

2009 DRAFTING REQUEST

Bill

Received: 03/15/2010

Received By: btradewe

Wanted: As time permits

Companion to LRB:

For: Mark Miller (608) 266-9170

By/Representing: Beth Bier

May Contact:

Drafter: btradewe

Subject: Environment - water quality

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Miller@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Additional federal funds for clean water fund and safe drinking water fund programs

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>
/?				_____			S&L
/1	btradewe 03/17/2010	nmatzke 03/18/2010	rschluet 03/18/2010	_____	sbasford 03/18/2010		S&L
/2	btradewe 03/23/2010	kfollett 03/23/2010	jfrantze 03/23/2010	_____	cduerst 03/23/2010	mbarman 03/29/2010	

FE Sent For: "/2" @ intro. 4/5/10

<END>

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/?							S&L
/1	btradewe 03/17/2010	nmatzke 03/18/2010	rschluet 03/18/2010		sbasford 03/18/2010		

12/9/09
3/23
3/23
md 3/23
pk 3/23
<END>

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Bill

Received: 03/15/2010

Received By: **btradewe**

Wanted: **As time permits**

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Extra Copies:

Submit via email: **YES**

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/?	btradewe	/1 nwn 3/18		_____	_____		

FE Sent For:

<END>

Tradewell, Becky

From: Bier, Beth
Sent: Monday, March 15, 2010 3:00 PM
To: Tradewell, Becky
Cc: Stolzenberg, John; Kuhn, Jamie
Subject: FW: Proposed legislation for SRF Programs
Attachments: FFY 2010 Statutory Changes Revised (2).doc

Hi Becky,

Please see the attached language for a modification to allow the DNR to receive additional federal funds for the Clean Water Fund and Safe Drinking Water Loan Program. Let me know if you have questions or if this drafting request should go to someone else. If you need clarity from the DNR, please contact Paul Heinen at 266-2120.

Thanks,
Beth

*PROPOSED LANGUAGE FOR AUTHORITIES NEEDED TO USE FFY 2010 STATE
REVOLVING FUND CAPITALIZATION GRANTS IN WISCONSIN*

(1) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS BILL FUNDING FOR
CLEAN WATER FUND PROGRAM PROJECTS.

(a) If this state receives moneys under P.L. 111-88 as a capitalization grant for clean water state revolving funds under the Federal Water Pollution Control Act, the department of natural resources and the department of administration may, as provided in this subsection, allocate the funds to municipalities under section 281.58 of the statutes for projects eligible to receive financial assistance under that section.

(b) The department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness. The department of natural resources may establish a percentage limit of the total amount of principal forgiveness available that may be received by any eligible applicant under this subsection.

(c) The department of natural resources may establish a deadline for submitting applications for financial assistance under this subsection.

(d) In determining which projects shall receive financial assistance under this subsection and the terms of each loan, the department of natural resources may consider:

1. The population of the municipality.
2. The median household income of the municipality determined by the U.S. Bureau of the Census, as adjusted by the department of natural resources.
3. The extent to which a project promotes water efficiency or energy efficiency; is environmentally innovative; or uses natural systems or engineered systems that mimic natural processes, also called green infrastructure.

(e) Notwithstanding section 227.10(1) of the statutes, the department of natural resources and the department of administration are not required to promulgate rules for the purposes of this subsection.

(2) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS BILL FUNDING FOR SAFE DRINKING WATER LOAN PROGRAM PROJECTS.

(a) If this state receives moneys under P.L. 111-88 as a capitalization grant for drinking water state revolving funds under the Safe Drinking Water Act, the department of natural resources and the department of administration may, as provided in this subsection, allocate the funds to municipalities under section 281.61 of the statutes for projects eligible to receive financial assistance under that section.

(b) The department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness. The department of natural resources may establish a percentage limit on the amount of [financial assistance] available under this subsection that may be received by any eligible applicant. *make like clean water fund*

(c) The department of natural resources may establish a different deadline for submitting applications for financial assistance under this subsection than the deadline in section 281.61(5) of the statutes.

(d) In determining which projects shall receive financial assistance under this subsection and the terms of each loan, the department of natural resources may consider:

1. The population of the municipality.
2. The median household income of the municipality determined by the U.S. Bureau of the Census, as adjusted by the department of natural resources.
3. The extent to which a project promotes water efficiency or energy efficiency; is environmentally innovative; or uses natural systems or engineered systems that mimic natural processes, also called green infrastructure.

(e) Notwithstanding section 227.10(1) of the statutes, the department of natural resources and the department of administration are not required to promulgate rules for the purposes of this subsection.

PL 111-88, Title II, in part

State and Tribal Assistance Grants

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, \$4,970,223,000, to remain available until expended, of which \$2,100,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended (the "Act"); of which \$1,387,000,000 shall be for making capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended: Provided, That for fiscal year 2010, to the extent there are sufficient eligible project applications, not less than 20 percent of the funds made available under this title to each State for Clean Water State Revolving Fund capitalization grants and not less than 20 percent of the funds made available under this title to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities; (\$17,000,000 shall be for architectural, engineering, planning, design, construction and related activities

[[Page 123 STAT. 2936]]

in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; \$13,000,000

shall be for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages: Provided further, <<NOTE: Alaska.>> That, of these funds: (1) the State of Alaska shall provide a match of 25 percent; (2) no more than 5 percent of the funds may be used for administrative and overhead expenses; and (3) the State of Alaska shall make awards consistent with the State-wide priority list established in conjunction with the Agency and the U.S. Department of Agriculture for all water, sewer, waste disposal, and similar projects carried out by the State of Alaska that are funded under section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) which shall allocate not less than 25 percent of the funds provided for projects in regional hub communities; \$156,777,000 shall be for making special project grants and technical corrections to prior-year grants for the construction of drinking water, wastewater and storm water infrastructure and for water quality protection in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the managers accompanying this Act, and, for purposes of these grants, each grantee shall contribute not less than 45 percent of the cost of the project unless the grantee is approved for a waiver by the Agency; \$100,000,000 shall be to carry out section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including grants, interagency agreements, and associated program support costs; \$60,000,000 shall be for grants under title VII, subtitle G of the Energy Policy Act of 2005, as amended; \$20,000,000 shall be for

targeted airshed grants in accordance with the terms and conditions of the joint explanatory statement of the managers accompanying this Act; and \$1,116,446,000 shall be for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104-134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities subject to terms and conditions specified by the Administrator, of which \$49,495,000 shall be

for carrying out section 128 of CERCLA, as amended, \$10,000,000 shall be

for Environmental Information Exchange Network grants, including associated program support costs, \$18,500,000 of the funds available for

grants under section 106 of the Act shall be for water quality monitoring activities, \$10,000,000 shall be for competitive grants to communities to develop plans and demonstrate and implement projects which reduce greenhouse gas emissions and, in addition to funds appropriated under the heading "Leaking Underground Storage Tank Trust Fund Program" to carry out the provisions of the Solid Waste Disposal Act specified in section 9508(c) of the Internal Revenue Code other than

section 9003(h) of the Solid Waste Disposal Act, as amended, \$2,500,000 shall be for grants to States under section 2007(f)(2) of the Solid Waste Disposal Act, as amended: Provided further, That notwithstanding section 603(d)(7) of the Federal Water Pollution Control

Act, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in

fiscal year 2010 and prior years where such amounts represent costs of administering the fund to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration: Provided further, That for fiscal year <<NOTE: Native Americans.>> 2010, and notwithstanding section 518(f) of the Act, the Administrator is authorized to use the amounts appropriated for any fiscal year under section 319 of that Act to make grants to federally recognized Indian tribes pursuant to sections 319(h)

and 518(e) of that Act: Provided further, That for fiscal year 2010, notwithstanding the limitation on amounts in section 518(c) of the Federal Water Pollution Control Act and section 1452(i) of the Safe Drinking Water Act, up to a total of 2 percent of the funds appropriated

for State Revolving Funds under such Acts may be reserved by the Administrator for grants under section 518(c) and section 1452(i) of such Acts: Provided further, That for fiscal year 2010, in addition to the amounts specified in section 205(c) of the Federal Water Pollution Control Act, up to 1.2486 percent of the funds appropriated for the Clean Water State Revolving Fund program under the Act may be reserved by the Administrator for grants made under title II of the Clean Water

Act for American Samoa, Guam, the Commonwealth of the Northern
Marianas,

and United States Virgin Islands: Provided further, That for fiscal
year

2010, notwithstanding the limitations on amounts specified in section
1452(j) of the Safe Drinking Water Act, up to 1.5 percent of the funds
appropriated for the Drinking Water State Revolving Fund programs under
the Safe Drinking Water Act may be reserved by the Administrator for
grants made under section 1452(j) of the Safe Drinking Water Act:

Provided further, That not less than 30 percent of

the <<NOTE: Applicability.>> funds made available under this title to
each State for Clean Water State Revolving Fund capitalization grants
and not less than 30 percent of the funds made available under this
title to each State for Drinking Water State Revolving Fund
capitalization grants shall be used by the State to provide additional
subsidy to eligible recipients in the form of forgiveness of principal,
negative interest loans, or grants (or any combination of these),
except

that for the Clean Water State Revolving Fund capitalization grant
appropriation this section shall only apply to the portion that exceeds
\$1,000,000,000: Provided further, That no funds provided by this
appropriations Act to address the water, wastewater and other critical
infrastructure needs of the colonias in the United States along the
United States-Mexico border shall be made available to a county or
municipal government unless that government has established an
enforceable local ordinance, or other zoning rule, which prevents in
that jurisdiction the development or construction of any additional
colonia areas, or the development within an existing colonia the
construction of any new home, business, or other structure which lacks

water, wastewater, or other necessary infrastructure.

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

3/17/2010 Per Jean Cargill (DNR)

Change the sentence at the end of sub (2) (b) to be like
the sentence at the end of sub. (1) (b)

Per Michael Wolff (DOA capital budget office) - use
December 31, 2011, as end date for funding.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4545/1

RCT:f:....

nwn

thurs, 3/18, if possible

2009 BILL

SA ✓
x-rcf ✓

Gen.

- 1 AN ACT ...; relating to: financial assistance under the Clean Water Fund
- 2 Program and the Safe Drinking Water Loan Program. ✓

Analysis by the Legislative Reference Bureau

local governmental units
governmental units

Under the Clean Water Fund Program, this state provides financial assistance to local governmental units for projects to control water pollution, including sewage treatment plants, using state and federal funds. One form of financial assistance provided under the Clean Water Fund Program is a loan at a subsidized interest rate. The Clean Water Fund Program also provides grants to municipalities that satisfy financial hardship criteria.

The federal act that appropriated money for the federal Environmental Protection Agency for federal fiscal year 2010 (federal 2010 appropriations act) provides additional funds for state programs like the Clean Water Fund Program. This bill authorizes those funds to be expended under the Clean Water Fund Program. The federal 2010 appropriations act requires states to use a portion of the funds to increase the amount of subsidy provided to recipients of financial assistance, in the form of forgiveness of principal of a loan, negative interest loans, or grants. This bill requires the increased subsidy to be provided in the form of forgiveness of part of the principal of a loan.

Under the Safe Drinking Water Loan Program, this state provides loans to local governmental units for projects for the construction or modification of public water systems, using state and federal funds. The loans are provided at subsidized interest rates.

The federal 2010 appropriations act provides additional funds for state programs like the Safe Drinking Water Loan program. This bill authorizes those

BILL

funds to be expended under the Safe Drinking Water Loan Program. The federal 2010 appropriations act requires states to use a portion of the funds to increase the amount of subsidy provided to recipients of financial assistance in the form of forgiveness of principal of a loan, negative interest loans, or grants. This bill requires the increased subsidy to be provided in the form of forgiveness of part of the principal of a loan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Nonstatutory provisions.

(1) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS ACT FUNDING FOR CLEAN WATER FUND PROJECTS.

(a) If this state receives moneys under P.L. 111-88 as a capitalization grant for clean water state revolving loan funds under the federal Water Pollution Control Act, the department of natural resources and the department of administration may, as provided in this subsection, allocate the funds, before January 1, 2011, for financial assistance to municipalities, as defined in section 281.01(6) of the statutes, under section 281.58 of the statutes for projects eligible to receive financial assistance under that section.

(b) In providing financial assistance under this subsection to a municipality using the portion of the capitalization grant that P.L. 111-88 requires to be used to provide additional subsidy to applicants, the department of natural resources and the department of administration shall provide the additional subsidy in the form of forgiveness of part of the principal of a loan made to the municipality. The department of natural resources may establish a percentage limit of the amount of the principal forgiveness available under this paragraph that may be received by any eligible applicant.

BILL

1 (c) The department of natural resources may establish a deadline for
2 submitting applications for financial assistance under this subsection.✓

3 (d) In selecting the projects to receive financial assistance under this
4 subsection,✓ and the terms of the financial assistance, the department of natural
5 resources may consider any of the following:

- 6 1. The population of the municipality in which a project would be located.✓
- 7 2. The median household income, as defined in section 281.58 (1) (cm)✓ of the
8 statutes, of the municipality in which a project would be located.✓
- 9 3. The extent to which a project promotes water efficiency or energy efficiency;
10 is environmentally innovative; or uses natural systems or engineered systems that
11 mimic natural processes, also called green infrastructure.✓

12 (e) Notwithstanding section 227.10 (1)✓ of the statutes, the department of
13 natural resources and the department of administration are not required to
14 promulgate rules for the purposes of this subsection.✓

15 (2) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS ACT FUNDING FOR SAFE DRINKING
16 WATER LOAN PROGRAM PROJECTS.✓

17 (a) If this state receives moneys under P.L. 111-88 as a capitalization grant for
18 drinking water state revolving loan funds under the federal Safe Drinking Water
19 Act, the department of natural resources and the department of administration may,
20 as provided in this subsection,✓ allocate the funds, before January 1, 2012, for
21 financial assistance to municipalities, *as defined in section 281.01 (6) of the statutes,*
22 projects eligible to receive financial assistance under that section.✓ Notwithstanding
23 section 281.59 (3s) (a)✓ of the statutes, the department of administration may, until
24 December 31, 2011, allocate amounts approved *for the 2009-11 biennium* under section 281.59 (3s) (b) 1.✓ of the
25 statutes for projects under this subsection.✓

BILL**SECTION 1**

1 (b) In providing financial assistance under this subsection to a municipality
2 using the portion of the capitalization grant that P.L. 111-88 requires to be used to
3 provide additional subsidy to applicants, the department of natural resources and
4 the department of administration shall provide the additional subsidy in the form
5 of forgiveness of part of the principal of a loan made to the municipality. The
6 department of natural resources may establish a percentage limit of the amount of
7 the principal forgiveness available under this paragraph that may be received by any
8 eligible applicant.

9 (c) The department of natural resources may establish a different deadline for
10 submitting applications for financial assistance under this subsection than the
11 deadline in section 281.61 (5) of the statutes.

12 (d) In selecting the projects to receive financial assistance under this
13 subsection, and the terms of the financial assistance, the department of natural
14 resources may consider any of the following:

- 15 1. The population of the municipality in which a project would be located.
- 16 2. The median household income, as defined in section 281.58 (1) (cm) of the
17 statutes, of the municipality in which a project would be located.
- 18 3. The extent to which a project promotes water efficiency or energy efficiency;
19 is environmentally innovative; or uses natural systems or engineered systems that
20 mimic natural processes, also called green infrastructure.

21 (e) Notwithstanding section 227.10 (1) of the statutes, the department of
22 natural resources and the department of administration are not required to
23 promulgate rules for the purposes of this subsection.

24 (END)

Tradewell, Becky

From: Cargill, Jeanne H - DNR [Jeanne.Cargill@Wisconsin.gov]
Sent: Friday, March 19, 2010 1:51 PM
To: Tradewell, Becky
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: FW: clean water fund draft
Attachments: 09-45451.pdf

Hi Becky,

On the draft language that Beth Bier forwarded to Paul Heinen, we have the comments contained in the e-mail below to Paul Heinen and the following:

On page 2, please revise the first sentence of (1) (b) to read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

On page 4, please revise the first sentence of (2) (b) to also read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

Please call me or Michael Wolff if you have any questions regarding the requested revisions. Thank you!
Jeanne

Jeanne H Cargill

Financial Assistance Specialist
Environmental Loans Section
Bureau of Community Financial Assistance
Wisconsin Department of Natural Resources
(☎) phone: (608) 267-7587
(☎) fax: (608) 267-0496
(✉) e-mail: jeanne.cargill@wisconsin.gov

From: Cargill, Jeanne H - DNR
Sent: Thursday, March 18, 2010 7:47 PM
To: Heinen, Paul H - DNR
Cc: Wolff, Michael - DOA
Subject: RE: clean water fund draft

Hi Paul,

03/19/2010

On page 2, in line number 5 of the Nonstatutory Provisions, the word "loan" should be deleted, and the word "federal" should start with a capital "F".

On page 2, in line number 7, the date "January 1, 2011" should be replaced with "December 31, 2011".

On page 2, in line number 8, the statutory reference "281.01 (6)" should be replaced with "281.59 (1) (c)".

I may have one more comment after I get a chance to communicate with Michael. Thanks! Jeanne

Jeanne H Cargill

Financial Assistance Specialist

Environmental Loans Section

Bureau of Community Financial Assistance

Wisconsin Department of Natural Resources

(☎) phone: (608) 267-7587

(☎) fax: (608) 267-0496

(✉) e-mail: jeanne.cargill@wisconsin.gov

From: Heinen, Paul H - DNR
Sent: Thursday, March 18, 2010 6:47 PM
To: Cargill, Jeanne H - DNR; Wolff, Michael - DOA
Subject: Fw: clean water fund draft

Ok?

Paul
Paul Heinen
266-2120

From: Bier, Beth <Beth.Bier@legis.wisconsin.gov>
To: Heinen, Paul H - DNR
Sent: Thu Mar 18 17:32:26 2010
Subject: clean water fund draft

Hi Paul,

Attached is the draft to access the extra funds. Take a look and let me know if it works.

Thanks,

Beth

<<09-45451.pdf>>

Beth Bier

Office of Senator Mark Miller

PO Box 7882

Madison, WI 53707

Phone: (608) 266-9170

Email: Beth.Bier@legis.wisconsin.gov

Tradewell, Becky

To: Cargill, Jeanne H - DNR
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: RE: clean water fund draft

Jeanne,

On the instruction to capitalize the "f" in "federal" on page 2, line 5: that is a matter of style and the style of legislation in Wisconsin is not to capitalize "federal" in that situation.

On the date change on page 2, line 7: I had meant to type January 1, 2012. I will change it to December 31, 2011, but do you also want the dates on page 3, lines 20 and 24, to be changed?

In addition to changing the cross-reference on page 2, line 8, do you want the cross-reference on page 3, line 21, to be changed?

As to revising the sentences that begin on page 2, line 11, and page 4, line 3, when a requester objects to the language in a draft, it is helpful to get an explanation of the problem with the language in the draft. The proposed language, reiterated in the message below, is not clear. That is why I asked about intent and why I didn't use the proposed language in the draft. What is intended seems to me to be a somewhat difficult concept to put into writing clearly.

The act requires 30% of the funds made available to each state to be used by the state to provide additional subsidy to eligible recipients in one of three forms. The intent, as I understand it, is that in Wisconsin we are only going to provide the additional subsidy in the form of what the act describes as "forgiveness of principal." The sentence needs to describe the money that we are talking about and describe what must be done with it.

This is how I see it: The proposed sentence starts by saying that DNR and DOA shall use certain money. To fully describe the money we are talking about, one needs either: "the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidy to applicants" or, perhaps, "the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidy." The rest of the sentence isn't enough to describe what must be done with the money. Let's say that X stands for the money that must be used for additional subsidization. Then the sentence either says the DNR and DOA must use X in the form of principal forgiveness or it says that DNR and DOA must use X to applicants in the form of principal forgiveness. Either way, it is not quite complete. The sentence should convey that DNR and DOA must use X to provide additional subsidy to applicants in the form of forgiveness of principal. But when one replaces X with the actual description of the money, one gets: DNR and DOA shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidy to applicants to provide additional subsidy to applicants in the form of forgiveness of principal. That seemed difficult to understand, so I came up with an alternate approach to use in the draft; first require the departments to determine how much money must be used to provide additional subsidy and then require them to use that amount for forgiveness of principal. I described the principal forgiveness as "forgiveness of part of the principal of a loan" because I thought that would be more clear to a reader, but I

guess it is not necessary to do that.

Perhaps it would work to say that when DNR and DOA provide additional subsidy to applicants, as required by P.L. 111-88, they must provide the additional subsidy in the form of forgiveness of principal.

I am sure there are other approaches that would work. For example, it could require the use of 30% of the money to provide forgiveness of principal.

I will be glad to discuss this, but thought it would help to put my thoughts in writing first.

Becky Tradewell
6-7290

From: Cargill, Jeanne H - DNR [mailto:Jeanne.Cargill@Wisconsin.gov]
Sent: Friday, March 19, 2010 1:51 PM
To: Tradewell, Becky
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: FW: clean water fund draft

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On page 2, please revise the first sentence of (1) (b) to read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

On page 4, please revise the first sentence of (2) (b) to also read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

Please call me or Michael Wolff if you have any questions regarding the requested revisions. Thank you!
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Jeanne H Cargill

Financial Assistance Specialist
Environmental Loans Section
Bureau of Community Financial Assistance
Wisconsin Department of Natural Resources

03/19/2010

(☎) phone: (608) 267-7587
(☎) fax: (608) 267-0496
(✉) e-mail: jeanne.cargill@wisconsin.gov

From: Cargill, Jeanne H - DNR
Sent: Thursday, March 18, 2010 7:47 PM
To: Heinen, Paul H - DNR
Cc: Wolff, Michael - DOA
Subject: RE: clean water fund draft

Hi Paul,

On page 2, in line number 5 of the Nonstatutory Provisions, the word "loan" should be deleted, and the word "federal" should start with a capital "F".

On page 2, in line number 7, the date "January 1, 2011" should be replaced with "December 31, 2011".

On page 2, in line number 8, the statutory reference "281.01 (6)" should be replaced with "281.59 (1) (c)".

I may have one more comment after I get a chance to communicate with Michael. Thanks! Jeanne

Jeanne H Cargill

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From: Heinen, Paul H - DNR
Sent: Thursday, March 18, 2010 6:47 PM
To: Cargill, Jeanne H - DNR; Wolff, Michael - DOA
Subject: Fw: clean water fund draft

Ok?

Paul
Paul Heinen
266-2120

From: Bier, Beth <Beth.Bier@legis.wisconsin.gov>
To: Heinen, Paul H - DNR
Sent: Thu Mar 18 17:32:26 2010
Subject: clean water fund draft

Hi Paul,

Attached is the draft to access the extra funds. Take a look and let me know if it works.

Thanks,

Beth

<<09-45451.pdf>>

Beth Bier

Office of Senator Mark Miller

PO Box 7882

Madison, WI 53707

Phone: (608) 266-9170

Email: Beth.Bier@legis.wisconsin.gov

Tradewell, Becky

From: Cargill, Jeanne H - DNR [Jeanne.Cargill@Wisconsin.gov]
Sent: Sunday, March 21, 2010 1:40 AM
To: Tradewell, Becky
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: RE: clean water fund draft

Hi Becky,

My responses to your comments are included under various paragraphs in the e-mail from you below. Everything between the red asterisks is my response to your March 19 message.

From: Tradewell, Becky [Becky.Tradewell@legis.wisconsin.gov]
Sent: Friday, March 19, 2010 5:01 PM
To: Cargill, Jeanne H - DNR
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: RE: clean water fund draft

Jeanne,

On the instruction to capitalize the "f" in "federal" on page 2, line 5: that is a matter of style and the style of legislation in Wisconsin is not to capitalize "federal" in that situation.

The reason I thought the "f" in "federal" should be capitalized is the official title of the federal law is the "Federal Water Pollution Control Act". It seems that either the "f" should be capitalized or the "W", "P", "C" and "A" should be small along with the "f".

On the date change on page 2, line 7: I had meant to type January 1, 2012. I will change it to December 31, 2011, but do you also want the dates on page 3, lines 20 and 24 ,to be changed?

Yes, technically they should probably all be changed to mean that the last date to allocate these funds is December 30, 2011. Since Dec. 31 and Jan. 1 are holidays, though, I didn't really think it was as important to change the dates on page 3 as it was to change the date on page 2.

In addition to changing the cross-reference on page 2, line 8, do you want the cross-reference on page 3, line 21, to be changed?

I didn't change that reference before because there is no definition of "municipality" in 281.61. However, now that I look at that more closely, I realize we should probably use the term "local governmental unit" in place of "municipality" throughout the drinking water section since that is the term used in the statutes and the NR code for the Safe Drinking Water Loan Program. "Local governmental unit" does have a different meaning than "municipality" (as defined in s. 281.01(6)). So, that would mean we should:

- On page 3, line 21, replace "municipalities" with "local governmental units".

- On page 4, lines 3, 7, 17, and 19, replace "municipality" with "local governmental unit".

If we use "local governmental unit", we should also change the cross-reference on page 3, line 21, to 281.61(1)(a).

As to revising the sentences that begin on page 2, line 11, and page 4, line 3, when a requester objects to the language in a draft, it is helpful to get an explanation of the problem with the language in the draft. The proposed language, which you reiterate in the message below, is not clear. That is why I asked you about what the language was intended to mean and why I didn't use the proposed language in the draft. What is intended seems to me to be a somewhat difficult concept to put into writing clearly.

I wholeheartedly agree that this is a difficult concept to put into writing clearly. I sent Michael the following e-mail message after working for a long time trying to come up with something that works. He thought maybe my suggestion in the e-mail might be too wordy. What do you think of my suggestion in the March 19 e-mail below? I think adding the sentences below makes it clear that we can provide additional subsidy in a method that is different than what the statutes currently authorize us to do. It limits us to using the amount that P.L. 111-88 requires us to use for additional subsidy and states what forms the federal law allows. Then, the language you have already put into the legislation states that when we provide that additional subsidy to a municipality or local governmental unit, it must be in the form of forgiveness of principal of a portion of the loan.

The reason I worked on revising the language is that we were a bit worried that the language you have in the draft: left room for increasing the amount of additional subsidy beyond the 30% required, could be interpreted to mean we should provide all of the additional subsidy to one municipality, and maybe didn't clearly give us the authority to override ss. 281.58(6)(b) and 281.61(2r), Wis. Stats.

From: Cargill, Jeanne H - DNR
Sent: Friday, March 19, 2010 12:07 PM
To: Wolff, Michael - DOA
Subject: RE: clean water fund draft

Hi Michael,

I started out writing the sentence the way we talked about, but that still didn't work. I've been playing with these words since we hung up, and I concluded we should add a sentence in front of Becky's first sentence in Section 1. (1) (b) and leave Becky's sentence as is. What we want to do is: be authorized to provide additional subsidization, and use no more than the required amount to provide additional subsidization, and provide that additional subsidization in the form of principal forgiveness. So, I suggest we ask Becky to insert the following sentence at the beginning of the paragraph:

Notwithstanding s. 281.58 (6) (b) of the statutes, the department of natural resources and the department of administration shall provide additional subsidy in the amount P.L. 111-88 requires the state to use to provide forgiveness of principal, negative interest loans, or grants to eligible recipients.

For Section 1. (2) (b) we would then insert the following at the beginning of the paragraph:

Notwithstanding s. 281.61 (2r) of the statutes, the department of natural resources and the

department of administration shall provide additional subsidy in the amount P.L. 111-88 requires the state to use to provide forgiveness of principal, negative interest loans, or grants to eligible recipients.

What do you think? All other iterations I tried could be interpreted in various undesirable ways. Let me know! Jeanne

The act requires 30% of the funds made available to each state to be used by the state to provide additional subsidy to eligible recipients in one of three forms. The intent, as I understand it, is that in Wisconsin we are only going to provide the additional subsidy in the form of what the act describes as "forgiveness of principal." The sentence needs to describe the money that we are talking about and describe what must be done with it. (It would be better not to use "subsidization" here, as I believe that word means "the act of providing a subsidy.")

This is how I see it: The proposed sentence starts by saying that DNR and DOA shall use certain money. To fully describe the money we are talking about, one needs either: "the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidy to applicants" or, perhaps, "the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidy." (It would be clearer to say "required by P.L. 111-88 to be used to provide additional subsidy.") In any event, the rest of the sentence isn't enough to describe what must be done with the money. Let's say that X stands for the money that must be used to provide additional subsidy. Then the sentence either says the DNR and DOA must use X in the form of principal forgiveness or it says that DNR and DOA must use X to applicants in the form of principal forgiveness. Either way, it is not clear or quite complete. The sentence should convey that DNR and DOA must use X to provide additional subsidy to applicants in the form of forgiveness of principal. But when one replaces X with the actual description of the money, one gets: "DNR and DOA shall use the amount of the capitalization grant required by P.L. 111-88 to be used to provide additional subsidy to applicants to provide additional subsidy to applicants in the form of forgiveness of principal." That seemed difficult to understand, so I came up with an alternate approach to use in the draft: **first require the departments to determine how much money must be used to provide additional subsidy** and then require them to use that amount for forgiveness of principal. I described the principal forgiveness as "forgiveness of part of the principal of a loan" because I thought that would be more clear to a reader, but I guess it is not necessary to do that.

What I bolded and put in red above is the part we are most concerned about in your alternate approach.

Perhaps it would work to say that when DNR and DOA provide additional subsidy to applicants, as required by P.L. 111-88, they must provide the additional subsidy in the form of forgiveness of principal.

I am sure there are other approaches that would work. For example, the bill could require the use of 30% of the money to provide forgiveness of principal.

I will be glad to discuss this, but thought it would help to put my thoughts in writing first.

Becky Tradewell
6-7290

Thanks for working with us on this! We do want to make sure we get it right! Thanks for your help!
Jeanne

From: Cargill, Jeanne H - DNR [mailto:Jeanne.Cargill@Wisconsin.gov]
Sent: Friday, March 19, 2010 1:51 PM
To: Tradewell, Becky
Cc: Heinen, Paul H - DNR; Wolff, Michael - DOA
Subject: FW: clean water fund draft

Hi Becky,

On the draft language that Beth Bier forwarded to Paul Heinen, we have the comments contained in the e-mail below to Paul Heinen and the following:

On page 2, please revise the first sentence of (1) (b) to read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

On page 4, please revise the first sentence of (2) (b) to also read:

"In providing financial assistance under this subsection, the department of natural resources and the department of administration shall use the amount of the capitalization grant required by P.L. 111-88 to provide additional subsidization to applicants in the form of principal forgiveness."

Please call me or Michael Wolff if you have any questions regarding the requested revisions. Thank you!
Jeanne

Jeanne H Cargill

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Wisconsin Department of Natural Resources
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(✉) e-mail: jeanne.cargill@wisconsin.gov

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Subject: Fw: clean water fund draft

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Paul
Paul Heinen
266-2120

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To: Heinen, Paul H - DNR
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Subject: clean water fund draft

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Thanks,
Beth
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Beth Bier
Office of Senator Mark Miller
PO Box 7882
Madison, WI 53707
Phone: (608) 266-9170
Email: Beth.Bier@legis.wisconsin.gov

03/22/2010



State of Wisconsin
2009 - 2010 LEGISLATURE

Noon

LRB-4545/2

RCT:nwn:rs

↓ M Y

egf

2009 BILL

Regen

- 1 **AN ACT relating to:** financial assistance under the Clean Water Fund Program
2 and the Safe Drinking Water Loan Program.

Analysis by the Legislative Reference Bureau

Under the Clean Water Fund Program, this state provides financial assistance to local governmental units for projects to control water pollution, including sewage treatment plants, using state and federal funds. One form of financial assistance provided under the Clean Water Fund Program is a loan at a subsidized interest rate. The Clean Water Fund Program also provides grants to local governmental units that satisfy financial hardship criteria.

The federal act that appropriated money for the federal Environmental Protection Agency for federal fiscal year 2010 (federal 2010 appropriations act) provides additional funds for state programs like the Clean Water Fund Program. This bill authorizes those funds to be expended under the Clean Water Fund Program. The federal 2010 appropriations act requires states to use a portion of the funds to increase the amount of subsidy provided to recipients of financial assistance in the form of forgiveness of principal of a loan, negative interest loans, or grants. This bill requires the increased subsidy to be provided in the form of forgiveness of part of the principal of a loan.

Under the Safe Drinking Water Loan Program, this state provides loans to local governmental units for projects for the construction or modification of public water systems, using state and federal funds. The loans are provided at subsidized interest rates.

The federal 2010 appropriations act provides additional funds for state programs like the Safe Drinking Water Loan program. This bill authorizes those

BILL

funds to be expended under the Safe Drinking Water Loan Program. The federal 2010 appropriations act requires states to use a portion of the funds to increase the amount of subsidy provided to recipients of financial assistance in the form of forgiveness of principal of a loan, negative interest loans, or grants. This bill requires the increased subsidy to be provided in the form of forgiveness of part of the principal of a loan.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. Nonstatutory provisions.**

2 (1) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS ACT FUNDING FOR CLEAN WATER FUND
3 PROJECTS.

4 (a) If this state receives moneys under P.L. 111-88 as a capitalization grant for
5 clean water state revolving loan funds under the federal Water Pollution Control Act,
6 the department of natural resources and the department of administration may, as
7 provided in this subsection, allocate the funds, before ^{December 31} January 1, 2011, for financial
8 assistance to municipalities, as defined in section ~~281.01 (6)~~ ^{281.59(1)(c)} of the statutes, under
9 section 281.58 of the statutes for projects eligible to receive financial assistance
10 under that section.

11 **Insert 2-11**
12 (b) In providing financial assistance under this subsection to a municipality
13 using the portion of the capitalization grant that P.L. 111-88 requires to be used to

14 provide additional subsidy to applicants the department of natural resources and

15 the department of administration shall provide the additional subsidy ^{to a municipality} in the form

16 of forgiveness of part of the principal of a loan made to the municipality. ^{Insert 2-15} The

17 department of natural resources may establish a percentage limit of the amount of

18 the principal forgiveness available under this paragraph that may be received by any

eligible applicant ^{municipality}

BILL

1 (c) The department of natural resources may establish a deadline for
2 submitting applications for financial assistance under this subsection.

3 (d) In selecting the projects to receive financial assistance under this
4 subsection, and the terms of the financial assistance, the department of natural
5 resources may consider any of the following:

6 1. The population of the municipality in which a project would be located.

7 2. The median household income, as defined in section 281.58 (1) (cm) of the
8 statutes, of the municipality in which a project would be located.

9 3. The extent to which a project promotes water efficiency or energy efficiency;
10 is environmentally innovative; or uses natural systems or engineered systems that
11 mimic natural processes, also called green infrastructure.

12 (e) Notwithstanding section 227.10 (1) of the statutes, the department of
13 natural resources and the department of administration are not required to
14 promulgate rules for the purposes of this subsection.

15 (2) FEDERAL FISCAL YEAR 2010 APPROPRIATIONS ACT FUNDING FOR SAFE DRINKING
16 WATER LOAN PROGRAM PROJECTS.

17 (a) If this state receives moneys under P.L. 111-88 as a capitalization grant for
18 drinking water state revolving loan funds under the federal Safe Drinking Water
19 Act, the department of natural resources and the department of administration may,

20 as provided in this subsection, allocate the funds, before ^{December 31} ~~January 1~~, 2010, for
21 ^{local governmental units} ~~municipalities~~, as defined in section ~~281.01 (6)~~ ^{281.61 (1)(a)} of the statutes,

22 under section 281.61 of the statutes for projects eligible to receive financial
23 assistance under that section. Notwithstanding section 281.59 (3s) (a) of the
24 statutes, the department of administration may, until December 31, 2011, allocate

BILL

1 amounts approved for the 2009-11 biennium under section 281.59 (3s) (b) 1. of the
2 statutes for projects under this subsection.

3 ^{insert 4-3} (b) In providing financial assistance under this subsection to a municipality

4 using the portion of the capitalization grant that P.L. 111-88 requires to be used to

5 provide additional subsidy ~~to applicant~~ ^{to a local governmental unit} the department of natural resources and

6 the department of administration shall provide ~~the~~ ^{an} additional subsidy in the form

7 of forgiveness of part of the principal of a loan made to the ~~municipality~~ ^{to a local governmental unit}. The

8 department of natural resources may establish a percentage limit of the amount of

9 the principal forgiveness available under this paragraph that may be received by any

10 eligible applicant ^{of local governmental unit}.

11 (c) The department of natural resources may establish a different deadline for
12 submitting applications for financial assistance under this subsection than the
13 deadline in section 281.61 (5) of the statutes.

14 (d) In selecting the projects to receive financial assistance under this
15 subsection, and the terms of the financial assistance, the department of natural
16 resources may consider any of the following:

17 1. The population of the ~~municipality~~ ^{of local governmental unit} in which a project would be located.

18 2. The median household income, as defined in section 281.58 (1) (cm) of the
19 statutes, of the ~~municipality~~ ^{of local governmental unit} in which a project would be located.

20 3. The extent to which a project promotes water efficiency or energy efficiency;
21 is environmentally innovative; or uses natural systems or engineered systems that
22 mimic natural processes, also called green infrastructure.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4545/2ins
RCT:.....

1 **Insert 2-11**

2 ~~not~~ The department of natural resources and the department of administration
3 shall provide additional subsidy under this subsection[✓] to municipalities in the
4 amount

5 **Insert 2-15**

6 ~~not~~ , notwithstanding the limits in section 281.58 (6) (b) of the statutes on the[✓]
7 methods that may be used to provide financial assistance

8 **Insert 4-3**

9 ~~not~~ The department of natural resources and the department of administration[✓]
10 shall provide additional subsidy under this subsection to local governmental units
11 in the amount

12 **Insert 4-7**

13 ~~not~~ local governmental unit, notwithstanding the limits in section 281.61 (2r) of the[✓]
14 statutes on the methods that may be used to provide financial assistance

Barman, Mike

From: Bier, Beth
Sent: Monday, March 29, 2010 3:23 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4545/2 Topic: Additional federal funds for clean water fund and safe drinking water fund programs

Please Jacket LRB 09-4545/2 for the SENATE.