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# JOEL KITCHENS

STATE REPRESENTATIVE • 1<sup>ST</sup> ASSEMBLY DISTRICT

Assembly Committee on Environment and Forestry  
May 16, 2017

## Representative Kitchens Testimony on AB 226

Good morning Chairman Mursau and members of the Committee on Environment and Forestry, thank you for the opportunity to speak on this much-needed bill which will help provide access to clean water. Along with Senator Cowles I authored AB 226 and I am very appreciative for Senator Cowles and his staff for their collaboration and dedication to this issue.

The karst geo-region of Wisconsin is characterized by shallow soils over limestone bedrock. Underground streams flow within the bedrock, and sinkholes and fractures in the bedrock act as conduits to the surface, allowing pollutants to flow freely into the groundwater. The Karst region forms a "V" on the map of Wisconsin and includes all of Eastern Wisconsin. It is particularly problematic in Northeastern Wisconsin where there is a very high concentration of dairy cattle and very little soil to act as a filter to remove fecal contaminants before they reach the groundwater. Additionally, recent testing has shown that a high number of wells in Kewaunee County are contaminated by human feces.

This bill was written specifically to help with the well contamination problems in Northeastern Wisconsin, but I believe it will be applicable to many areas of the state. Kewaunee County has received most of the attention recently but this problem is far from isolated. I believe that the portion of the bill that deals with septic systems, also known as private onsite wastewater treatment systems, or POWTS will be applicable throughout the state.

This bill provides that a city, village, town, or county may remediate a contaminated private well, fill and seal a contaminated well, or rehabilitate, replace, or abandon a failing POWT, in agreement with the owner of the well or POWT, or may make a low-interest or interest-free loan to the owner of a contaminated well or failing POWT for these purposes. Under the bill, if a city, village, town, or county takes any of these actions or provides a loan for these purposes, the city, village, town, or county may recover the costs of the action or collect the loan repayment as a special charge or special assessment on the property tax bill.

It is entirely up to the communities to determine whether they wish to take advantage of this program and it is also up to them to determine what criteria they may require to be eligible for these loans and the interest rate that may be applied.

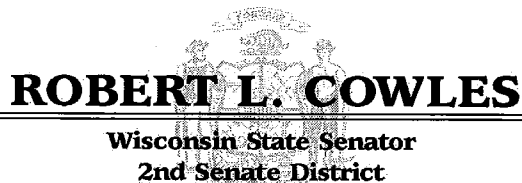
Additionally, we are proposing to increase the limit on the amount of a grant awarded under our state's well compensation grant program. Under current law, a grant awarded under the

program may not exceed 75 percent of a project's eligible costs and may not cover any part of a project's eligible costs that exceeds \$12,000, which means that a grant may not exceed \$9,000. This bill increases the grant award limit to 75 percent of \$16,000, which means that a grant under the bill may not exceed \$12,000.

It is important to point out that this bill is not intended to fix the problem of manure contamination of groundwater. There is a great deal of work being done to address the root cause of the problem. It is a complex problem and must be addressed from many angles. This bill addresses the short-term need to get safe, clean water in the hands of the citizens right now, while we continue to implement a long-term fix. This past week, the DNR announced that they will distribute free drinking water to anyone with a well that is likely contaminated by manure, which likewise addresses the short-term need to get clean water to those with unsafe drinking water.

Thank you for your time and consideration, at this time I welcome any questions.

STANDING COMMITTEES:  
Natural Resources & Energy, Chair  
Transportation & Veterans Affairs



JOINT COMMITTEES  
Audit Committee, Co-Chair  
Information Policy and Technology

**Assembly Committee on Environment and Forestry  
May 16, 2017  
328 Northwest - State Capitol**

**Testimony on AB 226 by Senator Cowles**

Thank you Chairman Mursau and committee members for the opportunity to testify today on AB 226 relating to local assistance for remediating contaminated wells and failing private on-site wastewater treatment systems (POWTS). I also want to thank Representative Kitchens and his staff for their work on this important public health and water quality issue.

Access to clean drinking water shouldn't be a problem in a state which has significant water resources. However, in certain regions of the state, groundwater has become contaminated. This is especially apparent in Northeast Wisconsin in an area of karst topography with carbonate bedrock and minimal soil depth. Wells in karst areas are vulnerable to bacterial contamination because sinkholes and fractures provide fast and direct routes from the ground surface application of manure, or underground discharge from septic fields, to groundwater sources of drinking water. AB 226 provides a partial solution to help provide safe and clean drinking water. The bill will raise the existing grant amount to cover increased costs associated with replacement wells and also create a voluntary local loan program for the replacement of contaminated wells and failing septic systems.

As Representative Kitchens mentioned, a grant program to replace private drinking water wells already exists in current law. Our bill simply increases the amount of grant dollars that can be awarded to qualifying households to more adequately cover the costs associated with well replacement. Current law provides a grant may not exceed 75 percent of the projects costs and may not cover costs in excess of \$12,000. This means the current grants are capped at \$9,000. The bill increases the total cost of a project to \$16,000 with a potential loan up to \$12,000. Industry has estimated that replacement wells can cost between \$11,000 and \$15,000 not including the costs associated with capping and sealing the contaminated well. The increase grant award would more adequately reflect total replacement costs. The bill does not increase the total amount of grant funding the DNR is able to award, nor does it change the eligibility standards for the grant program.

The state also currently has a program to provide grants to low income families to assist with the cost of replacing private on-site wastewater treatment systems if they were installed prior to July 1, 1972. The emerging problem with the program is that systems have lifespans of 20-40 years so even those installed in the 1990's could be failing. Failing POWTS in karst regions are likely to leach untreated human waste into the aquifer contaminating groundwater and subsequently drinking water.

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The Joint Finance Committee recently voted on the DSPS program that provides these POWTS replacement grants to low income households with systems prior to 1972. The Committee elected to keep the grant program for the next two biennia instead of sun setting the program at the end of this fiscal year.

In addition to the two state granting programs mention above, AB 226 provides new opportunity for local governments to voluntarily implement. The bill allows a city, village, town or county to provide a low interest or no interest loan to a homeowner to remediate a contaminated private well, fill and seal a contaminated well, or rehabilitate, replace or abandon a failing POWTS. If a local government selects to offer these loans, the city, village, town, or county may recover the costs of the action or collect the loan repayment as a special charge or special assessment. We believe this program will supplement the current low income grant programs and provide needed relief to areas with karst topography.

This bill is a step in the right direction. While I realize that AB 226 does not address the larger problem of manure management, I am hopeful the Department of Natural Resources will present another solution in the pending revision of NR 151, the State's runoff management rules.

Thank you for your time today.



## Assembly Committee on Environment and Forestry 2017 AB 226

### Contaminated Well and Wastewater Treatment Assistance

Good morning Chairman Mursau and committee members. My name is Steve Elmore, and I'm the Drinking Water and Groundwater program director for the Department of Natural Resources. Thank you for the opportunity to testify for informational purposes on Assembly Bill 226.

Under current law, the state's well compensation grant programs are administered by the Department of Natural Resources. These grant programs provide funding to eligible landowners or renters to replace, reconstruct or treat certain contaminated private water supplies, or to fill and seal wells. To be eligible, family income may not exceed \$65,000 for the prior calendar year. Grant awards cover a percentage of costs up to a maximum dollar amount. Under AB 226, the grant award *maximum dollar amount* is increased. This means that eligible grant applicants would be able to receive up to \$3,000 additional in state assistance for each eligible project.

AB 226 also provides a new authority to local units of government that wish to address contaminated and unused well and failing septic systems in their community. Under this bill, a local government has the option to establish a program to either:

1. Remediate a contaminated private well, fill and seal a contaminated well, or rehabilitate, replace, or abandon a failing private on-site wastewater treatment system (in agreement with the well or system owner), or
2. Make a low-interest or interest-free loan to the owner of a contaminated well or failing wastewater treatment system for these purposes.

If a city, village, town, or county establishes a program to take any of these actions, they may recover the costs or collect the loan repayment as a special charge or special assessment.

For state government, AB 226 is likely to increase the *total award amount* in the fiscal year since the maximum award would increase from \$9,000 to \$12,000 per landowner. The proposed statutory changes are not expected to change the number of eligible grant applicants or the number of grant awards issued each year. It is also unlikely to change DNR's workload administering grants.

Local governments choosing to administer a local program under the proposed statutory authority are expected to have one-time costs to establish the program and some ongoing annual costs.

I hope you find this information helpful, and would be happy to address any questions you may have.



# Kewaunee County

## LAND & WATER CONSERVATION DEPARTMENT

Good afternoon members of the Environment and Forestry Committee. My name is Davina Bonness and I am the County Conservationist for Kewaunee County testifying regarding Assembly Bill 226 and I encourage you today to support this legislation that will provide local assistance for landowners with contaminated wells and failing wastewater treatment systems, in Counties where groundwater contamination is high.

I am here today as a voice for Kewaunee County landowners who currently cannot drink their water because of bacteria and nitrate contamination. I am here today as a voice to the ongoing research, the progressive agricultural movement and the increase in rural development that has been occurring in Kewaunee County and ultimately, to be the voice for groundwater protection.

Kewaunee County is located in Northeast Wisconsin and is one of the leading dairy producing counties in the state. With approximately 167 dairies, we are home to 98,000 cattle, which produce over 650 million gallons of liquid manure annually. Currently, Kewaunee County ranks among the top 5 in Nutrient Management implementation with approximately 80% of the cropland having plans.

Intertwined with this agricultural dominant landscape are a growing urban sprawl and a unique Silurian dolomite "karst" bedrock aquifer that contains a complex system of cracks, sinkholes, fracture traces, and thin soils directly connecting surface water and land-use activities with the groundwater which residents solely rely on for drinking.

A number of research efforts have been done in Kewaunee County to evaluate the level of groundwater contamination. Some of these include:

- 2004 to Present, Kewaunee County started an ongoing voluntary testing program that shows a trend of approximately 30% of "tested" wells unsafe for drinking. However, in Townships where a large percent of the landscape is karst bedrock, the percentages increase to 40% of "tested" wells.
- 2015-Current: The Department of Natural Resources funded a two year research study with several objectives:
  - Objective 1: Design a county-wide randomized sampling plan, stratified by depth-to-bedrock, for nitrate and indicator bacteria. Samples were pulled in November 2015 and July 2016 and found a 26-28% estimated contamination rate. And a higher rate when broken down by various depths of bedrock (0-5; 5-20; 20+)
  - Objective 2: Sample once per season a subset of wells for viruses and fecal markers capable of distinguishing septic versus bovine sources of contamination. Both human and bovine markers were found. Results will be coming out in early June.

This research clearly demonstrates the well contamination issue Kewaunee County citizens are facing from both human and bovine sources. This issue did not occur over-night and will not be solved with a single solution. We need to work together to develop short-term and long-term solutions as well as utilizing to the full extent all the laws and regulations currently available to protect our groundwater aquifer, including NR 151 compliance and Nutrient Management planning. In addition, our Kewaunee County Zoning Department has inspected and brought over 80% of the 4822 septic systems in the County into compliance.

Along with the strong local commitment of our County Board, Land Conservation Committee and local citizens to solving the groundwater issues in our County, we have been proactive in developing partnerships with the Wisconsin Department of Natural Resources, the Environmental Protection Agency, and Natural Resources Conservation Service to assemble state and federal workgroups to initiate planning processes to identify, define, and implement best management practices to work towards manure management and clean drinking water.

In 2014, the County Board unanimously passed the Public Health & Groundwater Protection Ordinance, which residents voted to approve on April's ballot by an overwhelming 87%. That Ordinance prohibits the mechanical application of wastes on less than 20 feet to bedrock from January 1<sup>st</sup> to April 15<sup>th</sup>. The County Board also developed a local Groundwater Task Force and increased funding in the Land & Water Conservation Department to hire a new employee who will be devoted to reviewing Nutrient Management Plans.

One of the top ranked Short-Term Solutions from the DNR local workgroup was to make revisions to the Wisconsin Well Compensation program, which included raising grant amounts and removing income limitations so that homeowners can replace, rebuild, and/or treat their contaminated wells.

The Well Compensation program and Assembly Bill 226 are not the end all solution to the groundwater contamination problem in Northeast Wisconsin, but a step in the right direction. Landowners and Counties will have an avenue to remediate or abandon a contaminated private well, or rehabilitate, replace, or abandon a failing private on-site wastewater treatment system; and allow Counties to provide low-interest or interest free loan to landowners for these systems and get landowners a source of clean drinking water. Clean water is often a basic right that we take for granted.

In conclusion, Kewaunee County has been extremely proactive in working on both short-term and long-term solutions and working with Government officials including Mr. Kitchens; however, they take time, money, and science.

I am encouraging all of you to support our efforts in Kewaunee County and vote for those who cannot drink the water and approve Assembly Bill 226.



## County of Door SOIL & WATER CONSERVATION DEPT

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May 16, 2017

Representative Jeffrey Mursau  
Chair, Assembly Committee on Environment and Forestry  
Room 113 West  
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Madison, WI 53708

### Re: Support for Assembly Bill 226

Representative Mursau,

This letter is to express Door County's support for Assembly Bill 226 related to providing local assistance for remediating contaminated wells and failing wastewater treatment systems, and increasing award limits for contaminated well grants available through the Wisconsin Department of Natural Resources.

Door County citizens place a high priority on protecting the groundwater that supplies drinking water to nearly all of our residents. However, our Karst geology, with shallow soils over fractured rock, makes groundwater protection especially challenging. Approximately 40% of the county has less than 3 feet of soil over fractured bedrock and 20% of the county has less than 18 inches of soil over fractured bedrock. This combined with karst features; such as sinkholes, crevices and closed depressions; all contribute to the high potential for groundwater contamination. What we do on the land's surface readily impacts our groundwater.

For this reason Door County has long been involved in efforts to minimize the impacts of our land activities and to protect groundwater. Both the Soil and Water Conservation Department and the Sanitarian's Department have approached our respective work in a targeted way, by prioritizing sites throughout the county based on the risk to surface and ground waters. The Soil and Water Conservation Department has actively worked with agricultural landowners to install practices to meet performance standards and reduce the risk of groundwater contamination - as an example nearly all, approximately 93% of the County's cropland, is covered by nutrient management plans.

Between 2002 and 2015, county staff conducted a comprehensive sanitary survey of all private onsite waste treatment systems in Door County and required owners of failing systems to replace them. Key findings were that steel treatment tanks have a life expectancy of less than ten years, and in southern Door County a number of concrete multi-compartment tanks that have deteriorated in less than eight years. Currently, under the Wisconsin Fund for Replacement of Private Onsite Waste Treatment Systems program, homeowners are not eligible for funding for systems installed since July 1, 1978. A local assistance program, if adopted, would allow for funding for those who have to replace failing treatment tanks of any age and for those systems at the end of their designed life expectancy.

The impacts of contaminated groundwater, whether they be from failing waste treatment systems or from agricultural impacts, are serious and cannot be overstated - as illustrated by this example. In September of 2014, the Door County Public Health Department investigated a water-borne illness outbreak caused by manure spreading on nearby fields. Of 14 wells tested, 13 showed signs of contamination. Seventeen individuals became ill, including an



infant who was hospitalized. Symptoms included: nausea, vomiting, diarrhea, abdominal cramps, fever, sweats, chills, headaches, muscle aches, body aches, and fatigue. During this time, the homeowners had to not only contend with illness, but also the inconvenience of not being able to use their water, and financial concerns related to restoring a source of safe water, such as replacing their well.

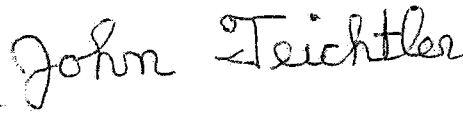
With the high costs associated with well replacement, an increase in the amount of grant dollars that would be awarded to an eligible applicant through the state program is necessary. In Door County the cost of replacing a well is highly variable but can range between \$16,000 - \$25,000, not including costs to abandon the old well and any optional treatment systems that may be installed. This bill, AB 226, offers additional financial support to ensure that eligible families have one more tool to deal with this very stressful and difficult situation.

Our Departments are committed to continuing our long term work with landowners to protect our groundwater. This bill is important in that it provides immediate relief to impacted families and provides options for local assistance to when they need it most. On behalf of our respective Departments, we endorse this legislation and encourage the state legislature to pass Assembly Bill 226.

Sincerely,



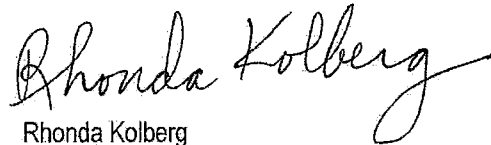
Erin Hanson  
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John Teichtler  
County Sanitarian  
Land Use Services Department



Mariah Goode  
Director  
Land Use Services Department



Rhonda Kolberg  
Director/Health Officer  
Public Health Department

cc: Representative Krug  
Representative Kitchens  
Representative Edming  
Representative Tusler  
Representative Hebl  
Representative Anderson

Representative Pronschinske  
Representative Swearingen  
Representative Wichgers  
Representative Mason  
Representative Milroy