



SCOTT ALLEN

REPRESENTATIVE • 97TH ASSEMBLY DISTRICT

PUBLIC TESTIMONY ON ASSEMBLY BILL 281

Chairman Kuglitsch, members of the committee, thank you for the opportunity to present to you today. This bill makes a minor substantive change to state law to more accurately reflect the role of the Great Lakes Council under federal law.

Several years ago, the City of Waukesha became aware of problems with our water supply. It contains increasing levels of contaminants such as radium. Waukesha began to seek another source of water, applying for a diversion of Lake Michigan water, to be sold by the City of Oak Creek.

Waukesha applied to serve a water supply service area that was set by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). SEWRPC did so under a new state planning law that was passed in 2008, but does not apply to most other municipalities until 2025, but applies to communities seeking diversions now.

SEWRPC included the City of Waukesha and portions of the City of Pewaukee, the Town of Waukesha and the Town of Delafield because they are in the Waukesha wastewater service area. It also included portions of the Town of Genesee in the proposed water supply service area at the request of the Department of Natural Resources.

Last year, the Great Lakes Council approved the application for Lake Michigan water under the Great Lakes Compact, but only in certain areas. They included only the City of Waukesha, Town of Waukesha islands and small areas of Pewaukee that are serviced by the City. They excluded other portions of Delafield, Genesee, Pewaukee and the Town of Waukesha. For your convenience, as a visual representation of this, I have attached a map as an exhibit to the written testimony which demonstrates the Waukesha Water & Sewer Service Areas, and the approved service area.

The Great Lakes Council acted under the Great Lakes Compact, which is federal law. Their decision on the area that Waukesha can serve cannot be increased by SEWRPC or by the state. For that reason, this bill reflects the current reality: that Waukesha's water supply service area is what is set by the Great Lakes Council. The same is true for any other community that may apply to the Council in the future.

This legislation does not change anything that the Great Lakes Council has approved. The City of Waukesha will still receive the same amount of water the Council approved, and return it as agreed. Furthermore, this bill eliminates the need for SEWRPC to go through the exercise of amending the water supply service area plan.

Thank you again for your time and attention to this matter. It is greatly appreciated by the citizens of Waukesha. I ask that you recommend the bill out of committee.

WAUKESHA WATER & SEWER SERVICE AREAS

I-94

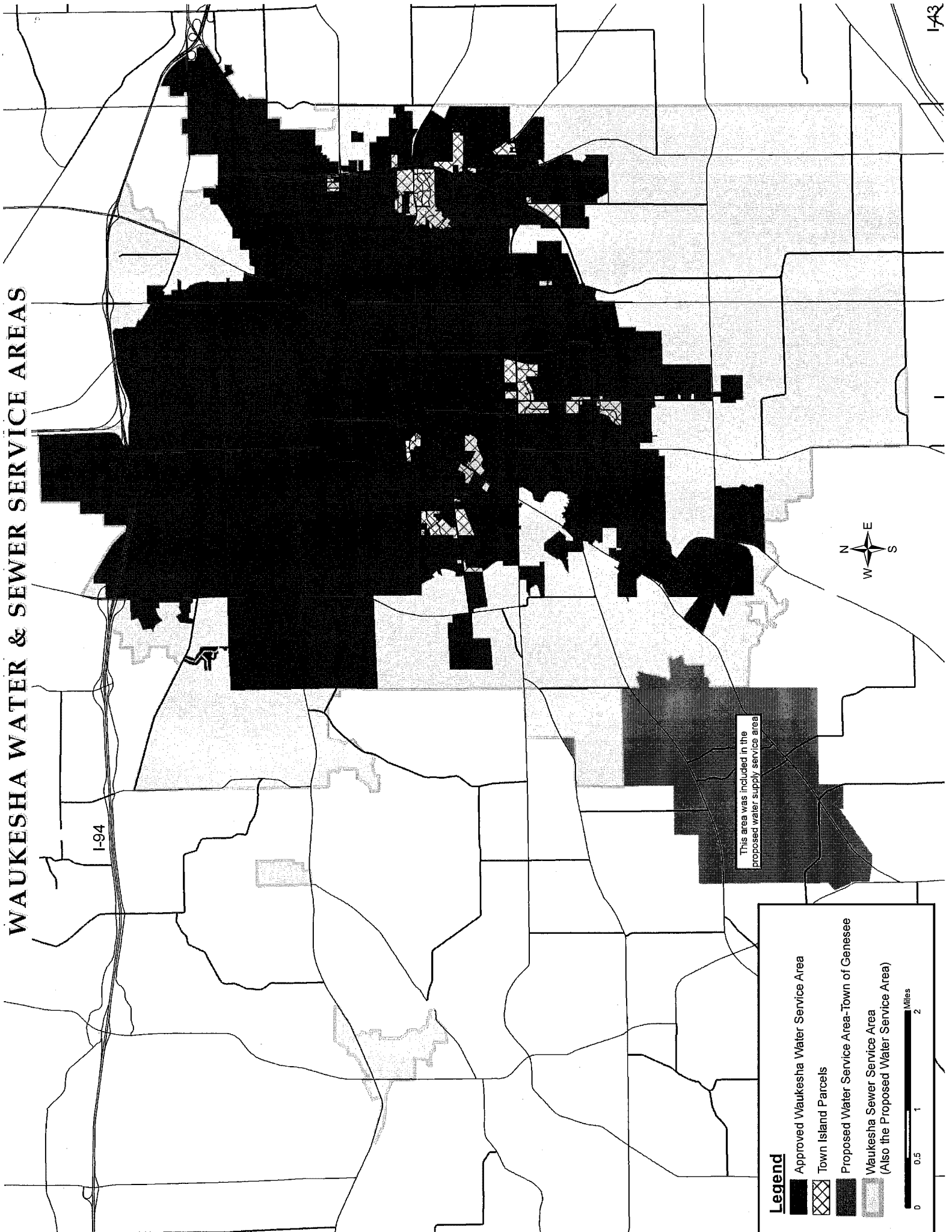


This area was included in the proposed water supply service area

Legend

- Approved Waukesha Water Service Area
- Town Island Parcels
- Proposed Water Service Area-Town of Genesee
- Waukesha Sewer Service Area (Also the Proposed Water Service Area)

0 0.5 1 2 Miles





CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Assembly Bill 281

Assembly Committee on Energy and Utilities

May 16, 2017

Thank you Chairman Kuglitsch and committee members for hearing testimony today on Assembly Bill 281. I also want to thank Representatives Allen and Neylon for leading on this issue in the Assembly.

As you may be aware, the City of Waukesha applied for a diversion of Lake Michigan water with the Great Lakes Council, which was approved in June 2016.

As part of Waukesha's application, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) delineated a water supply service area that was consistent with the existing wastewater plan. The plan included the city of Waukesha and portions of the City of Pewaukee and the Towns of Waukesha, Delafield, and Genesee.

However, the governors of the Great Lakes Water Council approved a smaller diversion area than what was proposed, limiting the area to the City of Waukesha and other areas served by the city.

Current law requires public water supply systems serving 10,000 people or more to complete a water supply service area plan, which is delineated by regional water supply planning agencies and approved by the DNR. Communities with new diversions of Great Lakes water under the Compact are required to have water supply service area plans. Current law also requires wastewater service areas for planning purposes that must be "consistent with" the water supply service area plan.

Essentially, the wastewater service area under state law is larger than the water supply service area approved by the Great Lakes Council. This leaves a potential discrepancy between state law and the binding decision of the Great Lakes Council. AB281 corrects this by allowing the diversion area approved by the Great Lakes Council to serve as the water supply service area, while not requiring it to be consistent with the wastewater service area.

Thank you Chairman Kuglitsch and committee members for hearing AB281 today and the opportunity to explain my support of this proposal.

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



Assembly Committee on Energy and Utilities
2017 AB 281
Designation of a Water Supply Service Area

Good afternoon Chairman Kuglitsch and committee members. Thank you for the opportunity to testify for informational purposes on AB 281.

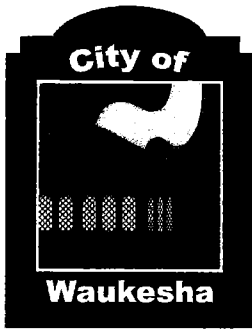
Under s. 281.348, Wis. Stats., created by 2007 Wisconsin Act 227, public water supply systems serving a population of 10,000 or more are required to prepare a water supply service area plan by 2026. However, in two instances, public water supply systems must have a water supply service area plan prior to 2026: when a public water supply system in a Great Lakes Basin (GLB) portion of Wisconsin proposes a new or increased withdrawal; and when a community proposes a diversion of Great Lakes water. A required element of water supply service area plans is the delineation of the water supply service area for the public water supply system.

In addition, certain proposals for new and increased diversions which require the applicant to create a water supply service area plan and area also require regional review and approval from the Great Lakes Council (Council). Diversion approvals issued by the Council can and do include a delineated 'diversion area'. The diversion area sets the boundary to which the public water supply system can supply diverted water under the approval by the Council. *Diversion areas established by the Council* are not required *by the Council* to match the delineated *water supply service area* for the public water supply systems.

2017 Assembly Bill 281 modifies Wis. Stat. § 281.348 so that if the Council sets a diversion area, that diversion area is the water supply service area for the public water supply system. In addition if the water supply service area is changed to match a diversion area set by the Council the water supply service area need not be consistent with the community's areawide water quality management plan.

This statutory change provides consistency by specifying that a diversion area established by the Great Lakes Council is the water supply service area for that public water supply system. This change ensures that a water supply service area is consistent with an applicable diversion area and diversion approval issued by the Great Lakes Council.

I hope you find this information helpful, and would be happy to address any questions you may have.



OFFICE OF THE MAYOR

201 DELAFIELD STREET
WAUKESHA, WISCONSIN 53188-3633
TELEPHONE 262/524-3701 FAX 262/524-3899

Shawn N. Reilly
sreilly@ci.waukesha.wi.us

Testimony in support of AB 281 Re: water supply service areas

Waukesha Mayor Shawn Reilly

Thank you, Chairman Kuglitsch and committee members, for the opportunity to testify in support of Assembly Bill 281. I also want to thank Rep. Scott Allen, Rep. Adam Neylon and Sen. Chris Kapenga for authoring the bill. In addition, I want to thank Governor Scott Walker for including the same idea in the state budget. However, that provision was removed by the Joint Committee on Finance, along with other items determined to be non-fiscal.

As you likely know, the Great Lakes governors unanimously approved Waukesha's request to borrow and return Lake Michigan water under the Great Lakes Compact in June of 2016. The governors, with input from two Canadian provinces, determined that Lake Michigan was our only reasonable water supply alternative. Our current groundwater supply is severely drawn down, in part because a layer of shale restricts recharge by rain and snow.

The groundwater is also contaminated with naturally occurring radium and we are required by a court order to comply with federal drinking water standards for this health issue. Unfortunately, all of our water supply alternatives to Lake Michigan would cause unacceptable environmental impacts.

You should know that for every gallon we withdraw we will be returning the same volume of water back to the Great Lakes via the Root River. There will be no net loss to the Great Lakes. In addition, the governors and Canadian premiers found that the return flow would provide an environmental benefit to the Root River.

The issue that AB 281 addresses is our water supply service area.

Wisconsin has had statutes requiring **wastewater** service areas for planning purposes for more than 30 years.

When the Wisconsin Legislature adopted the Compact in 2008, it included a new provision creating services areas for **drinking water supply** areas. This provision of the Compact implementation law requires all public water supply systems serving 10,000 people or more to have water supply service area plans.



Communities with new diversions of Great Lakes water under the Compact are required to have water supply service area plans under the new state planning law. For other communities, the plans are not required to be in place until the end of 2025.

The service areas are delineated by regional water supply planning agencies and approved by the DNR. The statute requires, among other provisions, that the water supply service area plan must be "consistent with" the wastewater service area plan.

As part of its application, Waukesha utilized the water supply service area that was delineated by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). The proposed water supply service area largely matched our existing wastewater plan, but included the Town of Genesee at the DNR's request. The plan also included the city of Waukesha and portions of the City of Pewaukee and the Towns of Waukesha and Delafield, along with Genesee.

However, ***the diversion area approved by the Great Lakes governors is smaller than what was proposed.*** It limited the area to the City of Waukesha, to town islands within the city and to other areas that are served by the city. The Great Lakes Council also reduced the diversion volume to 8.2 million gallons per day, down from the 10.1 million gallons per day for the larger area that was applied for.

The Great Lakes Compact was adopted by eight Great Lakes states, and it is also federal law. The Great Lakes governors have the authority to determine the diversion area. AB 281 simply recognizes that authority and says a diversion area set by the Great Lakes governors, acting as the Great Lakes Council, shall be the water supply service area for purposes of state law. The purpose of the bill is to recognize the legal realities and avoid any potential conflicts between state law and determinations of the Compact Council. It also avoids the need for SEWRPC to redo the water supply service area by recognizing that the action by the governors is controlling. It should not be controversial in any way.

The bill only affects communities that divert and return Great Lakes water with the approval of the Great Lakes Council.

Thank you for considering this bill. I hope you can recommend it for passage by the Assembly.