



WISCONSIN LEGISLATIVE COUNCIL

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TO: REPRESENTATIVE SPENCER BLACK AND SENATOR MARK MILLER

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

RE: LRB-4094/1, Relating to Groundwater Management and Water Conservation

DATE: March 4, 2010

This memorandum, prepared at your request, provides an overview of the major elements of the bill draft LRB-4094/1, relating to groundwater management and water conservation (hereafter, “the bill”). This bill is based upon the legislative proposal reviewed by your Groundwater Work Group.

Groundwater Management Areas

As discussed by the Groundwater Work Group, a groundwater management area (GMA) is a geographic area of the state where coordinated management of groundwater is needed to avoid or mitigate significant adverse environmental impacts associated with excessive groundwater withdrawals.

The bill:

- Specifies the procedure and statutory hydrologic criteria for the Department of Natural Resources (DNR) to designate an area of the state, by rule, as a GMA.
 - Under this procedure, the DNR may make this designation only if the Groundwater Coordinating Council concludes that the area qualifies as a GMA, based on the input of the Council’s Subcommittee on Groundwater Area Review.
 - The designations of two GMAs under current law are repealed, and these areas must be considered under the new designation process created by the bill.
 - The DNR must establish a target date and target (groundwater) withdrawal quantity for a GMA to no longer meet the designation criteria within six months after it designates the GMA.

- The DNR may rescind a GMA designation after the target date if the Groundwater Coordinating Council recommends rescission, based on the input of the Council's Subcommittee on Groundwater Review.
- Requires the chief executive of the county that contains a GMA to appoint a groundwater management council for the GMA. For a GMA in multiple counties, the counties must negotiate an agreement that provides for the appointment of the council.
 - If a council for a GMA is not appointed within six months of the GMA designation, the DNR must appoint the council.
- Directs a groundwater management council to develop, with public participation, a groundwater management plan for the GMA. The plan must contain the specified elements, including water conservation measures, and be designed to ensure that the GMA will no longer qualify for designation as a GMA by the target date and to achieve the target withdrawal quantity.
 - If a plan is not approved by the counties in which the GMA is located and submitted and approved by the DNR within three years after the GMA is designated, the DNR must develop a plan for the GMA.
- Expands the environmental review provisions of the high capacity well law to apply to a proposed high capacity well in a GMA before DNR approves a groundwater management plan for the area.
- Requires in a GMA with a groundwater management plan approved by the DNR:
 - New and existing high capacity well approvals to be consistent with the plan.
 - Certain surface water approvals [ss. 30.18 (2) (a) and 281.41, Stats.] to include water conservation requirements consistent with the plan.
- Requires public water supply systems serving 10,000 or more in a GMA to prepare their water supply plans within four years after designation of the GMA (rather than by the end of 2025). These plans must be consistent with the groundwater management plan for the GMA.

Groundwater Attention Areas

The bill establishes that groundwater attention areas (GAAs) are areas where the projected water use trends are likely to qualify the area for designation as a GMA within the following 20 years.

The bill:

- Specifies the procedures for the DNR to designate an area of the state as a GAA, specify the target date and target withdrawal quantity for the GAA, and rescind this designation.
 - These procedures are comparable to the GMA procedures, except that DNR is not required to make the designation by rule.

- Authorizes, but does not require, the chief executive of a county that contains a GAA to appoint a groundwater management council. For a GAA in multiple counties, the counties may negotiate an agreement that provides for the appointment of this council, and they may appoint the council.
- Authorizes a groundwater management council to develop a groundwater management plan for the GAA that is designed to ensure that the GAA will no longer qualify for GAA designation by the target date and to achieve the target withdrawal quantity.
 - The council may recommend to the affected county boards that the counties request the DNR to approve the groundwater management plan for the GAA.
- Requires, if the affected counties request DNR approval of a groundwater management plan for a GAA and the DNR approves the plan, new and existing high capacity well approvals in the GAA be consistent with the plan.

High Capacity Well Approvals

In addition to the modification of the regulation of high capacity wells in GMAs and GAAs, the bill:

- Changes the criteria for determining which springs are qualifying springs subject to protection under the high capacity well law.
 - The bill requires the DNR to conduct an inventory of large springs in the state within three years of bill's effective date, and, when the inventory is complete, submit the report to the Legislature.
 - Beginning on the day the DNR submits the report to the Legislature, a spring that results in a flow of at least 0.25 cubic feet per second and that is perennial, as defined by DNR by rule, is a qualifying spring under the high capacity well law.
- Provides that the current environmental review provisions of the high capacity well law that apply to a proposed high capacity well with a water loss of more than 95% of the amount of water withdrawn also apply to a proposed high capacity well for a water bottling facility.
- Authorizes any person to file a petition with the DNR requesting environmental review of a proposed high capacity well that does not meet any of the specific criteria under current law, on the grounds that construction and operation of the well as proposed is reasonably probable to result in significant adverse environmental impact to surface waters.
- Codifies the definition of "significant adverse environmental impact" currently in DNR's rules.
- Requires the DNR to report to the Legislature on streamlining the high capacity well approval process.

- The report must address the feasibility of creating an expedited approval process for certain high capacity wells, including the creation on an Internet-based method to assist the public in determining whether a proposed well may qualify for expedited approval.

Water Conservation

The bill:

- Requires the DNR to include water conservation requirements in certain large surface water and groundwater approvals [ss. 30.18 (2) (a); 281.34; 281.41, Stats.] for a new or modified withdrawal in the upper Mississippi River basin of at least 1,000,000 gallons per day for any 30 consecutive days.
- Directs the Public Service Commission (PSC) to issue an order for encouraging water conservation by water utilities and their customers through rates, incentives, rebates, or other methods determined by the PSC. The PSC must impose the highest priority for compliance on water utilities located in designated GMAs.
 - No later than January 1, 2011, the PSC must submit to the appropriate legislative standing committees a report summarizing and evaluating the PSC's actions to encourage water conservation by public utilities that furnish water and by their customers, including actions regarding incentive programs and rate structures.
- Requires the Department of Commerce to promulgate administrative rules that establish standards for the installation and use of graywater and rainwater systems in buildings and surrounding property. "Graywater" is defined to mean wastewater generated from the use of a clothes washer, sink, shower, or bathtub.

If you have any questions on LRB-4094/1, please feel free to contact either of us at the Legislative Council staff offices.

JES:REL:ksm