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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Natural Resources
(AC-NR)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (Sept/2010)

Assembly

Record of Committee Proceedings

Committee on Natural Resources

Senate Bill 126

Relating to: changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

By Senators Miller, Kedzie, Harsdorf, Holperin, Cowles, Lehman, Risser, Plale, Taylor, Schultz, Erpenbach, Olsen, Lassa and Darling; cosponsored by Representatives Clark, Tauchen, Hebl, Berceau, Roys, Smith, Townsend, A. Ott, Molepske Jr., Richards, Pope-Roberts, Sinicki, Lothian, Bernard Schaber, Jorgensen, Ripp and Parisi.

April 30, 2009 Referred to Committee on Natural Resources.

May 6, 2009 **PUBLIC HEARING HELD**

Present: (15) Representatives Black, Danou, Molepske Jr.,
Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J.
Ott, Gunderson, Huebsch, LeMahieu, Mursau and
Nerison.
Absent: (0) None.

Appearances For

- Rep. Fred Clark, Baraboo — 42nd Assembly District
- Sen. Mark Miller, Monona — 16th Senate District
- Sen. Neal Kedzie, Elkhorn — 11th Senate District
- Lori Grant, Madison — River Alliance of Wisconsin
- Pat Stevens, Madison — Wisconsin Builders Association
- Mark McDermid, Madison — DNR
- Paul Nelson, Madison — Wisconsin Association of Independent Colleges

Appearances Against

- None.

Appearances for Information Only

- Caryl Terrell, Madison — Sierra Club--John Muir Chapter

Registrations For

- George Meyer, Madison
- John Sumi, Madison — Madison Gas and Electric
- Linda Bochert, Madison
- Sen. Jeff Plale, South Milwaukee — 7th Senate District
- Scott Manley, Madison — WMC
- Amy Boyer, Madison — 3M

Registrations Against

- None.

Registrations for Information Only

- None.

May 20, 2009

EXECUTIVE SESSION HELD

Present: (15) Representatives Black, Danou, Molepske Jr., Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Gunderson, Huebsch, LeMahieu, Mursau and Nerison.

Absent: (0) None.

Moved by Representative Clark, seconded by Representative Hebl that **Senate Bill 126** be recommended for concurrence.

Ayes: (15) Representatives Black, Danou, Molepske Jr., Steinbrink, Hraychuck, Hebl, Mason, Milroy, Clark, J. Ott, Gunderson, Huebsch, LeMahieu, Mursau and Nerison.

Noes: (0) None.

CONCURRENCE RECOMMENDED, Ayes 15, Noes 0

John Maycroft
Committee Clerk



2009?

Vote Record Committee on Natural Resources

Date: 5/20

Moved by: Clark • Seconded by: Hebl

AB _____ SB 126 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

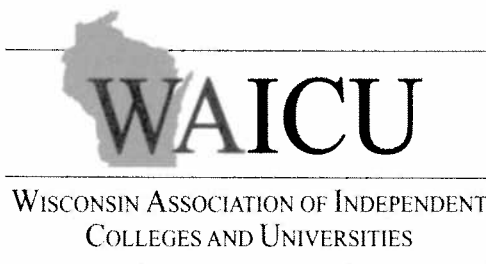
Be recommended for:
 Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Spencer Black, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Chris Danou	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Steinbrink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Ann Hraychuck	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Hebl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Cory Mason	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Nick Milroy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Fred Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jim Ott	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Gunderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Michael Huebsch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Daniel LeMahieu	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>13</u>	<u>0</u>	<u>2</u>	_____

Motion Carried Motion Failed




ALVERNO COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL UNIVERSITY
CARTHAGE COLLEGE
CONCORDIA UNIVERSITY
EDGEWOOD COLLEGE
LAKELAND COLLEGE
LAWRENCE UNIVERSITY
MARIAN UNIVERSITY



MARQUETTE UNIVERSITY
MILWAUKEE INSTITUTE OF ART & DESIGN
MILWAUKEE SCHOOL OF ENGINEERING
MOUNT MARY COLLEGE
NORTHLAND COLLEGE
RIPON COLLEGE
ST. NORBERT COLLEGE
SILVER LAKE COLLEGE
VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

TESTIMONY

on

 **2009 Senate Bill 126**
2009 Assembly Bill 180

By

Pau Nelson, Senior Vice President for Public Policy
Wisconsin Association of Independent Colleges and Universities

Assembly Committee on Natural Resources

May 6, 2009

Chairperson Black and members of the committee, my name is Paul Nelson. I am the Vice President for Public Policy for the Wisconsin Association of Independent Colleges and Universities, or WAICU, representing the 20 private colleges and universities in Wisconsin and their more than 59,000 students.

I am here today testifying in favor of proposed amendments to DNR's Environmental Improvement Program contained in Senate Bill 126 and Assembly Bill 180. These amendments would extend key aspects of that program beyond their current sunset of July 1, 2009. WAICU members are currently conducting voluntary environmental compliance audits under the program. The experience of these colleges exemplifies the type of environmental benefits the state is realizing through this program, and illustrates precisely the reasons this program needs to be extended.

Last year, WAICU entered into a joint agreement with Region 5 of the U.S. Environmental Protection Agency and the Wisconsin DNR to undertake, at WAICU members' expense, environmental health and safety audits, and to remediate any issues identified—also at the colleges' expense.

WAICU's initiative goes beyond a simple one-time identification and remediation of compliance issues: it is a unique program that creates a corps of rigorously trained "peer auditors" from each of the participating campuses, who then conduct the audits of the other campuses. Once the audits are completed, each college is left with at least one trained auditor plus an electronic auditing template that gives each institution tools for future compliance needs.

This project is unique in its scope, execution, and completion and has been recognized at national conferences and other national organizations for pioneering the use of flexible electronic templates to identify, manage, and document findings in a complex environmental audit; and using trained auditors from peer institutions to conduct the audits.

The DNR Environmental Improvement Program made all of this possible and that is why WAICU supports the provisions of Senate Bill 126 and Assembly Bill 180 that would extend this program beyond its July 1, 2009 sunset date.





John Muir Chapter

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May 6, 2009

MEMO

TO: Assembly Committee on Natural Resources

FROM: Caryl Terrell, Legislative Chair, and Eric Uram, Conservation Chair, John Muir Chapter Sierra Club

RE: Comments regarding SB 126 -- Relating to the Environmental Results and the Environmental Improvement Programs.

Thank you for the opportunity to testify on SB 126 on behalf of the 15,000 Wisconsin members of John Muir Chapter of the Sierra Club.

SB 126 covers two very different programs. The Environmental Results Program, known as Green Tier, that provides recognition for beyond compliance behavior and regulatory incentives for self-regulation. The other program, Environmental Improvement, known as the Compliance Audit Program, encourages self-regulation but without requiring participants to meet a clean slate (no recent violations) nor make a commitment to beyond compliance behavior.

Green Tier is the "high road" program. The Sierra Club joins others in commending Green Tier participants and the DNR for their commitments and successes. The Compliance Audit Program is the "low road" and causes the Sierra Club concern.

The Sierra Club has been actively involved in both the state and national dialogues on "beyond compliance" behaviors. Because of the legal and regulatory structure of permitting pollution as a right held by industry and consumer alike, environmental groups have always struggled with the challenge of how to advance the level of environmental protection and restoration significantly beyond what is achieved under current policy and practice. Sierra Club members generally typify the beyond compliance performer and we would like to see more of this behavior institutionalized.

USEPA has, at this time, decided to suspend the Performance Track Program. Green Tier was designed to promote and prepare Wisconsin entities for participation in this national program. Properly designed and implemented performance/leadership programs are valuable, possibly essential, tools to achieve a level of performance necessary for sustainability. At the end of this testimony, we have included principles that need to be applied for Green Tier to excel.

The Sierra Club makes the following specific comments on the Green Tier portion of SB 126, pages 4-13.

- The following sections are supported: 1-18, 20-29 and 31-33.
- Section 19 gives the DNR secretary authority to waive clean slate (no recent violations) eligibility requirements to participate in either Tier I or II of Green Tier. The original purpose of this section was to allow more participants to join the program in its early years. That is why the section begins with the words: "Before January 1, 2007." Since 2007, this waiver provision has been forbidden. Instead of removing the date,

provision to §299.83 (5) (e) of the statutes should be completely repealed. The Sierra Club is uncomfortable with giving this discretion to the DNR secretary given the fact the secretary is a political appointee and subject to the hire-fire decision of the Governor. As a result, the DNR secretary is subject to political pressures unrelated to protecting environmental and public health consequences of these waivers of violations.

- Section 23 provides a welcome addition to smooth the transition of participants in the predecessor program, the Environmental Cooperation Pilot Program, §299.80, Wis. Stats.
- Section 30 expands the Charter provisions of Green Tier without requiring the same eligibility requirements and participation commitments of participants to Tier 1 or 2. The Charter provision has attracted only a few participants, but they have performed rather well. The Sierra Club objects that section 30 appears to grandfather several pseudo-charters into the Green Tier program that are unworthy of Green Tier status without additional efforts to meet the transparency, EMS and beyond compliance behaviors of the current Green Tier charters. This dilutes the value of the Green Tier recognition incentives.

The portion of SB 126 from section 34 on page 13 through the end of the bill refers only to the Compliance Audit Program.

- Environmental permit holders should be encouraged to conduct their own compliance audits as a normal part of monitoring their activities and remaining in compliance with their permits. ISO 14001 and environmental management systems (EMSs) include compliance audits.
- However, §299.85 Wis. Stats. offers unwarranted protection for violators and the opportunity to “game the system” by substituting self-enforcement for a more pro-active DNR compliance monitoring and enforcement system. Many of the advantages of the Compliance Audit Program are already available to permittees under the DNR’s “stepped enforcement” procedures. But the normal DNR procedure does not offer the certainty of a safe harbor from forfeitures and penalties that is found in §299.85.
- The Sierra Club has consistently objected to §299.85 and again requests that it be repealed.
- Sections 34-35 and 37-42 make appropriate wording changes. Section 36 should not delete lines 6-8 because departmental citations are often serious violations of the law that can be quickly resolved.
- Review of the annual reports on this program indicate that additional categories need to be added by DNR or even to §299.85 (9m) (b), Wis. Stats., to better identify the nature of violations reported to DNR. Currently the vast majority of violations, 31 of a total 37, are listed as “other” which is not informative.
- Also the reviews of the annual reports for this program indicate that data on the days to accomplish correction are not captured unless the corrective action exceeds 90 days. A requirement should be added by DNR or to §299.85 (9m) (b), to summarize the number of corrective actions that took less than 30 days, 30-59 days and 60-90 days to correct.
- But the bottom-line is that program should be allowed to sunset per existing law, §299.85 (11).

Thank you for the opportunity to testify on SB 126.

Per internal discussions, please accept the following principles as necessary elements for programs like Green Tier and Performance Track to excel.

- Enforceable rule-based programs will be an essential foundation of any future environmental / sustainability policy regime.
- Sustainability encompasses consideration of resources, energy, public health, economics, and community..
- Achievement of sustainability will not be achieved solely by setting minimums for emissions and discharge.
- Environmental and sustainability considerations must be embedded in all decisions for material use, energy use, chemical use, waste generation, and end-of-life disposition.
- Achievement of sustainability will require a substantially higher level of performance in many areas beyond environmental protection and restoration.

- Community leaders can play a critically important role in demonstrating how such higher level of integrated performance can be achieved.
- Leaders should not be seen as permanent outliers from the community, but as leaders who show the way to the larger community.
- Government at all levels should create an environment that encourages, supports where necessary, and learns from the community of leaders as they achieve performance outcome beyond the status quo.
- Learning from the leadership community should be used to create new baselines for performance for the larger community as a whole.

The EPA Performance Track Program had its strengths and weaknesses, and certainly has its supporters and detractors within our community. Green Tier should not repeat the mistakes made by Performance Track. As of now, EPA is proposing to reanalyze their program. We feel this is an opportune time to review Green Tier and insure this program will achieve the desired results and not become a safe haven for political favoritism and meaningless dialogue that fails to invite all segments of the community-at-large to participate. For the reasons stated above, we believe that performance-based programs have great potential if they have the correct focus and are based on sound principles. These programs should never provide escape mechanisms from strict regulatory requirements or oversight. They should always support leadership that demonstrates what is truly possible. On the behalf of Sierra Club, we offer to assist in manners you and WDNR deem appropriate for enhancing the role of Green Tier as EPA considers the role of performance and leadership in the development of any extra-regulatory programs through their review of Performance Track.