

State of Wisconsin



2021 Assembly Bill 727

Date of enactment: **April 8, 2022**
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2021 WISCONSIN ACT 223

AN ACT to create 36.25 (6) (f), 92.14 (16) and 92.14 (17) of the statutes; **relating to:** creating a commercial nitrogen optimization pilot program, providing crop insurance rebates for cover crops, creating a hydrogeologist position, providing an exemption from emergency rule procedures, and granting rule-making authority.

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

SECTION 1. 36.25 (6) (f) of the statutes is created to read:

36.25 (6) (f) The Board of Regents shall create one full-time hydrogeologist project position, which shall expire on June 30, 2025, for the geological and natural history survey to be funded from the appropriation under s. 20.285 (1) (a). The position shall focus on developing groundwater resource information primarily at county or local scales and assisting state and local governments, industries, and the public in interpreting and using this information.

SECTION 2. 92.14 (16) of the statutes is created to read:

92.14 (16) **COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM.** (a) In addition to any grants provided under sub. (3), the department shall award grants from the appropriation under s. 20.115 (7) (qf) to agricultural producers and to University of Wisconsin System institutions as provided under this subsection.

(b) An agricultural producer may apply for and receive a grant to implement a project, for at least 2 growing seasons, that optimizes the application of commercial nitrogen. Any agricultural producer receiving a grant

under this subsection shall collaborate with any University of Wisconsin System institution under par. (c).

(c) A University of Wisconsin System institution shall collaborate with an agricultural producer that applies for a grant under par. (b) to monitor the grant project on-site. A collaborating institution may receive a grant to implement the monitoring under this paragraph.

(d) The department may not make a grant to an agricultural producer and the University of Wisconsin System institution collaborating with the agricultural producer in an amount that totals more than \$50,000. No more than 20 percent of this total amount may be awarded to the collaborating University of Wisconsin System institution.

(e) In making a grant under this subsection, the department shall collaborate with the University of Wisconsin System institution and the agricultural producer. The department shall also seek to provide grants to agricultural producers in different parts of the state and to provide grants for projects in areas that have different soil types or geologic characteristics. The department shall prioritize projects that are innovative and that are not currently funded through existing state or federal programs and shall prioritize agricultural producers that plan to implement projects for longer periods.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(f) An agricultural producer and the University of Wisconsin System institution collaborating with the agricultural producer in implementing a project under this subsection may not be held civilly liable and may not be subject to any remedial action or other administrative or enforcement action from the department or the department of natural resources for any discharge of environmental pollution from the land involved in the project, if the actions were taken in good faith by the agricultural producer and the institution and conformed to the project specifications that were proposed to the department in an application for a grant under this subsection.

(g) The department shall promulgate rules to implement this subsection.

SECTION 3. 92.14 (17) of the statutes is created to read:

92.14 (17) CROP INSURANCE PREMIUM REBATES FOR PLANTING COVER CROPS. (a) From the appropriation under s. 20.115 (7) (qf), the department may provide rebates in the amount of \$5 for each acre of a cover crop planted for crop insurance premiums paid on those acres. In providing crop insurance premium rebates under this subsection, the department may cooperate with the risk management agency of the U.S. department of agriculture, and may cooperate with any related federal agency, state agency, or agricultural organization.

(b) In providing crop insurance premium rebates under this subsection, the department may promulgate the following rules:

1. Rules determining the cover crops for which crop insurance premium rebates are provided under this subsection.

2. Rules establishing procedures for verifying that a cover crop is planted on acres for which a crop insurance premium rebate is provided under this subsection.

3. Rules determining the maximum amount of acres for which an applicant may receive funding in a year, except that the department may impose such a maximum only in years in which the total amount of funding requested by eligible applicants exceeds the total funding available.

4. Rules establishing the application and award process, including the application deadline and grant award schedule.

(c) The department may not provide a crop insurance premium rebate under this subsection for the planting of a cover crop on an acre for which funding for planting a cover crop is provided from a federal or state grant or incentive program other than this subsection, including from any of the following:

1. The federal environmental quality incentives program under 16 USC 3839aa to 3839-8.

2. The federal conservation stewardship program under 16 USC 3839aa-21 to 3839aa-25.

3. A producer-led watershed protection grant under s. 93.59.

4. A grant provided under sub. (3).

5. A lake management planning grant under s. 281.68.

6. A lake management grant under s. 281.69.

7. A river protection grant under s. 281.70.

(d) To receive a crop insurance premium rebate under this subsection, a person shall submit an application to the department, under the process established by the department by rule, after a cover crop is planted on the acres for which the person applies for a crop insurance premium rebate.

(e) The department may conduct inspections to verify that recipients of a crop insurance premium rebate are in compliance with the provisions of this subsection and any rules promulgated under this subsection.

SECTION 4. Nonstatutory provisions.

(1) SUPPLEMENTAL FUNDING REQUEST; DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION. In the 2021-22 and 2022-23 fiscal years, the department of agriculture, trade and consumer protection shall request under s. 13.101 (3) that the joint committee on finance supplement the appropriation under s. 20.115 (7) (qf) with sufficient funds from the environmental fund for the purpose of providing grants for commercial nitrogen optimization under s. 92.14 (16) and grants for cover crop insurance premium rebates under s. 92.14 (17). The committee may supplement that appropriation for that purpose without finding that an emergency exists under s. 13.101 (3) (a) 1.

(2) EMERGENCY RULES; COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM. No later than the 90th day after the effective date of this subsection, the department of agriculture, trade and consumer protection shall, using the procedure under s. 227.24, promulgate rules to implement s. 92.14 (16). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(3) EMERGENCY RULES; CROP INSURANCE PREMIUM REBATES. The department of agriculture, trade and consumer protection shall, using the procedure under s. 227.24, promulgate rules to implement s. 92.14 (17). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.