



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5172/1
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2021 ASSEMBLY BILL 728

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 repeal** 281.75 (2) (e), 281.75 (9) (a), 281.75 (11) (a) 8. and 281.75 (11)
2 (ae); **to renumber and amend** 281.75 (5) (f) and 281.75 (9) (b); **to amend** 92.14
3 (6) (c), 93.59 (2) (a), 93.59 (2) (d), 93.59 (3), 281.68 (1t) (intro.), 281.68 (3) (a) 1.,
4 281.75 (7) (c) 7. and 281.75 (11m); and **to create** 281.68 (1) (ar), 281.70 (1) (am),
5 281.70 (4) (a) 4., 281.75 (2) (g), 281.75 (5) (f) 2., 281.75 (7) (d) and 281.75 (9) (am),
6 (bm), (c) and (d) of the statutes; **relating to:** nitrates under the well
7 compensation program; eligibility for producer-led watershed, lake, and river
8 protection grants; and the annual allocation plan for county conservation
9 grants.

Analysis by the Legislative Reference Bureau

This bill expands eligibility for nitrate-contaminated wells under the well compensation grant program; expands eligibility for producer-led watershed protection grants, lake protection grants, and river protection grants; and creates a factor to be considered during preparation of the annual allocation plan for soil and water resource conservation grants to counties.

Nitrates under the well compensation grant program

The bill makes changes to the well compensation grant program administered by the Department of Natural Resources. Under the program currently, an

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individual owner or renter of a contaminated private well, subject to eligibility requirements, may apply for a grant from DNR to cover a portion of the costs to treat the water, reconstruct the well, construct a new well, connect to a public water supply, or fill and seal the well.

Under current law, a well that is contaminated only by nitrates, and not by any other substance, is eligible for a grant only if the well is a water supply for livestock, is used at least three months in each year, provides more than 100 gallons of water per day for consumption by livestock, and contains nitrates in excess of 40 parts per million. The bill removes the requirements that a water supply contaminated only by nitrates be used for livestock, provide more than 100 gallons of water per day, and contain nitrates in excess of 40 parts per million in order to be eligible for a grant under the program. Under the bill, a well that is contaminated only by nitrates is eligible for a grant if the well is used at least three months in each year.

Current law requires DNR to allocate money for payments of claims under the program according to the order in which claims are received. The bill retains this requirement but provides that, among claims for contamination only by nitrates, DNR must allocate payments according to a specified priority ranking based on levels of nitrate contamination.

Also under current law, a residential well that is contaminated only by bacteria is not eligible for a grant unless the well is in an area that is contaminated by fecal bacteria and the contamination is caused by livestock. The bill eliminates this restriction.

The bill also requires DNR to award grants under the program only for the remediation method that is most effective for the health and welfare of the claimant. Finally, the bill requires DNR to report to the Joint Committee on Finance after the end of each fiscal year on the number of applicants under the well compensation program and the number and amount of grants provided during that fiscal year.

Producer-led watershed protection grants

Under current law, the Department of Agriculture, Trade and Consumer Protection administers a program to provide watershed protection grants to producer-led groups made up of farmers located in one watershed. The bill allows grants under the program to be awarded to producer-led groups that are made up of farmers located in adjacent watersheds.

Lake protection grants and river protection grants

Under current law, DNR provides lake protection grants for monitoring and improving water quality in lakes. Currently, eligible recipients for these grants include nonprofit conservation organizations, counties and municipalities, qualified lake associations, town sanitary districts, qualified school districts, public inland lake protection and rehabilitation districts, and other local governmental units that are established for the purpose of lake management.

Under current law, DNR provides river protection grants for monitoring and improving water quality in rivers. Currently, eligible recipients for these grants include local governmental units, qualified river management organizations, and nonprofit conservation organizations.

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The bill provides that producer-led groups are eligible to receive lake protection grants and river protection grants provided by DNR. The bill defines “producer-led group” to mean any group that meets the criteria for a producer-led watershed protection grant issued by DATCP.

Soil and water resource conservation grants—allocation plan

Under rules promulgated by DATCP, when DATCP prepares its annual allocation plan for soil and water resource conservation grants to counties, it may consider a county’s demonstrated commitment to implementing the county’s approved land and water resource management plan. Under the bill, if DATCP considers this factor in preparing the annual allocation plan, it must also take into account any externalities, such as weather, that may have affected the county’s ability to implement its management plan.

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.** 92.14 (6) (c) of the statutes is amended to read:
- 2 92.14 (6) (c) When preparing an annual grant allocation plan under par. (b),
- 3 the department and the department of natural resources shall consider the existence
- 4 and location of impaired water bodies that the department of natural resources has
- 5 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)
- 6 (A) and agricultural enterprise areas designated under s. 91.84, and shall give
- 7 priority to providing cost-sharing for nutrient management planning projects that
- 8 are in or near, or that affect, those areas. When preparing an annual grant allocation
- 9 plan, if the department considers a county’s demonstrated commitment to
- 10 implementing a land and water resource management plan approved under s. 92.10
- 11 (4) (d), the department shall take into account any externalities, such as weather,
- 12 that may have affected the county’s ability to demonstrate commitment to
- 13 implementing the plan.
- 14 **SECTION 2.** 93.59 (2) (a) of the statutes is amended to read:

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1 93.59 (2) (a) The producer-led group includes at least 5 agricultural producers
2 each of whom operates an eligible farm, as defined in s. 91.86 (1), in one watershed
3 or in adjacent watersheds. The group may include additional agricultural producers
4 who are not required to be operators of eligible farms.

5 **SECTION 3.** 93.59 (2) (d) of the statutes is amended to read:

6 93.59 (2) (d) The group assists agricultural producers in the watershed or
7 watersheds under par. (a) to voluntarily conduct nonpoint source water pollution
8 abatement activities.

9 **SECTION 4.** 93.59 (3) of the statutes is amended to read:

10 93.59 (3) A producer-led group that receives, or on whose behalf a legal entity
11 receives, a grant under this section shall annually file a report with the department
12 describing the activities conducted with the grant and the impact of those activities
13 on water quality in the watershed or watersheds under sub. (2) (a).

14 **SECTION 5.** 281.68 (1) (ar) of the statutes is created to read:

15 281.68 (1) (ar) “Producer-led group” means any group that meets the criteria
16 under s. 93.59 (2).

17 **SECTION 6.** 281.68 (1t) (intro.) of the statutes is amended to read:

18 281.68 (1t) LAKE MONITORING AND PROTECTION CONTRACTS. (intro.) The
19 department may award contracts to ~~public~~ groups or persons for the creation and
20 support of a statewide lake monitoring network. The contracts may include
21 payments for the costs of all of the following:

22 **SECTION 7.** 281.68 (3) (a) 1. of the statutes is amended to read:

23 281.68 (3) (a) 1. Eligible recipients to consist of nonprofit conservation
24 organizations, as defined in s. 23.0955 (1), producer-led groups conducting
25 producer-led group projects, counties, cities, towns, villages, qualified lake

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1 associations, town sanitary districts, qualified school districts, public inland lake
2 protection and rehabilitation districts, and other local governmental units, as
3 defined in s. 66.0131 (1) (a), that are established for the purpose of lake management.

4 **SECTION 8.** 281.70 (1) (am) of the statutes is created to read:

5 281.70 (1) (am) “Producer-led group” means any group that meets the criteria
6 under s. 93.59 (2).

7 **SECTION 9.** 281.70 (4) (a) 4. of the statutes is created to read:

8 281.70 (4) (a) 4. Producer-led groups conducting producer-led group projects.

9 **SECTION 10.** 281.75 (2) (e) of the statutes is repealed.

10 **SECTION 11.** 281.75 (2) (g) of the statutes is created to read:

11 281.75 (2) (g) Submit a report to the joint committee on finance after the end
12 of each fiscal year that includes the number of claims submitted and the number and
13 amount of awards provided under this section during that fiscal year.

14 **SECTION 12.** 281.75 (5) (f) of the statutes is renumbered 281.75 (5) (f) 1. and
15 amended to read:

16 281.75 (5) (f) 1. The Subject to subd. 2., the department shall allocate money
17 for the payment of claims according to the order in which completed claims are
18 received. The department may conditionally approve a completed claim even if the
19 appropriation under s. 20.370 (6) (cr) is insufficient to pay the claim. The department
20 shall allocate money for the payment of a claim which is conditionally approved as
21 soon as funds become available.

22 **SECTION 13.** 281.75 (5) (f) 2. of the statutes is created to read:

23 281.75 (5) (f) 2. For claims of contamination by nitrates and not by any other
24 substance, the department shall allocate money for the payment of those collective
25 claims as provided under subd. 1. but shall allocate money for the payment of

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1 individual claims according to the priority order established under sub. (9). The
2 department shall determine the method for allocating money for the payment of
3 those claims in the manner that most effectively accomplishes the requirements of
4 this paragraph and sub. (9).

5 **SECTION 14.** 281.75 (7) (c) 7. of the statutes is amended to read:

6 281.75 (7) (c) 7. If the claim is based on a ~~contaminated~~ water supply that is
7 eligible ~~under sub. (11) (ae)~~ contaminated by bacteria, the cost of properly
8 abandoning any improperly abandoned private water supply located on the property
9 owned or leased by the claimant.

10 **SECTION 15.** 281.75 (7) (d) of the statutes is created to read:

11 281.75 (7) (d) The department may issue an award only for the eligible cost
12 under this subsection that the department determines is the remediation method
13 that is most effective for the health and welfare of the claimant.

14 **SECTION 16.** 281.75 (9) (a) of the statutes is repealed.

15 **SECTION 17.** 281.75 (9) (am), (bm), (c) and (d) of the statutes are created to read:

16 281.75 (9) (am) Water containing nitrates in excess of 40 parts per million
17 expressed as nitrate-nitrogen.

18 (bm) Water containing nitrates in excess of 30 parts per million expressed as
19 nitrate-nitrogen.

20 (c) Water containing nitrates in excess of 25 parts per million expressed as
21 nitrate-nitrogen.

22 (d) Water containing nitrates at no fewer than 10 parts per million and not in
23 excess of 25 parts per million expressed as nitrate-nitrogen. Notwithstanding sub.
24 (11) (b) 2., for awards under this paragraph, the department shall emphasize the use
25 of reverse osmosis or similar methods prior to well remediation methods if the

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1 department determines these methods are the most effective option for the health
2 and welfare of the claimant.

3 **SECTION 18.** 281.75 (9) (b) of the statutes is renumbered 281.75 (9) (intro.) and
4 amended to read:

5 281.75 (9) CONTAMINATION STANDARD; NITRATES. (intro.) Notwithstanding the
6 requirement of contamination under sub. (7), ~~if a private water supply meets the~~
7 ~~criteria under par. (a) and the claim is~~ for claims based upon contamination by
8 nitrates and not by any other substance, the department may make an award only
9 if the private water supply ~~produces water containing nitrates in excess of 40 parts~~
10 ~~per million expressed as nitrate-nitrogen.~~ is used at least 3 months each year and
11 shall make awards in the following order of priority:

12 **SECTION 19.** 281.75 (11) (a) 8. of the statutes is repealed.

13 **SECTION 20.** 281.75 (11) (ae) of the statutes is repealed.

14 **SECTION 21.** 281.75 (11m) of the statutes is amended to read:

15 281.75 (11m) ABANDONMENT OF CERTAIN PRIVATE WATER SUPPLIES. If the
16 department determines that there is an improperly abandoned private water supply
17 located on property owned or leased by a claimant with a ~~contaminated~~ private water
18 supply that is ~~eligible under sub. (11) (ae)~~ contaminated by bacteria, the department
19 may issue an award only if the claimant properly abandons the improperly
20 abandoned private water supply.

21 (END)