

2007 DRAFTING REQUEST

Bill

Received: **01/09/2007**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - water quality**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Miner, BB0307 -

Topic:

Nonpoint funding for manure management

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 01/10/2007	wjackson 01/10/2007	rschlue 01/11/2007	_____	sbasford 01/11/2007		
/1	btradewe 01/26/2007	csicilia 01/26/2007	jfrantze 01/26/2007	_____	sbasford 01/26/2007		
/2	btradewe 01/28/2007	wjackson 01/28/2007	nnatzke 01/28/2007	_____	cduerst 01/28/2007		
/3	btradewe 01/29/2007	kfollett 01/29/2007	rschlue 01/29/2007	_____	mbarman 01/29/2007		

FE Sent For:

<END>

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/2	btradewe 01/28/2007	wjackson 01/28/2007	nmatzke 01/28/2007	_____	cduerst 01/28/2007		

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13kjf
1/29

1297
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FE Sent For: *1/28* *1/28* *1/28* *nwn/cmh*

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1 gjs 1/26 07
1/26
JG/PJ
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Topic:

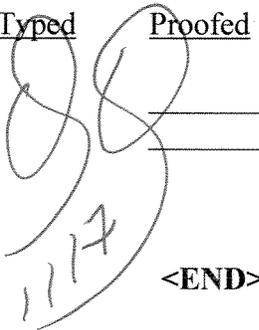
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/?	btradewe	/pl wj 1/10					
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FE Sent For:

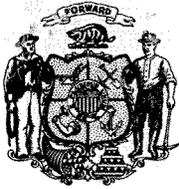
<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Notice of Discharge Funding
- Tracking Code: BB0307
- SBO team: Environmental and Commercial Resources
- SBO analyst: Andrew Miner
• Phone: 266-1103
• Email: Andrew.Miner@Wisconsin.gov
- Agency acronym: DNR
- Agency number: 370
- Priority (Low, Medium, High): Medium

AM 4/25/07

Notice of Discharge Funding: The Department requests a statutory change to Wis. Stat. s. 281.65 to allow the Department to allocate, on a case-by-case basis, a portion of the money otherwise used under the Nonpoint grant programs to fund proper manure management practices under the NOD program. This will allow the Department to directly fund and address impacts the Department believes warrant immediate action in order to protect fish and aquatic life or human health. Without this ability, localized impacts may remain unabated for up to a year or not at all depending on the ability of other funding sources such as TRM to be used to address the impact.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1414/P1

RCT:.....

WLj

m 1/10

DOA:.....Miner, BB0307 - Nonpoint funding for manure management

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Note

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

- ✓ ENVIRONMENT
- ✓ WATER QUALITY

Under current law, DNR, in conjunction with DATCP and local governmental units, administers a program to provide financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. Local governmental units annually apply for cost-sharing grants from DNR for new nonpoint source projects. A project qualifies for funding only if it is in a target area. An area may be a target area, for example, if it contains an animal feeding operation that has received a notice from DNR that the operation is discharging a significant amount of pollution to the waters of this state (a notice of discharge). DNR annually ranks all of the eligible applications based on specified criteria, including the extent to which the project will result in the attainment of water quality objectives, and then DNR selects projects to receive cost-sharing grants. This process is sometimes referred to as the targeted runoff management grant process.

This bill authorizes DNR to provide a cost-sharing grant, outside of the targeted runoff management grant process, for animal waste management. DNR may provide a grant directly to a landowner who operates an animal feeding operation that has received a notice of discharge from DNR if DNR determines that

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1414/P1dn
RCT...:...

wlj

Andrew Miner:

This is a draft of the proposal for notice of discharge funding under DNR's nonpoint program. The instructions did not provide much specificity, so please review the draft carefully. For example, the instructions did not indicate what portion of the costs the grants may cover. Please consider whether any additional conditions should be put on payment of the grants. You may want to review s. 281.65 (4c), which provides for what is referred to as the targeted runoff management grant process.

I reviewed s. 281.65 to try to identify any provisions that would apply to these grants that would be inconsistent with the intent of the request. This review lead me to draft proposed s. 281.65 (4e) (b) and (c). I am not certain that I have identified all of the provisions that might be problematic. I suggest that you or someone at DNR perform a similar review. The most likely location for provisions that might cause problems with this proposal seems to be in s. 281.65 (8).

Please let me know if you have questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1414/P1dn
RCT:wlj:rs

January 11, 2007

Andrew Miner:

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Please let me know if you have questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Tradewell, Becky
Sent: Thursday, January 25, 2007 4:36 PM
To: Miner, Andrew - DOA
Subject: RE: change to draft 1414

Andrew,

Do you have in mind something like: DNR may provide funding to a county to enable the county to provide a cost-sharing grant ... ?

Also, do you want to specify that counties would be the funding recipients or could it be any local governmental unit?

Becky

From: Miner, Andrew - DOA
Sent: Thursday, January 25, 2007 3:15 PM
To: Tradewell, Becky
Subject: change to draft 1414

Hi Becky,

Please make the following change to draft 1414, nonpoint funding for manure management (notice of discharge). Because the state bonds for the program, the grants can't be awarded directly to landowners. The grants would have to be awarded through the same county application process as otherwise. Perhaps there could be a separate application from the landowners to a county to receive a grant for the purposes under 281.65 (4e)? Please let me know if you have more questions. Thanks,

Andrew

Tradewell, Becky

From: Miner, Andrew - DOA
Sent: Thursday, January 25, 2007 5:35 PM
To: Tradewell, Becky
Subject: RE: change to draft 1414

Becky,

I believe bond counsel is of the opinion that the internal improvements clause prevails, so we have to go that route. So, instead of county please use "governmental unit" as otherwise used in 281.65. The process in 281.65 (4e) (a) should be similar to the TRM grant process then, but on line 4 of the draft, you can take out "who operates an animal feeding operation." Also, if sub. (8)(f) applies to all cost-sharing grants under 281.65, then 281.65 (4e)(c) may not be needed.

Thanks very much for your work on the PECFA drafts. We'll let you know soon if they are final. -- Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Thursday, January 25, 2007 4:43 PM
To: Miner, Andrew - DOA
Subject: RE: change to draft 1414

Andrew,

Something else on this issue: the concern about not using bonding for grants to landowners may not apply in this case because the purpose of the grants is to prevent water pollution. The state constitution recognizes that bonds may be issued to improve waters and, under the public trust doctrine, the waters of the state are held in public trust.

Becky

From: Miner, Andrew - DOA
Sent: Thursday, January 25, 2007 3:15 PM
To: Tradewell, Becky
Subject: change to draft 1414

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Andrew



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1414/P1

RCT:wlj/rs

In 1/26

stays

+cs

VMY

DOA:.....Miner, BB0307 - Nonpoint funding for manure management

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D. NOT Gen Cat

Funding to local governmental units

local governmental units, in turn, provide cost sharing grants to landowners to implement the project

1

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR, in conjunction with DATCP and local governmental units, administers a program to provide financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. Local governmental units annually apply for ~~cost-sharing grants~~ from DNR for new nonpoint source projects. A project qualifies for funding only if it is in a target area. An area may be a target area if, for example, it contains an animal feeding operation that has received a notice from DNR that the operation is discharging a significant amount of pollution to the waters of this state (a notice of discharge). DNR annually ranks all of the eligible applications based on specified criteria, including the extent to which the project will result in the attainment of water quality objectives, and then DNR selects projects to receive ~~cost-sharing grants~~. This process is sometimes referred to as the targeted runoff management grant process.

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Funding

Funding

Funding to a local governmental unit for a project for

INS 2-11, p. 1

-1414/1

Section #. 281.65 (8) (f) of the statutes is amended to read:

281.65 (8) (f) A cost-sharing grant shall equal the percentage of the cost of implementing the best management practice that is determined by the governmental unit submitting the application under sub. (4c) (a) ^{or (4e)(a)} and is approved by the board, except as provided under pars. (gm) and (jm) and except that a cost-sharing grant may not exceed 70% of the cost of implementing the best management practice.

History: 1977 c. 418; 1979 c. 34, 221; 1979 c. 355 s. 241; 1981 c. 20; 1981 c. 346 s. 38; 1983 a. 27; 1983 a. 189 s. 329 (16); 1983 a. 416; 1985 a. 29; 1987 a. 27; 1989 a. 31, 336, 366; 1991 a. 39, 309; 1993 a. 16, 166, 213, 246, 491; 1995 a. 27, 201, 225; 1995 a. 227 s. 428; Stats. 1995 s. 281.65; 1995 a. 404 s. 204; 1997 a. 27, 209, 237; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 109; 2003 a. 33.



Section #. 281.65 (8) (gm) of the statutes is amended to read:

4e a
or (4e) (a)

281.65 (8) (gm) The governmental unit submitting the application under sub. (4c) (a) shall exceed the limit under par. (f) in cases of economic hardship, as defined by the department by rule.

History: 1977 c. 418; 1979 c. 34, 221; 1979 c. 355 s. 241; 1981 c. 20; 1981 c. 346 s. 38; 1983 a. 27; 1983 a. 189 s. 329 (16); 1983 a. 416; 1985 a. 29; 1987 a. 27; 1989 a. 31, 336, 366; 1991 a. 39, 309; 1993 a. 16, 166, 213, 246, 491; 1995 a. 27, 201, 225; 1995 a. 227 s. 428; Stats. 1995 s. 281.65; 1995 a. 404 s. 204; 1997 a. 27, 209, 237; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 109; 2003 a. 33.

1/26 - Andrew - They are concerned about whether this would cover (the situation in which the animal feeding operation is operated by someone who is renting the property.

RET



State of Wisconsin
2007 - 2008 LEGISLATURE

Today (Sun.) if possible

LRB-14141 2

RCT:wlj&cs:jf

stays ↑ rnr

DOA:.....Miner, BB0307 - Nonpoint funding for manure management

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

✓
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*

at

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1414/2dn

RCT: /:....

WJ

Andrew Miner:

* I think this approach may work whatever DNR's answers to our questions are.

5

Rebecca C. Tradewell
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Phone: (608) 266-7290
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**DRAFTER'S NOTE
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LRB-1414/2dn
RCT:wlj:nwn

January 28, 2007

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Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Miner, Andrew - DOA
Sent: Monday, January 29, 2007 9:16 AM
To: Tradewell, Becky
Subject: change draft 1414

Hi Becky,

After discussion with Michael Wolff and Foley & Lardner, we have one more change to make to 1414, the notice of discharge draft, and then we should be good. The wording of proposed 281.65 (4)(a) in draft 2, sent yesterday, is fine. We would like to reword proposed 281.65 (4)(b) to say "The department may grant a request under par. (a) if it determines that providing funding under this subsection implements best management practices related to the protection of fish and aquatic life." The concern was that including protection of human health was broad enough to include private projects. If you have questions Michael is available. Thanks,
Andrew

Per Andrew & Michael - It is OK to just delete " or human health " from the /2.

6/10/07



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1414/2 3

RCT:wj&cs:wm

In 1/29

stays /my

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LRB-1414/3
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