



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

February 22, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 727/Senate Bill 677: Nitrogen Optimization, Cover Crop Rebates, and UW Hydrogeologist

2021 Assembly Bill 727/Senate Bill 677, companion bills, would establish a grant program for nitrogen optimization projects, provide rebates for crop insurance purchased on acres using cover crops, and create a hydrogeologist position to share information on groundwater resources.

AB 727 was introduced on December 2, 2021, and referred to the Assembly Committee on Agriculture. On December 22, Assembly Amendment 1 (AA 1) was offered. On February 8, 2022, the Assembly Committee adopted AA 1 by a vote of 13 to 0, and recommended the amended bill for passage by a vote of 13 to 0.

SB 677 was introduced on November 8, 2021, and referred to the Senate Committee on Agriculture and Tourism. On November 10, the Committee held a public hearing. On December 13, Senate Amendment 1 (SA 1) was offered. On February 9, 2022, the Senate Committee adopted SA 1 by a vote of 9 to 0, and recommended the amended bill for passage by a vote of 9 to 0.

BACKGROUND AND CURRENT LAW

The Departments of Agriculture, Trade and Consumer Protection (DATCP) and Natural Resources (DNR) operate a variety of nonpoint source water pollution abatement programs that seek to reduce soil and water runoff in urban and agricultural settings. In particular, nonpoint prevention efforts in agricultural settings often seek to optimize nutrient application used to improve crop yields by reducing total applications of nutrients, or improving timing and placement of nutrients. A common component of nutrients applied to agricultural fields is nitrogen, which when introduced to surface water or groundwater may reduce water quality, threaten wildlife, and adversely affect human health. Alongside nutrient management practices, producers may plant cover crops, which are plantings used for soil cover, particularly outside the primary growing season, to improve soil health, reduce soil erosion, and limit nutrient runoff.

The Federal Crop Insurance Corporation, part of the Risk Management Agency of the U.S. Department of Agriculture (USDA), offers crop insurance to agricultural producers to help manage

risk related to climate variability, market volatility, natural disasters, or other financial losses. Farmers purchase federally subsidized premiums that provide payment in the event of crop loss or failure. Nationwide in 2019, the Federal Crop Insurance Corporation covered more than 85% of acres planted for corn, soybeans, cotton, and wheat, among other crops, for a total of 380 million covered acres. During 2021 and 2022, federally insured acres planting cover crops received a crop insurance premium rebate of \$5 as part of USDA's Pandemic Assistance for Producers initiative. At this time, USDA has not announced if the federal rebate will be available in future years.

The segregated (SEG) environmental fund, comprising the environmental management account and the nonpoint account, supports programs related to recycling, environmental remediation, and water quality programs. The environmental fund receives revenue primarily from tipping fees paid by landfills for each ton of solid waste disposed of in the landfill, which totaled \$72.3 million in 2020-21. The environmental management account and nonpoint account had July 1, 2021, available balances of \$30.7 million and \$8.7 million, respectively, and are anticipated to collect revenues in excess of expenditures during the 2021-23 biennium.

SUMMARY OF BILL

Nitrogen Optimization Grant Program

The bill would create a nitrogen optimization grant program supported by a continuing appropriation within DATCP and provide \$1,000,000 SEG from the nonpoint account of the environmental fund each year of the 2021-23 biennium on a one-time basis. Funding would support grants to agricultural producers that operate projects over at least two growing seasons to study the optimal application of commercial nitrogen fertilizers.

Recipient producers would be required to collaborate with a UW System institution to monitor the project on-site. The maximum grant would be \$50,000, up to 20% of which could be provided to the UW collaborator for a given project. DATCP would be required to allocate grants to different areas of the state with different soil and geologic characteristics, and prioritize projects that are innovative, of a longer term, and not receiving other state or federal funds. The bill would exempt the grant recipient and UW collaborator from civil liability and enforcement actions by DATCP or DNR related to discharges from a project site resulting in environmental pollution, as long as such discharges were consistent with the project plan of a grant award. DATCP would be required to promulgate rules to administer the nitrogen optimization grant program, including an emergency rule within 90 days of the bill's enactment. The emergency rule would expire after three years or once a permanent rule took effect, and would not require a finding of emergency, a statement of scope, or review of a final draft by the Governor.

Cover Crop Rebates

The bill would create a cover crop rebate program supported by a continuing appropriation within DATCP, and provide \$400,000 nonpoint SEG beginning in 2022-23 on an ongoing basis. Under the program, DATCP would be authorized to provide a rebate of \$5 per acre for crop insurance premiums paid on any acres also planting cover crops.

DATCP would be required to provide rebates on a first-come, first-served basis until funding was exhausted, with no cap on acreage per participant. The bill would prohibit DATCP from providing a rebate for any acreage that is eligible for funding to plant cover crops from other state or federal sources, including DATCP producer-led watershed protection grants, DATCP soil and water resource management grants, federal Conservation Stewardship Program payments, or federal Environmental Quality Incentive Program payments. DATCP would be authorized to conduct inspections to verify compliance with cover crop rebate program requirements. DATCP would be authorized to promulgate rules for the cover crop rebate program related to determining varieties of cover crops and procedures for verifying plantings. Within 90 days of the bill's enactment, DATCP would be required to promulgate an emergency rule to administer the cover crop rebate program. The emergency rule would expire after three years or once a permanent rule took effect, and would not require a finding of emergency, a statement of scope, or review of a final draft by the Governor.

Geological and Natural History Survey Hydrogeologist

The bill would create an annual appropriation and provide \$75,000 environmental management SEG in 2021-22 and \$150,000 environmental management SEG in 2022-23 to support a three-year hydrogeologist project position within the Geological and Natural History Survey, a part of the UW-Madison Division of Extension. The position would be required to 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 that information. The bill would sunset the appropriation on June 30, 2025.

ASSEMBLY AND SENATE AMENDMENT 1

The identical AA 1/SA 1 would require DATCP to allocate funding to all rebate applicants, rather than provide rebates on a first-come, first-served basis as under the bill as introduced. DATCP would be authorized to specify an application process and a maximum acreage by administrative rule for years in which requests exceed funding. Further, the amendment would prohibit individuals from receiving rebates only if they received funding from other sources for cover crops, rather than if they were eligible for funding from other sources. Finally, the bill would specify that receipt of DNR lake management and river protection grants for cover crops would preclude participation in the program.

FISCAL EFFECT

AB 727/SB 677, as amended by AA 1/SA 1, would provide a total of \$2,625,000 environmental fund SEG during the 2021-23 biennium, consisting of \$2,400,000 from the nonpoint account, and \$225,000 from the environmental management account. Of the amounts appropriated, \$2,000,000 nonpoint SEG would be provided on a one-time basis, while \$400,000 nonpoint SEG and \$150,000 environmental management SEG would be ongoing into the 2023-25 biennium. The hydrogeologist position and associated environmental management SEG funding would expire on June 30, 2025.

Prepared by: Rory Tikalsky