



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

Memo No. 12

TO: MEMBERS OF THE SUBCOMMITTEE ON WATER CONSERVATION AND BOTTLED WATER OF THE SPECIAL COMMITTEE ON GREAT LAKES WATER RESOURCES COMPACT

FROM: John Stolzenberg, Chief of Research Services, and Rachel Letzing, Senior Staff Attorney

RE: Drafting Instructions From the Subcommittee on Water Conservation and Bottled Water – Version 4

DATE: January 9, 2007 (Revised February 15, 2007)

This Memo lists the drafting instructions provided by your subcommittee at its January 5, 10, and 19, and February 1, 2007 meetings. These instructions are for a portion of the legislation being developed by the Special Committee to implement the Great Lakes-St. Lawrence River Basin Water Resources Compact (“the compact”).

The second to last page of the Memo contains the proposed sequence of issues for consideration by the subcommittee that we presented at the subcommittee’s January 5 meeting. The organization of these issues has been modified to reflect the subcommittee’s discussion of the water conservation framework in the compact at that meeting.

The last page of the Memo contains the flowchart of the water conservation framework in the compact discussed at the subcommittee’s January 5 meeting.

DRAFTING INSTRUCTIONS

- I. State requirements under a statewide water conservation framework.
 - A. Apply the water conservation framework in the basin under the compact.
 - 1. For purposes of complying with the compact, limit reporting, assessment, and interaction with the council to the Great Lakes basin portion of the state.
 - 2. Condition reporting and other interaction with the council and other states and provinces on water conservation programs in the Great Lakes basin on the compact becoming effective.

3. Require agencies administering water conservation programs to tailor program requirements based upon characteristics of regulated water users (i.e., avoid “one size fits all” type regulations).
4. Require the Department of Natural Resources (DNR), when developing state water conservation and efficiency goals and objectives applicable in the Great Lakes basin, to coordinate that process with the pilot program for establishing these goals and objectives that DNR will be implementing later this year in cooperation with the Council of Great Lakes Governors.

B. Specify that DNR shall be the lead agency for implementing the framework. Direct DNR to consult with the Public Service Commission (PSC) and the Department of Commerce in implementing the framework.

C. Establish an advisory committee to assist DNR in implementing the framework statewide.

1. Base the committee composition on the Act 310 Groundwater Advisory Committee; with additional representation of federally recognized American Indian tribes and bands in this state.
2. Specify that the committee shall operate for a limited period during development of the initial goals and objectives and initial rule-making.

II. Water conservation tiers.

A. All water users.

1. Applies statewide (not individually site specific).
2. Measures managed by state agencies at the state level with uniform approach.
 - a. Information and education utilizing state website.
 - b. Plumbing codes.
 - c. Piping standards, etc.

B. Tier 1 measures.

1. Metering or equivalent.
2. Costing and pricing (not applicable to self-supply).
3. Assessment/accounting of loss.
4. Information and education.

C. Tier 2 measures.

1. All tier 1 measures.
2. Water-use audits.
3. Retrofits.
4. Pressure management.
5. Landscape efficiency.

D. Tier 3 measures.

1. All tier 1 and 2 measures.
2. Replacements and promotions.
3. Reuse and recycling.
4. Water-use regulation.
5. Integrated resource management.

E. Define water conservation measures in tiers 1 to 3 based on descriptions of the measures in *Water Conservation Plan Guidelines, Appendix A, Water Conservation Measures*, prepared by the U.S. Environmental Protection Agency (EPA). [Appendix A is posted on the Internet at <http://www.epa.gov/watersense/pubs/guide.htm>.]

F. Measures in a tier apply to a permit or approval holder. They do not directly apply to customers of water utilities, though a water utility may, as appropriate, work with its customers in implementing particular measures.

III. Water conservation programs for new or increased diversions authorized under the compact.

A. Require an applicant for a diversion under the compact to demonstrate that the applicant:

1. Has engaged in water conservation planning prior to submitting the application that does all of the following:
 - a. Evaluates present and future water uses.
 - b. Sets a baseline for its waters use.
 - c. Evaluated which water conservation measures in tier 2 and measures 2 and 3 in tier 3 are environmentally sound and economically feasible to provide for the conservation of existing water supplies required under proposed is s. 281.343 (4n) (c) 1. d. and (d) 1. in LRB-0058/P1.

- d. Evaluates which water conservation measures in tier 3 are environmentally sound and economically feasible as part of implementing the proposed diversion under proposed s. 281.343 (4n) (d) 5. in LRB-0058/P1.

2. Has implemented the environmentally sound and economically feasible water conservation measures identified under item III. A.1. c. to provide for the “conservation of existing water supplies.”
3. Commits to implementing the environmentally sound and economically feasible water conservation measures identified under item III. A.1. d.

IV. Water conservation programs for new or additional withdrawals in the Great Lakes basin by water utilities.

- A. For all amounts of withdrawals, require the utility to evaluate which water conservation measures in tier 1 are environmentally sound and economically feasible for the utility in a water conservation planning process that includes items III. A. 1. a. and b. and to commit to implementing those measures which meet these criteria.

V. Water conservation programs for new or additional withdrawals in the Great Lakes basin for self-supply.

- A. For all amounts of withdrawals, require the withdrawer to evaluate which water conservation measures in Tier 1 are environmentally sound and economically feasible for the withdrawer and to commit to implementing those measures which meet these criteria.

VI. Water conservation programs for new or additional consumptive uses in the Great Lakes basin by water utilities.

- A. For a net consumptive use greater than a percentage of the utility’s annual withdrawal of water specified by DNR, and if that percentage amount exceeds 1 million gallons per day, require the utility to evaluate which water conservation measures in tier 1 are environmentally sound and economically feasible for the utility and to commit to implementing those measures which meet those criteria, if all of the following conditions are met:

1. DNR determines there is a need for the water conservation measures under the applicable portions of the statewide water conservation framework under item I.
2. DNR determines there is an available methodology for determining the consumptive use of water by a water utility.

- B. Direct the utility to conduct this evaluation as part of a water conservation planning process that includes items III. A. 1. a. and b.

VII. Water conservation programs for new or additional consumptive uses in the Great Lakes basin by users on self-supply.

A. For a net consumptive use greater than a percentage of the user's annual withdrawal of water specified by DNR, and if that percentage amounts exceeds 1 million gallons per day, require the user to evaluate which water conservation measures in Tier 1 are environmentally sound and economically feasible for the user and to commit to implementing those measures which meet those criteria, if all of the following conditions are met:

1. DNR determines there is a need for the water conservation measures under the applicable portions of the statewide water conservation framework under item 1.
2. DNR determines there is an available methodology for determining the consumptive use of water by the user.

VIII. Water conservation programs for new or additional withdrawals or consumptive uses outside the Great Lakes basin and for existing withdrawals or consumptive uses statewide.

A. Implement applicable measures required under statewide programs under item II. A.

Comment: This instruction will not require any changes in the regulation of withdrawals or consumptive uses of water as these statewide programs will be administered by state agencies and enforced under current law.

UNRESOLVED ISSUES FOR CONSIDERATION BY THE FULL COMMITTEE

I. Regulation of withdrawals for bottle water.

A. No consensus on the following issue:

1. Application of the decision-making standard to a proposal to withdraw water for bottled water in containers of 5.7 gallons or less and specification of the threshold level that would trigger this application. [Proposed s. 281.343 (4t) (j) in LRB-0058/P1.]

II. Regulation of withdrawals resulting in 95% or greater consumptive use.

A. No consensus on the following issue:

1. Requirement that an application for a new or increased surface water withdrawal include an analysis of whether the withdrawal will result in 95% or greater consumptive use (similar to the requirement in proposed s. NR 820.32, regarding new groundwater withdrawals via high capacity wells with high water loss). [Proposed s. 281.343 (4p) (a) in LRB-0058/P1.]

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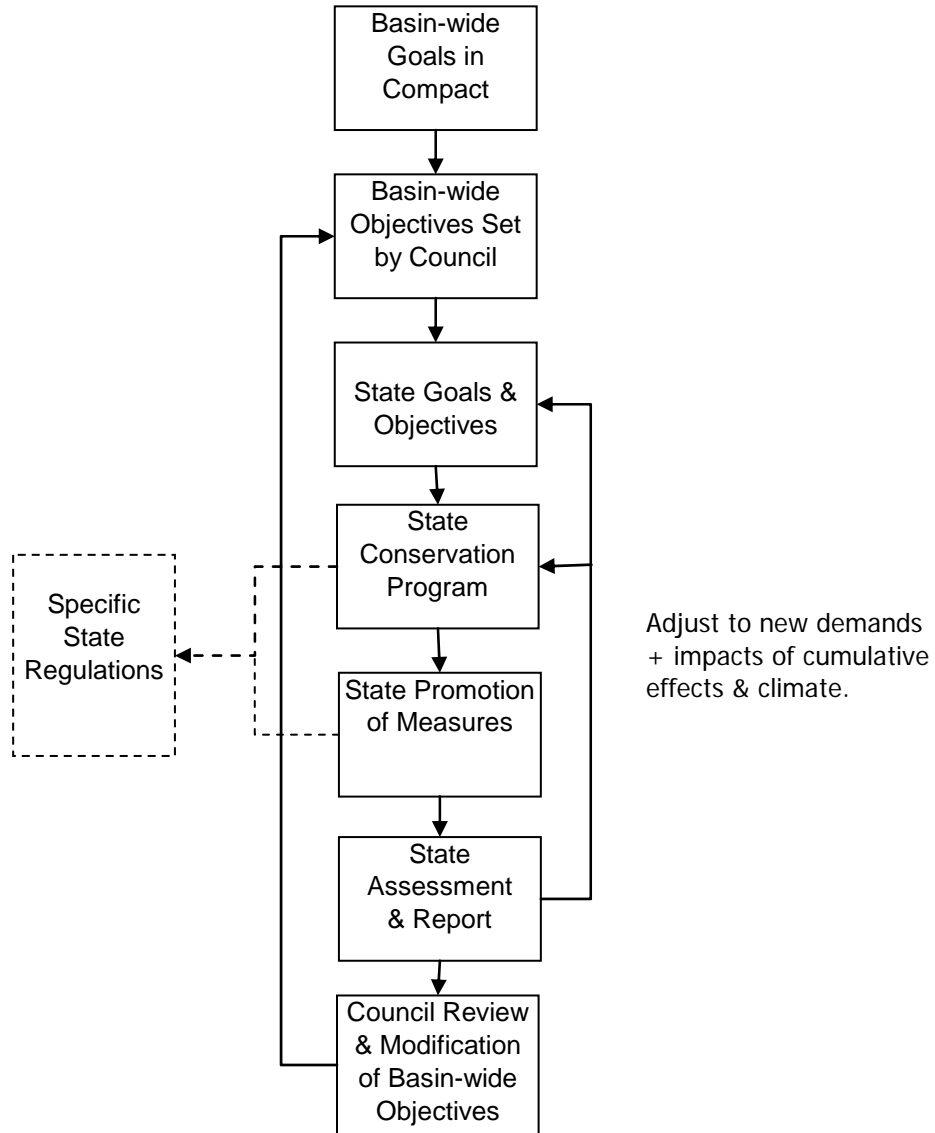
*Proposed Sequence of Issues**

[Citations to applicable provisions in LRB-0058/P1 in brackets]

1. State portion of the water conservation framework in the compact.
 - a. State water conservation and efficiency goals and objectives. [s. 281.343 (4b) (b).]
 - b. Development and implementation of state program. [s. 281.343 (4b) (b) and (e).]
 - c. Promotion of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4b) (d).]
 - d. State water conservation program annual assessment and report to the council and regional body. [s. 281.343 (4b) (b).]
 - e. Adjustment of water conservation programs. [s. 281.343 (4b) (e).]
2. State water conservation regulations.
 - a. Water conservation programs for new diversions authorized under the compact (straddling communities, intra-basin transfers, and communities within a straddling county), including, where applicable, incorporation of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4n) (b) 2. b., and 3. b., (c) 1. d., and (d) 1. and 5.]
 - b. Water conservation programs for new withdrawals and consumptive uses subject to the compact’s decision-making standard, including incorporation of “environmentally sound and economically feasible water conservation measures.” [s. 281.343 (4r) (c).]
 - c. Water conservation programs for other new withdrawals and consumptive uses not subject to the Compact’s decision-making standard. [s. 281.343 (4b) (e).]
 - d. Water conservation programs for existing withdrawals, consumptive uses and diversions. [s. 281.343 (4b) (e).]
3. Bottled water.
4. Other issues.

* Includes applicable definitions in the compact.

Water Conservation Framework in the Compact
Based on Proposed s. 281.343 (4b) in LRB-0058/P1



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