05/07/2008

temporary).

John has identified an omission in the nonstatutory language (I omitted the language specifying to whom DNR must submit the rules), so I will need to redraft the amendment in any event.

Becky

From: Bruhn, Mike
Sent: Tuesday, May 06, 2008 4:18 PM
To: Stolzenberg, John; Tradewell, Becky
Subject: FW: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers
Importance: High

Please incorporate into the next change to this amendment.

Thanks,

Mike

From: Henderson, Patrick W - DNR [mailto:Patrick.Henderson@wisconsin.gov]
Sent: Tuesday, May 06, 2008 4:04 PM
To: Bruhn, Mike
Subject: FW: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers
Importance: High

Mike,

We would suggest that the statutory reference below be ADDED to the reference already included in the bill for the reason stated below by Chuck. The service area planning rules is where we will lay out the process for complying with the exception standard for all things except water conservation...which will be done in a separate rule which will also be required within 18 months of enactment. Call me with any questions.

Thanks
Pat

From: Ledin, Charles R - DNR
Sent: Tuesday, May 06, 2008 3:59 PM
To: Henderson, Patrick W - DNR; Ambs, Todd L - DNR
Cc: Hammer, Charles R - DNR; Pfeiffer, Shaili M - DNR; Ohm, Judith M - DNR
Subject: RE: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers
Importance: High

Pat:
The correct citation for the cost-effectiveness approach should be **281.348(3)** which is the authority to establish a municipal service area planning system. This should be added and with that change the law will require both the water conservation rules and the service area planning rules to be done within 18 months of enactment. cl

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05/07/2008

From: Henderson, Patrick W - DNR
Sent: Tuesday, May 06, 2008 3:22 PM
To: Ledin, Charles R - DNR; Ambs, Todd L - DNR; Bier, Beth - LEGIS
Subject: FW: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers
Importance: High

Here is the /p5...Chuck can you look at the cross reference in the submission of rules section to make sure that this is the correct reference. thanks

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From: Bruhn, Mike [mailto:Mike.Bruhn@legis.wisconsin.gov]
Sent: Tuesday, May 06, 2008 1:55 PM
To: Henderson, Patrick W - DNR
Subject: FW: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

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From: Duerst, Christina
Sent: Tuesday, May 06, 2008 1:12 PM
To: Rep.Gunderson
Subject: Draft review: LRB 07a1697/P5 Topic: Modify exception standard and other precompact conditions related to interbasin transfers

Following is the PDF version of draft LRB 07a1697/P5.

05/07/2008

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2   amendment 1, as follows:

3   **1.** Page 62, line 9: delete lines 9 and 10 and substitute:

4   "(f) *Exception standard.* A proposal to which par. (fm) does not apply meets the

5   exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.

6   (fm) applies meets the exception standard if the department considers, under par.

7   (fm), whether:".

8   **2.** Page 62, line 22: delete "economically feasible" and substitute

9   "cost-effective".

10   **3.** Page 63, line 22: delete "any precedent-setting aspects of".

11   **4.** Page 64, line 6: after that line insert:

1   "(fm) *Approval of certain applications.* The department shall determine

2   whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.

3   through the water supply service area planning process under s. 281.348,

4   considering the items in par. (f) 1. to 7. as factors in the cost–effectiveness analysis

5   under s. 281.348 (3) (d) 1.".

6   **5.** Page 64, line 13: delete the material beginning with ", based" and ending

7   with "measures" on line 16.

8   **6.** Page 100, line 21: delete the material beginning with ", based" and ending

9   with "measures" on line 24.

10   **7.** Page 144, line 2: after that line, delete the material inserted by senate

11   amendment 1 and substitute:

and 281.348(3)

12   "**SECTION 38g. Nonstatutory provisions.**

13   (1f) SUBMISSION OF PROPOSED RULES. The department of natural resources shall

14   submit in proposed form the rules required under section 281.344 (4) (g) of the

15   statutes, as created by this act, no later than the first day of the 18th month

16   beginning after the effective date of this subsection.".

17   **(END)**

to the legislative council staff under section 227.15(1) of the statutes

#. Page 134, line 10: after "establish" insert ", by rule, ".

State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

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

☞ Compile Draft – Appendix D

A ☞ The 2007 drafting file for LRBa1595

B ☞ The 2007 drafting file for LRBa1694

C ☞ The 2007 drafting file for LRBa1696

D ☞ The 2007 drafting file for LRBa1697

E ☞ The 2007 drafting file for LRBa1698

F ☞ The 2007 drafting file for LRBa1699

G ☞ The 2007 drafting file for LRBa1700

H ☞ The 2007 drafting file for LRBa1701

I ☞ The 2007 drafting file for LRBa1702

J ☞ The 2007 drafting file for LRBa1703

K ☞ The 2007 drafting file for LRBa1704

L ☞ The 2007 drafting file for LRBa1705

M ☞ The 2007 drafting file for LRBa1706

N ☞ The 2007 drafting file for LRBa1707

O ☞ The 2007 drafting file for LRBa1708

P ☞ The 2007 drafting file for LRBa1709

Q ☞ The 2007 drafting file for LRBa1727

2007 LRBa1697 has been copied/added to the drafting file for

LRB a1729 Superamendment used to create

LRB–4360 (   ) & LRB–4367 (Ap8 SB–1)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2007 SENATE BILL 523

1   At the locations indicated, amend the bill, as shown by senate substitute

2   amendment 1, as follows:

3   **1.** Page 62, line 9: delete lines 9 and 10 and substitute:

4   "(f) *Exception standard.* A proposal to which par. (fm) does not apply meets the

5   exception standard if subds. 1. to 7. apply to the proposal. A proposal to which par.

6   (fm) applies meets the exception standard if the department considers, under par.

7   (fm), whether:".

8   **2.** Page 62, line 22: delete "economically feasible" and substitute

9   "cost-effective".

10   **3.** Page 63, line 22: delete "any precedent-setting aspects of".

11   **4.** Page 64, line 6: after that line insert:

1   "(fm) *Approval of certain applications.* The department shall determine

2   whether to grant an approval under par. (c) or (e) of an application under par. (b) 1.

3   through the water supply service area planning process under s. 281.348,

4   considering the items in par. (f) 1. to 7. as factors in the cost–effectiveness analysis

5   under s. 281.348 (3) (d) 1.".

6   **5.** Page 64, line 13: delete the material beginning with ", based" and ending

7   with "measures" on line 16.

8   **6.** Page 100, line 21: delete the material beginning with ", based" and ending

9   with "measures" on line 24.

10   **7.** Page134, line 10: after "establish" insert ", by rule,".

11   **8.** Page 144, line 2: after that line, delete the material inserted by senate

12   amendment 1 and substitute:

13   "**SECTION 38g. Nonstatutory provisions.**

14   (1f) SUBMISSION OF PROPOSED RULES. The department of natural resources shall

15   submit in proposed form the rules required under section 281.344 (4) (g) and 281.348

16   (3) of the statutes, as created by this act, to the legislative council staff under section

17   227.15 (1) of the statutes no later than the first day of the 18th month beginning after

18   the effective date of this subsection.".

19   **(END)**