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**WISCONSIN LEGISLATIVE COUNCIL  
STAFF MEMORANDUM**

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Memo No. 6

**TO:** MEMBERS OF THE SPECIAL COMMITTEE ON GREAT LAKES WATER RESOURCES COMPACT

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

**RE:** Options on the Governor's Alternates and Advisors to the Great Lakes-St. Lawrence River Basin Water Resources Council

**DATE:** November 6, 2006

At the October 4 meeting, committee members discussed Great Lakes-St. Lawrence River Basin Water Resources Compact ("compact") provisions identified in Memo. No. 4, which provide flexibility to the party states. One area in which a state has flexibility in implementing the compact is the designation of the Governor's alternate and advisor to the Great Lakes-St. Lawrence River Basin Water Resources Council ("council"), which will be created when the compact is ratified by the Great Lakes states and consented to by Congress.

The purpose of this Memo is to present options for the committee's consideration related to the Governor's alternate and advisor to council. After the committee chooses which option or options it prefers, the committee's choice will then provide the basis for drafting instructions to committee staff. The list of options presented here is not intended to be exhaustive. Committee members may offer additional options or combine options listed in this Memo.

The Memo is divided into the following sections:

- Relevant provision of the Great Lakes Water Resources Compact, LRB-0058/P1.
- Current law provisions.
- Options for committee discussion.

**Compact (LRB-0058/P1)**

The compact creates the council as an agency and instrumentality of the governments of the respective party state and specifies that the council must consist of the Governors of the party states. [Proposed s. 281.343 (2) (a) and (b), as created by LRB-0058/P1.] Each council member (i.e. the

Governor) must appoint at least one alternate who may act in his or her place, who has the authority to attend all council meetings and the power to vote in the Governor's absence. [Proposed s. 281.343 (2) (c).] The compact provides that, unless otherwise provided by law of the party state, each alternate must serve during the term of the Governor who appointed him or her and is subject to removal at the pleasure of the Governor. [Proposed s. 281.343 (2) (c).] In addition, each Governor may appoint an advisor, who may attend all council meetings but who does not have voting power. [Proposed s. 281.343 (2) (e).]

### **Current Law**

Appointments to boards, councils, commissions, examining boards, and other entities in state government are made in a variety of ways. The statutes specify, for each entity, how appointments to that entity are made. Frequently, the Governor is required to make appointments to these entities. These appointments may, or may not, require the advice and consent of the Senate before the appointments become effective. If advice and consent of the Senate is required for a specific appointment, this requirement is specified in the statutes. Current statutes do not contain any precedents for appointing an advisor to the Governor.

The following are examples of interstate commissions and organizations which require the Governor, by statute, to appoint an individual to these entities:

- The Great Lakes Compact Commission, created by the Great Lakes Basin Compact in 1955. The commission promotes the orderly, integrated and comprehensive development, use and conservation of the water and related natural resources of the Great Lakes Basin and St. Lawrence River. The commission members include the eight Great Lakes states with associate member status for the Canadian provinces of Ontario and Québec. Under s. 14.78, Stats., the Governor must appoint Wisconsin's three members of the commission on the basis of their knowledge of and interest in Great Lakes Basin "problems." One commissioner, who must be a state officer or employee, is appointed to an indefinite term and serves as secretary of Wisconsin's compact commission and as a member of the executive committee of the interstate commission. Wisconsin's other commissioners serve four year terms. The advice and consent of the Senate is not required for any these appointments.
- The Great Lakes Protection Fund, a private, non-profit corporation created by the seven member states to help protect and restore the Great Lakes ecosystem. Section 14.84, Stats., authorizes the Governor to provide for the state's participation in the formation and operation of the fund. The Governor must nominate two persons to represent the state on the board of directors of the fund, who must be appointed with the advice and consent of the Senate. The Governor's appointees serve two year terms.
- The Midwest interstate low-level radioactive waste commission, created by the Midwest Interstate Low-Level Waste Compact. The commission's duties include negotiating agreements for the disposal of waste at facilities within or outside the region, settling disputes between party states regarding the compact, and adopting a regional management plan designating host states for the establishment of needed regional facilities. Under s. 14.81, Stats., Wisconsin's commission member must promote Wisconsin's interest in an equitable distribution of responsibilities among compact member states, encourage public access and participation in the commission's proceedings, and notify the Governor and the

Legislature if the commission proposes to designate a disposal facility in this state. The Governor is required to nominate a member of the commission to represent Wisconsin. The appointment requires the advice and consent of the Senate, and the appointed member serves at the pleasure of the Governor.

### **Options**

#### **Alternate**

The following are options for specifying the term, process of appointing, and minimum qualifications of the Governor's alternate to the council:

#### ***Term***

1. To serve at the pleasure of the Governor. Under this option, the term would end on the Governor's initiative or when the Governor leaves office.
2. A specific number of years: two years; four years; or another number.

#### ***Appointment Process***

1. Require appointment be made with the advice and consent of the Senate.
2. Do not require Senate confirmation.

#### ***Minimum Qualifications***

1. Specify that the Secretary of Department of Natural Resources (DNR), or his or her designee shall serve as the Governor's alternate.
2. Adopt option 1 and also require that Secretary's designee have knowledge of and experience with Great Lakes water management issues.
3. Specify that the Governor's alternate must be a state employee with knowledge of and experience with Great Lakes basin water management issues.
4. Do not specify minimum qualifications.

#### **Advisor**

Unlike the appointment of an alternate to the council, the Governor has the discretion to decide whether to appoint an advisor. The committee may determine that, if the Governor does appoint an advisor, that he or she has the discretion to choose whomever he or she prefers for this position. In the alternative, in the event the Governor appoints an advisor, the committee may wish to place certain conditions on this appointment. The following are options for specifying the term, process of appointing, and minimum qualifications of the Governor's advisor:

***Term***

3. To serve at the pleasure of the Governor. Under this option, the term would end on the Governor's initiative or when the Governor leaves office.
4. A specific number of years: two years; four years; or another number.

***Appointment Process***

1. Require appointment be made with the advice and consent of the Senate
2. Do not require Senate confirmation.

***Minimum Qualifications***

1. Require that the Governor's advisor have knowledge of and experience with Great Lakes basin water management issues.
2. Adopt option 1 and specify that the Governor's advisor be a state employee.
3. Adopt option 1 and specify that the Governor's advisor be a private citizen.
4. Do not specify minimum qualifications.

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