

Natural Resources

Water Quality

(LFB Budget Summary Document: Page 434)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Nonpoint Source Pollution Abatement Program Changes (Paper #625)
2	Nonpoint Source Program Funding (Paper #626)
3	Nonpoint Segregated Funding - Nonpoint Account Condition (Paper #627)
19	Water Pollution Credit Trading (Paper #628)
20	Permit Guarantee Program (Paper #629)
21	Expedited Service for Permittees (Paper #630)
22	Environmental Performance Council (Paper #631)
23	Environmental Cooperation Program (Paper #632)
13	Safe Drinking Water Loan Program Administration (Paper #633)
18	Septage Management Funding Conversion (Paper #634)
-	Wastewater Discharge Environmental Fees (Paper #635)

Agency: DNR - Water Quality

Recommendations:

Paper No. 625: Alternative 2(b), (c), (d), (e) & (f)

Comments: This is a consensus Burke/Johnsrud selection of alternatives (see memo from Johnsrud).

But let people know that the Land & Water Conservation Association (LWCA) & the Counties Assoc don't want parts (b) and (c). Then explain why they are wrong, and you and Johnsrud are right.

Paragraph 9 indicates that nonpoint program costs could be reduced by \$5.7 million in the biennium if some currently ongoing priority watershed projects are terminated. The ones that would be terminated are ones that the Land & Water Conservation Board does **not** re-identify as top priorities. The gov's recommendation to re-prioritize the priority watershed projects is a good idea, and given our scare resources for this program, we should not continue funding the less important (or lesser quality) projects once everything is re-prioritized. We have to save money somewhere, and this way makes good budgetary sense.

Also, note that paragraph 16 indicates the nonpoint program has in some respects turned into a jobs program for counties. So, their opposition to 2(b) is unfounded.

Further, 2(c) is really just a technical correction recommended by FB in paragraph 8 (maybe have FB (Al Runde) explain).

So, let's do the fiscally prudent thing here, and reprioritize projects and direct scare resources to those projects. This does not limit flexibility as the LWCA says.

Burke Motion: (only do this motion if alt 2(e) is approved above.) Rep. Johnsrud really wants alt 2(e) to succeed, so you are making a motion to earmark \$500,000 of existing nonpoint funds to help begin the process of getting local water quality specialists stationed in every county - (i.e. so there isn't the imbalance of staff per county shown in the Table on p.8). Read from paper 24, and have FB explain the motion in more detail.

Paper No. 626: Alternative 2(a) & (e)

Comments: Again, this is a Burke/Johnsrud recommendation - plus DNR supports it. It gives local conservation boards a little more flexibility to achieve water quality improvements (i.e. alt 2(a)), and requiring the 30% local match (i.e. alt 2(e)) will help alleviate concerns about long-term funding implications for local assistance grants and it would substantially reduce the need to terminate watershed projects. Plus, most other grant programs require some sort of local match (see paragraph 20).

The Land & Water Conservation Association supports alternatives 2(b) and 2(e). However, they also want us to reinsert the \$6.3 million in GPR the gov took out in 97-98 (i.e. part (a) of alt 1). Personally, I support them on this issue, but I didn't think the committee would agree). (**Special Note for Rep Jensen in pre-meeting:** Since you are working off the base for DNR, you probably could get an 8-8 vote and not approve the gov's recommendation to delete \$6.3 million GPR. So, you really are making a significant compromise here).

Paper No. 627: Alternative 3(b)

Comments: Another Burke/Johnsrud recommendation - plus DNR supports. This action is needed to make bring expenditures in line with SEG revenues generated by the vehicle title transfer fee (see paragraph 1). Plus, DOA made a calculation error in the bill which means we have to cut an additional \$600,000 over the biennium to avoid running a deficit (see paragraph 2).

Alt 3(b) spreads the cuts around and takes out the funding in year one of the biennium, so there will be a higher base level in year 2 (i.e. confidentially - so the base level appropriation for the next biennium will be higher).

The LWCA says they want alt 4 (maintain current law), but this just isn't responsible budgeting. Ask FB to comment on what alt 4 would mean to the nonpoint program.

Paper No. 628: Alternative 2(a), (b) & (d)

Comments: Another Burke/Johnsrud recommendation - plus DNR supports. This pollution credit trading initiative is innovative and deserves to be tried. But, we need to make sure that any pollution trading is done consistent with the Clean Water Act and that the trade actually leads to an overall improvement in water quality (hence alt 2(a)) (see paragraph 5). Also, FB makes a good common sense case for alt 2(b) in paragraphs 10 & 11. Lastly, lets put some date restrictions on this initiative and make sure it really is just a pilot project (i.e. alt 2(d)). Have FB explain moition in more detail.

Walter Kuhlman and his Municipal Environmental Group is really hot to try this pollution credit trading out, especially in the context of the new federal Total Daily Maximum Load requirements. This could be a cost-effective way to achieve real water quality improvements.

Burke Motion: Just to be safe, your motion specifies that no mining operation could take advantage of this pollution trading program. I'm not really sure they could anyway, but this is just to ease my conscience.

Also, Jauch has motion for Clausing to earmark funds for Hay River project. Sounds fine to me.

Burke Motion: \$500,000 permanent earmark for U.W.-Ext to do water quality education. Barry has more info.

Burke Motion: The Stream Partners Initiative (for the Friends of the Menomonee River). Barry has more info.

Burke Motion: The "unholy alliance" motion (Burke/Johnsrud). Barry has more info.

Paper No. 629: Alternative 2

(No action) (shibilski - two motions)

Comments: This permit guarantee program sounds pretty dumb. Plus, paragraph 6 indicates that DNR can do rules that will give them time extensions if they need them - so what's the point. Plus, it's possible that having DNR staff rush to meet a permit deadline could mean that environmental protection efforts get shortchanged or sacrificed. This could be especially true in the case of air quality permits, where EPA tells the state it has to issue 200 new air quality permits within 2 years, etc. There's no way DNR can meet these types of deadlines and then businesses have the upper hand. (cont on next page)

Jensen may have a motion (for the Realtors & Builders) that says a permit is automatically granted if DNR misses a deadline. Obviously a bad idea, and this would virtually guarantee that the Crandon mine would be built.

Paper No. 630: Alternative 2

Comments: Alt 2 gives DNR authority to do the expedited permits, but no funding. This initiative has some merit - as long as DNR doesn't define "expedited" to mean "less environmental review" - but paragraphs 4 & 5 make a good case for not funding this initiative at this time and having DNR come back to JFC under a sec. 16.505/515 request for SEG funding once they promulgate rules.

DNR of course supports alt 1 (SEG funding for 3 positions)

Paper No. 631: Part A - Alternative 4 (no action needed)
(or, alternatively, Burke motion - see below) *A2 Jensen*

Comments: It's a bad idea to be creating a new & expensive council, especially for this purpose. This point is made pretty clear in paragraphs 4, 7 & 9 (you should read from these paragraphs). So you shouldn't take any action here (i.e. alt 4).

Burke Motion: However, as a small concession to DNR, and because you think ISO 14000 has some merit (see paragraph 2), you could offer a motion that just creates a PR appropriation for gifts and grants to fund DNR activities related to ISO 14000 and the Wharton School Roundtable. So, if private foundations or other entities want to help pay for DNR's work in this area, they can accept those private contributions.

Part B - Alternative B(2) & (3) (but see comments) *B, Jensen*

Comments: If either your motion or alt 4 is adopted in Part A, then you don't need to deal with Part B or Part C. They would no longer apply, because the Council will not have been created.

Part C - Alternative 2 (but see comments) *C2 Jensen*

Comments: (See comments above for Part B.)

Paper No. 632: Alternative 3 (no action needed)
(or, alternatively, Burke Motion - see below)

Comments: These are George Meyer's "BreakThrough Rules" and he really wants something passed. Also, Shibilski likes them and prefers alt 1. I'm not so sure they are a great idea, and (privately) some industry folks are saying the same thing. But, I'm willing to give them a try if we pass your compromise motion instead of the gov's proposal.

Burke Motion #1: Adopt alt 2(a)&(b), plus allow DNR to request that the Finance Committee grant a 5-year extension of the cooperative agreement, and limit the total number of cooperative agreements to 5 (instead of 10 like the gov proposed), and require the Leg Audit Bureau to constantly monitor the program and make yearly reports to the legislature on how things are going. Note that alt 2(b) requires overall pollution levels be reduced by these agreements.

I think this is a reasonable and safe middle ground. And we should let Sec Meyer "break away" and give this a try under these circumstances.

Burke Motion: The environmental community has identified several minor, technical changes to the statutory language of the BreakThrough rules, and DNR has agreed they are fine changes. This will give environmentalists more comfort with the program, without unduly hindering it's implementation. Have FB briefly explain the changes.

Paper No. 633: Approve Modification to Base

Paper No. 634: Alternative 3 *Jensen/Burke*

Comments: FB makes a good case for alt 3 in paragraphs 4 & 5, and it will help save some GPR. DNR, however, supports alt 2.

Paper No. 635: ~~Alternative 1~~ (or 2 is fine as well) (2)

Comments: NR 101 fees. Thank FB for identifying the fact that fees don't cover all expenses here. But, it's appropriate to use some GPR in this program because the water quality benefits are shared by all citizens of the state. And from a more practical standpoint, there's no need to open a big can of worms here. This issue can get messy. And Ed Huck and Ed Wilusz have given their blessing to either alt 1 or alt 2.

For items that FB didn't prepare papers on, **action is needed** to approve them for inclusion in the bill - DNR is a base agency.

Special Note: Remove Item #14 (Safe Drinking Water Enforcement) and take it up at a future meeting. This involves allowing DNR to directly issue citations for violations of the safe drinking water program. Some municipalities have concerns about this, and I want a more thorough airing of the issue. Direct FB to prepare a paper on this issue, and the committee will take it up in the next two weeks.

Burke Motion: This is the big one. The Burke/Johnsrud Hindenburg motion. You can offer this at the end of everything, or do it after you address Paper No. 628 (the last of the nonpoint stuff). Barry has more info on this in a separate memo, plus you may want to have Mark Patronsky explain it.

Note: At pre-meeting, ask Jensen if he's doing a motion to create and fund a Fox River Improvement Commission in the Waukesha area. You have a similar motion drafted, that you were going to offer for Adelman, but you can defer to Jensen if he's going to do something.

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Nonpoint Source Pollution Abatement Program Changes (DNR -- Water Quality)

[LFB Summary: Page 434, #1]

CURRENT LAW

The Department of Natural Resources, through a continuing planning process, designates the watersheds and lakes where the need for nonpoint source water pollution abatement is most critical. Further, based on this process, before July 1 of each even-numbered year, DNR submits recommendations to the Land and Water Conservation Board (LWCB) on additional watershed or lake projects that should be designated as priority. The LWCB designates priority watersheds and lakes. If a project is designated, it is eligible to receive nonpoint source local assistance grants and cost-sharing for water pollution abatement and conservation practices. Through 1996, 66 of the state's 330 watersheds and 20 lakes have been designated as priority.

Cost share grants for 50%-70% of the costs of installing best management practices are available to landowners and local units of government. Under certain circumstances cost-share rates are allowed to exceed 70% of the cost of the practice installed (for example, economic hardship on the part of the landowner).

GOVERNOR

Priority Watershed Designations. Require DNR to submit to the LWCB by January 1, 1998, a list of watersheds and lakes in the state ranked by the level of impairment by nonpoint source pollution. In preparing the list, DNR would consider the list of impaired state waters it submitted to meet U.S. Environmental Protection Agency (EPA) requirements.

No later than July, 1 1998, the LWCB would be required to identify priority watersheds and lakes using the impaired waters list as well as DNR and Department of Agriculture Trade and Consumer Protection (DATCP) recommendations. DNR and DATCP would be required to limit the number of watersheds recommended to the LWCB to a number (determined by the Departments) that would enable DNR to meet the statutory requirement that the planning process on all priority watersheds be completed by December 31, 2015, assuming the funding level for the program remains the same as the funding available under the bill. While under the current program all watersheds or lakes designated as priority have received funding, being identified as a priority watershed or lake under the bill would not necessarily secure funding for the project.

The LWCB would be required to identify the priority watersheds and lakes in the state without regard to whether the watershed or lake has previously been designated as priority, except for those watersheds in the Milwaukee River basin which are statutorily designated. If the LWCB does not re-identify the watershed as priority, the Board would terminate the project's current priority designation. If the Board terminates a watershed or lake priority designation, the Board would be required to review the status of the project and direct DNR to continue, modify or eliminate funding for that watershed or lake.

Nonpoint Project Applications. Under current law, DNR, based on a continuous planning process, recommends watershed projects to the LWCB to be designated as priority. Under the bill, beginning on July 1, 1998, governmental units could request funding directly from the LWCB for a priority watershed project, a priority lake project or a nonpoint source water pollution abatement project that is not in a priority watershed or a priority lake area by submitting an application to the LWCB, by July 15, in order to be considered for initial funding in the following year.

Selection of Projects for Funding. The bill would require that by April 1, 1998, DNR, in consultation with DATCP, propose to the LWCB a scoring system for ranking nonpoint source water pollution abatement project applications, submitted by governmental units. The scoring system would include the following criteria:

- a. The extent to which the application proposes to use cost-effective and appropriate best management practices to achieve water quality goals;
- b. The existence in the project area of an impaired water body that the Department has identified to the EPA;
- c. The extent to which the project will result in the attainment of established water quality objectives;
- d. The local interest in and commitment to the project; and

e. The inclusion of a strategy to evaluate the progress toward reaching project goals, including the monitoring of water quality improvements resulting from project activities.

Require the LWCB to: (a) review the scoring system and approve the system as submitted or modify and approve the system; and (b) review the system at least once every two years and if necessary require the Department to submit a revised system.

Require DNR, in consultation with DATCP, to use the approved scoring system to determine the score of each project for which the LWCB receives an application and inform the Board of the scores no later than September 1, of each year. After receiving project scores, the LWCB would be required to select the projects that would receive funding in the following year before November 1 of each year. To the extent practicable, within the scoring process, the Board would select projects so that projects are distributed evenly around the state.

Cost Share Rates. Effective July 1, 1998, the bill would allow local units of government, in their project applications, to determine the rate at which the state would fund the installation of nonpoint practices for their project, not to exceed 70%. However, if a site has been designated as a critical site and has had cost share grants available for three years, DNR would continue to determine a reduced cost share rate by rule (DNR's current rule reduces cost share rates by one-half for such sites).

Best Management Practices. Require DNR, in consultation with DATCP, to promulgate rules that specify cost-effective best management practices that can be implemented by local governments and landowners to meet the priority watershed or lake project area and water basin water quality objectives. The practices must be identified in priority watershed or lake plans, unless the use of the cost-effective practices will not contribute to water quality improvement or will cause the continued impairment of the water body.

Water Basin. Require that DNR establish water quality objectives for each water basin in addition to each priority watershed and priority lake.

Budget Report. Effective July 1, 1998, require that before September 1 of each year, DNR, in consultation with DATCP, submit a budget report to the LWCB that includes: (a) anticipated expenditures for priority watershed or lake projects during the next year; (b) a plan for reducing expenditures if expenditures exceed anticipated funding; and (c) criteria for ending priority watershed or lake projects (for example, one criterion could be low cost share grant program participation in a watershed project).

DISCUSSION POINTS

Background

1. Watershed or lake projects designated as priority are eligible for nonpoint source water pollution abatement grants. The nonpoint program provides grants to local units of government for: (a) priority watershed project administration; and (b) 50-70% cost share grants to landowners and communities in priority watersheds to install water pollution abatement practices and structures.

2. The priority watershed selection process makes use of areawide water quality plans or "basin plans." The state has developed and incorporated watershed ranking criteria into the areawide water quality management plans for each of the state's 32 river drainage basins. Watershed projects are ranked using numeric criteria for streams and lakes with the highest number representing the highest priority watershed. Watersheds within each basin are prioritized based on these numeric water quality criteria and are then designated as high, medium or low priority, or as unmonitored. If a watershed is designated as high priority under the areawide water quality plan, it is eligible to be selected as a priority watershed project through the nonpoint source water pollution abatement grant program.

3. As part of 1983 Act 416, DNR was required to identify watershed projects in the Milwaukee River Basin, which includes portions of Milwaukee, Waukesha, Washington, Ozaukee, Fond du Lac and Sheboygan Counties. In 1989 Act 366, the Kinnickinnic River was designated a part of the Milwaukee River Basin, and was, therefore, included as a part of the nonpoint project area. As a result, six of the 66 large-scale priority watershed projects selected through 1996 are located in the Milwaukee River Basin.

4. Large scale watershed projects generally take at least ten years to complete, excluding planning efforts prior to selection. The first two years following project selection is the project planning phase in which local assistance grants are made available for county and/or municipal administration of the watershed. Among other activities, local officials plan watershed projects, contract with landowners, assist in the design and installation of practices, conduct demonstrations and train staff. Local assistance grant awards for implementation and administration of the project are made throughout the remaining years of the project. Beginning in the third year of a project, landowners can sign-up for cost-sharing awards for the installation of practices such as manure storage facilities and barnyard roofs and contour strips on cropland to reduce nonpoint pollution runoff. The cost-sharing grant awards are available from the third year through the tenth year of a project. However, some projects have been extended and grants have been made for additional years.

5. There are currently 66 active large scale priority watershed projects and 20 active priority lake projects in 56 different counties. Attachment 1 provides a list of those projects.

Priority Watershed Designations

6. Instead of using the continuous planning process, the bill would essentially require DNR, DATCP and the LWCB to identify those watersheds and lakes (except those statutorily designated) that are of the highest priority after considering the impaired waters list required under the federal Clean Water Act, the statutory planning deadline for priority watershed projects and the existing nonpoint program funding levels. Under the bill, LWCB could identify a watershed or lake that is not currently a designated priority watershed or lake and could terminate some projects currently designated. The DNR Secretary has publicly supported the Governor's recommended changes to the nonpoint source water pollution abatement and priority watershed program.

7. The impaired waters list required under the Clean Water Act, which was submitted to EPA in December, 1996, generally includes those sites where violations of water quality standards (fishable or swimmable, or numeric measurements of conventional or toxic substances) are known or suspected. The impaired waters list submitted to EPA prioritizes the water bodies in the state by level of impairment. Based on the list of impaired waters provided to EPA, 16 of the 86 (19%) currently designated watersheds or lake projects are considered impaired waters. Attachment 2 lists the water bodies on the impaired waters list, including the current priority watershed and lake projects.

8. Under current law and under the bill, DNR may, but is not required to, provide funding to all designated priority watersheds or lakes (all designated projects have received funding). DOA officials indicate that it was intended that all current priority watershed or lake projects that are re-identified would continue to receive nonpoint funding and would not have to reapply. However, the bill does not specifically indicate that each existing watershed or lake that is re-identified as priority by the LWCB would receive funding. The bill could be amended to clarify the issue.

9. Under the bill, if a watershed or lake currently designated as priority (except those statutorily designated) is not re-identified by the LWCB, the priority watershed or lake project would be terminated. If a currently designated priority watershed or lake project is terminated, the LWCB would be required to review the status of the project and direct DNR to continue, modify or eliminate funding for that watershed or lake project. DNR has indicated that nonpoint program costs could be reduced by \$5.7 million in the biennium primarily associated with terminating existing priority watershed projects.

10. It could be argued that if a currently designated priority watershed or lake is not on the federal impaired waters list, and the LWCB determines with DNR's and DATCP's recommendations, that the watershed or lake project should be terminated, the project should no longer be eligible for funding. Further, under the bill, counties with a watershed or lake whose priority designation is terminated could re-apply to the LWCB for funding as a non-priority watershed or lake nonpoint source project.

Project Selection for Funding

11. Under the bill, local governments, regardless of whether the project is located in a priority lake or watershed area, could apply to have their nonpoint source projects funded. Under current law, a nonpoint project located outside a priority watershed that could potentially provide substantial water quality improvement to a watershed, cannot receive funding (such as a business, farm or cluster of farms in a particularly sensitive area of a watershed). Allowing projects outside priority areas to receive funding would provide the program the flexibility to fund such projects.

12. DOA indicates that allowing local governments to apply for project funding regardless of the project's location would establish a more competitive grant program. In addition, it could allow for greater distribution of nonpoint projects throughout the state. Further, while a project may not be in an identified priority area, it would likely have to receive a high ranking on the project selection criteria in order to receive funding.

13. Conversely, it could be argued that those areas identified as priority are likely those areas with the greatest water quality concerns and therefore, funding should be focused on nonpoint source water quality efforts in those priority areas.

14. In addition, while it is likely that the highest ranking projects will receive funding, the Governor's recommendations do not require the LWCB to select the highest ranking projects for funding. DOA indicates that by not requiring the highest ranking projects to be funded, the LWCB would have the flexibility to move down the ranking list and fund projects for other reasons, such as the cost, location or size of the project. As a result, under the bill, a project that is not located in a priority watershed area could be funded before a project in a priority watershed project with a higher ranking on the project scoring criteria.

15. The Committee could require the LWCB to fund only those projects that receive the highest rankings based on the project scoring criteria.

16. One criticism of the nonpoint program has been that because the program provides at least one dollar for county staff and supplies for each dollar of landowner cost share funding, counties may be encouraged to focus their energies on obtaining state priority status for watershed projects rather than on using available federal programs that make fewer funds available for staff. That is, counties may not pursue federal cost share funds because only a small share of the funds (approximately 10% under the new federal environmental quality incentives program) can be used for staff, versus approximately 50% for nonpoint projects. Similarly, federal conservation program efforts (such as the conservation reserve program which removes erodible agricultural land from production) which can improve water quality may not be aggressively pursued because the programs provide little or no funding for county staff.

17. Therefore, federal and state officials believe that there is potential to make better use of federal programs, to meet the state's nonpoint pollution abatement goals. In order to encourage greater use of federal funds, the extent to which the nonpoint source project makes use of available federal funding could be added to the scoring criteria for selection of projects.

County Staffing

18. Despite the fact that nonpoint funding is only provided in priority watersheds, concerns have been raised as to whether funding is focusing on the state's highest priority water quality concerns. Current DNR estimates are that approximately one-half of the state's 330 watersheds could be considered priority although far fewer are listed on the impaired waters list submitted to EPA. Funding nonpoint projects in approximately 50% of the state's watersheds would take a substantial amount of time and funding to complete.

19. While every Wisconsin county has water quality concerns, a number of counties have no watershed projects while others have as many as five priority watersheds. Similarly, 11 counties have four or more priority watershed staff while 19 counties have no staff funded from the nonpoint program.

20. It has been argued that priority watershed and lake projects and, in turn, local assistance funds for county staff have been unevenly distributed throughout the state. That is, some counties have a large number of staff and others have minimal or no staff funded from the program. For example, ten counties made up 44% of all the staff funded from the nonpoint program in 1996. The following table shows the distribution of the approximately 143 county staff funded from the nonpoint program in calendar year 1996 based on DNR data (the number of staff per county were determined by dividing annual staff hours funded from the nonpoint program in each county by 2,080 to arrive at a full-time equivalency). In addition, approximately nine staff are provided other local governments (municipalities and towns) for urban nonpoint projects.

**County Staff Funded From Nonpoint Program
(1996)**

County	Staff	County	Staff	County	Staff
Brown	11.4	Waukesha	2.5	Racine	0.7
Fond du Lac	7.3	Chippewa	2.5	Bayfield	0.5
Trempealeau	6.9	Rusk	2.4	Rock	0.5
Sauk	6.8	Calumet	2.3	Marquette	0.4
Dane	6.8	Monroe	2.0	Juneau	0.2
Sheboygan	5.1	Adams	2.0	Green Lake	0.1
Vernon	5.0	Waupaca	2.0	Ashland	0.0
Door	5.0	Oconto	1.8	Burnett	0.0
Outagamie	4.3	Oneida Nation	1.6	Crawford	0.0
Manitowoc	4.3	Barron	1.5	Florence	0.0
Buffalo	4.0	Columbia	1.5	Forest	0.0
Polk	3.9	Marinette	1.3	Iowa	0.0
Marathon	3.7	Milwaukee	1.1	Iron	0.0
Dodge	3.5	Walworth	1.0	La Crosse	0.0
Ozaukee	3.4	Jefferson	1.0	Lincoln	0.0
Grant	3.0	Douglas	1.0	Menominee	0.0
Dunn	3.0	Richland	1.0	Oneida	0.0
Lafayette	3.0	Portage	1.0	Pepin	0.0
Washington	3.0	Kenosha	1.0	Pierce	0.0
Green	2.8	Clark	1.0	Price	0.0
Jackson	2.6	Kewaunee	1.0	Sawyer	0.0
Wood	2.6	Shawano	0.9	Taylor	0.0
St. Croix	2.6	Langlade	0.9	Vilas	0.0
Winnebago	2.5	Eau Claire	0.8	Washburn	0.0
				Waushara	0.0

21. It has been argued that staff are unevenly distributed in the state, in part, because the program provides a significant incentive for county staff to obtain a project extension or another watershed project in order to retain nonpoint program funding. Further, because counties, on average, receive at least one dollar in funding for staff for every one dollar in practices installed or implemented, an incentive exists for counties to focus their efforts on obtaining or extending watershed projects to retain their staff. Finally, these counties have the staff expertise necessary to develop the plans to obtain additional projects. As a result, counties that have nonpoint staff are able to pursue priority watershed and lake projects, while it may be difficult for a county without staff to enter the program regardless of water quality needs.

22. While the Governor's recommendation would allow projects outside priority areas to be selected for funding, counties that have not had a watershed project, or have had limited experience with the nonpoint program, may be at a competitive disadvantage in compiling a nonpoint source project proposal for the LWCB. Further, many of the projects currently receiving nonpoint funding for their watershed or lake projects are more likely to be those that have done the necessary planning that will likely be required in order to receive a high score and be selected for funding under the bill.

23. In addition, while addressing water quality concerns on the watershed or lake level is a practicable way to achieve water quality, providing staff on a long-term basis may be necessary to achieve the state's long term water quality goals. The current program provides project funding for three to ten years and if no other watershed project is selected for that county, the county loses the experience and technical expertise necessary to continue its water quality efforts.

24. An alternative to linking local assistance funding to project funding would be to move the program toward providing a basic level of staffing in each county. This alternative could lead to a more competitive water quality program in that counties would have some base level of staff with which to develop water quality projects and compete for funding under the criteria proposed in the bill. Such an alternative would more evenly distribute local assistance funding in the state and would reduce the need for counties to obtain another watershed project in order to retain experienced staff and continue water quality work.

25. It could be argued that it may be difficult to reallocate staff from existing watersheds given that counties have hired the necessary staff with the intention of completing designated projects over several years. However, currently designated projects (that are re-identified under the bill) will be ending in future biennia, at which time funding for county staff associated with those projects will become available. Therefore, the Committee could require DNR and DATCP to develop a plan, to be approved by the LWCB, that would reallocate program funds to provide a basic level of staffing in all counties to conduct and coordinate each county's water quality efforts.

Cost Share Percentages -- Hardship Provisions

26. Under current law, DNR can exceed the established cost share rates for nonpoint source pollution abatement practices, if it is determined that the landowner meets the program's economic hardship criteria (a debt to asset ratio of 60%) as determined by DNR rule. Counties are allowed to exceed the allowable cost share rates for landowners meeting DNR's economic hardship provisions by up to 15% (up to 85% of project costs funded by the state). In calendar year 1996, approximately 8% of projects qualified for hardship funding.

27. If the installation of a practice is needed to meet the water quality goals of watershed projects, the water quality benefits accrue to others beyond the landowner. Therefore, it could be argued that if a higher cost share rate allows a landowner to install a practice that would otherwise not be installed and the practice improves overall water quality, the practice should be funded at the higher rate. On the other hand, some have argued that hardship funding may result in the state paying for costly practices at a farm operation that may fail financially.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations related to the priority watershed and nonpoint source pollution abatement program as follows: (a) modify the manner in which watershed projects are identified as priority; (b) allow local governments to request funding for nonpoint source projects directly from the LWCB; (c) allow local units of government, in their project applications, to determine the cost share rate for their project, not to exceed 70%; (d) require DNR, in consultation with DATCP, to promulgate rules that specify cost-effective best management practices; (e) require that DNR establish water quality objectives for each water basin in addition to each priority watershed and priority lake; and (f) require that before September 1 of each year, DNR, in consultation with DATCP, submit a budget report to the LWCB.

2. In addition to the Governor's recommendation, do one or more of the following;

a. Provide that only the watersheds or lakes identified by the LWCB as priority would receive funding (projects not redesignated and those outside of identified watersheds would not be funded);

b. Require that funding be terminated for existing priority watersheds that are not re-identified by the LWCB (projects outside watersheds could still be funded);

c. Clarify that all currently designated priority watersheds or lakes that are re-identified would receive funding;

d. Include the extent to which a project makes use of available federal funding to the criteria to be used in selecting nonpoint source projects for funding;

e. Require that DNR and DATCP establish a plan by July 1, 1998, to be approved by the LWCB, that allocates funding for staff in every county as funds become available from the completion or termination of existing priority watershed and lake projects.

f. Retain the hardship provisions related to cost share percentages (state funding of up to 85% of project costs).

3. Maintain current law.

Prepared by: Al Runde

MO# 2b,c,d,e,f

BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(X)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON MURPHY	(Y)	N	A
COGGS	(Y)	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Nonpoint Program Local Assistance Staff (Paper #625)

Motion:

Move to require that \$500,000 SEG in 1998-99 provided the nonpoint source grant program be used to fund staff in counties that currently do not receive nonpoint funding for county staff. Further, require DNR and DATCP to submit a plan to the Land and Water Conservation Board for approval that allocates the funding to such counties.

Note:

In calendar year 1996, 19 counties received no nonpoint local assistance funding for staff. SB 77 provides approximately \$13.0 million in nonpoint program funding that may be used for staff. The motion would require that \$500,000 in 1998-99 be used to fund nonpoint staff in counties that currently do not have staff.

MO# 2028

BURKE	Y	N	A
2 DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON MURAT	Y	N	A
COGGS	Y	N	A

Motion #2028

AYE 16 NO 0 ABS 0

ATTACHMENT 1

Nonpoint Source Pollution Abatement Grant Program

LARGE-SCALE PRIORITY WATERSHED PROJECTS

Year Started	Project Name	County	Watershed Size Sq. Miles
1984	East-West Milwaukee	Fond du Lac, Washington, Sheboygan, Dodge, Ozaukee	265
	North Branch Milwaukee	Sheboygan, Washington, Ozaukee	149
	Cedar Creek	Ozaukee, Washington	129
	Milwaukee River South	Ozaukee, Milwaukee	167
	Menomonee River	Milwaukee, Waukesha, Ozaukee, Washington	136
1985	Black Earth Creek	Dane	105
	Sheboygan River	Sheboygan, Fond du Lac, Manitowoc, Calumet	260
	Waumandee Creek	Buffalo	221
1986	East River	Brown, Calumet	206
	Yahara-Monona	Dane	93
	Lower Grant	Grant	129
1989	Middle Trempealeau	Trempealeau	205
	Lake Winnebago/East	Fond du Lac, Calumet	99
	Middle Kickapoo River	Vernon, Monroe, Richland	246
	Yellow River	Barron	239
	Upper Fox/Illinois	Waukesha, Racine	151
	Narrows/Baraboo River	Sauk	176
	Lower E. Branch Pecatonica	Green, Lafayette	144
1990	Arrowhead/Daggets	Outagamie, Winnebago	142
	Kinnickinnic River	Milwaukee	33
	Beaver Dam River	Dodge, Columbia, Green Lake	290
	Duncan Creek	Chippewa, Eau Claire	191
	Lower Big Eau Pleine	Marathon	138
	Upper Yellow River	Wood, Clark, Marathon	212
1991	Upper Trempealeau River	Jackson, Trempealeau	175
	Neenah Creek	Adams, Marquette, Columbia	173
1992	Balsam Branch Creek	Polk	104
	Red River/Sturgeon Bay	Door, Kewaunee, Brown	139
1993	Branch River	Brown, Manitowoc	108
	Soft Maple/Hay Creek	Rusk	176
	South Fork Hay River	St. Croix, Dunn, Polk, Barron	181
	Tomorrow/Waupaca	Waupaca, Portage	290
1994	Apple & Ashwaubenon Creeks	Brown, Outagamie, Oneida Nation	113
	Dell Creek	Juneau, Sauk	133
	Duck Creek	Brown, Outagamie, Oneida Nation	151
	Pensaukee River	Oconto, Shawano	163
	Springbrook Creek	Langlade, Marathon	69
	Sugar & Honey Creeks	Racine, Walworth	166

ATTACHMENT 1 (continued)

Nonpoint Source Pollution Abatement Grant Program

LARGE-SCALE PRIORITY WATERSHED PROJECTS (continued)

Year Started	Project Name	County	Watershed Size (Sq. Miles)
1995	Fond du Lac River	Fond du Lac, Winnebago	244
	Kinnickinnic River	Pierce, St. Croix	206
	Lower Little Wolf	Waupaca	152
	Lower Rib River	Marathon	129
	Middle Peshtigo & Thunder Rivers	Marinette, Oconto	193
	Pigeon River	Manitowoc, Sheboygan	78
	Pine & Willow Rivers	Waushara, Winnebago	<u>303</u>
	TOTAL		11,328

SMALL SCALE WATERSHED PROJECTS

1990	Dunlap Creek	Dane	14
	Lowes Creek	Eau Claire	10
1991	Whittlesey Creek	Bayfield	12
	Spring Creek	Rock	6
1994	Osceola Creek	Polk	9
	St. Croix Flowage & Upper St. Croix Lake	Douglas	45
1995	Horse Creek	Polk	<u>15</u>
	SUBTOTAL		122

PRIORITY LAKE PROJECTS

1990	Minocqua Lake	Town of Minocqua	10
	Lake Tomah	Monroe	32
1991	Little/Big Muskego-Wind Lakes	Waukesha, Racine	41
1992	Middle Inlet-Lake Noquebay	Marinette	155
	Lake Ripley	Jefferson	8
1993	Camp/Center Lakes	Kenosha	8
	Hillsboro Lake	Vernon	35
	Yahara-Mendota	Dane, Columbia	230
1994	St. Croix Lakes Cluster	St. Croix	3
1995	Bigwood Lake	Burnett	20
	Rock Lake	Jefferson	<u>10</u>
	TOTAL		552

ATTACHMENT 2

On-going Priority Watershed Projects on the Impaired Waters List

Watershed

East River
Duck Creek
Apple-Ashwaubenon
Lower Big Eau Pleine River
Beaver Dam River
Cedar Creek
East and West Branches of Milwaukee

North Branch Milwaukee River
Menomonee River
Kinnickinnic River
Spring Creek
Upper Fox (Illinois)
Yellow River
South Fork Hay River
Hillsboro (small scale)
Lake Tomah (priority lake)

Counties

Brown, Calumet
Brown, Outagamie, Oneida Nation
Brown, Outagamie, Oneida Nation
Marathon
Wood, Clark, Marathon
Ozaukee, Washington
Fond du Lac, Washington, Sheboygan, Dodge,
Ozaukee
Sheboygan, Washington, Ozaukee
Milwaukee, Waukesha, Ozaukee, Washington
Milwaukee
Rock
Waukesha, Racine
Barron
St. Croix, Dunn, Polk, Barron
Vernon
Monroe

Water Bodies (or portions thereof) on the Impaired Waters List Not Currently Designated as Priority Watersheds

North Branch Manitowoc River and Tributaries	Green Bay Harbor Tributaries
Mill Creek	Kummel Creek
South Branch Rock River	Horicon Marsh
Rock River	Yahara River
Maunsha River	Honey Creek
Brewery Creek	North Fork Juda Branch
Otter Creek	Bark River
Red Cedar River	Black River
Wolf River (Chippewa County)	Upper Big Eau Pleine
Upper West Branch Pecotonica*	Seven Mile/Silver Creek*
Big Green Lake*	Bass Lake*
Root River*	Hay River*
Upper Willow River*	

* Completed priority watershed projects.

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Nonpoint Source Program Funding (DNR -- Water Quality)

[LFB Summary: Page 437, #2]

CURRENT LAW

DNR is provided \$6,363,600 GPR and \$6,705,300 SEG in base level funding for the nonpoint source water pollution abatement program for aids to local units of government for priority watershed project administration and cost-share grants to landowners and certain governmental units for the installation of water pollution abatement and conservation practices. In addition, \$20.0 million in general obligation bonding has been authorized for nonpoint source water pollution abatement grants, of which approximately \$18.6 million has been expended. The bonding provided the program is limited to cost-share grants for the installation of water pollution abatement or conservation practices and cannot be used for local program administration.

GOVERNOR

Delete base GPR funding of \$6,363,600 in 1997-98 for the nonpoint source water pollution abatement program. Instead, provide an additional \$12,363,000 in general obligation bonding authority, of which \$2.0 million would be designated for projects selected after July 1, 1998.

Further, limit the program's GPR appropriation (\$6,363,600 in 1998-99) to the provision of nonpoint source cost share grants only, rather than both cost share grants and local assistance grants. The bill would also provide \$6,505,300 SEG annually from the nonpoint account of the environmental fund which would be available for local administration and cost share grants.

DISCUSSION POINTS

Background

1. The nonpoint source water pollution abatement program provides grants to local units of government for: (a) priority watershed project administration; and (b) 50-70% cost share grants to landowners and communities in priority watersheds to install water pollution abatement practices and structures.

2. Large scale watershed projects generally take at least ten years to complete, excluding planning efforts prior to selection. The first two years following project selection is the project planning phase in which local assistance grants are made available for county and/or municipal administration of the watershed. Among other activities, local officials plan watershed projects, contract with landowners, assist in the design and installation of practices, conduct demonstrations and train staff. Local assistance grant awards for implementation and administration of the project are made throughout the remaining years of the project. Beginning in the third year of a project, landowners can sign-up for cost-sharing awards for the installation of practices such as manure storage facilities and barnyard roofs and contour strips on cropland to reduce nonpoint pollution runoff. The cost-sharing grant awards are available from the third year through the tenth year of a project. However, some projects have been extended and cost-sharing awards have been made for additional years.

Program Funding

3. Local governmental units (primarily counties) are advanced funds to meet anticipated cost share grant expenditures in a watershed project. As the advanced funds are expended, DNR reimburses the county's or the local government unit's advance account. During the final years of the project, DNR does not reimburse the advance funds provided each project, and the advanced funds are spent down.

4. Approximately 66 large scale priority watershed projects and 20 priority lake projects could receive funding during the 1997-99 biennium. The bill would provide \$29.8 million in funding for existing projects as follows: \$6.5 million SEG annually from the nonpoint account of the environmental fund; \$6.4 million GPR in 1998-99; and \$10.4 million in bonding. The bill would also provide \$2.0 million in general fund-supported bonding that would be restricted to new projects identified during the biennium.

5. DNR indicates that the nonpoint source pollution abatement program expenditures for existing watersheds could be as high as \$40.8 million for the 1997-99 biennium. However, in a November, 1996, report to the Land and Water Conservation Board (LWCB), DNR indicated that the amount of funding needed in the biennium could be reduced by \$10.7 million to \$30.1 million as follows: (a) \$1.0 million associated with encumbrances that will be carried into the 1997-99 biennium; (b) \$3.0 million, by eliminating advances to counties or local governments

for cost share grants (a reimbursement approach would be used); and (c) \$5.7 million program savings primarily associated with ending selected priority watershed and lake projects; and (d) \$1.0 million in federal Clean Water Act section 319 grants.

6. The following table lists the estimated program need and the funding available in the biennium under the bill.

**Estimated Nonpoint Program Expenditures
1997-99 (millions)**

SB 77 Funding	\$29.8
Estimated Expenditures	40.8
Less adjustments:	
reduced advances	-3.0
carryover encumbrances	-1.0
ending projects	-5.7
federal Clean Water Act funds	-1.0
Adjusted Expenditure Estimate	30.1
Remaining Funding	-\$0.3

7. By eliminating advances to counties, DNR would require counties to spend down the estimated \$4.0 million in advance account balances. After the funds in the advance accounts are depleted, the program would be administered as a reimbursement program in that counties would be required to fund cost share agreements and then submit the claims for reimbursement. It should be noted that not all counties or local governments have a balance in their advance accounts, and therefore, such counties or local governments would be on a reimbursement approach at an earlier date.

8. DNR is currently in the process of identifying watershed and lake projects that could be ended. Further, other provisions in the bill would require DNR and DATCP to review existing watershed projects and recommend those to be re-identified by the Board as a priority project. Under the provisions, if a watershed or lake currently designated as priority (except those statutorily designated) is not re-identified by the LWCB, the priority watershed or lake project would be terminated. If a project is terminated, the LWCB would be required to review the status of the project and direct DNR to continue, modify or eliminate funding for that watershed or lake project.

9. DNR has also indicated that program costs could also be reduced by better coordinating county activities with federal programs such as the United States Department of Agriculture's (USDA) environmental quality incentive program (EQIP). USDA is in the process of issuing final rules on the EQIP program, which would provide \$4.2 million in federal funding for cost share grants to landowners in Wisconsin. The EQIP program replaces the agricultural conservation program (ACP), and the water quality incentives program (WQIP) which were each funded at approximately \$2.0 million annually for Wisconsin in recent years.

10. One criticism of the nonpoint program has been that because the program provides a large share of funding for staff compared to federal programs, counties tend to focus their conservation efforts on obtaining watershed projects rather than using available federal program funding. That is, counties may not pursue federal cost-share funds or federal conservation program efforts (such as the conservation reserve program) because only a small share of the funds (approximately 10% under EQIP) can be used for staff, versus approximately 50% for nonpoint projects. Therefore, federal and DNR officials believe that there is potential to make better use of federal funds and federal conservation programs, to meet the state's nonpoint pollution abatement goals.

11. EQIP funds do not pass through the state government but rather are accessed directly by counties, local governments and landowners. Under the program, 65% of the funds, have to be spent in eight federally designated priority area basins, which would include several state priority watersheds and lakes. Further, the EQIP program is a competitive program with the state's share of future being largely dependent on the ability of counties to access the funds. Therefore, to the extent that counties and landowners in state designated priority watersheds make greater use of the federal EQIP funds, the demand for cost share funds in those projects could be reduced.

12. The bill would also require DNR, in consultation with DATCP, to promulgate rules that specify cost-effective best management practices that can be implemented by local governments and landowners to meet the priority watershed, lake and water basin water quality objectives. Therefore, to the extent that more cost-effective practices are used, the level of cost share funding needed in the biennium could be reduced.

13. Under the bill, the \$2.0 million in bonding would be restricted for use as cost share grants for new projects. Allowing this to be used for any project would provide DNR greater flexibility related to the use of the proposed funding.

14. If the Committee did not approve the Governor's recommendations the program would be provided \$26.2 million in funding and no additional bonding: \$6,363,600 GPR annually and \$6,705,300 SEG annually. It should be noted that DOA indicates that the \$200,000 annual reduction in segregated funding was proposed because the nonpoint account of the environmental fund could not support the expenditures.

Local Assistance Funding

15. The bill would limit the program's GPR appropriation (\$6,363,600 in 1998-99) to the provision of nonpoint source cost share grants only rather than both cost share grants and local assistance grants as allowed under current law. The bill would also provide \$6,505,300 SEG annually from the nonpoint account of the environmental fund which would also be available for local administration and cost share grants.

16. DOA indicates that the GPR appropriation was limited to cost share grants to ensure that a greater percentage of the program's funding would be available for the installation of water pollution abatement practices. Historically, at least one-half of the funds have been expended on local assistance grants (county staff and supplies) and one-half (or less) on cost share grants (farm practices).

17. Local assistance grants totalled \$13.5 million in the 1993-95 biennium and approximately \$18.9 million will be spent on local assistance (with approximately \$16.6 million spent on cost share grants) in the 1995-97 biennium. Under the bill, approximately \$14.0 million could be used to fund local assistance grants to counties and local governments (\$13.0 million SEG provided under the bill and approximately \$1.0 million in federal Clean Water Act Section 319 grant funding). Allowing the \$6,363,600 GPR in 1998-99 to be used for both local assistance grants and cost share grants would provide DNR the flexibility to expend up to \$19.4 million on local assistance grants in the biennium.

18. However, allowing the GPR to be used for local assistance grants would reduce the amount of funds that would be exclusively available for cost share grants to landowners or local governments. If GPR funding were used for county staff, and assuming DNR implements its program to reduce cost share advance accounts, approximately \$15.4 million would be available exclusively for cost share funding: (a) \$10.4 in bonding for existing priority watershed or lake projects provided in the bill; (b) \$3.0 million associated with spending down cost share advances previously provided counties and local governments; and (1) \$1.0 million associated with encumbrances of previously provided grant funding. In addition, federal funding under the EQIP program could reduce the need for state funding in the biennium to implement cost share practices.

19. Alternatively, allowing up to 50% of the GPR funds to be used for local assistance grants would allow DNR some additional flexibility while limiting local assistance grant funding. Under this scenario, approximately \$16.2 million (\$13.0 million SEG and \$3.2 million GPR) in funding provided in the biennium would be available for county staff grants and \$18.6 million for landowner practices. This alternative would not provide the \$18.9 million in funding that was expended on local assistance grants during the last biennium. However, under DNR's expenditure reduction plan, assuming that 50% of the \$5.7 million in savings associated with ending watershed or lake projects is staff related, the need for local assistance could be reduced by approximately \$2.9 million. Therefore, under this alternative, county staffing in active

watersheds would remain at approximately the 1995-97 level (\$18.9 million, less \$2.9 million in savings, would be \$16.0 million in active watersheds.)

20. Concerns have been raised that the nonpoint source program is expending more funding for local assistance grants than on the installation of pollution abatement and conservation practices. However, the recent focus of the program has involved the use of low-cost practices such as changes in tillage practices, nutrient planning and grazing management which are generally more staff intensive. Implementing such low-cost practices generally involves local staff working closely with landowners to change their behaviors and develop management plans aimed at pollution abatement rather than the building structures or facilities.

Therefore, despite the Governor's proposal to limit the funds for local assistance grants, it is unlikely that the need for local assistance funding will be reduced in the future. However, to alleviate concerns about the long-term funding implications for local assistance grants the Committee could require counties to match a portion of the nonpoint local assistance grants provided for their projects. Currently, DNR grants fund 70% of certain county equipment and up to 100% of most staff and supply costs. Cost share grant recipients (landowners) under the program, are generally required to pay a minimum of 30% of the costs of the practices installed under the program. A similar match could be required for county or local governments for local assistance grants. Further, a similar program, DATCP's soil and water resource management program, requires a 100% match to the state funding provided for county staffing grants. Requiring a 30% local match could also substantially reduce the need to terminate existing watersheds or, to the extent watersheds are terminated, to allow the funding of higher priority projects under new criteria sooner than would be allowed under the bill.

21. Requiring a minimum 30% local match could also increase the local commitment to a nonpoint project in that only counties or local governments who are willing to commit their own funds would receive state funding for their project. However, counties that currently have watershed projects received the project funding without a 30% required local match. Alternatively, the Committee could require a match for any projects selected for funding after July 1, 1998 (consistent with the Governor's recommendations for identification of new projects).

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations to: (a) delete base GPR funding of \$6,363,600 in 1997-98 for the nonpoint source water pollution abatement program and limit use of the GPR appropriation to the provision of nonpoint source cost share grants to landowners; and (b) provide an additional \$12,363,000 in general obligation bonding authority, of which \$2.0 million would be designated for projects selected after July 1, 1998.

<u>Alternative 1</u>	<u>GPR</u>	<u>BR</u>
1997-99 REVENUE (Change to Base)	\$0	\$12,363,000
<i>[Change to Bill]</i>	<i>\$0</i>	<i>\$0</i>
1997-99 FUNDING (Change to Bill)	-\$6,363,600	\$0
<i>[Change to Bill]</i>	<i>\$0</i>	<i>\$0</i>

2. Adopt the Governor's recommendation, as modified by one or more of the following:

a. specify that up to 50% of GPR funds could be used for local assistance grants (at least 50% would be for landowner cost share grants).

b. specify that GPR funds may be used for cost share and local assistance grants.

c. delete the requirement that \$2 million in bonding be designated only for newly selected projects (the \$2 million would be available for any projects).

d. require recipients of nonpoint source program local assistance grants to provide a minimum 30% match in order to receive grant funds for projects.

e. require recipients of nonpoint source program local assistance grants to provide a minimum 30% match in order to receive grant funds for projects selected after July 1, 1998.

<u>Alternative 2</u>	<u>GPR</u>	<u>BR</u>
1997-99 REVENUE (Change to Base)	\$0	\$12,363,000
<i>[Change to Bill]</i>	<i>\$0</i>	<i>\$0</i>
1997-99 FUNDING (Change to Bill)	-\$6,363,600	\$0
<i>[Change to Bill]</i>	<i>\$0</i>	<i>\$0</i>

3. Maintain current law.

<u>Alternative 3</u>	<u>GPR</u>	<u>BR</u>
1997-99 REVENUE (Change to Base)	\$0	\$0
<i>[Change to Bill]</i>	<i>\$0</i>	<i>-\$12,363,000</i>
1997-99 FUNDING (Change to Base)	\$0	\$0
<i>[Change to Bill]</i>	<i>\$6,363,600</i>	<i>\$0</i>

Prepared by: Al Runde

MO# Alt. 2a and e

2 BURKE	0	N	A
DECKER	0	N	A
GEORGE	0	N	A
JAUCH	0	N	A
WINEKE	0	N	A
SHIBILSKI	0	N	A
COWLES	0	N	A
PANZER	0	N	A
1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON MURAT	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Local Assistance Grant Funding

Motion:

Move to restrict local assistance grant funds from being used for promotional items, excluding those used for informational purposes, such as brochures and videos.

MO# 3030

BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
2 ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	(N)	A
LINTON MURAT	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Nonpoint Segregated Funding -- Nonpoint Account Condition (DNR -- Water Quality)

[LFB Summary: Page 438, #3]

CURRENT LAW

Revenues of approximately \$10.3 million SEG annually are deposited to the nonpoint account of the environmental fund are derived from a \$7.50 vehicle title transfer fee collected at the time of filing an application for the first certificate of automobile title and at the time of filing a certificate of title after a transfer of ownership. The fee is collected by the Department of Transportation. The Department of Natural Resources (DNR), the Department of Agriculture, Trade and Consumer Protection (DATCP) and the Department of Workforce Development (DWD) for Wisconsin Conservation Corps enrollee shoreland projects are provided a total of \$10,757,800 SEG in base level funding with approximately 21.2 positions from the nonpoint account of the environmental fund.

GOVERNOR

Delete \$600,000 SEG annually from the nonpoint source water pollution abatement program as follows: (a) \$400,000 annually associated with contracted services, including information and education, to support and implement the nonpoint program; (b) \$200,000 annually from the nonpoint source grant program.

DISCUSSION POINTS

1. DOA indicates that the recommended reduction in funding is necessary to bring expenditures from the account in line with the revenues generated from the vehicle title transfer fee.

2. Due to a calculation error under the bill, it is estimated that the account will end the biennium with a \$600,000 deficit. The following table lists the estimated condition of the nonpoint account of the environmental fund.

Nonpoint Account Condition Statement under SB 77
(in millions)

	1997-98	1998-99
Beginning Balance	-\$0.6	-\$0.6
Revenues	10.3	10.4
Expenditures	-10.3	-10.4
Ending Balance	-\$0.6	-\$0.6

3. If the \$1.2 million in reductions recommended by the Governor were not approved the fund would end the 1997-99 biennium with an estimated \$1.8 million deficit. However, in general, segregated funds and program revenue accounts are statutorily required to have positive year-end balances. Therefore, the agencies would have to administratively reduce nonpoint expenditures by \$1.8 million over the biennium.

4. While a 25 cent increase in the vehicle title transfer fee would provide approximately \$345,650 annually and balance the fund in the biennium, it should be noted that the account is structurally balanced. That is, expenditure levels under the bill are within estimated revenues for the biennium. Therefore, a one-time reduction in expenditures from the nonpoint account would balance the fund in the biennium and, potentially, thereafter. A one-time reduction of \$600,000 would be approximately a 3.0% reduction in overall spending in the biennium.

5. The following table lists the base level appropriations funded from the nonpoint account of the environmental fund:

**1997-99 Nonpoint Account Expenditures
Under SB 77**

Program	<u>1997-98</u>	<u>1998-99</u>
Natural Resources		
Long-term monitoring research of impacts of priority watershed projects - integrated services	\$306,700	\$306,700
Trading water pollution credits	50,000	50,000
Nonpoint program administration	449,700	449,700
Priority watershed contracts	1,076,100	1,076,100
Priority watershed grant program	6,505,300	6,505,300
Administrative services funding for nonpoint source activities	203,500	203,500
Nonpoint grant administration	71,200	71,200
Agriculture, Trade and Consumer Protection		
Soil and water management grants (agricultural shoreland and animal waste management)	950,000	950,000
Soil and water resource management program administration	604,600	604,600
Workforce Development (Wisconsin Conservation Corps)		
Enrollee operations for shoreland projects	76,700	76,700
Compensation reserves	41,500	85,300
Estimated lapses	<u>-16,400</u>	<u>-16,400</u>
Total	\$10,318,900	\$10,362,700

Administrative Funding

6. Approximately \$1,635,700 and 21.2 state positions are provided from the nonpoint account under the bill. The staff are primarily associated the DNR nonpoint source pollution abatement grant program (5.5 conducting water quality monitoring support and 6.0 administering the program) and administering and providing technical assistance for DATCP's soil and water resource management (SWRM) program (8.0 staff). Remaining positions are DNR central administrative and grants administration staff.

7. All of positions funded from the nonpoint account of the environmental fund are currently filled. Therefore, any reductions in administrative appropriations would require DNR or DATCP to either layoff staff or reallocate them to other funding sources and could reduce program activity.

8. It could be argued that any reductions to the funding to either the nonpoint or SWRM grant programs should result in a comparable reduction in funding for staff. Therefore, if a reduction is required in the various grant and contract funding provided from the nonpoint account, administrative funding could also be reduced by 3% annually (approximately \$48,000). These reductions could be taken from DNR's nonpoint program administration or DATCP's SWRM program administration. On the other hand, agency officials argue that if a one-time reduction is required to balance the account, a permanent staff reduction is not warranted.

Grant and Contracts Funding

9. Approximately \$8,531,400 SEG annually from the nonpoint account of the environmental fund is associated with nonpoint source pollution abatement grants, DATCP's SWRM grants and contract funding for services to support the nonpoint program.

10. The nonpoint source water pollution abatement program provides grants to local units of government for: (a) priority watershed project administration (county and local staff and supplies); and (b) 50-70% cost share grants to landowners and communities in priority watersheds to install water pollution abatement practices and structures. Historically, one-half (or more) of the funds have been expended on local assistance grants and up to one-half is expended on cost share grants.

11. Based on current estimates, the nonpoint source grant program will likely need the \$6,505,300 annually provided under the bill. However, other provisions in the bill would make changes to the nonpoint program which could impact the program demand. For example, the Governor recommends providing the Land and Water Conservation Board, with assistance from DNR and DATCP, to terminate some existing watersheds that are not meeting program goals in order to reduce program demand. DNR has indicated \$5.7 million could be saved in the biennium primarily through ending some existing watershed projects.

12. Under current law, both the GPR and SEG appropriations for the nonpoint grant program can be used to provide local assistance grants for the administration of the nonpoint program at the local level. The bill would eliminate the GPR funding for local assistance grants, and would allow that only the SEG funds (approximately \$13.0 million) be available for local assistance grants. Local assistance expenditures were \$13.5 million in the 1993-95 biennium and will be an estimated \$18.9 million during the 1995-97 biennium. DNR indicates that approximately \$1.0 million in the biennium in federal Clean Water Act funds could also be available for local assistance grant funding.

13. The funding provided for DATCP's SWRM program is primarily used to provide grants for agricultural shoreland projects and animal waste management grants to landowners. Agricultural shoreland funds are used to fund the development of county agricultural shoreland ordinances and conservation practices required under those ordinances. Animal waste

management grants are provided to landowners who have received a DNR notice of discharge of animal waste into the waters of the state and are required to take corrective action to reduce that discharge. The two programs are likely to need the available funding to meet the programs' demand in the 1997-99 biennium.

14. DNR's nonpoint source contracts fund water quality monitoring, education and research activities that support the nonpoint program. Contract funding has supported the development of watershed maps, water pollution abatement demonstration projects, fisheries inventories, lab analysis, monitoring and various informational and educational activities. Contractors have included the State Laboratory of Hygiene, University of Wisconsin-Extension, the United States Geological Survey and other DNR programs as well as counties. Several of the contracts entered into to support the nonpoint program are long term.

15. Concerns have been raised that while the state has spent considerable funds on the nonpoint program and water pollution abatement practices, evaluation of the program through water quality monitoring has been limited. The contracts funding is one of the primary funding sources used to conduct such evaluations. Further, reducing the contract funding further, while it may not result in loss of staffing for DNR, could result in staff reductions at UW-Extension or the State Laboratory of Hygiene.

16. As mentioned earlier, despite having a deficit, the account is structurally balanced. To balance the fund a one-time reduction of approximately \$600,000 is needed. Therefore, any reductions in expenditures could be taken in the first year of the biennium. As a result, the program would maintain a higher base level of funding available for the 1999-2001 biennium.

17. Since program funding in all categories is expected to be expended, it could be argued that an across-the-board reduction would be most equitable. A 3% overall reduction would generate the necessary savings. If the funding reductions necessary to balance the account in the biennium were taken entirely from the grant and contract funding, a 3.5% reduction would be required in the biennium (or approximately a 7% reduction in funding in 1997-98).

ALTERNATIVES TO BASE

1. Approve the Governor's recommendations to delete (a) \$400,000 annually associated with contracted services; and (b) \$200,000 annually from the nonpoint source grant program. (DNR and DATCP would have to administratively reduce expenditures by an estimated \$600,000 to avoid a deficit.)

<u>Alternative 1</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	-\$1,200,000
[Change to Bill]	\$0

2. In addition to the Governor's recommendation, delete \$300,000 SEG annually under one of the following:

<u>Alternative 2</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	- \$600,000
<i>[Change to Bill</i>	<i>- \$600,000]</i>

a. Delete \$300,000 SEG annually in nonpoint grant funding (\$6.2 million in base funding would be available in the 1999-2001 biennium).

b. Delete 3.5% annually in grant and contract funding provided in the biennium as follows: \$228,800 annually from the nonpoint grant program; \$33,400 annually from the SWRM grant program; and \$37,800 annually in contract funding.

c. Delete approximately 3% of annual expenditures as follows: \$48,000 with 1.0 position associated with DNR's nonpoint program administration; \$192,200 in nonpoint source pollution abatement grant funding; \$28,000 in DATCP's SWRM grant program funding; and \$31,800 in nonpoint contract funding.

<u>Alternative 2c</u>	<u>SEG</u>
1997-98 POSITIONS (Change to Base)	- 1.00
<i>[Change to Bill</i>	<i>- 1.00]</i>

d. Delete approximately 3% of annual expenditures as follows: \$48,000 with 1.0 position associated with DATCP's SWRM program administration; \$192,200 in nonpoint source pollution abatement grant funding; \$28,000 in DATCP's SWRM grant program funding; and \$31,800 in nonpoint contract funding.

<u>Alternative 2d</u>	<u>SEG</u>
1997-98 POSITIONS (Change to Base)	- 1.00
<i>[Change to Bill</i>	<i>- 1.00]</i>

3. In addition to the Governor's recommendation, delete \$600,000 SEG in 1997-98 under one of the following:

<u>Alternative 3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	- \$600,000
[Change to Bill]	- \$600,000]

a. Delete \$600,000 SEG in 1997-98 in nonpoint grant funding (\$6,505,300 in base funding would be available for the 1999-2001 biennium).

b. Delete 7% in 1997-98 grant and contract funding as follows: \$457,500 from the nonpoint grant program; \$66,800 from the SWRM grant program; and \$75,700 in nonpoint contract funding.

c. Delete 6% of 1997-98 expenditures as follows: \$48,000 from both DNR and DATCP associated with program administration (\$96,000 total); \$384,300 in nonpoint source pollution abatement grant funding; \$56,100 in DATCP's SWRM grant program funding; and \$63,600 in nonpoint contract funding.

4. Maintain current law (the agencies would have to administratively reduce expenditures from the nonpoint account to avoid a \$1.8 million deficit).

<u>Alternative 4</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	\$1,200,000]

Prepared by: Al Runde

MO# 3b

2 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
/ JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Water Pollution Credit Trading (DNR -- Water Quality)

[LFB Summary: Page 443, #19]

CURRENT LAW

DNR administers the Wisconsin Pollution Discharge Elimination System (WPDES) permit program which sets the concentrations and mass limits of specific chemicals and organisms for permitted (point) sources of water pollution discharges.

GOVERNOR

Governor: Provide \$50,000 annually to fund a project to evaluate the trading of water pollution credits as follows:

Projects. Require DNR to administer one or more projects involving the trading of water pollution credits among sources of water pollution. The project would authorize a permitted source of water pollution discharges to increase the discharge of pollutants above the levels that would otherwise be authorized in the permit, provided the permitted source does one of the following:

a. Reaches an agreement with another permitted source under which the other source agrees to reduce the discharge of pollutants in the project area below the levels that would otherwise be required in the permit;

b. Reaches an agreement with another person who is not required to obtain a water pollution discharge permit under which the other person agrees to reduce the amount of water pollution it causes in the project area below the level of pollution it caused when the agreement is reached; or

c. Reaches an agreement with DNR, or a local unit of government, under which the source pays money to DNR or a local unit of government that would be used to reduce water pollution in the project area.

Require DNR to amend the permits of the sources entering into the project agreement in order to enable the agreement to be implemented. Further, the Department would be allowed to select a watershed or water basin as a project area if all the following apply:

a. The watershed or water basin contains at least one impaired water body that DNR has identified to the U.S. Environmental Protection Agency;

b. The watershed contains both agricultural and municipal sources of water pollution and both are point or nonpoint sources of pollution; and

c. Potential participants in the watershed or water basin exhibit interest in participating in a project.

Local Committees. Require DNR to appoint a local committee for each project to advise the Department concerning the project. The local committee would include a representative of each person in the project area who holds a water pollution discharge permit. A local priority watershed or lake committee could serve as the project committee if it includes representatives for each permitted source within the project area.

Appropriations. Create the following appropriations: (a) a continuing, segregated appropriation (funded at \$50,000 annually) from the nonpoint account of the environmental fund to assist in funding water pollution credit trading projects; and (b) a continuing, program revenue appropriation for all moneys received from agreements reached with sources of water pollution in project areas for activities to reduce pollution in the project area.

Reports. Beginning no later than September 1, 1998, and annually thereafter, require that DNR submit a report to the Governor, the Secretary of DOA and the LWCB on the progress and status of each project in achieving water quality goals and coordinating state and local efforts to improve water quality.

DISCUSSION POINTS

1. The federal Clean Water Act requires states to develop the total maximum daily load (TMDL) of specific pollutants and analyze the maximum amount of point and nonpoint source contributions of the pollutant that a water body can receive to assure compliance with water quality standards. The TMDL approach involves comparing and evaluating the environmental benefits and costs of different control strategies for different pollutants. That is, DNR is required to identify all sources of pollutants to a water body and develop the point, nonpoint and other controls necessary to allow the water body to support its designated use (for example, fishable and swimmable).

2. As part of the TMDL approach required under the Clean Water Act, DNR and individual businesses, local governments and environmental groups will develop strategies on the most affordable and effective ways to achieve the needed pollutant reductions in particular water bodies. One of the potential strategies that has been identified involves trading of water pollution credits among the various pollution sources to potentially achieve improved water quality at a lower cost. For example, allowing a permitted source to forgo a capital improvement necessary to meet its potential permit requirements and, in turn, contract with other sources emitting to the same water body to reduce their discharges in order to achieve an equal or greater level of water quality at a lower cost.

3. The bill would develop a program that would create a pollutant credit trading mechanism. Under the bill a permitted source would be allowed to exceed its allowable discharge levels if that source (a) enters into an agreement with another permitted source or a non-permitted (primarily nonpoint sources) whereby the other source agrees to reduce its pollutant discharges to the project area, or (b) agrees to pay DNR or a local unit of government that would be used to reduce water pollution in the project area. Essentially, DNR would be required to initiate a project whereby discharges of pollutants are reallocated among the various sources within the project area in order to achieve water quality at a lower cost.

4. While the concept of water pollution credit trading is generally agreed upon as a viable strategy to meet the federal Clean Water Act requirements, the program as drafted may not comply with the federal law. DNR indicates that allowing a permitted source to exceed an existing permit requirement may violate the federal Clean Water Act. However, they indicate that the terms and limitations of future permits could incorporate the concept of pollutant credit trading.

5. Further, while the program would allow one source to go above its allowable discharge levels, the program, as proposed, would not require that the agreement result in a comparable or greater reduction in the overall discharge of pollutants to the project area. DNR argues that to be consistent with the TMDL concept and federal requirements, the program should require a "net gain" in the reduction of pollutants or improvements to water quality as a result of any agreement entered into by a permitted source.

6. As a result, while DNR agrees with the concept of the pilot program, the Department recommends that the proposed program be modified to ensure that it is consistent with the federal Clean Water Act and to ensure that any agreements entered into by permitted sources under the program result in a net improvement to water quality.

7. It is unclear how the agreements involving nonpoint sources would be enforced. DNR has limited enforcement authority over nonpoint sources of water pollution (the critical sites provisions of the nonpoint program--which has never been invoked--and the NR 243 animal waste regulatory authority) compared to its authority over point sources. Therefore, it is unclear whether DNR or the permitted source would be required to enforce a water pollution credit trading agreement involving a nonpoint source. For example, it is unclear whether DNR would take the regulatory actions necessary to require a nonpoint source to meet the reduction levels outlined in the agreement or whether DNR would take regulatory action against the permitted source and that source would then have to pursue a private action against the nonpoint source.

8. While the administration refers to the proposed program as a "pilot" program, the bill places no restriction on the number of agreements or projects that could be entered into, nor is there a sunset date in SB 77. Further, no estimate of program revenues under the program is provided. If a pilot project is intended, the bill could be amended to restrict the program to no more than three projects or be sunset on June 30, 1999.

9. The \$50,000 annually in nonpoint SEG would be used for travel, to contract for technical and legal expertise and for project evaluation of agreements involving pollutant credit trading. However, it is not clear to what extent costs associated with the agreements would be charged to participants and received as program revenues. Since the level of funding necessary to facilitate the projects is uncertain at this time, and the need for project evaluation may, or may not, occur during the 1997-99 biennium, the funding may not be necessary at this time. Further, it should be noted that \$100,000 SEG in the biennium would be funded from the nonpoint account which would have a deficit of approximately \$600,000 on June 30, 1999, under SB 77 expenditure levels.

10. The bill would require DNR to appoint a local committee for each project to advise the Department concerning the project that would include a representative of each person in the project area who holds a water pollution discharge permit.

11. While representation of permitted sources on the local committees is warranted, it may not be necessary to include each permitted source as a member of the local committee. Depending on the size of the project area, the number of permittees could be substantial.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to: (a) provide \$50,000 annually from the nonpoint account of the environmental fund for a program to evaluate the trading of water pollution credits; (b) create a SEG and PR appropriation; (c) require DNR to appoint a local committee for each project that would include a representative of each person in the project area who holds a water pollution discharge permit; and (d) require DNR to submit a report on the progress and status of each project in achieving water quality goals.

<u>Alternative 1</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$100,000
[Change to Bill]	\$0]

2. In addition to the Governor's recommendation, do one or more of the following:

a. Require that the program be implemented consistent with the federal Clean Water Act and that the projects lead to an improvement in water quality in the project area.

b. Require that the local committee include one or more representatives of persons holding permits in the project area.

c. Restrict the program to no more than three projects.

d. Require that no projects may be undertaken after June 30, 1999.

e. Delete SEG funding (\$50,000 annually).

<u>Alternative 2e</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	- \$100,000]

3. Maintain current law.

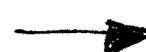
<u>Alternative 3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	- \$100,000]

Prepared by: Al Runde

MO# 2a and b

2 BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON MURPHY	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS 0



MO# 2 d

1 BURKE	(S)	N	A
2 DECKER	(S)	N	A
GEORGE	(S)	N	A
JAUCH	(S)	N	A
WINEKE	(S)	N	A
SHIBILSKI	(S)	N	A
COWLES	(S)	N	A
PANZER	(S)	N	A
JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON WAT	(Y)	N	A
COGGS	(Y)	N	A

AYE 12 NO 4 ABS 0

NATURAL RESOURCES

Water Pollution Credit Trading (Paper #628)

Motion:

Move to require that any water pollution credit trading agreement authorized under the program be sunset within five years of the date of the agreement.

Note:

SB 77 provide DNR \$50,000 SEG annually to conduct a pollution credit trading program but does not set a time limit under which agreements could be reached or how long agreement could last. The motion would require that any agreements authorized under the program could be for a maximum of five years.

MO# 1605

2 BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON MURAT	(Y)	N	A
COGGS	(Y)	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Water Pollution Credit Trading (Paper #628)

Motion:

Move to prohibit an entity involved in metallic or nonmetallic mining or prospecting activities from entering into agreements under the water pollution credit trading program.

MO# 3023

1 BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	(N)	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
2 SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON WILKINSON	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0

NATURAL RESOURCES

Water Pollution Credit Trading (Paper #628)

Motion:

Move to require that any pollution credit trading agreement authorized under the program involve the same pollutant or water quality standard. Further, require that only those water bodies listed on the impaired waters list submitted to the U.S. Environmental Protection Agency (EPA) under the Clean Water Act requirements be eligible project areas for the program.

MO# 1604

2	BURKE	(Y)	N	A
	DECKER	(Y)	N	A
	GEORGE	(Y)	N	A
	JAUCH	(Y)	N	A
	WINEKE	(Y)	N	A
	SHIBILSKI	(Y)	N	A
1	COWLES	(Y)	N	A
	PANZER	(Y)	N	A
	JENSEN	(Y)	N	A
	OURADA	(Y)	N	A
	HARSDORF	(Y)	N	A
	ALBERS	(Y)	N	A
	GARD	(Y)	N	A
	KAUFERT	(Y)	N	A
	LINTON-MUEH	(Y)	N	A
	COGGS	(Y)	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES -- WATER QUALITY

Watershed Stewardship Center

Motion:

Move to provide \$50,000 SEG annually from the water resources account for a four-year project beginning in 1997-98 to establish a nongovernmental Watershed Stewardship Center to: (a) encourage and facilitate the formation and development of local watershed groups; (b) serve as an education and information clearinghouse; (c) administer start-up funding and provide technical assistance to local groups; and (d) administer a local stewardship competitive grants program to provide grants of up to \$5,000 for the formation and development of local watershed groups. The grants would be allocated by a Watershed Stewardship Council comprised of state agencies and local watershed interests.

Note:

Grants would be used for organizational development and education. Expenses might include printing and postage for brochures and newsletters, local landowner surveys, facilitator and training costs. The motion would create an annual appropriation within DNR to fund these activities.

[Change to Base: \$100,000 SEG]

[Change to Bill: \$100,000 SEG]

MO# 3021

1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
2 JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON WARRAT	Y	N	A
COGGS	Y	N	A

NATURAL RESOURCES

Water Pollution Credit Trading
[Paper #628]

Motion:

Move to require that City of Cumberland (Barron County) within the South Fork Hay River Watershed be designated as one of the project areas for the pollution credit trading program.

Note:

SB 77 provides DNR \$50,000 annually from the nonpoint account of the environmental fund for a pollution credit trading program.

MO# 3019

BURKE	<input checked="" type="radio"/>	N	A
2 DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
1 JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	Y	<input checked="" type="radio"/>	A
JENSEN	Y	<input checked="" type="radio"/>	A
OURADA	Y	<input checked="" type="radio"/>	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	Y	<input checked="" type="radio"/>	A
GARD	Y	<input checked="" type="radio"/>	A
KAUFERT	Y	<input checked="" type="radio"/>	A
LINTON MURRAY	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 10 NO 6 ABS 0

NATURAL RESOURCES

Nonpoint Source Water Quality Standards

Motion:

Move the following:

(1) Direct the Department of Natural Resources (DNR) to do the following:

a. set performance standards and prohibitions for facilities and practices for nonpoint sources of water pollution that are not agricultural for the purpose of achieving water quality standards by limiting the nonpoint source water pollution.

b. establish a process, exempt from administrative rules, for the development and dissemination of technical standards to implement the performance standards and prohibitions for facilities and practices that are not agricultural facilities and practices, and are nonpoint sources.

c. Require the DNR to develop alternatives where technical standards are capable of implementing the performance standards and prohibitions.

d. in consultation with the Department of Agriculture, Trade and Consumer Protection (DATCP), establish performance standards and prohibitions for agricultural facilities and practices that are nonpoint sources for the purpose of achieving water quality standards by limiting the nonpoint source water pollution. At a minimum, the prohibitions shall provide that livestock operations shall have no:

- overflow of manure storage structures.
- unconfined manure piles in water quality management areas.
- direct runoff from feedlots or stored manure into waters of the state.
- unlimited access by livestock to waters of the state where high concentrations of animals prevent adequate sod cover maintenance.

(2) Direct DATCP to do the following:

a. in consultation with DNR, establish conservation practices and technical standards for nonpoint source agricultural practices and facilities to implement the performance standards and prohibitions promulgated by the DNR.

b. require DATCP to promulgate rules relating to the conservation practices and a process for the development, and dissemination of the technical standards.

c. to promulgate rules, that at a minimum, establish conservation practices and technical standards for animal waste management, nutrients applied to the soil and cropland sediment delivery are capable of implementing the DNR's nonpoint source performance standards and prohibitions. Direct the DATCP to develop statewide agricultural nutrient management policies. Provide that the policies include components such as technical standards, incentives, educational and outreach strategy, and compliance requirements.

(3) expand the erosion control planning program in s. 92.10 and rename the program the land and water resource management planning program and provide that the program encompass all activities of the county land conservation department regarding nonpoint source water pollution.

(4) require that the performance standards and prohibitions for agricultural facilities and practices set by DNR and the conservation practices and technical standards set by DATCP apply to the following:

- priority watershed program.
- county land and water resource management planning program.
- farmland preservation cross-compliance.
- animal feeding operations.
- remedies under the right to farm statute.

(5) Local authority related to regulation of livestock operations.

a. provide that a local governmental unit may promulgate regulations that are consistent with and do not exceed the performance standards, prohibitions, conservation practices and technical standards promulgated by DNR and DATCP.

b. provide that the local governmental unit may exceed the performance standards, prohibitions, conservation practices and technical standards applicable to livestock operations promulgated by DNR and DATCP only if the local governmental unit demonstrates to the satisfaction of DNR or DATCP that more stringent regulations by the local governmental unit are necessary to achieve water quality standards promulgated by DNR.

c. require DNR and DATCP to promulgate procedures for review and approval of requests by local governmental units for more stringent regulations.

d. provide that a livestock operation that is required to apply for a permit under s. 283.31 (Wisconsin Pollution Discharge Elimination System permit) or an existing livestock operation that receives notice from the DNR of the requirement to comply with rules promulgated under ch. 283 (notice of discharges under NR 243 process) applicable to livestock operations,

may continue to operate at that location regardless of any city, village, town or county zoning ordinance under s. 59.69, 60.61, 60.62, 61.35 or 62.23(7) if the livestock operation is a lawful use or a legal nonconforming use.

(6) Requirements for cost sharing for conservation practices and prohibitions.

a. compliance with the performance standards, prohibitions, conservation practices and technical standards for agricultural facilities and practices for the abatement of nonpoint source water pollution caused or threatened to be caused by existing agricultural facilities and practices is not required until cost-sharing is available to the owner or operator.

b. direct DNR and DATCP to determine the requirements for "availability" of cost-sharing with respect to state enforcement of the nonpoint source performance standards, prohibitions, conservation practices and technical standards.

c. require that cost sharing requirements when any local government regulation shall be set in such local regulations.

d. provide \$2.0 million in general fund supported borrowing for nonpoint source water pollution abatement program activities for cost sharing for agricultural facilities to meet the nonpoint source prohibitions.

Note:

Under current law, DNR sets the state's water quality standards and develops the technical practices that may be used to meet those standards. The motion would require that DNR set specific water quality and performance standards for nonpoint source pollution. However, DNR would only set the standards for practices necessary to meet those nonpoint source water quality standards for non-agricultural nonpoint source activities. DATCP would be allowed to establish the technical standards for practices for agricultural nonpoint sources.

The motion would also require DNR, in consultation with DATCP, to establish prohibitions (similar to those established by DNR and DATCP led animal waste advisory committee) for certain agricultural practices or facilities causing nonpoint source pollution. This would provide additional regulation of such practices and facilities. The DNR and DATCP committee, while not taking into account existing funding available under the nonpoint and other programs, indicated the cost of the regulation could be substantial. However, the regulations contained in the motion, including any prohibitions, related to agricultural facilities do not apply to existing agricultural facilities unless cost-sharing is available to that owner or operator to meet the regulations

Local units of government would be allowed to exceed the state water quality and performance standard, prohibitions, conservation and technical practice standard if the local government demonstrate to DNR and DATCP that the more stringent standards are necessary to achieve DNR's water quality standard. Further, any livestock facility that is required to apply for permit or is subject to DNR's NR 243 process would be allowed to continue to operate regardless of any local ordinance or the livestock facility is lawful use or a legal nonconforming use.

The bonding provided in the motion would be restricted to livestock operation to meet any prohibitions necessary to achieve water quality standards.

Terms related to the motion include:

1. "Agricultural facility" means any structure associated with an agricultural practice.
2. "Agricultural practice" means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal program in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836 and vegetable raising.
3. "Livestock operation" means a feedlot or other facility or a pasture where animals are fed, confined, maintained or stabled.
4. "Local governmental unit" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, a combination or subunit of any of the foregoing or an instrumentality of the state and any of the foregoing.
5. "Navigable waters" has the meaning given in s. 281.31(2)(d).
6. "Nonpoint source" means a facility or practice that causes or has the potential to cause nonpoint source water pollution.
7. "Nonpoint source water pollution" means pollution of waters of the state that does not result from a point source as defined in s. 283.01(12).
8. "Water quality management area" means any of the following areas:
 - a. The area within 1,000 feet from the ordinary high-water mark of navigable waters that consist of a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high-water mark of the lake.

b. The area within 300 feet from the ordinary high-water mark of navigable waters that consist of a river or stream.

c. Specific sites that are susceptible to groundwater contamination or that have the potential to be a direct conduit to groundwater.

9. "Waters of the state" has the meaning given under s. 283.01(20).

[Change to Base: \$2,000,000 BR]

[Change to Bill: \$2,000,000 BR]

MO# 1609

1 BURKE	(Y)	N	A
2 BECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	Y	(N)	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	Y	(N)	A
LINTON MONT	(Y)	N	A
COGGS	(Y)	N	A

AYE 14 NO 2 ABS 0

NATURAL RESOURCES -- WATER QUALITY

Construction Site Erosion Control

Motion:

Move to exclude construction sites from any nonpoint source water quality or performance standards created under Motion #1609. Any existing construction site erosion control standards and regulations would continue to apply.

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
2 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON ^{MURPHY}	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS 0

NATURAL RESOURCES

Nonpoint Water Quality

Motion:

GPR

Move to provide \$500,000 annually to implement the nonpoint water quality standards and performance requirements in Motion #1609.

MO# 3032

2 BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	Y	(N)	A
JAUCH	(Y)	N	A
WINEKE	Y	(N)	A
1 SHIBILSKI	(Y)	N	A
COWLES	Y	(N)	A
PANZER	Y	(N)	A
JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	Y	(N)	A
ALBERS	Y	(N)	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON MURPHY	(Y)	N	A
COGGS	(Y)	N	A

AYE 6 NO 10 ABS 0