



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 12, 2015

Joint Committee on Finance

Paper #139

Producer-Led Watershed Grants (Agriculture, Trade and Consumer Protection)

[LFB 2015-17 Budget Summary: Page 60, #12]

CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers two primary grant types under its soil and water resource management (SWRM) program. One grant provides funds to counties for support of their land and water conservation staff. The other category provides funding to counties to assist rural and agricultural landowners with costs of installing structures or other management practices to prevent soil erosion and nutrient runoff to waters of the state. State law in general requires landowners must receive an offer of cost-sharing of at least 70% of the cost of installing a structure or practice if the landowner is to be required to modify an existing structure or operation.

SWRM cost-sharing grants are supported by two sources: (a) \$2,500,000 SEG annually from the nonpoint account of the environmental fund; and (b) nonpoint SEG-supported general obligation bonding, for which DATCP has been authorized additional bonding authority of \$7,000,000 in each of the last four biennia.

The Department of Natural Resources (DNR) also grants funds for nonpoint source pollution abatement under its targeted runoff management (TRM) program. The program provides financial assistance to projects addressing water quality concerns or impairments, primarily in rural or agricultural settings. TRM is funded under current law at approximately \$8 million to \$9 million per biennium using nonpoint SEG-supported general obligation bonding, federal funds, and state general purpose revenues (GPR). A general state cost-share rate of 70% applies for most conservation practices installed under TRM, up to \$150,000 or \$1 million per project, depending on the size of the project.

GOVERNOR

Require DATCP to make watershed protection grants to producer-led organizations assisting other agricultural producers in a watershed in voluntarily conducting nonpoint source water pollution abatement activities. Specify an eligible producer-led group is to include at least five agricultural producers, each of whom operates within the watershed a farm that had gross farm revenues of \$6,000 in the preceding tax year, or at least \$18,000 in gross farm revenues combined in the preceding three tax years. Specify that producer-led groups may include additional producers not meeting income-eligibility standards, provided the five-farm minimum is met. Specify that the group must collaborate with at least one of the following entities: (a) DATCP; (b) DNR; (c) a county land conservation committee; (d) the University of Wisconsin System; or (e) a nonprofit conservation organization. Require the producer-led group to form under a memorandum of understanding with its collaborating entities.

Further, specify grants are to be made directly to the producer-led group, except that if the group is not a legal entity, DATCP is to grant funds to a legal entity acting on the producers' behalf. Require any producer-led group receiving funds under the provision to report annually to DATCP on activities carried out with funding and the resulting impacts on water quality in the watershed. Provide DATCP emergency rule-making authority, without the finding of an emergency, for the following purposes: (a) to define eligible legal entities; (b) specifying an application process for producer-led watershed protection grants; and (c) specifying eligible grant activities.

Require DATCP to allocate not more than \$250,000 annually for producer-led watershed protection grants. Specify expenditures are to be made from DATCP's existing appropriation for cost-sharing grants to landowners from the nonpoint account of the segregated (SEG) environmental fund; the bill would continue this appropriation's base-level funding of \$2,500,000 annually.

DISCUSSION POINTS

1. DATCP reports the provision is intended to create incentives for farmers to collaborate on addressing soil conservation and water quality concerns in proximity to their areas of operation. It has been argued that peer producers can counsel one another on effective ways of adopting conservation practices, and perhaps as much or more so than farmers consulting with governmental bodies or agents. Further, producers at risk of having operations be out of compliance with soil and water conservation performance standards may be more open to seeking assistance from other farmers than from a governmental agency, as some may perceive discussing compliance issues with state or county agents may put them at risk of future enforcement proceedings.

2. Farmer-led, watershed-focused groups currently exist in at least two areas of Wisconsin. The Wisconsin Farmer-Led Watershed Council Project includes four watersheds of the St. Croix and Red Cedar Rivers basin in Polk, St. Croix, Pierce, Dunn and Barron Counties. Farmers in the watersheds design programs of funding incentives to encourage adopting of conservation practices by other farmers in the watershed. Staff persons from UW-Extension and

county land and water conservation departments provide technical assistance, education and monitoring of how well projects are achieving conservation goals. Similarly, Dane County-area farmers have formed Yahara Pride Farms, a farmer-led organization offering cost-sharing, certification of operations with verified conservation practices, education and outreach. Each producer-led organization has received support of private business donors or charitable foundations to fund cost-sharing programs. The Wisconsin Farmer-Led Watershed Council Project also has received nonpoint SEG funding from DNR under an existing appropriation allowing DNR to enter into contracts with entities implementing nonpoint source-related information, education and training programs. Allocations to the project have been approximately \$100,000 each year since 2011-12.

3. The bill would require not more than \$250,000 annually to be granted to producer-led watershed groups. Funding would be expended from an existing annual appropriation of \$2,500,000 nonpoint SEG for cost-sharing for landowners to install best management practices to address soil erosion or nutrient runoff concerns. The nonpoint SEG funding typically is used to cost-share nonstructural practices, such as nutrient management planning, which helps farmers determine the optimal times to apply nutrients such as fertilizer and manure to fields, and in what amounts nutrients should be applied. Funds are disbursed to counties for subsequent distribution to landowners.

4. The bill would authorize DATCP to grant funds directly to a producer-led group, or a legal entity acting on behalf of the group. DATCP has authority under current law to grant funds to counties, which could in turn provide funds to members of producer-led watershed groups. It is also possible producer-led groups under current law could receive funds: (a) from the DNR appropriation for nonpoint source-related contracts, as the Northwest Wisconsin watershed groups have; or (b) under contract with DATCP for training and education services such groups may provide. However, DATCP contends the bill language and subsequent rule-making would more thoroughly specify grantee terms and conditions to ensure consistent application of funding decisions. (The bill would provide emergency rule-making authority for DATCP to clarify application requirements, eligible activities, match requirements, if any, and legal entities eligible to act as fund recipients, among other program provisions.)

5. Further, DATCP reports funding to producer-led watershed groups would not be provided for standard practices that are currently eligible for SWRM cost-sharing. Instead, the Department expects funding may support such costs as: (a) preliminary start-up and organizational costs, such as for soliciting participation by area farmers, or generating possible conservation approaches for the group and the area watershed; (b) hiring staff for support and coordination of the group and its activities, including seeking funding for a group's efforts through existing programs for soil and water conservation practice installation; or (c) incentive payments to encourage participants to engage in data collection or water quality monitoring in conjunction with conservation practices that would be, or have been, installed.

6. SWRM nonpoint SEG funding for nutrient management and other nonstructural conservation practices has been reduced by several budget acts from \$6.5 million in base funding in 2008-09 to \$2.5 million beginning in 2013-14. It could be argued that the bill would place

additional obligations on the remaining \$2,500,000 nonpoint SEG cost-sharing appropriation, which may further diminish the ability of the state to fund nutrient management or other soft practices that the funding was originally intended to address. On the other hand, annual nonpoint SEG funds also have been routinely transferred to the general fund or lapsed to the nonpoint account balance, such that annual net appropriations have often been less than \$2 million. It is also likely producer-led watershed groups would have nutrient management as significant or primary goals of their organizations, which is generally the case for the groups currently operating in Dane County and Northwest Wisconsin.

7. DATCP SWRM grant activity generally is governed by provisions of Chapter 92 (soil and water conservation and animal waste management). Among provisions of Chapter 92 is the restriction on counties providing state funding in an amount more than 70% of the cost of a project. As the bill would create the producer-led watershed grant program in Chapter 93 (general DATCP provisions), it does not appear the standard cost-sharing rate would apply for grants to producer-led watershed initiatives. Other DATCP grant programs have varying matches, as shown in the following table. Certain programs also may have maximum grant amounts specified by statute, administrative rule, or in annual grant guidelines issued by the Department. These amounts are also shown in the table.

DATCP Grant Program Provisions

<u>Grant Program</u>	<u>2014-15 Appropriation</u>	<u>Maximum Grant</u>	<u>Recipient Match</u>
Clean Sweep	\$750,000	Various*	25% of project (S)
Ag. development and diversification	0	\$50,000/project (S)	33% of project (S)
Buy Local, Buy Wisconsin	200,000	50,000/grant/bien. (R)	50% of project (S)
Grow Wisconsin Dairy Producer	200,000	50,000/biennium (R)	See Below**
Grow Wisconsin Dairy Processor	200,000	50,000/biennium (R)	See Below**

Note: (S) refers to statutory requirement and (R) refers to requirement of administrative rule.

* While not specified by statute or rule, DATCP administers the agricultural chemical and household hazardous waste, or "clean sweep" program, by declaring a maximum grant each year for each grant type. For 2015, maximum grants are between \$2,000 and \$18,000, depending on event type.

** Conditions shown are those specified by administrative rule ATCP 161. However, DATCP has implemented the Grow Wisconsin programs based on a \$5,000 maximum grant with a recipient match of 20% of the grant amount (\$1,000 on a maximum grant).

8. The producer-led watershed grant would continue state funding for implementation of nonpoint source water pollution abatement, and the means of using direct DATCP funding to producers collaborating with governmental or nonprofit organizations would not necessarily be available under current DATCP programs. One could argue the proposal is an appropriate use of nonpoint SEG for these reasons. The Committee could consider adopting the Governor's recommendation [Alternative 1].

9. On the other hand, the program would redirect funding from the existing SWRM program in DATCP, which has been subject to base funding reductions in past biennia. Further, because producer-led groups in place in Wisconsin have generated support both from private organizations and existing public resources, it could be argued it is not necessary to provide

additional state funding. The Committee could consider deleting the provision [Alternative 4].

10. The Committee also could specify maximum state matches, as recipient matches generally help ensure recipients have a financial stake in, and adequate commitment to, a project. The Committee could consider levels of: (a) a 70% state match (30% local), generally consistent with other nonpoint source programs [Alternative 2a]; (b) a 50% state match, which would require at least an equal amount of non-state funding to be provided by recipients [Alternative 2b]; or (c) a 33% state match, meaning every \$1 in state funding would match at least \$2 in recipient funding [Alternative 2c]. The Committee could also take no action on a match requirement. Such an alternative would not preclude DATCP from specifying a match by administrative rule. Also, one could argue specifying no match may allow DATCP flexibility in administering the program, as the size and means of producer-led groups may vary significantly across the state. For instance, as DATCP may consider creating distinct grant categories, it could be argued a uniform statutory match provision may not be most appropriate for each grant type. Not requiring a match could allow awards to smaller projects with lesser financial means, but that may have potential for significant nonpoint source pollution reductions.

11. The Committee also could consider specifying maximum grant amounts, which may help ensure available grant funds are not concentrated in a small number of recipients. One of the following amounts could be considered: (a) \$20,000 in a state fiscal year [Alternative 3a]; (b) \$30,000 in a state fiscal year [Alternative 3b]; (c) \$40,000 in a state fiscal year [Alternative 3c]; or (d) 20% of the amount available in a fiscal year [Alternative 3d]. Limiting grants to 20% of the annual available amount would result in a \$50,000 annual maximum, assuming DATCP made up to \$250,000 available each year under the bill. A \$50,000 maximum grant would be consistent with several existing programs noted earlier. A 20% limit would also automatically adjust the annual maximum if DATCP elected to offer less than \$250,000 in a year. The Committee could also take no action on a maximum grant, as similar arguments would apply to consideration of a minimum recipient match. For instance, specifying no maximum grant may allow additional funding to be directed to projects with particularly significant pollution-reduction potential.

ALTERNATIVES

1. Adopt the Governor's recommendation to establish a grant program for producer-led watershed grants, with DATCP required to allocate not more than \$250,000 nonpoint SEG from existing funding for the grants.

2. Specify one of the following maximum state matching rates:

- a. 70% of eligible costs (recipients must provide at least 30% of project funds);
- b. 50% of eligible costs (recipients must provide amounts at least equal to state funding); or
- c. 33% of eligible costs (recipients must provide at least \$2 in funding for every \$1 in state funds).

3. Specify one of the following maximum grants in a state fiscal year:
 - a. \$20,000;
 - b. \$30,000;
 - c. \$40,000; or
 - d. 20% of the annual funding available.

4. Delete provision. (The producer-led watershed grant program would be removed from the bill. No DATCP funding would be affected.)

Prepared by: Paul Ferguson