



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1686/P1

RCT:cjs:jf

stays
P1

Today (as soon as we can, given
that things for the floor have priority) stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT ,
TO SENATE BILL 547

DNote

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 5, line 6: after "(1)" insert "or publicly owned treatment works".

3 **2.** Page 5, line 12: delete lines 12 to 15 and substitute:

4 "(h) "Target value" means the following:

5 1. For a point source in a watershed for which a total maximum daily load under
6 33 USC 1313 (d) (1) (C) has been approved by the federal environmental protection
7 agency, the number of pounds of phosphorus that would be discharged from the point
8 source during a year if the point source complied with its effluent limitation based
9 on the total maximum daily load.

10 2. For a point source in a watershed for which no total maximum daily load
11 under 33 USC 1313 (d) (1) (C) has been approved by the federal environmental
12 protection agency, the number of pounds of phosphorus that would be discharged

1 from the point source during a year if the average concentration of phosphorus in the
2 effluent discharged by the point source during the year was 0.2 milligrams per liter.”.

3 **3.** Page 6, line 2: after “basis.” insert “The department of administration may
4 make separate determinations under this paragraph for statewide categories of
5 point sources based on differences in costs of compliance.”

Insert
2-5

6 **4.** Page 7, line 8: after that line insert:

7 “(em) If the department of administration determines under par. (a) that
8 attaining the water quality standard for phosphorus through compliance with water
9 quality based effluent limitations by point sources that cannot achieve compliance
10 without major facility upgrades is not feasible, the department of natural resources
11 shall seek approval under 40 CFR Part 131 from the federal environmental
12 protection agency for the variance under this section.”.

13 **4** #. Page 7, line 13: delete “1.”.

13 **5.** Page 7, line 14: after that line insert:

14 “(2m) WATER QUALITY STANDARDS REVIEW. Every 3 years as part of the review of
15 water quality standards required by 33 USC 1313 (c) ^{comma stays} ~~if a determination under sub~~
16 ~~(2) (a) that attaining the water quality standard for phosphorus through compliance,~~
17 ~~with water quality based effluent limitations by point sources that cannot achieve~~
18 ~~compliance without major facility upgrades is not feasible~~ ^{the variance under this section} is in effect, the department
19 shall ~~review the basis for the determinations and calculations under sub (2) (a) and~~
20 ~~(b) and shall decide~~ ^{determine} whether formal review under sub. (3) should be undertaken.” ^{Insert 2-20}

21 **6.** Page 7, line 15: delete the material beginning with “Every” and ending with
22 “2019” on line 16 and substitute “In 2024”.

23 **7.** Page 7, line 19: after “effect,” insert “or upon a ^{determination} ~~decision~~ under sub. (2m) that
24 review under this subsection should be undertaken.”

Insert
2-24

1 8. Page 9, line 10: after that line insert:

2 (g) If the department of administration decides under par. (c) (1) that the
3 determination described in that ^{of paragraph} ~~subdivision~~ remains accurate, the department of
4 natural resources shall seek approval from the federal environmental protection
5 agency under 40 CFR 131.21 for renewal of the variance under this section.”.

6 9. Page 9, line 14: delete “is in” and substitute “and approval of the variance
7 under this section by the federal environmental protection agency are in”.

8 10. Page 9, line 15: after “source” insert “in a category” to which the
9 determination under sub. (2) (a) applies”.

Insert
103-9

11. Page 10, line 24: delete “the following interim limits”.

the department may include

12. Page 10, line 25: after “section” insert “a requirement that the permittee
12 optimize the performance of the point source in controlling phosphorus discharges
13 and ^{shall include} the following interim limits”.

Insert
3-13

13. Page 11, line 19: delete “highest” and substitute “most stringent”.

Insert
3-14

14. Page 14, line 2: after “protection” insert “the land and water conservation
16 board.”.

15. Page 14, line 4: after “quantify” insert “, in pounds,”.


16. Page 14, line 13: after that line insert:

19 (8m) PROJECTS OR PLANS. (a) A person who constructs a project or implements
20 a plan under an agreement under sub. (6) (b) 2. or 3. that involves activities for which

21 ~~the department of agriculture, trade and consumer protection has prescribed~~
22 ~~conservation practices~~ ^{Insert 3-22} (2) or ~~conservation~~
23 ~~practices~~ ^{Insert 3-23} and any associated technical standards.

1 (b) A person who constructs a project or implements a plan under an agreement
2 under sub. (6) (b) 2. or 3. shall annually submit a report to the department that
3 quantifies, in pounds, the phosphorus reductions achieved through the project or
4 plan, using accepted modeling technology. The department shall review reports
5 submitted under this paragraph. If the department determines, based on the results
6 of the modeling, that a project or plan is not effectively reducing the amount of
7 phosphorus entering the waters of the state, the department shall terminate or
8 modify the agreement.”.

9 (END)

A handwritten word "Note" is written inside a hand-drawn circle in the lower right quadrant of the page.

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1686/P1ins2
RCT.....

1 **Insert 2-5**

2 **1.** Page 6, line 4: after "(a)" insert ", based on water quality based effluent
3 limitations for phosphorus determined by the department of natural resources".

4 **2.** Page 6, line 23: delete "60th" and substitute "120th".

5 **Insert 2-20**

6 **(19)**, considering any comments it receives on the variance under this section

7 **Insert 2-24**

8 **3.** Page 7, line 21: delete the material beginning with "relating" and ending
9 with "achievable" on line 23 and substitute "to evaluate whether the determination
10 under sub. (2) (a) remains accurate".

11 **4.** Page 8, line 3: delete lines 3 and 4 and substitute:

x 12 "(b) The department of natural resources shall provide all of the following to
13 the department of administration for the report under par. (a):".

λ 14 **5.** Page 8, line 15: delete the material beginning with "do" and ending with
15 "Decide" on line 16 and substitute "decide".

x 16 **6.** Page 8, line 20: delete "2." and substitute "(cm)".
17 **(19)** #. Page 8, line 20: delete "subd. 1." and substitute "par. (c)".
17 **Insert 3-9**

18 **7.** Page 9, line 15: delete "if the" and substitute "if all of the following apply:

19 1. The determination applies to the existing source.

20 2. Subject to par. (am) 1., the".

21 **8.** Page 9, line 17: delete "upgrade" and substitute "upgrade.".

22 **9.** Page 9, line 18: delete "and" and substitute:

(19) #. Page 8, line 21: after "accurate" insert "the department of natural resources shall".

1 "3. The permittee".

2 **10.** Page 9, line 18: after that line insert:

3 "(am) 1. The department shall approve an application for a variance if the
4 requirements in pars. (a) and (b) are complied with, unless the department
5 determines that the certification under par. (a) 2. is substantially inaccurate. *De*

6 *2.* The department shall act on an application for a variance under this section
7 no later than the 30th day after the day on which the department receives the
8 application for the variance.

9 3. If the department does not act on the application for a variance by the
10 deadline under subd. 2., the application is approved."

11 **11.** Page 10, line 23: after "par." insert "(ae) or".

12 **12.** Page 10, line 23: delete the material beginning with "the" and ending with
13 "limits" on line 24.

14 **Insert 3-13**

15 **13.** Page 11, line 15: after that line insert:

x 16 "(ae) If a permittee who chose an option for complying with a water quality
17 based effluent limitation for phosphorus other than the variance under this section
18 applies for the variance under this section for a subsequent permit, the department
19 shall count a permit that included the other compliance option in determining the
20 applicable interim limit under par. (a)."

21 **Insert 3-14**

22 **14.** Page 12, line *13* 7: delete "of administration".

23 **15.** Page 12, line 14: delete "(c) 2." and substitute "(cm)".

24 **16.** Page 12, line 16: delete "of natural resources".

17 **#.** Page 12, line 17: delete "(c) 2." and substitute "(cm)".

1 **17.** Page 13, line 16: delete "state or" and substitute "state,".

2 **18.** Page 13, line 18: after "sources" insert ", or for modeling or monitoring to
3 evaluate the amount of phosphorus in the waters of the state for planning purposes".

4 **19.** Page 13, line 20: delete the material beginning with "To the" and ending
5 with "state." on line 23.

6 **20.** Page 13, line 23: after that line insert:

7 "2m. No later than March 1 of each year, a county shall develop a plan for using
8 the payments received under this subsection in the previous year that is consistent
9 with the county's land and water resource management plan under s. 92.10. A
10 county shall do all of the following in the plan under this ^{subdivision} ~~paragraph~~:

11 a. Identify projects that have, or watersheds in which there exist^s, the greatest
12 potential to reduce the amount of phosphorus per acre entering the waters of the
13 state, based on an assessment of the land and land use practices in the county.

14 b. Describe the measures it will take to ensure that each project that it funds
15 is completed and evaluated."

16 **21.** Page 13, line 24: after "the" insert "2nd".

17 **22.** Page 14, line 3: delete "payments during the previous year" and substitute
18 "those payments".

19 **Insert 3-22**

20 performance standards and prohibitions have been prescribed

21 **Insert 3-23**

22 performance standards ^{and prohibitions}

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1646/P1dn

RCT:/:....

gs

- Date -

This is a preliminary draft of the amendment to SB 547, the instructions for which were provided to me on Friday afternoon and Monday afternoon. It makes numerous changes in the bill and should be reviewed carefully.

The language proposed as Insert H, relating to DNR review of the application for the variance, refers to compliance with the variance criteria and with the requirements under subsection (4). I have drafted this amendment to refer specifically to the only criteria and requirements that I see, which are the following:

1. That DOA's determination about infeasibility applies to the source, that the applicant agrees to comply with the requirements of sub. (6), and that the applicant certifies that it cannot comply with the WQBEL for phosphorus without a major facility upgrade (these are all in sub. (4) (a), on page 9 of the bill).
2. The provisions about how a permittee may apply for a variance, which are in sub. (4) (b), including the time limit in par. (b) 2.

If I am missing something here, please let me know.

I had difficulty in trying to reconcile the language proposed as Insert H with the statement in sub. (4) (a) in the bill that a permittee **is eligible** for the variance if the requirements in that paragraph are satisfied, including that the applicant makes the certification regarding the need for a major facility upgrade, and my understanding that the proposed language was intended to give DNR some authority to deny the variance based on a review of the certification. Please consider this part of the amendment carefully.

Is there a practical problem with applying the ^{e 30-day} 30 limit for review of an application for a variance that is made in the application for reissuance of a permit? That is, is it workable for DNR to make the decision on the variance before it makes all of the other decisions about the reissued permit? Would DNR necessarily know what the WQBEL would be within 30 days of receiving an application for reissuance? Would there be any federal law issues?

I am unsure exactly what the language proposed as Insert E is intended to mean with respect to identifying watersheds. Please review proposed sub. (8) (b) 2m. with this issue in mind.

Also, the language proposed as Insert E requires a plan by March 1 for using payments received in the prior year. Under the bill, permittees make a payment by March 1 based on discharges in the prior year. Is it correct that a county would hold onto the payments for a year before making a plan to use them?

Please contact me with any 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

LRBa1686/P1dn
RCT:cjs:jm

February 11, 2014

This is a preliminary draft of the amendment to SB 547, the instructions for which were provided to me on Friday afternoon and Monday afternoon. It makes numerous changes in the bill and should be reviewed carefully.

The language proposed as Insert H, relating to DNR review of the application for the variance, refers to compliance with the variance criteria and with the requirements under subsection (4). I have drafted this amendment to refer specifically to the only criteria and requirements that I see, which are the following:

1. That DOA's determination about infeasibility applies to the source, that the applicant agrees to comply with the requirements of sub. (6), and that the applicant certifies that it cannot comply with the WQBEL for phosphorus without a major facility upgrade (these are all in sub. (4) (a), on page 9 of the bill).
2. The provisions about how a permittee may apply for a variance, which are in sub. (4) (b), including the time limit in par. (b) 2.

If I am missing something here, please let me know.

I had difficulty in trying to reconcile the language proposed as Insert H with the statement in sub. (4) (a) in the bill the a permittee **is eligible** for the variance if the requirements in that paragraph are satisfied, including that the applicant makes the certification regarding the need for a major facility upgrade, and my understanding that the proposed language was intended to give DNR some authority to deny the variance based on a review of the certification. Please consider this part of the amendment carefully.

Is there a practical problem with applying the 30-day limit for review of an application for a variance that is made in the application for reissuance of a permit? That is, is it workable for DNR to make the decision on the variance before it makes all of the other decisions about the reissued permit? Would DNR necessarily know what the WQBEL would be within 30 days of receiving an application for reissuance? Would there be any federal law issues?

I am unsure exactly what the language proposed as Insert E is intended to mean with respect to identifying watersheds. Please review proposed sub. (8) (b) 2m. with this issue in mind. Also, the language proposed as Insert E requires a plan by March 1 for using payments received in the prior year. Under the bill, permittees make a payment

by March 1 based on discharges in the prior year. Is it correct that a county would hold onto the payments for a year before making a plan to use them?

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell

Managing Attorney

Phone: (608) 266-7290

E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Herkert, Toni
Sent: Tuesday, February 11, 2014 3:29 PM
To: Tradewell, Becky
Cc: Smith, Ryan; Herkert, Toni
Subject: Final Requested Changes to SB 547
Attachments: Final requested revisions to Senate Bill 547.docx

Becky,

We have reviewed LRBa1686/P1 and have the following requested changes. Please let me know if you have any questions.

Thanks in advance for your amazing work in such a short time frame!

Toni

Toni R. Herkert
Policy Analyst
Office of State Senator Rob Cowles
2nd Senate District
(608) 266-0484 or Toll-Free: 800-334-1465
State Capitol
PO Box 7882
Madison, WI 53707

Final requested revisions to Senate Bill 547

LRB 1686/P1 language

- ✓ • Page 1, when discussing "target value" add to line 9 and 10 of the P1 draft "in effect as of the effective date of the bill" after total maximum daily load.
- ✓ • Page 2, line 8: delete "120th" and substitute "240th" (which was "60th" in the original bill)
- ✓ • Page 5, line 5: delete "interim limit" and add "permit term"

Senate Bill 547 original language

- ✓ • Page 13, Line 6 after \$50 add "or \$640,000 whichever is less"

Paul 259-2665
→ Explained to me that the ^{most} important thing is that
the permittee does not get extra time to comply by switching.
RET

Tradewell, Becky

From: Paul Kent <pkent@staffordlaw.com>
Sent: Tuesday, February 11, 2014 4:49 PM
To: Tradewell, Becky
Subject: RE: Final Requested Changes to SB 547

No problem, we appreciate your attentiveness to detail. My comments are below.

Paul

STAFFORD	Paul G. Kent
ROSENBAUM	pkent@staffordlaw.com 608.259.2665 Fax. 608.259.2600
LLP	608.259.2637 Marjorie Irving – Legal Assistant
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Stafford Rosenbaum LLP | If you receive this email in error, use or disclosure is prohibited. Please notify me of the error by email and delete this email. Thank you.

My new book, *Wisconsin Water Law in the 21st Century* is now available at www.WisconsinWaterLaw.com

From: Tradewell, Becky [<mailto:Becky.Tradewell@legis.wisconsin.gov>]
Sent: Tuesday, February 11, 2014 4:26 PM
To: Paul Kent
Subject: FW: Final Requested Changes to SB 547

Paul,

Sorry to bother you again, but on the first item, concerning target value, is the idea that lines 5 to 9 should only apply if there is a TMDL when the bill takes effect? In other words, should lines 5 to 6 be changed so that they read something like: For a point source in a watershed for which a federally approved total maximum daily load is in effect on the effective date, the number of pounds? If not, I am confused.

Basically yes. There are two major TMDLs and a dozen or so minor TMDLs in effect now. We want those numbers to be the target. There are some TMDLs in the works and we don't know what those numbers will be and do not want to commit to unknown numbers. In cases where there is not a TMDL in effect now, the default would be 0.2 mg/l (which happens to be the Fox TMDL number). The same would be for a changed TMDL. This is merely to calculate the fee and we need some certainty. Let me know if you want to discuss further.

If so, should the requested language also be added at the end of line 9 (I guess that would mean that if the TMDL changed, the change would not affect the target value)?

Probably although I think that is implied. The change would however need to be made on subpar 2 as well.

Thanks,
Becky
266-7290

From: Herkert, Toni
Sent: Tuesday, February 11, 2014 3:29 PM
To: Tradewell, Becky

Cc: Smith, Ryan; Herkert, Toni
Subject: Final Requested Changes to SB 547

Becky,

We have reviewed LRBa1686/P1 and have the following requested changes. Please let me know if you have any questions.

Thanks in advance for your amazing work in such a short time frame!

Toni

Toni R. Herkert
Policy Analyst
Office of State Senator Rob Cowles
2nd Senate District
(608) 266-0484 or Toll-Free: 800-334-1465
State Capitol
PO Box 7882
Madison, WI 53707



9 a.m. Wed.

Stays

IM/

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~
SENATE AMENDMENT,
TO SENATE BILL 547

1 At the locations indicated, amend the bill as follows:

2 1. Page 5, line 6: after "(1)" insert "or publicly owned treatment works".

3 2. Page 5, line 12: delete lines 12 to 15 and substitute:

4 "(h) "Target value" means the following:

Federally approved

5 1. For a point source in a watershed for which a total maximum daily load under

6 33 USC 1313 (d) (1) (C) ~~has been approved by the federal environmental protection~~
is in effect on the effective date of this subdivision. . . . [LRB inserts date]

7 ~~agency~~ the number of pounds of phosphorus that would be discharged from the point

8 source during a year if the point source complied with its effluent limitation based

9 on the total maximum daily load *in effect on the effective date of this subdivision*
. . . . [LRB inserts date]

10 2. For a point source in a watershed for which no total maximum daily load

11 under 33 USC 1313 (d) (1) (C) ~~has been approved by the federal environmental~~
is in effect on the effective date of this subdivision. . . . [LRB inserts
12 ~~protection agency~~, the number of pounds of phosphorus that would be discharged *date]*

1 from the point source during a year if the average concentration of phosphorus in the
2 effluent discharged by the point source during the year was 0.2 milligrams per liter.”.

3 **3.** Page 6, line 2: after “basis.” insert “The department of administration may
4 make separate determinations under this paragraph for statewide categories of
5 point sources.”.

6 **4.** Page 6, line 4: after “(a)” insert “, based on water quality based effluent
7 limitations for phosphorus determined by the department of natural resources”.

8 **5.** Page 6, line 23: delete “60th” and substitute “~~2014~~^{2404th}”.

9 **6.** Page 7, line 8: after that line insert:

10 “(em) If the department of administration determines under par. (a) that
11 attaining the water quality standard for phosphorus through compliance with water
12 quality based effluent limitations by point sources that cannot achieve compliance
13 without major facility upgrades is not feasible, the department of natural resources
14 shall seek approval under 40 CFR Part 131 from the federal environmental
15 protection agency for the variance under this section.”.

16 **7.** Page 7, line 13: delete “1.”.

17 **8.** Page 7, line 14: after that line insert:

18 “(2m) WATER QUALITY STANDARDS REVIEW. Every 3 years as part of the review of
19 water quality standards required by 33 USC 1313 (c) (1), if the variance under this
20 section is in effect, the department shall determine whether formal review under
21 sub. (3) should be undertaken, considering any comments it receives on the variance
22 under this section.”.

1 **9.** Page 7, line 15: delete the material beginning with “Every” and ending with
2 “2019” on line 16 and substitute “In 2024”.

3 **10.** Page 7, line 19: after “effect,” insert “or upon a determination under sub.
4 (2m) that review under this subsection should be undertaken,”.

5 **11.** Page 7, line 21: delete the material beginning with “regarding” and ending
6 with “achievable” on line 23 and substitute “to evaluate whether the determination
7 under sub. (2) (a) remains accurate”.

8 **12.** Page 8, line 3: delete lines 3 and 4 and substitute:
9 “(b) The department of natural resources shall provide all of the following to
10 the department of administration for the report under par. (a):”.

11 **13.** Page 8, line 15: delete the material beginning with “do” and ending with
12 “Decide” on line 16 and substitute “decide”.

13 **14.** Page 8, line 20: delete “2.” and substitute “(cm)”.

14 **15.** Page 8, line 20: delete “subd. 1.” and substitute “par. (c)”.

15 **16.** Page 8, line 21: after “accurate,” insert “the department of natural
16 resources shall”.

17 **17.** Page 9, line 10: after that line insert:

18 “(g) If the department of administration decides under par. (c) that the
19 determination described in that paragraph remains accurate, the department of
20 natural resources shall seek approval from the federal environmental protection
21 agency under 40 CFR 131.21 for renewal of the variance under this section.”.

22 **18.** Page 9, line 14: delete “is in” and substitute “and approval of the variance
23 under this section by the federal environmental protection agency are in”.

1 **19.** Page 9, line 15: delete “if the” and substitute “if all of the following apply:

2 1. The determination applies to the existing source.

3 2. Subject to par. (am) 1., the”.

4 **20.** Page 9, line 17: delete “upgrade” and substitute “upgrade.”.

5 **21.** Page 9, line 18: delete “and” and substitute:

6 “3. The permittee”.

7 **22.** Page 9, line 18: after that line insert:

8 “(am) 1. The department shall approve an application for a variance if the
9 requirements in pars. (a) and (b) are complied with, unless the department
10 determines that the certification under par. (a) 2. is substantially inaccurate.

11 2. The department shall act on an application for a variance under this section
12 no later than the 30th day after the day on which the department receives the
13 application for the variance.

14 3. If the department does not act on the application for a variance by the
15 deadline under subd. 2., the application is approved.”.

16 **23.** Page 10, line 23: after “par.” insert “(ae) or”.

17 **24.** Page 10, line 23: delete the material beginning with “the” and ending with
18 “limits” on line 24.

19 **25.** Page 10, line 25: after “section” insert “the department may include a
20 requirement that the permittee optimize the performance of the point source in
21 controlling phosphorus discharges and shall include the following interim limits”.

22 **26.** Page 11, line 15: after that line insert:

1 “(ae) If a permittee who chose an option for complying with a water quality
 2 based effluent limitation for phosphorus other than the variance under this section
 3 applies for the variance under this section ~~(for a subsequent permit,~~ the department
 4 shall count a permit that included the other compliance option ~~in~~ determining the
 5 applicable interim limit ~~under par. (a).~~”

do though the permit had included the variances for the purposes of par. (a) including

6 **27.** Page 11, line 19: delete “highest” and substitute “most stringent”.

7 **28.** Page 12, line 13: delete “of administration”.

8 **29.** Page 12, line 14: delete “(c) 2.” and substitute “(cm)”.

9 **30.** Page 12, line 16: delete “of natural resources”.

10 **31.** Page 12, line 17: delete “(c) 2.” and substitute “(cm)”.

*Insert
a 17*

11 **32.** Page 13, line 16: delete “state or” and substitute “state.”.

12 **33.** Page 13, line 18: after “sources” insert “, or for modeling or monitoring to
 13 evaluate the amount of phosphorus in the waters of the state for planning purposes”.

14 **34.** Page 13, line 20: delete the material beginning with “To the” and ending
 15 with “state.” on line 23.

16 **35.** Page 13, line 23: after that line insert:

17 “2m. No later than March 1 of each year, a county shall develop a plan for using
 18 the payments received under this subsection in the previous year that is consistent
 19 with the county’s land and water resource management plan under s. 92.10. A
 20 county shall do all of the following in the plan under this subdivision:

21 a. Identify projects that have, or watersheds in which there exists, the greatest
 22 potential to reduce the amount of phosphorus per acre entering the waters of the
 23 state, based on an assessment of the land and land use practices in the county.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1708/1
RCT:jld:jm

**SENATE AMENDMENT ,
TO SENATE BILL 547**

Inset a1708

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 13, line 3: after "value" insert "or \$600,000, whichever is less".

3

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1686/1
RCT:cjs:jf

e2
rmt

This morning

**SENATE AMENDMENT ,
TO SENATE BILL 547**

*one change -
see p. 5*

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 5, line 6: after "(1)" insert "or publicly owned treatment works".
- 3 **2.** Page 5, line 12: delete lines 12 to 15 and substitute:
- 4 "(h) "Target value" means the following:
- 5 1. For a point source in a watershed for which a federally approved total
- 6 maximum daily load under 33 USC 1313 (d) (1) (C) is in effect on the effective date
- 7 of this subdivision [LRB inserts date], the number of pounds of phosphorus that
- 8 would be discharged from the point source during a year if the point source complied
- 9 with its effluent limitation based on the total maximum daily load in effect on the
- 10 effective date of this subdivision [LRB inserts date].
- 11 2. For a point source in a watershed for which no federally approved total
- 12 maximum daily load under 33 USC 1313 (d) (1) (C) is in effect on the effective date
- 13 of this subdivision [LRB inserts date], the number of pounds of phosphorus that

1 would be discharged from the point source during a year if the average concentration
2 of phosphorus in the effluent discharged by the point source during the year was 0.2
3 milligrams per liter.”.

4 **3.** Page 6, line 2: after “basis.” insert “The department of administration may
5 make separate determinations under this paragraph for statewide categories of
6 point sources.”.

7 **4.** Page 6, line 4: after “(a)” insert “, based on water quality based effluent
8 limitations for phosphorus determined by the department of natural resources”.

9 **5.** Page 6, line 23: delete “60th” and substitute “240th”.

10 **6.** Page 7, line 8: after that line insert:

11 “(em) If the department of administration determines under par. (a) that
12 attaining the water quality standard for phosphorus through compliance with water
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14 without major facility upgrades is not feasible, the department of natural resources
15 shall seek approval under 40 CFR Part 131 from the federal environmental
16 protection agency for the variance under this section.”.

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19 “(2m) WATER QUALITY STANDARDS REVIEW. Every 3 years as part of the review of
20 water quality standards required by 33 USC 1313 (c) (1), if the variance under this
21 section is in effect, the department shall determine whether formal review under
22 sub. (3) should be undertaken, considering any comments it receives on the variance
23 under this section.”.

1 **9.** Page 7, line 15: delete the material beginning with “Every” and ending with
2 “2019” on line 16 and substitute “In 2024”.

3 **10.** Page 7, line 19: after “effect,” insert “or upon a determination under sub.
4 (2m) that review under this subsection should be undertaken,”.

5 **11.** Page 7, line 21: delete the material beginning with “regarding” and ending
6 with “achievable” on line 23 and substitute “to evaluate whether the determination
7 under sub. (2) (a) remains accurate”.

8 **12.** Page 8, line 3: delete lines 3 and 4 and substitute:

9 “(b) The department of natural resources shall provide all of the following to
10 the department of administration for the report under par. (a):”.

11 **13.** Page 8, line 15: delete the material beginning with “do” and ending with
12 “Decide” on line 16 and substitute “decide”.

13 **14.** Page 8, line 20: delete “2.” and substitute “(cm)”.

14 **15.** Page 8, line 20: delete “subd. 1.” and substitute “par. (c)”.

15 **16.** Page 8, line 21: after “accurate,” insert “the department of natural
16 resources shall”.

17 **17.** Page 9, line 10: after that line insert:

18 “(g) If the department of administration decides under par. (c) that the
19 determination described in that paragraph remains accurate, the department of
20 natural resources shall seek approval from the federal environmental protection
21 agency under 40 CFR 131.21 for renewal of the variance under this section.”.

22 **18.** Page 9, line 14: delete “is in” and substitute “and approval of the variance
23 under this section by the federal environmental protection agency are in”.

1 **19.** Page 9, line 15: delete “if the” and substitute “if all of the following apply:

2 1. The determination applies to the existing source.

3 2. Subject to par. (am) 1., the”.

4 **20.** Page 9, line 17: delete “upgrade” and substitute “upgrade.”.

5 **21.** Page 9, line 18: delete “and” and substitute:

6 “3. The permittee”.

7 **22.** Page 9, line 18: after that line insert:

8 “(am) 1. The department shall approve an application for a variance if the
9 requirements in pars. (a) and (b) are complied with, unless the department
10 determines that the certification under par. (a) 2. is substantially inaccurate.

11 2. The department shall act on an application for a variance under this section
12 no later than the 30th day after the day on which the department receives the
13 application for the variance.

14 3. If the department does not act on the application for a variance by the
15 deadline under subd. 2., the application is approved.”.

16 **23.** Page 10, line 23: after “par.” insert “(ae) or”.

17 **24.** Page 10, line 23: delete the material beginning with “the” and ending with
18 “limits” on line 24.

19 **25.** Page 10, line 25: after “section” insert “the department may include a
20 requirement that the permittee optimize the performance of the point source in
21 controlling phosphorus discharges and shall include the following interim limits”.

22 **26.** Page 11, line 15: after that line insert:

1 “(ae) If a permittee who chose an option for complying with a water quality
2 based effluent limitation for phosphorus other than the variance under this section
3 applies for the variance under this section, the department shall count a permit that
4 included the other compliance option as though the permit had included the
5 variance, for the purposes of par. (a), including determining the applicable interim
6 limit.”.

7 **27.** Page 11, line 19: delete “highest” and substitute “most stringent”.

8 **28.** Page 12, line 13: delete “of administration”.

9 **29.** Page 12, line 14: delete “(c) 2.” and substitute “(cm)”.

10 **30.** Page 12, line 16: delete “of natural resources”.

11 **31.** Page 12, line 17: delete “(c) 2.” and substitute “(cm)”.

12 **32.** Page 13, line 3: after “value” insert “or \$⁴600,000, whichever is less”.

13 **33.** Page 13, line 16: delete “state or” and substitute “state,”.

14 **34.** Page 13, line 18: after “sources” insert “, or for modeling or monitoring to
15 evaluate the amount of phosphorus in the waters of the state for planning purposes”.

16 **35.** Page 13, line 20: delete the material beginning with “To the” and ending
17 with “state.” on line 23.

18 **36.** Page 13, line 23: after that line insert:

19 “2m. No later than March 1 of each year, a county shall develop a plan for using
20 the payments received under this subsection in the previous year that is consistent
21 with the county’s land and water resource management plan under s. 92.10. A
22 county shall do all of the following in the plan under this subdivision:

1 a. Identify projects that have, or watersheds in which there exists, the greatest
2 potential to reduce the amount of phosphorus per acre entering the waters of the
3 state, based on an assessment of the land and land use practices in the county.

4 b. Describe the measures it will take to ensure that each project that it funds
5 is completed and evaluated.”.

6 **37.** Page 13, line 24: after “the” insert “2nd”.

7 **38.** Page 14, line 3: delete “payments during the previous year” and substitute
8 “those payments”.

9 **39.** Page 14, line 4: after “quantify” insert “, in pounds,”.

10 **40.** Page 14, line 13: after that line insert:

11 “(8m) PROJECTS OR PLANS. (a) A person who constructs a project or implements
12 a plan under an agreement under sub. (6) (b) 2. or 3. that involves activities for which
13 performance standards and prohibitions have been prescribed under s. 281.16 (2) or
14 (3) shall comply with those performance standards and prohibitions and any
15 associated technical standards.

16 (b) A person who constructs a project or implements a plan under an agreement
17 under sub. (6) (b) 2. or 3. shall annually submit a report to the department that
18 quantifies, in pounds, the phosphorus reductions achieved through the project or
19 plan, using accepted modeling technology. The department shall review reports
20 submitted under this paragraph. If the department determines, based on the results
21 of the modeling, that a project or plan is not effectively reducing the amount of
22 phosphorus entering the waters of the state, the department shall terminate or
23 modify the agreement.”.

24 (END)