



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #555

Groundwater Management Positions (DNR -- Water Quality)

[LFB 2005-07 Budget Summary: Page 375, #12]

CURRENT LAW

On May 7, 2004, 2003 Wisconsin Act 310, ("the groundwater protection act") took effect. Act 310 establishes procedures for designating groundwater protection areas, requires DNR to designate two groundwater management areas including and surrounding Brown County and Waukesha County, creates a groundwater advisory committee, requires DNR to review applications for high capacity wells for impacts to groundwater protection areas, requires DNR to direct an applicant for a high-capacity well with certain potential environmental impacts to prepare an environmental impact report, requires that DNR include certain types of conditions in the approval for certain high-capacity well permits, directs DNR to conduct groundwater monitoring and research, and establishes a system of fees to pay for costs associated with the program. (A high-capacity well is a well that, together with all other wells on the same property, has a capacity of more than 100,000 gallons per day.) The act requires landowners to notify DNR of the location of a well that is not a high-capacity well before construction of the well begins and to pay a notification fee of \$50, and requires applicants for high capacity wells to pay a fee of \$500. The fees authorized in the act are expected to generate annual program revenue of approximately \$1,000,000.

Act 310 created three program revenue appropriations in DNR for expenditures from the fee revenue but did not authorize any staff, research or administrative expenditures. First, a PR annual appropriation was created to support DNR costs to administer the programs. Second, a PR biennial appropriation was created to support groundwater research and monitoring. Third, a PR continuing appropriation was created for groundwater mitigation grants in groundwater protection areas to mitigate the effects of certain wells constructed in the areas and for local assistance in groundwater management areas. DNR may generally only require mitigation if it the Department can provide funding for the full cost of mitigation. All monies received from well notification and permit fees, and not appropriated to the annual administrative or biennial

research appropriation, remain in the groundwater mitigation grants and local assistance appropriation and can be spent without further legislative approval. Since the act did not authorize funds or positions for administration or research and monitoring, base funding for the continuing groundwater mitigation and local assistance appropriation is estimated as \$1,000,000 annually.

GOVERNOR

Provide \$339,000 PR in 2005-06 and \$431,600 PR in 2006-07 with 5.0 PR positions annually to administer the groundwater management provisions of 2003 Wisconsin Act 310. The positions would be located in the Water Division's Bureau of Drinking Water and Groundwater.

DISCUSSION POINTS

1. In a fiscal note to the groundwater protection bill, DNR indicated that costs to administer the program would total \$2.9 million annually and require 15.0 positions. While Act 310 created fees expected to generate \$1 million in annual revenues, no positions or administrative funding were authorized. In September, 2004, DNR submitted a request to the Department of Administration (DOA) under s. 16.505/515 for position and spending authority for 9.0 positions. DOA did not forward the request to the Legislature. Instead, the Governor's 2005-07 budget includes a recommendation for 5.0 positions for the program.

2. The five positions provided in the bill would include three hydrogeologists, one advanced water supply engineer and one information resources technician. The positions would be responsible for the following activities: (a) track well notifications submitted by owners of non-high-capacity wells and process the \$50 notification fee; (b) review applications for high-capacity wells to determine if they meet the environmental criteria for additional review; (c) perform additional environmental review for high-capacity wells where it is required; (d) inspect activities of well drillers and pump installers during construction of wells; (e) collect and manage data related to groundwater use; and (f) provide staff support to the groundwater advisory committee.

3. The well notification and permit fees under the act became state law on May 7, 2004. While it would have been difficult for DNR to implement the fees as soon as the act took effect, DNR collected no fees for the first year after the effective date. DNR intends to begin collecting fees this month. DNR will collect the \$50 well notification fees through the Department's ALIS system. (ALIS is the automated license issuance system available at DNR service centers, retail vendor locations throughout the state and the Internet for various DNR licenses and permits, primarily hunting and fishing licenses.) DNR officials indicate that the Department waited to begin collecting fees because: (a) they hoped staff would be authorized through the s. 16.505/515 request for program implementation before fee collection would begin; (b) the drinking water and groundwater program staff needed time to work with well drillers and DNR customer service and licensing staff to develop a process for collecting fees; and (c) by the time they decided to use the ALIS system to collect the well notification fees, the process was

coordinated with the annual spring changes to the ALIS system.

4. Under the ALIS system of fee collection, the \$50 well notification fee will be deposited in the groundwater PR continuing appropriation and any revenues appropriated for the annual administrative or biennial research and monitoring appropriation would be transferred to those appropriations. From every \$50 fee, an 89¢ ALIS fee will be paid from the administrative appropriation to the contractor that operates the ALIS system, and a 50¢ fee will be paid to the ALIS agent where the well notification occurred. DNR has indicated it will not be paying the separate 50¢ transaction fee to ALIS agents that it pays for other ALIS transactions. The bill includes \$25,500 annually for estimated expenditures of the ALIS fees to license agents and the ALIS system operator. For any well notification fees paid by credit card via the Internet, a \$3 fee is added to the \$50 as a transaction fee.

5. The Groundwater Advisory Committee created in Act 310 held its first meeting on April 1, 2005. DNR is utilizing existing staff to support the advisory committee until action is taken under AB 100. The bill includes \$9,500 for supplies and other costs associated with the Groundwater Advisory Committee. Act 310 directs the Groundwater Advisory Committee to submit a report by December 31, 2006, to the Legislature's environmental committees, with recommendations: (a) about how to implement groundwater provisions in groundwater management areas and other areas of the state in which the withdrawal of groundwater over the long term has adverse effects; (b) for a coordinated strategy for addressing groundwater management issues, for a mitigation program for groundwater management areas; and (c) whether other areas of the state (besides Waukesha and Brown Counties) should be designated as groundwater management areas. The act also directs the Groundwater Advisory Committee to submit a report by December 31, 2007, to the Legislature's environmental committees, with recommendations about how the law has worked in several areas related to regulation of high-capacity wells.

6. Approval of some level of administrative and research funding for the program would be consistent with the legislative intent of authorizing revenues provided under Act 310 to be used for these purposes.

7. The 5.0 positions and funding provided under the bill would appropriate somewhat less than half (\$431,600 in 2006-07) of the anticipated \$1,000,000 in annual revenue for administrative purposes. The administration indicates that DNR would have flexibility in choosing which job classifications are used, but that the intent would be to focus on registration of wells and environmental review of high-capacity wells. DNR officials indicate that the positions would also focus on learning where wells are being drilled and inspecting wells.

8. Under the bill, the five positions would be funded at salary levels for advanced staff with years of experience. DNR anticipates that experienced DNR staff would transfer into the positions or experienced non-DNR people would be hired to fill the positions. The Governor's recommendation funded four of the five positions (3.0 hydrogeologists and 1.0 advanced water supply engineer) as staff who would primarily perform high-capacity well application review and approvals. Further, 1.0 information resources technician would be provided for well notification

processing.

9. Although well inspections would be a part of their duties, none of the positions funded in the bill would focus on well inspections. However, DNR could choose to hire one or more water supply specialists for well inspection instead of one or more hydrogeologists for high-capacity well review. However, it might be impractical to use the same person for both duties. DNR officials indicate that water supply specialists performing well inspections are located in field offices and the hydrogeologists would be central office staff. In addition, DNR considers the job classification of hydrogeologist as generally being necessary to perform high-capacity well review. Finally, while hydrogeologists might have the training and experience necessary to perform well inspections, a person performing well inspection activities does not need to be trained as a hydrogeologist to inspect wells.

10. Some would argue that an increased level of well inspections was one of the priorities of Act 310. If the Committee chooses to approve five positions, it could consider providing funding for salary levels of less experienced staff, but still near the average pay of existing DNR staff in those job classifications, and provide a water supply specialist for well inspections instead of the advanced water supply engineer for high-capacity well environmental review. This would provide 3.0 hydrogeologists for high-capacity well review, 1.0 water supply specialist for well inspections and 1.0 information resources technician. Administrative funding of \$306,200 PR in 2005-06 and \$387,900 PR in 2006-07 could be provided, instead of \$339,000 in 2005-06 and \$431,600 in 2006-07 (Alternative 3).

11. The Drinking Water and Groundwater program is authorized 99.31 positions in 2004-05, which is an 11% decrease from the 111.75 positions authorized in 2000-01. Under AB 100, the program would be authorized a total of 102.31 positions in 2005-06 and 101.31 positions in 2006-07, including the: (a) addition of the 5.0 PR groundwater positions; (b) deletion of 2.0 FED safe drinking water positions under standard budget adjustments; and (c) deletion of 1.0 GPR section chief position in 2006-07. In 2003, the program entered into a "disinvestments agreement" with the U.S. Environmental Protection Agency, under which DNR is allowed to temporarily stop performing some lower priority violation follow-up, monitoring, and compliance activities in the federally-approved drinking water and groundwater program.

12. If positions are not provided in the new groundwater PR administrative appropriation, DNR could potentially reallocate GPR or SEG environmental management account positions. However, based on the current level of staffing and reduced level of activity performed under the federal program, it could be difficult for the program to reallocate positions to implement the groundwater protection act. In addition, federally-funded positions would have to be used for activities under the federal program and not for the state groundwater protection act functions.

13. DNR's September, 2004, s.16.505/515 request stated that the Department had a need for 11.2 positions but believed that, due to the level of expected revenue, the requested 9.0 positions would give DNR a reasonable base for implementation of Act 310. The request would have provided \$876,500 in annual expenditure authority for the administrative appropriation, \$123,500

for mitigation and local technical assistance, and no funding for research and monitoring. The 9.0 positions would have included: (a) 1.0 information resources technician to track the anticipated 17,000 well notifications annually; (b) 1.0 engineer and 3.5 hydrogeologists to issue individual well approvals for high-capacity wells and perform additional environmental review for high-capacity wells in groundwater protection areas; (c) 2.5 water supply specialists to conduct inspections of well drillers and pump installers during construction of wells; and (d) 1.0 water supply specialist to collect and manage groundwater use data from the approximately 10,000 high-capacity wells in use in the state.

14. Any expenditure authority provided for the administrative appropriation would be subtracted from the \$1,000,000 in anticipated annual revenue deposited in the continuing appropriation for groundwater mitigation and local assistance. Under the bill, no funds would be appropriated for groundwater research and monitoring. If DNR determines at a future date, that it has a need for groundwater research funds, the Department could submit a request for expenditure authority under s. 16.505/515 of the statutes (14-day passive review process). As a technical matter, the expenditure authority of the groundwater mitigation and local assistance appropriation should be decreased by \$339,000 PR and \$431,600 PR in 2006-07 to reflect the revenue that would be available under the bill (estimated at \$661,000 PR in 2005-06 and \$568,400 PR in 2006-07 and shown as Alternative 2).

15. The Committee may wish to consider the proportion of anticipated \$1,000,000 in annual revenue to be allocated to administration, research and monitoring, and mitigation and local assistance (all revenues not appropriated to the first two appropriations). Although not reflected in the bill, as a technical matter, the amount appropriated for administration would reduce the \$1 million base appropriation for mitigation grants to an estimated \$661,000 in 2005-06 and \$568,400 in 2006-07. If actual revenues are higher or lower than \$1 million annually, it would increase or decrease the amount available for the mitigation and local assistance appropriation.

16. DNR is required to use any moneys appropriated in the biennial research and monitoring appropriation to, with the advice of the Groundwater Coordinating Council, conduct monitoring and research related to all of the following: (a) interaction of groundwater and surface water; (b) characterization of groundwater resources; and (c) strategies for managing water. The Council existed before Act 310 was enacted, and, as an advisory body attached to DNR, advises the Department and other state agencies on the coordination of state groundwater management programs and on the allocation of state funds for research. DNR officials indicate that if funds would be appropriated for monitoring and research, the funds could be used for activities such as working with local groups to develop computer models of groundwater in various parts of the state, and research on the impacts on groundwater quality of decreases in the quantity of groundwater. For example, research could be done on the impacts groundwater cones of depressions (area increases in the depth to groundwater because of drawdowns from wells) may have on the concentrations of arsenic in drinking water.

17. It could be argued that some level of funding should be appropriated for monitoring and research in the 2005-07 biennium to aid the Groundwater Advisory Committee in preparing its

recommendations to the Legislature in 2006 and 2007 and to aid DNR in implementing the act. For example, the Committee could choose to appropriate \$100,000 in each of 2005-06 and 2006-07 to begin monitoring and research under the Act 310 provisions. Others would argue that a higher priority should be placed on funding DNR staff to implement the act and on funding mitigation and local assistance.

18. Revenues received under the act and not used for administration or research and monitoring are to be used for groundwater mitigation and local assistance of three types. First, DNR is required to develop and administer a program to mitigate the effects of wells constructed before May 7, 2004, that are located in groundwater protection areas (areas within 1,200 feet of outstanding or exceptional resource waters or certain trout streams). DNR could order mitigation to include abandonment and replacement of wells, but only if the Department provides funding for the full cost of the mitigation (except for certain situations of public health concern). Second, if the Groundwater Advisory Committee does not issue the report required by December 31, 2006, DNR would be required to promulgate rules to address the management of groundwater in groundwater management areas. If the rules require mitigation in the same or similar manner as under groundwater protection areas, the requirements for DNR to fully fund any mitigation would be the same as under groundwater protection areas. Third, DNR is required to assist local governments and regional planning commissions in the groundwater management areas including and surrounding Brown County and Waukesha County by providing advice, incentives, and funding for research and planning related to groundwater management.

19. Under the bill, \$661,000 PR in 2005-06 and \$568,400 PR in 2006-07 would be available for mitigation and local assistance. If the Committee wishes to provide a larger portion of the anticipated \$1,000,000 in annual revenue for this purpose and/or provide funding for research and monitoring, the Committee could choose to appropriate funds for research and monitoring (Alternative 3a) or provide a reduced level of funding and positions for administration than provided under the bill. For example, the Committee could provide \$187,500 PR in 2005-06 and \$233,100 PR in 2006-07 with 3.0 PR positions annually instead of the 5.0 positions under the bill to administer the groundwater management provisions. This option could provide one hydrogeologist, one water supply specialist and one information resources technician to provide a lesser amount of administrative effort than under the bill. Under this alternative, the Committee could provide \$100,000 in each year for research and monitoring and an estimated \$712,500 PR in 2005-06 and \$666,900 PR in 2006-07 would remain for mitigation and local assistance (Alternative 4a). Or the Committee could provide no funding for research and monitoring, which would leave \$812,500 PR in 2005-06 and \$766,900 PR in 2006-07 for mitigation and local assistance (Alternative 4b).

20. Some would argue that the 5.0 positions provided in the bill may not be adequate to fully implement the administrative and regulatory provisions of the groundwater protection act. DNR officials indicated that 9.0 positions would be required under its s. 16.505/515 request last fall. Agency officials indicated that the 9.0 staff would allow DNR to implement the groundwater provisions more consistent with the requirements of the groundwater protection act. (Alternative 5).

21. Others could argue that a smaller level of administrative funding, such as 3.0

positions, would provide greater resources for the non-administrative functions of research and monitoring, and mitigation and local assistance also expected to be accomplished under Act 310 (Alternative 3).

22. The following table displays the funding levels for the Governor's recommendation and the alternatives identified in this paper. However, a number of other options could also be considered.

**Groundwater Appropriations -- Funding Levels
2006-07**

<u>Alternative</u>	<u>Number of Positions</u>	<u>Administration</u>	<u>Research and Monitoring</u>	<u>Mitigation Grants and Local Assistance</u>	<u>Total</u>
1. or 2.	5.0	\$431,600	\$0	\$568,400	\$1,000,000
3a.	5.0	387,900	100,000	512,100	1,000,000
3b.	5.0	387,900	0	612,100	1,000,000
4a.	3.0	233,100	100,000	666,900	1,000,000
4b.	3.0	233,100	0	766,900	1,000,000
5a.	9.0	692,400	100,000	207,600	1,000,000
5b.	9.0	692,400	0	154,100	1,000,000
6.	0.0	0	0	1,000,000	1,000,000

ALTERNATIVES

1. Approve the Governor’s recommendation to provide \$339,000 PR in 2005-06 and \$431,600 PR in 2006-07 with 5.0 PR positions annually to administer the groundwater management provisions enacted in 2003 Act 310.

2. Approve the Governor’s recommendation. Further, as a technical matter, delete \$339,000 PR in 2005-06 and \$431,600 PR in 2006-07 to reflect the revenue that would be available under the bill for groundwater mitigation and local assistance (estimated at \$661,000 PR in 2005-06 and \$568,400 PR in 2006-07).

Alternative 2	PR
2005-07 FUNDING (Change to Bill)	- \$770,600

3. Provide \$306,200 PR in 2005-06 and \$387,900 PR in 2006-07 with 5.0 PR positions annually to administer the groundwater management provisions enacted in 2003 Act 310. In addition, approve one of the following funding levels for groundwater research and monitoring, and for groundwater mitigation grants and local assistance:

a. Provide \$100,000 PR annually for groundwater research and monitoring. Reduce

groundwater mitigation and local assistance by \$406,200 PR in 2005-06 and \$487,900 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$593,800 PR in 2005-06 and \$512,100 PR in 2006-07.

Alternative 3a	PR
2005-07 FUNDING (Change to Bill)	- \$770,600

b. Provide no funding for groundwater research and monitoring. Reduce groundwater mitigation and local assistance by \$306,200 PR in 2005-06 and \$387,900 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$693,800 PR in 2005-06 and \$612,100 PR in 2006-07.

Alternative 3b	PR
2005-07 FUNDING (Change to Bill)	- \$770,600

4. Provide \$187,500 PR in 2005-06 and \$233,100 PR in 2006-07 with 3.0 PR positions annually to administer the groundwater management provisions enacted in 2003 Act 310. In addition, approve one of the following funding levels for groundwater research and monitoring, and for groundwater mitigation grants and local assistance:

a. Provide \$100,000 PR annually for groundwater research and monitoring. Reduce groundwater mitigation and local assistance by \$287,500 PR in 2005-06 and \$333,100 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$712,500 PR in 2005-06 and \$666,900 PR in 2006-07.

Alternative 4a	PR
2005-07 FUNDING (Change to Bill)	- \$770,600
2006-07 POSITIONS (Change to Bill)	- 2.00

b. Provide no funding for groundwater research and monitoring. Reduce groundwater mitigation and local assistance by \$187,500 PR in 2005-06 and \$233,100 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$812,500 PR in 2005-06 and \$766,900 PR in 2006-07.

Alternative 4b	PR
2005-07 FUNDING (Change to Bill)	- \$770,600
2006-07 POSITIONS (Change to Bill)	- 2.00

5. Provide \$692,400 PR in 2005-06 and \$845,900 PR in 2006-07 with 9.0 PR positions

annually to administer the groundwater management provisions enacted in 2003 Act 310. In addition, approve one of the following funding levels for groundwater research and monitoring, and for groundwater mitigation grants and local assistance:

a. Provide \$100,000 PR annually for groundwater research and monitoring. Reduce groundwater mitigation and local assistance by \$792,400 PR in 2005-06 and \$945,900 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$207,600 PR in 2005-06 and \$54,100 PR in 2006-07.

<u>Alternative 5a</u>	<u>PR</u>
2005-07 FUNDING (Change to Bill)	- \$770,600
2006-07 POSITIONS (Change to Bill)	4.00

b. Provide no funding for groundwater research and monitoring. Reduce groundwater mitigation and local assistance by \$692,400 PR in 2005-06 and \$845,900 PR in 2006-07 to reestimate the revenue that would be available for the appropriation as \$307,600 PR in 2005-06 and \$154,100 PR in 2006-07.

<u>Alternative 5b</u>	<u>PR</u>
2005-07 FUNDING (Change to Bill)	- \$770,600
2006-07 POSITIONS (Change to Bill)	4.00

6. Maintain current law.

<u>Alternative 6</u>	<u>PR</u>
2005-07 FUNDING (Change to Bill)	- \$770,600
2006-07 POSITIONS (Change to Bill)	- 5.00

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