

2021 DRAFTING REQUEST

Bill

For: **Joel Kitchens (608) 266-5350** Drafter: **mpfotenh**
 By: **Evan** Secondary Drafters:
 Date: **10/29/2021** May Contact:
 Same as LRB: **-3387**

Submit via email: **YES**
 Requester's email: **Rep.Kitchens@legis.wisconsin.gov**
 Carbon copy (CC) to: **mary.pfotenhauer@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Nitrate in agriculture package #1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mpfotenh 10/29/2021		dwalker 10/29/2021	dwalker 10/29/2021	State S&L

FE Sent For: 12/2/2021

<END>

From: Miller, Evan
Sent: Thursday, October 28, 2021 11:01 AM
To: Pfothenauer, Mary
Cc: Tobias, Adam
Subject: Request for /1s of LRB 3387

Importance: High

Hi Mary,

We're looking to get the /1 drafts of LRB 3387, the agricultural nitrates bill, with some changes. Specifically and most importantly, we're looking to split the bill into two drafts, with provisions relating to:

- The Commercial Nitrogen Optimization Pilot Program (Sections 3 and 10 and part of Sections 1 and 28), Cover Crop Insurance Premium Rebates (Sections 2 and 11 and part of Sections 1 and 28), and the Hydrogeologist Position (Sections 4 and 5 and part of Section 1) in one bill, and;
- The Well Compensation Program (Sections 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27), the Producer-Led Program (Sections 7, 8, 9, 12, 13, 14, 15, and 16), and the County Conservation Department Grant Program (Section 6) in the other bill.

Along with splitting this into two bills, for the second bill, we're looking to make a couple of changes to the Well Compensation Grant Program provisions. Specifically, we're looking to:

- Add a requirement under s. 281.75 (2), duties of the DNR, that reads: "Submit a report to the joint committee on finance after the end of each fiscal year that includes the number of claims submitted and the number and amount of awards provided under this section during that fiscal year." (Similar to LRB 4695/1)
- While we'd still like most of the existing s. 281.75 (9) (a) removed, as is done in Section 22, similar to LRB 4695/1, we'd like to add back in that the well must be used at least three months each year. Perhaps we can add language that reads "is used at least 3 months each year" somewhere into Section 24 for the introduction.

If possible, we're really hoping to get these today or tomorrow morning to be able to get them circulating by early next week. Finally, we'd also like to get the jackets on these two bills right away and release this drafting file (or drafting files with the two bills) to Representative Kitchens' Office (cc'd on this email).

Thank you!

Evan

Evan Miller Policy Advisor and Communications Director

Office of State Senator Robert Cowles | Wisconsin's 2nd Senate District
(608) 266-0484 | 118 South, State Capitol | legis.wi.gov/senate/02/cowles





State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5173/1
MCP&ZDW:skw&emw

2021 ASSEMBLY BILL 727

December 2, 2021 - Introduced by Representatives KITCHENS, NOVAK, TRANEL, SHANKLAND, KRUG, HONG, MILROY, MURSAU, NEUBAUER, OLDENBURG, PENTERMAN, PLUMER, TAUCHEN, PETRYK, SUBECK, SPIROS, CONSIDINE, POPE, VINING, SPREITZER, OHNSTAD, CONLEY and TUSLER, cosponsored by Senators COWLES, TESTIN, BALLWEG, BERNIER, PETROWSKI, PFAFF, RINGHAND, ROYS, SMITH and WIMBERGER. Referred to Committee on Agriculture.

1 **AN ACT** *to create* 20.115 (4) (s), 20.115 (7) (u), 20.285 (1) (t), 36.25 (6) (f), 93.60
2 and 93.65 of the statutes; **relating to:** creating a commercial nitrogen
3 optimization pilot program, providing crop insurance rebates for cover crops,
4 creating a hydrogeologist position, extending the time limit for emergency rule
5 procedures, providing an exemption from emergency rule procedures, granting
6 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a commercial nitrogen optimization pilot program, provides crop insurance premium rebates for planting cover crops, and creates a new hydrogeologist position at the University of Wisconsin-Madison Division of Extension.

Commercial nitrogen optimization pilot program

The bill requires the Department of Agriculture, Trade and Consumer Protection to create a commercial nitrogen optimization pilot program, under which DATCP awards grants to farmers to implement a project, for at least two growing seasons, that optimizes the application of commercial nitrogen. The farmer must collaborate with a University of Wisconsin System institution to monitor grant projects on-site. The institution may receive a grant for its monitoring requirements under the bill.

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Under the bill, a grant to a farmer and the eligible university entity collaborating with the farmer may not exceed, in total, \$50,000. No more than 20 percent of this total amount may be awarded to the collaborating university entity.

The bill requires DATCP to attempt to provide grants to farmers in different parts of the state and to provide grants for projects in areas that have different soil types or geologic characteristics. The bill requires DATCP to prioritize projects that are innovative and that are not currently funded through existing state or federal programs and to prioritize farmers who plan to implement projects for longer periods. The bill also requires DATCP to collaborate with the farmer and the university when awarding grants under the pilot program.

Under the bill, a farmer and the university collaborating with the farmer are immune from civil liability and may not be subject to any remedial action or other administrative or enforcement action from DATCP 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 and conformed to the project specifications that were proposed in an application for a grant under the program.

Cover crop insurance premium rebates

In addition, the bill authorizes DATCP to cooperate with the Risk Management Agency of the U.S. Department of Agriculture to provide rebates in the amount of \$5 per acre of a cover crop planted for crop insurance premiums paid for those acres. Under the bill, DATCP determines the cover crops for which crop insurance premium rebates are provided, and a person must plant cover crops before submitting an application to DATCP for a crop insurance premium rebate. Also, under the bill, a crop insurance premium rebate may not be provided for the planting of a cover crop on an acre for which funding for planting a cover crop is available from a producer-led watershed protection grant, the soil and water resource management program, the federal Environmental Quality Incentives Program, or the federal Conservation Stewardship Program.

Hydrogeologist position

Finally, the bill requires the Board of Regents of the University of Wisconsin System to create a three-year project position for one full-time hydrogeologist for the geological and natural history survey, which is part of the Division of Extension of UW-Madison. The position must 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 the information.

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:

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1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

2021-22 2022-23

3 **20.115 Agriculture, trade and consumer**
4 **protection, department of**

5 (4) AGRICULTURAL ASSISTANCE

6 (s) Crop insurance premium rebates

7 for planting cover crops SEG C -0- 400,000

8 (7) AGRICULTURAL RESOURCE MANAGEMENT

9 (u) Commercial nitrogen optimiza-

10 tion pilot program SEG C 1,000,000 1,000,000

11 **20.285 University of Wisconsin System**

12 (1) UNIVERSITY EDUCATION, RESEARCH AND PUBLIC
13 SERVICE

14 (t) Geological and natural history

15 survey hydrogeologist SEG A 75,000 150,000

16 **SECTION 2.** 20.115 (4) (s) of the statutes is created to read:

17 20.115 (4) (s) *Crop insurance premium rebates for planting cover crops.* From
18 the environmental fund, as a continuing appropriation, the amounts in the schedule
19 to make payments under s. 93.65 for crop insurance premium rebates for the
20 planting of cover crops.

21 **SECTION 3.** 20.115 (7) (u) of the statutes is created to read:

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1 20.115 (7) (u) *Commercial nitrogen optimization pilot program.* From the
2 environmental fund, as a continuing appropriation, the amounts in the schedule for
3 the commercial nitrogen optimization pilot program under s. 93.60.

4 **SECTION 4.** 20.285 (1) (t) of the statutes is created to read:

5 20.285 (1) (t) *Geological and natural history survey hydrogeologist.* From the
6 environmental fund, the amounts in the schedule for the position created under s.
7 36.25 (6) (f). No moneys may be encumbered from this appropriation after June 30,
8 2025.

9 **SECTION 5.** 36.25 (6) (f) of the statutes is created to read:

10 36.25 (6) (f) The Board of Regents shall create one full-time hydrogeologist
11 project position for 3 years for the geological and natural history survey to be funded
12 from the appropriation under s. 20.285 (1) (t). The position shall focus on developing
13 groundwater resource information primarily at county or local scales and assisting
14 state and local governments, industries, and the public in interpreting and using this
15 information.

16 **SECTION 6.** 93.60 of the statutes is created to read:

17 **93.60 Commercial nitrogen optimization pilot program.** (1) The
18 department shall award grants from the appropriation under s. 20.115 (7) (u) to
19 agricultural producers and to University of Wisconsin System institutions as
20 provided under this section.

21 (2) An agricultural producer may apply for and receive a grant to implement
22 a project, for at least 2 growing seasons, that optimizes the application of commercial
23 nitrogen. Any agricultural producer receiving a grant under this section shall
24 collaborate with any University of Wisconsin System institution under sub. (3).

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1 **(3)** A University of Wisconsin System institution shall collaborate with an
2 agricultural producer that applies for a grant under sub. (2) to monitor the grant
3 project on-site. A collaborating institution may receive a grant to implement the
4 monitoring under this subsection.

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

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

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

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1 (7) The department shall promulgate rules to implement this section.

2 **SECTION 7.** 93.65 of the statutes is created to read:

3 **93.65 Crop insurance premium rebates for planting cover crops. (1)**

4 From the appropriation under s. 20.115 (4) (s), the department may provide rebates
5 in the amount of \$5 for each acre of a cover crop planted for crop insurance premiums
6 paid on those acres. In providing crop insurance premium rebates under this section,
7 the department may cooperate with the risk management agency of the U.S.
8 department of agriculture, and may cooperate with any related federal agency, state
9 agency, or agricultural organization.

10 (2) In providing crop insurance premium rebates under this section, the
11 department may promulgate the following rules:

12 (a) Rules determining the cover crops for which crop insurance premium
13 rebates are provided under this section.

14 (b) Rules establishing procedures for verifying that a cover crop is planted on
15 acres for which a crop insurance premium rebate is provided under this section.

16 (3) The department may not provide a crop insurance premium rebate under
17 this section for the planting of a cover crop on an acre for which funding for planting
18 a cover crop is available from a federal or state grant or incentive program other than
19 this section, including from any of the following:

20 (a) The federal environmental quality incentives program under 16 USC
21 3839aa to 3839-8.

22 (b) The federal conservation stewardship program under 16 USC 3839aa-21
23 to 3839aa-25.

24 (c) A producer-led watershed protection grant under s. 93.59.

25 (d) The soil and water resource management program under s. 92.14.

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1 (4) To receive a crop insurance premium rebate under this section, a person
2 shall submit an application to the department after a cover crop is planted on the
3 acres for which the person applies for a crop insurance premium rebate.

4 (5) The department shall award crop insurance premium rebates in the order
5 that applications that are approved are received, and may not limit the number of
6 acres for which a person may receive a crop insurance premium rebate under this
7 section.

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

SECTION 8. Nonstatutory provisions.

11 (1) EMERGENCY RULES; COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM. No
12 later than the 90th day after the effective date of this subsection, the department of
13 agriculture, trade and consumer protection shall, using the procedure under s.
14 227.24, promulgate rules to implement s. 93.60. Notwithstanding s. 227.24 (1) (a)
15 and (3), the department is not required to provide evidence that promulgating a rule
16 under this subsection as an emergency rule is necessary for the preservation of the
17 public peace, health, safety, or welfare and is not required to provide a finding of
18 emergency for a rule promulgated under this subsection. Notwithstanding s. 227.24
19 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect
20 for 3 years, or the date on which permanent rules take effect, whichever is sooner.
21 Notwithstanding s. 227.24 (1) (e) 1d. and 1g., for emergency rules promulgated under
22 this subsection, the department is not required to prepare a statement of scope of the
23 rules or to submit the proposed rules in final draft form to the governor for approval.
24

