



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
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TO: SENATOR NEAL KEDZIE

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

RE: Remaining Issues Relating to the Ratification and Implementation of the Great Lakes-St. Lawrence River Basin Water Resources Compact

DATE: February 6, 2007

This memorandum, prepared at your request, identifies issues relating to the ratification or implementation of the Great Lakes-St. Lawrence River Basin Water Resources Compact (the “compact”) that arose, or that we identified, during the deliberations of the Special Committee on Great Lakes Water Resources Compact and the subcommittees of this committee and that have not yet been resolved as of the most recent round of subcommittee meetings that concluded February 1, 2007. These issues are identified below under the following headings:

- Implementation issues discussed by a subcommittee with no consensus on how to resolve the issue.
- Other significant implementation issues not addressed by any subcommittee or the full committee.
- Issues on the text of provisions in the compact raised by committee members during subcommittee meetings.

Implementation Issues Discussed by a Subcommittee With no Consensus on How to Resolve the Issue

Regulation of New or Increased Diversions, Withdrawals, and Consumptive Uses Under the Compact

- Criteria for establishing the baseline for determining a new or increased diversion, withdrawal, or consumptive use. [Proposed s. 281.343 (4t) (b) in LRB-0058/P1.]

Regulation of New or Increased Diversions Under the Compact

- The date on which the boundaries of “communities within a straddling county” and “straddling communities” are established for purposes of new or increased diversions under the compact. [Proposed s. 281.343 (1e) (d) and (t) in LRB-0058/P1.]
- Inclusion of special purpose districts that are water utilities in the definitions of “community within a straddling county” and “straddling communities” for purposes of new or increased diversions under the compact. [Proposed s. 281.343 (1e) (d) and (t) in LRB-0058/P1.]
- Definition of “hydrologically interconnected” and interpretation of “substantive consideration” in the optional consideration of a diversion to a community within a straddling county under the regulation of a new or increased diversion under the compact. [Proposed s. 281.343 (4n) (c) 2. in LRB-0058/P1.]

Regulation of New or Increased Withdrawals or Consumptive Uses Under the Compact

- Threshold level or levels for determining which new or increased withdrawals and consumptive uses are subject to the compact’s decision-making standard. [Proposed s. 281.343 (4p) (a) and (b) in LRB-0058/P1.]
- Interpretation of the requirement that state programs for regulating new or increased withdrawals and consumptive uses must be “consistent” with the decision-making standard. [Proposed s. 281.343 (4p) (a) in LRB-0058/P1.]
- Interpretation and application of the tests in the decision-making standard, especially the no significant cumulative adverse impacts test. [Proposed s. 281.343 (4r) (a) to (e) in LRB-0058/P1.]
- 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.]
- 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.]

Other Significant Implementation Issues Not Addressed By Any Subcommittee or the Full Committee

- Procedures and criteria for implementing adaptive management provisions in the compact. [Proposed s. 281.343 (4) (f), (4b) (b), (c), and (e), (4p) (a) and (c), and (4z) (a) in LRB-0058/P1.]
- Required content of “cumulative impact assessment, applicants’ responsibilities on this assessment, and the relationship of this assessment to the cumulative impact assessment test

in the decision-making standard. [Proposed s. 281.343 (4r) (b) and (4z) (a) in LRB-0058/P1.]

- Certification by an association of its member's water conservation practices. [Proposed s. 281.343 (4b) (b) and (e) and (4r) (c) in LRB-0058/P1.]
- Effective date or dates of new regulations under the compact.
- Enforcement of new regulations under the compact and penalties for violation of those regulations.
- Funding and position authorizations for agencies implementing the compact, especially the Department of Natural Resources.

Issues on the Text of Provisions in the Compact Raised By Committee Members During Subcommittee Meetings

- One Governor veto of an intra-basin transfer that results in a new or increased consumptive use of 5 million gallons per day or greater average over a 90-day period, or a diversion to a community within a straddling county, raised by Senator Mary Lazich and Public Member Matt Moroney. [Proposed s. 281.343 (4n) (b) 3. d. and (c) 1. g. in LRB-0058/P1.]
- Vague language and standards throughout the compact, raised by Senator Mary Lazich.
- Authority of a majority of members of the regional body to request regional review of a "regionally significant or potentially precedent setting proposal," raised by Public Member Matt Moroney. [Proposed s. 281.343 (4h) (a) 6. in LRB-0058/P1.]

If you have any questions on any of the issues identified in this memorandum, please feel free to contact us at the Legislative Council staff offices.

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