

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-2297/2	Introduction Number SB-302	
Description setting standards for certain contaminants, providing information relating to off-site disposal of certain waste, extending the time limit for emergency rule procedures, providing an exemption from emergency rule procedures, granting rule-making authority, and making an appropriation		
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	Affected Ch. 20 Appropriations 20.370 (4)(aa), (4)(ab), (4)(ad), (4)(ae), and (4)(ak)	
Agency/Prepared By DNR/ Paul Neumann (608) 266-0818	Authorized Signature Paul Neumann (608) 266-0818	Date 8/1/2019

Fiscal Estimate Narratives

DNR 8/1/2019

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Assumptions Used in Arriving at Fiscal Estimate

The state of Wisconsin, like other states is facing a growing, national environmental and public health concern associated with what are generally referred to as "forever chemicals" - more specifically per- and polyfluoroalkyl substances (PFAS). PFAS are a group of human-made chemicals that includes PFOA, PFOS, and GenX. The federal government estimates there are up to 5,000 different PFAS compounds manufactured and used in the United States since the 1940s. These compounds have been used in common household products such as personal care products, non-stick cookware, water-resistant fabric and stain treatments. These compounds are highly mobile and can be released into the environment, and thus ending up in the water we drink, air we breath and soil we raise our food in. There is a growing body of evidence that exposure to certain types of PFAS compounds can lead to adverse health impacts, such as low-birth weight, infertility, increase in cholesterol and increase in cancer. Presently, there is a lack of clear federal and state regulatory authority to govern the safe use and disposal of these compounds from "cradle to grave."

This bill requires the Department of Natural Resources to establish and enforce various standards for per- and poly-fluoroalkyl substances (PFAS).

State Fiscal Effect

I. Bureau of Air Management

The Department estimates that 0.5 FTE and \$38,300 would be needed to develop and prioritize a list of sources that may be emitting PFAS.

Additional, indeterminate staff time and costs are estimated as follows:

The Department would have to determine whether emission standards for PFAS were necessary. If the Department determines that these standards are necessary, it would have to promulgate standards to that effect. Where the program has done this previously, it has been able to rely on data from other states and the federal government with regard to adverse health impacts. That does not exist in this case, so the Department would need to develop and perform research studies on air emissions, develop ambient air monitoring methods (aerosolized and deposition), lab testing and certification methods, stack testing methods to measure what is being emitted in order to determine air fate and transport, which informs standards. There would also be additional, indeterminate costs for promulgation of emergency rules, outreach, reporting, and compliance.

II. Bureau of Drinking Water & Groundwater

The Department estimates 1.0 FTE and \$72,100 in annual salary/fringe costs to write emergency/permanent rules for groundwater quality standards and maximum contaminant levels for public drinking water systems.

There would be considerable employee hours required for rule-making for PFAS Maximum Contaminant Levels (MCLs) in the safe drinking water regulation (NR 809) that includes setting sample protocols, analysis methods and laboratory reporting limits, setting sampling requirements, compliance determination, public notification requirements and language, vulnerability assessments and source water protection, treatment technologies, waivers, exemptions, reporting and record-keeping. The program has never set an MCL independent of the federal regulations. A fiscal estimate of this step is indeterminate at this time.

III. Bureau of Remediation and Redevelopment

A. The bill provides one-time funding of \$150,000 for the creation of a model to identify and prioritize sites with potential PFAS contamination.

B. The bill provides one-time funding of \$120,000 for investigation of PFAS and provision of temporary potable water at sites where no responsible party is available. Estimates on the cost of per site investigation of PFAS can vary widely, and are dependent on the specifics of each individual site. However, the program has seen that the current cost of sampling and analysis for PFAS averages approximately \$400 per groundwater sample. Assuming a site with 10 monitoring wells and 10 affected private wells (each needing two samples), the analysis alone will cost \$12,000. This does not include contractor costs for mobilization, data analysis, development of conceptual site models, report writing, remedial options analysis, etc. It is likely that \$120,000 would amount to 2 or 3 sites at most. The assumption is that this work would be guided by the prioritization under the aforementioned and completed under the existing process for environmental repair work. Above and beyond the funding provided in the bill, the Department is currently completing some PFAS investigation using existing funds and would likely need to continue to do so to meet demand.

C. The bill provides one-time funding of \$50,000 to conduct a survey of local and emergency responders and the use of fire fighting foam containing PFAS. The assumption is that the Department would utilize project or LTE staff to complete this survey.

D. Sections 8 and 9 of the bill state that health standards set by DHS are to be used as interim enforcement standards and preventive action limits (PALs) until such time as rules are promulgated. Significant staff time will be required to develop policies and evaluative tools, with input from experts and stakeholders, to guide impacted externals on how to test for and apply the interim PALs and enforcement standards. While these tools are being developed, some sites may become stalled while staff and externals learn the new guidelines. It is important to note that the DNR currently has the ability to require investigation and cleanup of PFAS as a hazardous substance under Wis. Stats. s. 292.11 if a discharge has occurred and there are many response sites in Wisconsin that are currently testing and remediating for PFAS. Responsible parties also have available the resources of consultants who have worked in Michigan and Minnesota with greater experience in PFAS.

E. Section 14 of the bill allows the Department to require proof of financial responsibility for PFAS sites conducting response actions or long-term care, and to establish procedures by rule. Section 16 of the bill recommends rule promulgation 1) to develop PFAS standards for soil and sediment under 292; and 2) to administer and enforce Wis. Stat. Ch. 292 in relation to remedial actions involving PFAS. Significant staffing time would be required for rule promulgation over the next 30 months, while long-term staffing would also be required to administer the financial responsibility program and increased enforcement.

F. Overall, the RR program is assuming 4.0 FTE and approximately \$320,100 in ongoing, annual salary/fringe costs would be needed to administer the provisions of the bill, which includes implementation and maintenance of modeling, development of guidance, policies, evaluative tools and technical resources, rule development and promulgation, and administration of financial responsibility program.

IV. Bureau of Water Quality

The Department estimates 1.0 FTE and \$72,100 in annual salary/fringe costs to develop establish Wisconsin water quality standards for PFAS.

It is assumed that the ancillary workload to support the rule-making effort would be absorbed into the normal duties of existing staff (e.g., toxicologists to propose standards, limit calculators to calculate numeric permit limits based on standards established in code, permit drafters to incorporate limits into enforceable WPDES wastewater permits, and compliance engineers to complete permit compliance and enforcement activities). However, the nonstatutory section of the bill may prove more challenging to implement with existing staff resources should a plethora of scientific data be established on a multitude of other PFAS compounds. Should this occur, additional full time employees may become necessary to establish standards under Wis. Stat. ss. 283.11(4) and 283.21 as well as under s. 281.15.

V. Bureau of Waste & Materials Management

The Department estimates 1.0 FTE and \$72,100 in annual salary/fringe costs, and \$87,500 in annual supply costs, to coordinate sampling of leachate and groundwater at landfills. The position would also support rule-making efforts to incorporate PFAS standards into the solid waste management regulations.

Additional indeterminate resources would be required to assist in efforts to identify and set standards for storage, transportation, treatment and disposal of PFAS-containing solid waste.

Long-Range Fiscal Implications

1. Drinking Water & Groundwater--Wisconsin has approximately 2,000 public water systems that would be subject to monitoring for PFAS. DNR estimates that 18 or more systems would exceed the proposed standard of 20 ppt of PFOA + PFOS based on sampling of public water supplies conducted in Michigan. The program would need to initiate enforcement on these facilities to require a new water source or treatment installation. This would generally involve entering into a consent order, reviewing plans and specifications for the new source or treatment, and completing a start-up inspection of new treatment facilities.
2. Remediation and Redevelopment--If the DNR is required to continue to investigate identified priority sites and provide temporary potable water or treatment systems when there is no viable responsible party, the state will likely incur costs greater than the \$120,000 of one-time funding provided in the bill.
3. Water Quality--there are approximately 635 municipally-owned permitted wastewater treatment facilities in Wisconsin. These facilities would need to test influent, effluent and biosolids. A 2017 study conducted in the Northeast U.S. indicated that permitted wastewater facilities detected PFOA and PFOS at 32% and 67%, respectively. 82% of the permitted wastewater facilities in WI land spread biosolids at a rate of approximately 150,000 tons over 70,000 acres. This may require effluent treatment and possibly alternative methods to dispose of biosolids.

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): One-time funding of \$320,000 for modeling, survey work and investigation/assistance.		
II. Annualized Costs:	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$574,700	\$
(FTE Position Changes)	(7.5 FTE)	
State Operations - Other Costs	87,500	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$662,200	\$
B. State Costs by Source of Funds		
GPR	662,200	
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$662,200	\$
NET CHANGE IN REVENUE	\$	\$

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Date

8/1/2019