

A return trip for high-capacity wells almost a guarantee next session

Among the high-profile bills littering the roadside and left for dead during this legislative session are a few destined to return.

Bills dealing with "sanctuary cities," high-capacity wells and the rules process have a better-than-average shot of reappearing in the next two-year session, Capitol insiders say.

The return of high-capacity well legislation is almost a guarantee, provided the main author, occupying a swing seat, gets re-elected. A high-capacity well is defined as one that, along with other wells on the property, can pump more than 100,000 gallons of water per day.

"Even though my bill is dead, I'm still working on it now," said Rep. Scott Krug, who introduced one of three bills this session dealing with high-capacity wells.

The Nekoosa Republican said there's motivation to continue the work. He said questions remain in his Central Sands-area district about over-irrigation and reductions in surface water.

Multiple groups are also involved in the debate. Krug has said his attempt to reach compromise with agriculture, manufacturing, environmental and others undid his bill.

The Wisconsin Wildlife Federation and the Dairy Business Association were among the groups registered against Krug's legislation. George Meyer, the federation's executive director, said Krug still deserves credit for several provisions.

"There are far worse bills out there than Krug's," said Meyer, the former DNR secretary.

Krug said if he had another six to 12 weeks this session, he thinks he could have wrapped up the legislation. But he also acknowledged he's in a "50-50 seat" targeted by Dems, meaning, he said, no matter what high-capacity well bill he develops, he'll face opposition.

"It's the nature of the animal of two-year elections in my district," he said.

Krug introduced AB 477 this session after about four years of work and then watched it die. That bill proposed sweeping changes, in its original and amended forms, that dealt with: working on or replacing existing wells; transferring ownership; permitting for new wells; establishing sensitive resource areas and corresponding policies; and calling for hydrology tests for some watersheds.

His bill also established private-well protections through legislative rules that say if someone is able to show from a baseline measure a well's supply was harmed by other nearby wells, then whoever caused the problem is responsible for replacing that supply.

Meyer said the provisions his group opposed included the ownership transfer.

"There needs to be systematic review of the well permits," he said.

Meyer, though, said well legislation from the other side of the aisle was a "good, comprehensive approach." Sen. Mark Miller proposed groundwater legislation that would create a technical panel within the state's Groundwater Coordinating Council.

Under SB 72, the panel would establish criteria for when a watershed is in potential crisis and then develop groundwater management plans. He said that would let the DNR work with affected jurisdictions to develop plans for maintenance and sustainable use of the water.

The Monona Dem's bill went nowhere, but he said he'll try again next session.

"Oh, absolutely," he said. "It's too important an issue, in the Central Sands region in particular."

When Krug's bill died, AB 874, by Rep. Lee Nerison, took the front seat. The Westby Republican's legislation was a stripped-down version of Krug's that maintained the hydrology testing, well transfers, and repair and replacement provisions.

Nerison, whose office said he did not want to speculate for this story on high-capacity well legislation, also changed the private-well protections. His proposal would have codified common law that lets people file nuisance lawsuits claiming they are "unreasonably harmed" by the lowering of a water table or the reduction of pressure caused by someone else's well.

The bill cleared the Assembly, but that provision's requirement that lawsuit losers cover attorney fees sunk the legislation in the Senate. A committee there passed the Senate version without the provision and that version drew approval on the floor. Without the Assembly returning, the legislation is dead.

But Nerison's bill did manage to get Dairy Business Association support when Krug's couldn't. John Holevoet, director of government affairs, said Nerison's bill was 20 pages shorter than Krug's.

"Nerison's bill doesn't talk at all about new well permitting," Holevoet said, adding that even with removing elements "we still couldn't get it done in time."

But both Krug and Meyer said there will be another bill. Meyer said the situation in the Central Sands is "so stark and so dramatic" it will force a compromise.

"I think it's inevitable," he said, "that there will be legislation."