

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

ISSUE

Permit Guarantee Program (DNR -- Water Quality)

[LFB Summary: Page 444, #20]

CURRENT LAW

DNR administers several environmental programs that require approval of an application for a license, permit or other Department approvals.

GOVERNOR

Require that DNR promulgate rules that would specify the allowable time limits for departmental approval of an application for a license, permit or other approval. The rules would require the Department to refund fees paid by applicants if the Department fails to approve an application prior to the time limit established under the rule. Require that a permit guarantee program be established for at least the permits, licenses or other required departmental approvals in the following program areas:

- a. navigable waters projects;
- b. well construction projects;
- c. certification of operators of water systems, wastewater treatment plants, and septage servicing vehicles and regulation of septage projects;
- e. discharges of mercury compounds;
- d. water pollution discharges (point sources);
- e. air pollution discharges;
- f. solid waste management facilities licenses; and
- g. regulation of hazardous waste facilities.

Require DNR to submit proposed rules for the permit guarantee program to Legislative Council staff for review no later than the first day after the 13th month beginning after the effective date of the bill.

DISCUSSION POINTS

1. The permit guarantee program would impact several DNR permits, licenses or other approvals required by the Department. Examples of the some of the large permit programs that would be subject to the permit guarantee program include: (a) permits for projects affecting navigable waters (approximately 3,000 permits annually); (b) the Wisconsin Pollution Discharge Elimination System (WPDES) permits (363 permits in 1995-96); (c) stormwater construction permits (350 in 1995-96); (d) air emissions related construction permits (162 in 1995-96); (e) air emissions related operating permits (154 in 1995-96); and (f) industrial stormwater permits (130 in 1995-96).

2. It should be noted that not all permit applications require a specific permit fee. However, the permittees do pay fees based on emission levels of various pollutants (such as the WPDES permittees). Therefore, it may be difficult to determine the fee amount that DNR would be required to repay in the event the permit guarantee agreement is not met. However, DNR indicates that the Department, under administrative rule, could determine the amount to be refunded for such permit applications.

3. DNR indicates that continuing operating permit applications that do not receive timely approval due to Department workload are generally provided an extension and are allowed to continue operations while awaiting permit approval. In many respects some of these approvals are similar to license approvals, in that the permits have to be renewed and often do not involve a large amount of review compared to initial permits or permits for expansions or construction.

4. It could be argued that requiring DNR to approve certain permits within a specified period of time could improve the service DNR provides to permittees. Further, knowing the time period necessary to receive approval of permit requests could allow permit applicants to better plan for projects requiring a permit.

5. Conversely, requiring DNR to guarantee permit applications within a specified time period could hinder the service DNR provides to permit applicants. That is, currently, if a permit applicant provides an incomplete application or does not take all the steps necessary to fulfill permit requirements, DNR generally works with the applicant throughout the permit approval process to complete the application and obtain the necessary information rather than rejecting the applicant's permit request based on incomplete or insufficient information. Under the permit guarantee program, if the "clock is ticking" on the permit guarantee, DNR may be forced to reject such applications for being incomplete or insufficient.

6. However, DNR indicates that the Department could, under administrative rules, allow for a temporary suspension of the approval process if both DNR and the permittee agree, so as to allow the permittee to sufficiently complete the application or respond to DNR inquiries regarding the permit application.

7. Further, permit applicants could knowingly slow the process by submitting an incomplete application or by not responding to Department inquiries regarding a permit application. However, DNR would continue to have the right to reject an incomplete project application or an unresponsive applicant.

8. Concerns have also been raised that setting a specific time frame could diminish the level of review that the Department would otherwise provide. However, DNR indicates that the bill provides the Department with the authority to establish the rules necessary to administer the program and provide the necessary review.

9. Currently, the permit program is generally handled on a first come-first served basis. Because DNR would be required to approve a permit within a specified period of time or forfeit the fee associated with the permit, DNR could potentially be forced to reallocate staff to those areas where permit guarantees are made. As a result, applicants for a permit that is not subject to the permit guarantee program, or is subject to a longer permit guarantee period, may have to wait longer for service.

10. Further, DNR has had a significant backlog under some of its permit programs (such as the WPDES) in the past, therefore it is uncertain the length of the permit guarantee period that would be established in order to alleviate such backlog. However, it should be noted that in September, 1994, a consultant study, ordered by the Legislature, recommended changes to DNR's permitting process. DNR is in the process of carrying out the consultant's recommendations. As a result of these recommendations and other process and policy changes, the backlog for several of the Department's permits has decreased substantially. For example, DNR has reduced its WPDES permit backlog by 78% since the fourth quarter of 1993.

11. Further, requiring DNR to issue a permit or other approval or risk losing revenue associated with the permit or approval could create a justification for additional staff to process permits subject to the guarantee program. Additional staff would likely result in increased fees to those applying for permits or other approvals. Also, if a significant level of refunds are made, fees paid by the remaining applicants could increase accordingly.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to require DNR to promulgate rules that would specify the allowable time limits for departmental approval of an application for a specified license, permit or other approval.
2. Maintain current law.

MO# Alt 1

Prepared by: Al Runde

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	Y	N	A
COGGS	Y	N	A
AYE	<u>8</u>	NO	<u>8</u>
		ABS	<u>0</u>

NATURAL RESOURCES

Permit Guarantee Program (Paper #629)

Motion:

Move to require that any entity applying for a DNR permit or approval that is involved in metallic or nonmetallic mining or prospecting activities be ineligible to participate in the permit guarantee program.

Note:

Under SB 77 mining permits would not be eligible for the permit guarantee program. However, a mining operation may also be the holder of a permit that is eligible for the permit program, such as a Wisconsin Pollution Elimination Discharge or a navigable waters permit. Under the motion, such an operation would not be allowed to receive a permit guarantee on any application for a DNR permit or other approval.

MO# 3022

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 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

NATURAL RESOURCES -- WATER QUALITY

Permit Guarantee Program

Motion:

Move to delete air operating and emission permits from the permit guarantee program.

MO# 1606

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 MURPHY	(Y)	N	A
COGGS	(Y)	N	A

AYE 14 NO 2 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Expedited Service for Permittees (DNR -- Water Quality)

[LFB Summary: Page 445, #21]

CURRENT LAW

DNR approves permits or makes other approvals for construction activities and other projects that affect navigable waters and wetlands.

GOVERNOR

Provide 3.0 PR positions annually to administer a newly-created expedited permit service program. Allow the Department to establish a supplemental fee for various permits or approvals provided by the Department. The supplemental fee could only be assessed if the applicant requests, in writing, that the permit or approval be issued within a time period that is shorter than the existing period allowed for issuance and the Department verifies that it will be able to comply with the applicant's request.

Require DNR to promulgate rules to administer the program and establish the fee. In addition, require that rules specify a time limit allowed for making a determination as to whether or not to grant each type of permit or approval.

Permits or approvals in the following program areas would be affected:

- a. projects that affect navigable waters (for example, placing of dams, deposits or other obstructions in a navigable stream); and

b. projects that affect wetlands for which the Department has to make a determination that the project complies with state water quality standards.

Any revenues associated with the supplemental fees would be deposited to the Department's water regulation and zoning program revenue continuing appropriation.

DISCUSSION POINTS

1. DNR approves approximately 3,000 permits annually for projects affecting navigable waters and approximately 300 approvals for projects for which the Department has to make a determination that the project complies with state water quality standards.

2. DNR estimates that it would take approximately \$160,000 annually to fund the three positions provided under the bill to administer the program. Further, DNR estimates that approximately 80 permittees (or approximately 2.5% of the annual permits or approvals) would make use of the expedited service program. This estimate is based on the number of large projects (over \$100,000 in costs) that would likely be interested in the expedited service and the annual complaint rates related to the permits or approvals.

3. At 80 permits per year, a \$2,000 flat rate fee would be needed to cover the staff costs associated with administering the program. Currently DNR charges between \$30 and \$300 for permits affecting navigable waters depending on the cost of the project and the amount of staff time required to approve the permit. DNR indicates that it is conceivable the 80 persons seeking permits or approvals per year would pay the \$2,000 rate. Further, DNR could structure the fee on a sliding scale based on the size of the project which could allow a fee of less than \$2,000 for small projects and a greater fee for large projects. However, to the extent that a sliding scale expedited fee structure results in a substantial increase in those applying for expedited service additional staff may be needed or staff may be reallocated from the non-expedited permit program.

4. The revenues associated with the expedited service fees would be deposited to the Department's water regulation and zoning permit program revenue account. The program revenue account is expected to end the biennium with a minimal balance and annual expenditures from the account are only slightly less than revenues. Therefore, it is unlikely that account could support any of the three positions provided under the bill to administer the expedited service program until revenues associated with the expedited fee accrue. Further, it is likely that the revenues associated with the expedited fees would not be received until 1998-99, at the earliest, and a significant demand for the expedited service may not occur until even later.

5. DNR indicates that existing staff would promulgate the rules and establish the program and the staff provided in the bill would not be hired until the program is in place. Further, it is uncertain whether three positions would be needed to provide expedited service for

perhaps 80 expedited permits annually. If the positions were not provided at this time, DNR could request appropriate staff under s. 16.505/515 when revenues and workload are known.

6. Concerns have been raised that setting a specific time frame could diminish the level of review that the Department would otherwise provide. However, the bill would allow DNR the opportunity to verify that the Department would be able to comply with the applicant's request for expedited service. Further, DNR would be provided authority to establish the rules necessary to administer the program and provide the necessary review.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to: (a) provide 3.0 positions annually to administer a newly-created expedited permit service program; and (b) allow the Department authority to promulgate rules to administer the program and establish a supplemental fee for various permits or approvals provided by the Department.

<u>Alternative 1</u>	<u>SEG</u>
1998-99 POSITIONS (Change to Base)	3.00
[Change to Bill]	0.00]

2. Provide DNR the authority to promulgate rules to administer the program and establish a supplemental fee for various permits or approvals provided by the Department (no staff would be provided at this time).

<u>Alternative 2</u>	<u>SEG</u>
1998-99 POSITIONS (Change to Base)	0
[Change to Bill]	-3.00]

3. Maintain current law.

<u>Alternative 3</u>	<u>SEG</u>
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill]	-3.00]

Prepared by: Al Runde

MO# Alt 2

2 BURKE	(Y)	N	A
1 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 8 NO 8 ABS 0

MO# AH1

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
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	Y	N	A
	COGGS	Y	N	A

AYE 16 NO 0 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Environmental Performance Council (DNR -- Water Quality)

[LFB Summary: Page 445, #22]

CURRENT LAW

No provision.

GOVERNOR

Create an Environmental Performance Council in DNR to advise the Governor and the Secretary of DNR concerning efforts to improve the environmental performance of businesses and local governments and environmental management systems. Include the following:

a. Specify that the Council would have 11 members: (1) the Secretaries of Commerce, DNR and DOA or their designees; and (2) eight other members appointed by the Governor for four-year terms. The Governor would designate a chairperson.

b. Create a SEG, continuing appropriation with \$90,000 annually from the environmental management account of the environmental fund to support the operations of the Council. Create a PR, continuing appropriation to accept all money received from gifts or grants to the Council to be used for the purposes for which made. No PR expenditure authority would be provided.

c. Direct the Council to advise the Governor and the Secretary of DNR concerning all of the following: (1) ways to integrate the state's efforts related to environmental management systems with national and international activities related to environmental management systems;

(2) the development of incentives to promote superior environmental performance by businesses and local governments; (3) ways that the public sector and the private sector can work together to make the most effective use of resources to enhance environmental performance and the competitiveness of the state's businesses; (4) ways to ensure that the state's methods of environmental regulation comply with federal law; (5) the development of a method for certifying environmental management systems that is compatible with standards issued by the International Organization for Standardization (also known as ISO 14000 standards); (6) the evaluation of: (a) projects designed to demonstrate the effectiveness of environmental management systems, (b) efforts to provide the public with more information about environmental matters, and (c) granting environmental regulatory flexibility in improving environmental performance by businesses and local governments; and (7) state policies, rules and programs that would enhance the competitiveness of the state's businesses and opportunities for the state's businesses and residents through improvements in environmental performance and the quality of products.

d. Authorize, but do not require, the following agencies to designate staff to support activities of the Council: DNR; DOA; Commerce; and the UW-System.

e. Direct the Council to submit an annual report on its activities to the Legislature, Secretary of DNR and the Governor.

DISCUSSION POINTS

Structure

1. The Council would discuss issues related to the environmental performance of businesses and local governments, environmental management systems and standards for environmental management systems issued by the International Organization for Standardization (known as ISO 14000 standards). An environmental management system is an organized set of procedures implemented by the owner or operator of a facility to evaluate the environmental performance of the facility and to achieve measurable or noticeable improvements in environmental performance through planning and changes in the facility's operation. DNR indicates that the Council would also review the environmental cooperation pilot agreements under the bill. The bill directs the Council to evaluate projects designed to demonstrate the effectiveness of environmental management systems.

2. The state may become increasingly involved in issues related to environmental performance, environmental management systems and international environmental standards. Under current law, the Governor may, by executive order, create nonstatutory committees to conduct studies and provide advice. Further, any departmental secretary may create and appoint such councils or committees as the operation of the department requires.

3. There is currently an ad hoc ISO 14000 Work Group of people who have chosen to meet to discuss ISO 14000 issues. The group is comprised of representatives of industry, public interest environmental groups, law firms, the DNR, Commerce, University of Wisconsin, Technical College System and the Governor's Office. The group reviews issues related to environmental management systems and implementation of ISO 14000 standards.

4. It could be argued that the statutory creation of a council to provide advice to the Governor and DNR on efforts to improve environmental performance and environmental management is unnecessary because the Governor or the Secretary of DNR currently have the ability to appoint such bodies. In addition, the question could be raised whether the creation of another statutory council is consistent with the recent report from the Lieutenant Governor on boards and councils which recommended that: (a) ad hoc committees be used for specific purposes and then disbanded until needed again instead of creating councils that would continue indefinitely; (b) all councils created in the future be established with an automatic sunset; and (c) councils be continued or created only if they perform a necessary, cost-effective function, are required by federal law, are not duplicated by other public or non-public entities and have clearly defined, measurable goals. Further, if the state wishes to streamline its operations, the review of environmental issues by another organization could be viewed as an additional step in administration of state programs.

5. The Council would have three state agency representatives and eight public members appointed by the Governor. The UW-System would be the only agency authorized to staff the Council that would not have a representative on the Council. The UW-System is currently working with DNR on ISO 14000 issues. The bill does not propose legislative input into the composition of the Council. The membership of the Council could be modified to replace five of the public members appointed by the Governor with the President of the UW-System, or her designee, and four public members appointed by legislative leadership (one each appointed by the Speaker and Minority Leader of the Assembly and the Majority and Minority Leaders of the Senate). Further, the Council could be given the authority to appoint a chairperson (rather than the Governor under the bill).

6. It could be argued that if the Council is created, it should be with a sunset date. For example, the Council could be created with a sunset of June 30, 2001 (four years).

Funding

7. Less than half of the funding under the bill would be used for the activities of the Council. DNR prepared a proposed budget, shown in the following table, that includes \$43,500 in 1997-98 and \$34,500 in 1998-99 for Council expenses. The majority of funding would pay for travel by DNR staff, UW-Madison La Follette Institute staff and public interest group representatives to meetings of the Multi-State ISO 14000 Working Group and a continuation of DNR participation in a Wharton School ISO 14000 Roundtable discussions. The Multi-State ISO

14000 Working Group is a group of 11 states that meets monthly (every other month the meeting is by telephone) to discuss ISO 14000 implementation. The Wharton School ISO 14000 Roundtable consists of three to four meetings per year on the topic of ISO 14000, involving government, business and environmental group participants and sponsored by the Wharton School of the University of Pennsylvania, the Pennsylvania Department of Environmental Protection, the Robert M. La Follette Institute of Public Affairs at the University of Wisconsin-Madison and the Wisconsin DNR.

Proposed Budget for the Environmental Performance Council

	<u>1997-98</u>	<u>1998-99</u>
Environmental Performance Council		
Member expenses	\$9,500	\$9,500
Report to Governor and Legislature	0	2,500
Staff expenses (travel, telephone, mail)	5,500	5,500
Expert materials, tapes	1,000	2,000
Orientation and advice by experts	16,000	6,000
DNR staff fact finding travel to other states	5,000	2,500
Supplies and services	<u>6,500</u>	<u>6,500</u>
Subtotal	\$43,500	\$34,500
 Multi-State ISO Working Group, Federal Meetings and Wharton School Roundtable		
DNR travel to meetings in other states	\$20,000	\$20,000
UW-Madison La Follette Institute travel and supplies	9,500	9,500
Travel costs for public interest environmental groups	7,000	7,000
Materials related to ISO 14000 and environmental management systems	2,500	5,500
DNR staff training related to ISO 14000	7,500	7,500
Technical consultants	<u>0</u>	<u>6,000</u>
Subtotal	\$46,500	\$55,500
 TOTAL	 \$90,000	 \$90,000

8. In the past year, DNR has spent approximately \$27,100 from a variety of funding sources on activities related to ISO 14000, including: (a) approximately \$14,300 on the Department's participation in the Multi-State Working Group and Wharton School Roundtable; and (b) approximately \$12,800 on meetings with the ad hoc ISO 14000 work group, development of an Internet web site, travel, publications and DNR attendance at conferences.

9. The provision would provide the only appropriation in DNR that specifically supports the administration of a council, board or advisory group. Examples of other DNR advisory entities and associated expenses are the DNR Board with 1995-96 expenses of \$23,200 paid from federal administrative overhead cost reimbursements related primarily to fish and wildlife programs, the Council on Recycling with 1995-96 expenses of \$4,400 paid from the

recycling fund and the Off-the-Road Vehicle Council with 1995-96 expenses of \$4,500 paid from the conservation fund. Under the bill, the Environmental Performance Council would have a separate appropriation almost four times greater than the expenses of the DNR Board, the Department's primary governing body.

10. Funding for the Council could be provided in a manner and at a level that is similar to other DNR advisory bodies. For example, \$9,500 could be provided to the Customer Assistance and External Relations (CAER) Division for member expenses. DNR could continue to allocate other funds to ISO 14000-related activities, in accordance with its allocation of \$27,100 during the past year.

11. The environmental management account of the environmental fund, which is the proposed source of the \$180,000 in funding for the biennium, will have an estimated deficit of \$420,000 on June 30, 1999, under SB 77. This is due to a reestimate of revenues that will be received from fees that are based on the number of tons of solid waste disposed of in the state, based on recent analysis of actual 1996 tonnage figures and trends over the last few years. If funding is not approved for the Council, the estimated deficit would decrease to \$240,000.

12. If funding for the Council is approved, other revenues may need to be provided to the environmental management account or expenditure reductions may be needed in programs that clean up contaminated land and groundwater. The Committee will be reviewing several other budget issue papers related to revenues and expenditures of the environmental management account. Examples of ways that the account deficit could be decreased include: (a) increasing the environmental repair tonnage fee for all solid waste disposed of in landfills as of the effective date of the bill (each 1¢ per ton increase would provide revenues of approximately \$119,600 in 1997-99, including \$32,600 in 1997-98 and \$87,000 in 1998-99); (b) decreasing funding for state-funded cleanup at sites where there is no responsible party able or willing to fund the cleanup; or (c) decreasing administrative staff that are funded from the account (approximately \$56,000 annually per position).

13. The Council could be created without SEG funding. Member expenses could be paid from existing administrative appropriations consistent with the manner in which the current DNR Board and other councils are funded. DNR costs related to staff support, travel, the multi-state working group, the Wharton School ISO 14000 Roundtable and other activities related to ISO 14000 or environmental management systems could be funded from existing departmental resources as they are currently. Further, the PR gifts and grants appropriation could be utilized to fund Council activities to the extent funds are available.

14. DNR does not have information about the amount of gifts and grants that could be expected, the source of potential gifts and grants, and the purpose for which persons might give money to the Council. DNR indicates that private companies interested in ISO 14000 might choose to give money to the Council.

15. While DNR would designate portions of at least two positions to support council activities, it is not known what level and type of staff support would be provided by DOA, Commerce and the UW System under the bill.

ALTERNATIVES TO BASE

A. Funding

1. Approve the Governor's recommendation to create an Environmental Performance Council in DNR, provide \$90,000 SEG annually from the environmental fund and create a PR appropriation for gifts and grants.

<u>Alternative A1</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$180,000
[Change to Bill	\$0]

2. Modify the Governor's recommendation to: (a) provide \$9,500 SEG annually from the environmental fund to the CAER Division for member expenses; and (b) delete the separate SEG appropriation.

<u>Alternative A2</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$19,000
[Change to Bill	- \$161,000]

3. Modify the Governor's recommendation to create the Council but delete the SEG funding and appropriation (this would retain creation of the PR appropriation for gifts and grants).

<u>Alternative A3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	- \$180,000]

4. Maintain current law.

<u>Alternative A4</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	- \$180,000]

NATURAL RESOURCES

Environmental Performance Council [LFB Paper #631]

Motion:

Move to modify the Governor's recommendation to: (a) delete the Council; (b) delete the SEG appropriation and funding; and (c) modify the PR appropriation to authorize receipt of gifts and grants for the Department's activities related to environmental management systems and ISO 14000 standards for the purposes for which the gifts and grants are made.

Note:

The motion would delete the Council and environmental fund SEG funding. It would retain the PR appropriation with the modification that the appropriation accept gifts and grants for DNR activities related to environmental management systems and ISO 14000 standards

[Change to Base: \$0]

[Change to Bill: -\$180,000 SEG]

MO# 3026

1	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 MURPHY	(Y)	N	A
	COGGS	(Y)	N	A

AYE 10 NO 6 ABS 0

B. Membership

1. Approve the Governor's recommendation to have 11 members on the Council, including: (a) the Secretaries of Commerce, DNR and DOA or their designees; and (b) eight other members appointed by the Governor for four-year terms. The Governor would appoint a chairperson.

2. Modify the Governor's recommendations to replace five of the members appointed by the Governor as follows: (a) the President of the UW-System or her designee; and (b) one public member each designated by the Speaker and Minority Leader of the Assembly and one each designated by the Majority Leader and Minority Leader of the Senate (the Governor would make three appointments).

3. In addition to Alternative B2, allow the Council to appoint a chairperson.

C. Sunset Date

1. Approve the Governor's recommendation to establish a permanent Council.

2. Establish a sunset date for the Council of June 30, 2001.

MO# _____

BURKE	Y	N	A	
DECKER	Y	N	A	
GEORGE	Y	N	A	
JAUCH	Y	N	A	
WINEKE	Y	N	A	ud
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	Y	N	A	
COGGS	Y	N	A	

AYE _____ NO _____ ABS _____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Environmental Cooperation Program (DNR -- Water Quality)

[LFB Summary: Page 447, #23]

CURRENT LAW

No provision.

GOVERNOR

Direct DNR to enter into not more than ten cooperative agreements with persons who own or operate facilities that are required to be covered by licenses or permits under current law, such as water pollution discharge elimination permits, air pollution control permits and landfill operation licenses. Direct that any cooperative agreement would replace a license or permit identified in the cooperative agreement and provisions of the cooperative agreement would supersede provisions of identified licenses or permits. Direct that a person who enters into a cooperative agreement would pay the same fees under the cooperative agreement as under superseded licenses or permits. The agreement would be for a term of five years with a possible renewal of five years if DNR and the participant agree. Prohibit DNR from entering into an initial agreement after five years after the effective date of the bill.

A cooperative agreement must: (a) require the participant to implement an environmental management system, such as those based on "ISO 14000," (an internationally promoted, semi-privatized comprehensive environmental regulation project) under which the participant completes performance evaluations of the effects that the covered facility has on the environment and makes measurable or noticeable improvements in those effects through planning and changes in the facility's operations; (b) contain pollution limits that are at least as stringent as the pollution

limits under current law; and (c) involve interested persons in reviewing the participant's performance under the agreement.

Authorize DNR to grant variances from current permit requirements in a cooperative agreement if the variances: (a) promote the reduction in overall pollution levels below the levels required in statutes; or (b) provide for alternative monitoring, testing, record keeping, notification or reporting requirements that reduce the administrative burden on state agencies or the participant and that provide information needed to ensure compliance with the agreement, statutes and rule.

Direct program participants to complete evaluations of their environmental performance, and report to the DNR within 45 days if any violations are found. Direct the participant to correct the violations within 90 days of submitting the report or within a compliance schedule approved by DNR. Prohibit DNR from commencing a civil action for violations if the participant corrects violations within 90 days after DNR receives the report, unless the violations present an imminent threat to public health or the environment, or if DNR discovers the violations before the participant notifies DNR.

Direct that records, reports or other information received as part of the program are public records, except for certain proprietary or confidential information. Direct DNR to submit to the Governor, Environmental Performance Council and the Legislature an annual progress report and, within four years, a report that includes recommendations concerning the continuation of the program and any changes that should be made to the program.

DISCUSSION POINTS

1. The Budget in Brief indicates that the bill would enhance national and international competitiveness of certain Wisconsin businesses by consolidating regulatory and permitting requirements. The ten businesses that DNR would select for environmental cooperation agreements would have to establish an environmental management system consistent with the International Organization for Standardization guidelines (ISO 14000) or an equivalent system. ISO 14000 is a series of voluntary guidelines related to environmental management systems, environmental auditing, environmental performance evaluation and total quality improvement.

2. Cooperative agreements could affect several DNR permits, licenses and other approvals required by the Department. Examples of some of the permits that could be included in cooperative agreements and the number issued in 1995-96 are: (a) the Wisconsin Pollution Discharge Elimination System (WPDES) permits (363); (b) stormwater-related construction permits (350); (c) air emissions-related construction permits (162); (d) air emissions-related operating permits (154); and (e) industrial stormwater permits (130). Information is not available about how many existing permits or licenses would be replaced by the 10 cooperative agreements entered into under the bill.

3. DNR would decide the facilities with which to enter into cooperative agreements. The Department would be required to seek to ensure participation by a variety of types, sizes and locations of facilities and consult with the federal Environmental Protection Agency (EPA).

4. DNR indicates that companies would be chosen to participate in cooperative environmental agreements through a solicitation for pilot project volunteers and that likely candidates would be companies that are considering obtaining independent certification that their environmental management practices meet ISO 14000 guidelines. DNR also plans to seek other volunteers through various trade association newsletters. The Department indicates that it would enter into cooperative agreements with companies that are in compliance with current licenses and permits.

5. The bill would direct that cooperative agreements specify any approvals and provisions of approvals that are replaced by the cooperative agreement. DNR indicates that the agreements would overlay permits and approvals that a company has and may modify or replace certain permits or approvals or parts of approvals. When the term of the agreement expires, the agreement would continue to apply until DNR would issue approvals for licenses or permits that would be needed under existing state law.

6. The statutes refer to the program as a pilot. The restrictions on the duration of the program are the requirements that DNR enter into no more than 10 cooperative agreements and that DNR not enter into an initial agreement after five years after the effective date of the biennial budget act. The bill would authorize the initial agreement to have a term of five years and authorize a renewal of five years if DNR and the participant agree. Thus, if DNR enters into the tenth cooperative agreement in 2002 (in five years), the agreement could last until 2012 (including the five-year term and a five-year renewal).

7. The agreement would be required to contain pollution limits at least as stringent as current law. However, DNR could authorize variances that allow levels of some pollutants to increase. An agreement could, for example, authorize a facility to increase discharges of air emissions and decrease wastewater discharges (or the other way around) or to increase the discharge of one type of pollutant into the water and decrease the discharge of another type of water pollutant. DNR and the business would determine which pollutants may be allowed to increase and which to decrease from current standards. DNR would be authorized to grant variances to current requirements that either: (a) promote a reduction in overall pollution levels; or (b) provide alternative requirements that reduce administrative burdens on the state or participant. A "no net gain" or pollution reduction requirement is not included in the bill.

8. To the extent that agreements allow a facility to exceed current emission levels for certain pollutants and specify reductions in others, it is unclear how a "no increase," or a net reduction, of overall pollutant discharges by the facility, if required by the agreement, would be determined by DNR. It is not clear how DNR enforcement of the agreements might differ from

enforcement of existing permits and licenses or how the agreements would prevent an increase in pollution discharges by the facility.

9. It could be argued that issuance of 10 cooperative agreements will provide useful information about the potential for consolidating regulatory and permitting requirements for other permitted facilities. Alternatively, it could be argued that 10 cooperative agreements may be too few to allow a sufficient test of the program, and the length of the pilot (up to 15 years) may make evaluation difficult.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to create an environmental cooperation program and enter into not more than 10 environmental cooperative agreements.

2. Approve the Governor's recommendation, as modified in one or both of the following ways:

a. Limit the length of agreements to a single five-year term (no extension).

b. Require that any variances granted to current statutes or rules result in a measurable reduction in overall pollution levels by the participant.

3. Maintain current law.

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
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	Y	N	A
COGGS	Y	N	A

Prepared by: Kendra Bonderud

AYE _____ NO _____ ABS _____

NATURAL RESOURCES

Environmental Cooperation Program [LFB Paper 632]

Motion:

Move to approve the Governor's recommendation, as modified to:

1. Limit the length of agreements to a single five-year term, but allow the participant to submit a request for one five-year extension. Direct DNR to submit the requested extension to the Joint Committee on Finance for approval, and specify that if, within 14 days of submittal of the request, the Committee does not object or decide to hold a meeting to consider the request, the requested extension shall be approved.

~~2. Prohibit DNR from entering into more than five initial agreements.~~

3. Require that any variances granted to current statutes or rules result in a measurable reduction in overall pollution levels by the participant.

4. Direct the Legislative Audit Bureau to monitor the program and to submit annual reports to the Legislature regarding the findings of its monitoring of the program.

Note:

The bill would allow cooperative agreements to have a five-year term, with one five-year extension approved by DNR. The motion would require that the extension be approved only if DNR obtains the approval of the Joint Committee on Finance under a 14-day passive review process.

The bill would prohibit DNR from entering into more than 10 agreements. The motion would reduce that number to five.

The bill would authorize DNR to grant variances to current requirements that either: (a) promote a reduction in overall pollution levels; or (b) provide alternative requirements that reduce administrative burdens on the state or participant and provides information needed to ensure compliance with the agreement and the provisions of statutes and rules for which the agreement

does not grant a variance. The motion would require that in addition to these requirements, variances must result in a measurable reduction in overall pollution levels by the participant.

The bill would direct DNR to submit to the Governor, Environmental Performance Council and the Legislature an annual progress report and, within four years, a report that includes recommendations concerning the continuation of the program and any changes that should be made to the program. The motion would add a requirement that the Legislative Audit Bureau annually monitor the program and submit a report on its findings to the Legislature.

MO# 3025

Shibilski friendly amendment (Strike # #2)

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 MURPHY	(Y)	N	A
COGGS	(Y)	N	A

AYE 13 NO 3 ABS 0

NATURAL RESOURCES

Environmental Cooperation Program [LFB Paper #632]

Motion:

Move to make the following changes to the environmental cooperation program:

1. Specify that the definition of "interested person" includes a person's representatives, in addition to a person who is or may be affected by the activities at a facility that is covered or proposed to be covered by a cooperative agreement.
2. Direct DNR to encourage facility owners and operators to minimize transfers of waste discharges between air, water and land.
3. Direct DNR to grant the owners and operators of facilities greater flexibility, rather than greater operational flexibility, than would otherwise be allowed under statutes and rules.
4. Direct that a cooperative agreement shall commit the participant to achieving measurable or noticeable improvements in environmental performance, in addition to superior environmental performance.
5. Direct DNR to review each application submitted rather than each proposed agreement submitted.
6. Specify that DNR shall determine that the applicant's efforts related to the process used to establish an interested persons group, rather than determine that the efforts related to granting a variance, were adequate.
7. Specify that the cooperative agreement is subject to review under Chapter 227 procedures (such as administrative hearings, appeals, contested cases and judicial review). Maintain the SB 77 requirement that the decision by DNR to enter into a cooperative agreement is not subject to review under Chapter 227.
8. Specify that when a cooperative agreement replaces an approval and the agreement expires before DNR issues an approval to be in place after the agreement expires, the agreement shall continue to apply until the approval is issued. Delete the SB 77 authorization for DNR and the participant to agree to interim requirements that do not allow pollution in excess of that allowed under chapters 280 to 295.

9. Rather than requiring DNR to keep confidential any part of a record, report or other information obtained in the administration of the program that the applicant or participant identifies as confidential and proprietary and entitled to protection as a trade secret, specify that the Department shall keep the information confidential upon a showing satisfactory to the Department by any person that the part of a record, report or other information would, if made public, divulge a method or process that is entitled to protection as a trade secret.

MO# 3024

1 BURKE	(P)	N	A
2 DECKER	(P)	N	A
GEORGE	(P)	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 15 NO 1 ABS 0

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Safe Drinking Water Loan Program Administration (DNR - Water Quality)

[LFB Summary: Page 440, #13]

MODIFICATION TO BASE

Transfer \$133,700 FED in 1997-98 and \$144,800 FED in 1998-99 with 3.0 positions annually from clean water fund administrative appropriations to safe drinking water loan program administrative appropriations.

Explanation: SB 77 erroneously places the funding and positions for the proposed safe drinking water loan program in the existing clean water fund administrative appropriations instead of the safe drinking water loan program appropriations.

MO# *modifications*

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
	EINTON <i>MURPHY</i>	<input checked="" type="radio"/>	N	A
	COGGS	<input checked="" type="radio"/>	N	A

Prepared by: Kendra Bonderud

AYE *16* NO *0* ABS *0*

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

ISSUE

Septage Management Funding Conversion (DNR -- Water Quality)

[LFB Summary: Page 443, #18]

CURRENT LAW

DNR's wastewater management activities are funded from GPR. Municipalities and industries pay NR 101 wastewater discharge fees which are deposited in the general fund and are capped at \$7.45 million annually. DNR also has a program revenue continuing appropriation which receives all revenues from the certification of operators of water systems, wastewater treatment plants and septage servicing vehicles and license fees for septage servicing vehicles and septage disposal sites. The fees are established in statute. The appropriation may be used for wastewater management activities. The appropriation has no expenditure authority in 1996-97 but DOA has authorized use of \$185,000 for computer contractors to develop a landspreading database to track septage, sludge and other wastes that are spread on land for disposal and for limited-term employe wastewater program assistance.

In 1996-97, DNR's GPR wastewater management appropriation includes funding for 12 positions who administer provisions related to landspreading of sewage and industrial wastewaters, including on-site inspections of landspreading sites. Four of the 12 positions work on septage management activities.

GOVERNOR

Convert \$107,800 GPR and 2.0 GPR positions annually from GPR to PR in the septage management program. Funding would be provided from the existing wastewater management fees program revenue appropriation.

DISCUSSION POINTS

1. The existing program revenue appropriation will receive approximately \$155,000 annually during 1997-99. Revenues during 1996-97 were \$168,100 as of May 16, 1997. The July 1, 1997, appropriation account balance is estimated to be \$253,300. Under the bill, conversion of two septage management positions would result in a June 30, 1999, appropriation account balance of approximately \$342,000.

2. The appropriation includes revenues from septage management activities and the converted positions would perform activities related to septage management.

3. The bill includes conversion of \$1,600 GPR annually to PR for supplies and services such as travel, training, equipment and office supplies for the two converted positions. The GPR positions are currently provided approximately \$12,000 annually in supplies and services. Conversion of an additional \$22,400 GPR annually to PR would provide \$12,000 annually per position for supplies and services. Expenditures, including pay plan reserves, would be \$132,100 in 1997-98 and \$134,000 in 1998-99, which is less than annual estimated revenues of \$155,000. The estimated June 30, 1999, appropriation account balance would be \$297,200.

4. There is sufficient program revenue to convert an additional septage management position from GPR to PR, which would result in GPR savings of \$74,900 annually.

5. Conversion of a third position would result in expenditures, including pay plan reserves, of approximately \$208,100 in 1997-98 and \$211,200 in 1998-99. Expenditures would exceed annual revenues by approximately \$56,000 in 1998-99. However, the appropriation account would have a June 30, 1999, balance of approximately \$144,000. This balance should fund the three positions through the 1999-2001 biennium.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to convert \$107,800 and 2.0 positions annually from GPR to PR in the septage management program.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$215,600	\$215,600	\$0
[Change to Bill]	\$0	\$0	\$0]
1998-99 POSITIONS (Change to Base)	- 2.00	2.00	0.00
[Change to Bill]	0.00	0.00	0.00]

2. Approve the Governor's recommendation. Further, convert an additional \$22,400 annually from GPR to PR for supplies for the two positions.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$260,400	\$260,400	\$0
[Change to Bill	- \$44,800	\$44,800	\$0]
1998-99 POSITIONS (Change to Base)	- 2.00	2.00	0.00
[Change to Bill	0.00	0.00	0.00]

3. Approve the Governor's recommendation. Further, convert an additional \$97,300 and 1.0 position annually from GPR to PR in the septage management program (\$74,900 for the additional position and \$22,400 for supplies for the two positions converted under the bill).

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	- \$410,200	\$410,200	\$0
[Change to Bill	- \$194,600	\$194,600	\$0]
1998-99 POSITIONS (Change to Base)	- 3.00	3.00	0.00
[Change to Bill	- 1.00	1.00	0.00]

4. Maintain current law.

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	\$0	\$0	\$0
[Change to Bill	\$215,600	- \$215,600	\$0]
1998-99 POSITIONS (Change to Base)	0.00	0.00	0.00
[Change to Bill	2.00	- 2.00	

Prepared by: Kendra Bonderud

MO# Alt 3

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

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Wastewater Discharge Environmental Fees (DNR -- Water Quality)

CURRENT LAW

Annual wastewater discharge environmental fees (known as NR 101 fees) are assessed to municipal and industrial dischargers. DNR is required to design the fees to generate revenues equal to the following amounts appropriated in the Division of Environmental Quality GPR, general program operations appropriation: (a) 100% of the amount appropriated for wastewater management; (b) 50% of the amount appropriated for technical services; (c) 100% of the amount related to surface water standards and monitoring; (d) none of the amount related to nonpoint source pollution control and lakes management; and (e) 50% of the balance for the fiscal year in which the fee is collected. The total fees are capped at the \$7,450,000 which was charged for 1992-93. Municipal wastewater dischargers pay 50% of the total fees and other dischargers (mainly paper mills, power utilities, food processing facilities and other industries that generate wastewater) pay the remaining 50% of the fees. The fees are deposited to the general fund.

GOVERNOR

No provision.

DISCUSSION POINTS

1. Under the DNR reorganization, the Division of Environmental Quality GPR, general program operations appropriation was restructured. The activities that are partially funded by wastewater discharge NR 101 fees were moved to the Water Division's subprograms for watershed management and water operations and the Enforcement and Science Division's

subprogram for integrated science services. However, the Governor's budget recommendations for restructuring the appropriations in accordance with the new divisions and subprograms did not include restructuring the statutory fee language to match the new appropriations. Thus, the current references to programs covered by the fee are no longer accurate.

2. DNR recommends that the statutory fee language could be amended to cover the same activities under the reorganization as under the current fee language. The Department's recommended language change would be to design fees that generate revenues equal to 85% of the amount appropriated under the Water Division's GPR, general program operations appropriation for watershed management, 50% of the amount appropriated for general water program management and 25% of the amount appropriated under the Enforcement and Science Division's GPR, general program operations appropriation for integrated science services. The DNR recommendation would retain the 50%/50% distribution of fees between municipalities and industries.

3. In 1997-99, approximately \$9,485,000 GPR annually would be appropriated for these activities, approximately \$2 million less than the fees generate. The statutes cap the fees at the \$7,450,000 charged in 1992-93. Since the fee cap provides less NR 101 fee revenues than are appropriated for activities related to the fees (approximately 79% of actual costs), a simpler way to conform the statutes with the DNR reorganization would be to place the \$7,450,000 fee cap in the statute instead of revising the language related to activities funded from the fees. That is, since its creation, the statutory formula has not been used due to the \$7,450,000 cap.

4. When the current \$7,450,000 cap was set in 1992-93, it represented approximately 80% of the \$9,300,000 of costs for the identified activities, with the remaining costs paid by the general fund. Use of the general fund for these water pollution prevention programs reflects the overall benefit to the people of the state. Costs have increased to approximately \$9,485,000 annually under the bill (reduction measures and conversion of costs from GPR to PR were included in the 1995-97 budget and in SB 77 that limited GPR cost increases). It could be argued that the statutory cap should be modified to be set at 80% of the costs of the identified activities. Since the current cap would provide approximately 79% of the \$9,485,000 annual costs in 1997-99, a modification to 80% of costs would result in increased fees of approximately \$140,000 annually in 1997-99 and fees would increase from \$7,450,000 to an estimated \$7,590,000 in each year.

5. It could be argued that the statutory cap should be adjusted to offset a larger portion of program costs. The consumer price index (CPI) could be used to adjust the statutory cap to generally reflect the increasing costs of the administration of state programs. Based on increases in the CPI since 1992, indexing of the statutory cap would result in fees of approximately \$8,540,000 in 1997-98 and \$8,760,000 in 1998-99. The indexing of fees would result in NR 101 fees during 1997-99 that offset approximately 91% of the costs of activities funded from the fees.

6. Others believe that the statutory cap should be removed and NR 101 fees should be set to fully fund appropriations offset by the fee. Removal of the statutory cap would result in an increase of \$2,035,000 annually in revenues to the general fund. DNR would assess approximately \$9,485,000 in NR 101 fees in each year of the biennium (an increase of 27%).

ALTERNATIVES TO BASE

1. Consistent with the current requirement, direct DNR to design annual wastewater discharge fees that generate revenues equal to 85% of the amount appropriated under the Water Division's GPR, general program operations appropriation for watershed management, 50% of the amount appropriated under the same appropriation for water program management and 25% of the amount appropriated under the Enforcement and Science Division's GPR, general program operations appropriation for integrated science services. Specify that the fees could not exceed the amount charged in 1992-93 (\$7,450,000). Retain the current allocation of 50% of fees paid by municipalities and 50% paid by industries.

2. Delete the current provisions related to the amount of annual wastewater discharge fees charged. Instead specify that DNR may not charge annual wastewater discharge fees that exceed \$7,450,000 (the amount charged 1992-93). Retain the current allocation of 50% of fees paid by municipalities and 50% paid by industries.

3. Approve Alternative 1, except require the fees assessed to equal 80% of the costs calculated under the statutory formula (rather than being capped at \$7,450,000). This would result in an increase in NR 101 fees of approximately \$140,000 annually in 1997-99.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$280,000
[Change to Bill]	\$280,000]

4. Approve Alternative 1. In addition, direct DNR to annually modify the statutory cap based on the change during the prior calendar year in the U.S. consumer price index for all urban consumers, U.S. city average as determined by the U.S. Department of Labor. This would result in an increase in NR 101 fees of approximately \$1,090,000 in 1997-98 and \$1,310,000 in 1998-99.

<u>Alternative 4</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$2,400,000
[Change to Bill]	\$2,400,000]

5. Approve Alternative 1, except delete the statutory cap on the amount of fees charged in any year. This would result in an increase in NR 101 fees of approximately \$2,035,000 in each year of the biennium (from \$7,450,000 to \$9,485,000).

<u>Alternative 5</u>	<u>GPR</u>
1997-99 REVENUE (Change to Base)	\$4,070,000
[Change to Bill	\$4,070,000]

MO# ALT 2

Prepared by: Kendra Bonderud

2 BURKE	N	A
DECKER	N	A
GEORGE	N	A
JAUCH	N	A
WINEKE	N	A
SHIBILSKI	N	A
COWLES	N	A
PANZER	N	A
1 JENSEN	N	A
OURADA	N	A
HARSDORF	N	A
ALBERS	N	A
GARD	N	A
KAUFERT	N	A
LINTON <small>WLUZAT</small>	N	A
COGGS	N	A

AYE 16 NO 0 ABS 0

NATURAL RESOURCES

Water Quality

LFB Summary Items for Which No Issue Papers Have Been Prepared

*approve all items
MO# except #14*

<u>Item #</u>	<u>Title</u>			
		2 BURKE	<input checked="" type="radio"/>	N A
4	Nonpoint Source Staff Reductions	DECKER	<input checked="" type="radio"/>	N A
5	Repayment of Nonpoint Source Grant Advances	GEORGE	<input checked="" type="radio"/>	N A
6	Great Lakes Remediation Bonding	JAUCH	<input checked="" type="radio"/>	N A
7	Surface Water Data System Integration	WINEKE	<input checked="" type="radio"/>	N A
8	Stormwater Funding Conversion	SHIBILSKI	<input checked="" type="radio"/>	N A
10	Reduce Local Water Quality Planning Aids	COWLES	<input checked="" type="radio"/>	N A
14	Safe Drinking Water Enforcement	PANZER	<input checked="" type="radio"/>	N A
15	Wastewater Permit Information Technology System	JENSEN	<input checked="" type="radio"/>	N A
16	Wastewater Permit Staff Reduction	OURADA	<input checked="" type="radio"/>	N A
17	Operator Certification Program Reduction	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 <i>murphy</i>	<input checked="" type="radio"/>	N A
		COGGS	<input checked="" type="radio"/>	N A

LFB Summary Items to be Addressed in Subsequent

AYE 16 NO 0 ABS 0

<u>Item #</u>	<u>Title</u>
11	Well Compensation Fee
12	Well Compensation Grants

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
9	Land and Water Conservation Board

Personnel Commission

(LFB Budget Summary Document: Page 453)

No Issue Papers Have Been Prepared

PERSONNEL COMMISSION

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
2	Supplies and Services Cost Increases

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
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	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

Program Supplements

(LFB Budget Summary Document: Page 454)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
2	CY 97 Health Insurance Premiums (Paper #639)
4	Private Lease Space Supplements (Paper #640)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

CY 97 Health Insurance Premiums (Program Supplements)

[LFB Summary: Page 454, #2]

CURRENT LAW

A GPR-funded sum sufficient program supplements appropriation is available to supplement state agencies' GPR appropriations for the employer's share of group health insurance premium increases which occurred on November 1 of the fiscal year used by agencies for determining their adjusted base budgets. These increased group health insurance premium costs, affecting eight months of the that fiscal year, occurred too late to be included in agencies' adjusted base funding levels and are supplementable from this appropriation. Base level funding in the appropriation is \$3,111,200 GPR annually.

GOVERNOR

Reduce base level funding by \$503,000 GPR annually to reflect the amounts estimated to be needed in 1997-98 and 1998-99 to supplement state agencies' GPR appropriations for the employer's share of group health insurance increases, based on the November 1, 1996, premium-setting process. With the adjustment, a total of \$2,607,700 GPR would be provided annually.

DISCUSSION POINTS

1. Funds are appropriated in the bill under program supplements to support the costs of base year health insurance premium increases which occurred too late in that year for agencies to include in their base level budgets. However, actual DOA accounting practices apply these

appropriated amounts as an offset against the amounts released from compensation reserves for fringe benefits cost increases. The effect of this treatment is to include these program supplement amounts in the total funding available for increased fringe benefits payments from compensation reserves.

2. Because the amounts in the health insurance premiums appropriation are not accounted for separately, there has often been confusion over the total amount of funding actually available for salary and fringe benefits adjustments from compensation reserves. Since these supplement amounts are currently treated as if they were part of compensation reserves, the Committee could transfer the amounts budgeted for health insurance premium increases under program supplements to the amounts reserved compensation reserves. All GPR reserves for increased pay plan and fringe benefit costs would then be identified in the compensation reserves account. Total GPR-funded compensation reserve amounts would also be increased by a corresponding amount; consequently, there would be no net fiscal effect associated with this change.

3. While this modification would serve to consolidate available salary and fringe benefits funding supplements in a single reserve line, some would argue that it is desirable to have certain health costs budgeted separately where they are not commingled with amounts otherwise deemed to be "reserved" for pay and pay-driven fringe benefits increases for state employees. However, it should be noted that amounts included in the compensation reserves under the bill include funds for those additional health insurance premium increases that the administration estimates will occur during the next biennium.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Transfer \$2,607,700 GPR annually from the health insurance premium increase program supplement appropriation to the GPR amounts included in the general fund condition statement for compensation reserves.

Prepared by: Tony Mason

MO# Alt 2

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
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	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Private Lease Space Supplements (Program Supplements)

[LFB Summary: Page 455, #4]

CURRENT LAW

Funding is provided to supplement state agencies' GPR appropriations for the increased costs of privately leased space, unbudgeted moving costs (when the moves are directed by DOA) and unbudgeted costs of assessments for the cost of facilities for the care of children of state employes. Base level funding for private lease space supplements is \$1,671,100 GPR.

GOVERNOR

Reduce base level funding by \$60,000 GPR in 1997-98 and \$300,000 GPR in 1998-99 to reflect the estimated amounts needed in 1997-98 and 1998-99 for the private lease supplements appropriation.

DISCUSSION POINTS

1. Under current law, supplemental funding may be provided to state agencies for the unbudgeted costs of space remodeling, moving, paying for move-related vacant space and assessments for the costs of child care facilities. In addition, agencies may receive supplements for the unbudgeted costs of required annual increases (escalator clauses) in the cost of lease rental space. Funds for the GPR share of all such estimated costs are appropriated each biennium in a general appropriation entitled private lease space supplements. The bill provides \$1,611,600 GPR in 1997-98 and \$1,371,600 GPR in 1998-99 for this appropriation.

2. A total of \$2,157,100 GPR (\$834,700 GPR in 1997-98 and \$1,322,400 GPR in 1998-99) is budgeted for the estimated costs of increases in private leases for state agencies. The Department's reestimate of the appropriation assumes that the cost of private lease space utilized by state agencies will increase by 3.5% annually. This increase is based on an estimate of the overall impact of various escalator clauses in current state leases. In calculating the increase, however, lease costs for agencies which pay for such costs from sum sufficient appropriations (the Governor, the Courts and the Legislature) were also included in the calculation. Sum sufficient appropriations are not supplemented from this appropriation. If these base lease costs are excluded from the supplement calculation, funding under the bill could be reduced by \$76,100 GPR in 1997-98 and \$152,000 GPR in 1998-99.

3. A total of \$825,000 GPR (\$774,100 GPR in 1997-98 and \$46,400 GPR in 1998-99) is budgeted in the private space lease supplement appropriation for the costs of moving state agencies to other office locations when such moves are directed by DOA as part of its overall space management activities. In calculating the amounts to be reserved for such potential directed moves, DOA included \$338,000 GPR in this appropriation for the purchase of furniture associated with the possible relocation of portions of the Department of Corrections to new locations. It is open to question, however, whether the space lease supplement permits supplements of agency appropriations for such purposes.

4. The private space lease supplement appropriation (titled "space management and child care" supplement appropriation in the statutes) language provides that the amounts in the schedule are to be used to "finance the costs of remodeling, moving, additional rental costs and move-related vacant space costs" and for "the unbudgeted costs of assessments [against state agencies] for child care facilities" for care of children of state employees. It could be argued that when DOA is planning to move an agency and new furniture or other equipment is to be purchased, that should be part of a budget request for that agency so that it can be reviewed as a part of that agency's budget and that this supplement appropriation is intended principally to pay for unplanned space cost increases which occur when agency leased space rents are increased or when DOA feels it is necessary to move agencies to higher priced space in the interests of overall space management needs in state buildings.

5. The Department argues that the costs of furniture acquisition should be allowed under this appropriation because it views furniture, particularly office system furniture, as a part of remodeling costs since specific furniture is often required to achieve the relocation of the moving agencies into specific space configurations. Further, DOA argues that without the ability to receive funding for furniture from this appropriation, agencies that are moved by DOA into new space may not have the appropriate furniture for the location and would then be required to purchase furniture utilizing monies in their base budgets or to seek funding from the Legislature (through the budget or the supplemental funding processes of s. 13.10 or s. 16.515).

6. If the Committee believes that expenditures for furniture for agencies should be a part of either agency budget requests or specific supplemental funding requests that are subject to review by the Committee, the Committee could delete the funding of \$338,000 GPR in 1997-98 included in the bill under this appropriation for purchase of furniture for the possible moves of certain state agencies or portions of agencies into different office space.

7. Alternatively, if the Committee believes that expenditures for furniture that are related to a DOA-directed move are costs that should appropriately be funded from the private lease space supplement, statutory language could be modified to specifically enumerate this as an eligible expenditure category.

8. If current law is maintained, funding would remain at the base level of \$1,671,100 GPR annually.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to reduce base level funding by \$60,000 GPR in 1997-98 and \$300,000 GPR in 1998-99 to reflect DOA estimated amounts needed in 1997-98 and 1998-99 for the private lease supplements appropriation.

2. Reduce funding for private lease space supplements by \$76,100 GPR in 1997-98 and \$152,000 GPR in 1998-99 to reflect the removal of sum sufficient funded lease costs from the supplements' calculation.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$228,100

3. Reduce funding for private lease space supplements by \$338,000 GPR in 1997-98 to reflect the removal of funding associated with the purchase of office furniture.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$338,000

4. Modify current law to specify that the cost of purchase of office furniture that is related to a DOA-directed move and required to allow such a move to take place may be funded from the private lease space supplement appropriation.

5. Maintain current law.

<u>Alternative 5</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$360,000

Prepared by: Jere Bauer

MO# Alt 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	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0

MO# Alt 3

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	(Y)	(N)	A
COGGS	(Y)	(N)	A

AYE 12 NO 4 ABS

PROGRAM SUPPLEMENTS

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Joint Finance Committee Appropriation
3	State-Owned State Rental Supplements
5	Financial Services Assessments