



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #599

Nonpoint Account Revenues and Expenditures (Agriculture, Trade and Consumer Protection and Natural Resources – Water Quality)

[LFB 2009-11 Budget Summary: Page 99, #20; and Page 477, #6]

CURRENT LAW

The segregated environmental fund consists of the nonpoint account and the environmental management account. While the two accounts are tracked separately, they are statutorily maintained as one fund. The nonpoint account funds programs that intend to limit nonpoint source water pollution in the state, which is pollution that is diffuse in nature and difficult to track to a well-defined source. Currently, the nonpoint account receives: (a) an annual sum-certain GPR transfer; and (b) 75¢ of the \$1.60 environmental repair tipping fee payable on each ton of solid and hazardous waste disposed of at landfills in Wisconsin. Expenditures from the account are used for a variety of purposes, ranging from the Department of Natural Resources (DNR) and the Department of Agriculture, Trade and Consumer Protection (DATCP) administrative costs, to county conservation staffing grants, to grants to landowners for nonpoint source water pollution abatement projects. The nonpoint account also funds two appropriations for debt service on general obligation bonds issued by DNR and DATCP. The DNR appropriation repays a portion of principal and interest on administrative facilities, and the DATCP appropriation repays bonds issued under the soil and water resource management (SWRM) program for cost-sharing grants to landowners for the installation of structures to abate water pollution attributable to agricultural sources and animal waste.

GOVERNOR

Increase the nonpoint tipping fee on solid and hazardous waste disposed of at landfills from 75¢ per ton to \$1.05 (an increase of 30¢ per ton) effective with waste disposed of beginning on July 1, 2009.

Further, repeal a GPR sum-sufficient appropriation in DATCP for debt service on bonds issued for SWRM projects. Convert an annual, sum-certain appropriation funded from the nonpoint account to a sum-sufficient appropriation for debt service on SWRM bonds.

DISCUSSION POINTS

1. DNR and DATCP work jointly in controlling nonpoint source water pollution and soil erosion in the state. The two agencies annually create a joint allocation plan that describes how available funding will be distributed in that calendar year. DATCP allocates grants to county land conservation committees and certain other project cooperators through the soil and water resource management (SWRM) program. DNR allocates grants to counties through: (a) the priority watershed program; (b) the targeted runoff management (TRM) program; (c) the urban nonpoint source and storm water management program; and (d) the municipal flood control and riparian restoration program. These programs operate with a combination of GPR, federal funds, nonpoint SEG and bond revenues. Although DATCP and DNR have discretion in the use of much of this funding, the Wisconsin Constitution requires that public debt (general obligation bonds) be issued for long-term structural improvements.

2. Under current law, the nonpoint account receives a sum-certain GPR annual appropriation as well as 75¢ of every \$1.60 paid as the environmental repair tipping fee. Between 1997 and 2007, the nonpoint account received general fund revenues in an amount based on the annual supplemental automobile title transfer fee revenues from the previous fiscal year. 2007 Act 20 created the sum-certain GPR transfer, which decoupled automobile title transfer fee revenues with a corresponding GPR transfer to the nonpoint account. Act 20 also created the deposit of revenues from the environmental repair tipping fee. Uncommitted segregated appropriation authority generally lapses back to the nonpoint account at the end of each year.

3. Table 1 provides an overview of the estimated nonpoint account fund condition for the 2009-11 biennium under current law.

TABLE 1**Estimated Nonpoint Account Fund Condition under Current Law**

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	Estimated <u>2009-10</u>	Estimated <u>2010-11</u>
Opening Balance	\$6,627,300	\$6,514,800	\$5,397,400	\$5,710,000
Revenue				
GPR Transfer	\$11,514,000	\$13,625,000	\$13,625,000	\$13,625,000
Tipping Fee	792,600	5,235,000	5,400,000	5,500,000
Interest /Other	<u>333,900</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Total Revenue	\$12,640,500	\$18,960,000	\$19,125,000	\$19,225,000
Total Available	\$19,267,800	\$25,474,800	\$24,522,400	\$24,935,000
Expenditures				
<i>Agriculture, Trade and Consumer Protection</i>				
Soil and water management admin.	\$2,100,000	\$2,165,900	\$2,238,800	\$2,238,800
Soil and water management grants	5,616,700	10,745,100	10,745,100	10,745,100
Debt service	847,700	847,700	847,700	847,700
<i>Natural Resources</i>				
Integrated science services	256,400	411,800	424,400	424,400
Nonpoint source contracts	876,200	997,600	997,600	997,600
TMDL* / Wisconsin Waters Initiative	826,700	914,300	922,900	922,900
Nonpoint source administration	452,300	544,600	617,800	617,800
Urban nonpoint source grants	993,600	1,399,000	1,399,000	1,399,000
Debt service	81,300	110,200	121,600	141,300
Administrative operations	215,100	219,300	283,200	293,900
Customer assistance	<u>185,600</u>	<u>187,100</u>	<u>214,300</u>	<u>214,300</u>
Total Expenditures	\$12,451,600	\$18,542,600	\$18,812,400	\$18,842,800
Planned Reductions		<u>-\$2,695,500</u>	<u>\$0</u>	<u>\$0</u>
Total Projected Expenditures		\$15,847,100	\$18,812,400	\$18,842,800
Transfer to the General Fund**	\$301,400	\$4,230,300	\$0	\$0
Closing Cash Balance	\$6,514,800	\$5,397,400	\$5,710,000	\$6,092,200
Encumbrance/Continuing Balance***	<u>6,463,900</u>	<u>4,721,000</u>	<u>4,721,000</u>	<u>4,721,000</u>
Available Balance	\$50,900	\$676,400	\$989,000	\$1,371,200

* TMDL (total maximum daily load) refers to plans to meet water quality standards to reduce specific pollutants reaching an impaired lake or stream.

** Transfers to the general fund in 2007-08 were accomplished, in part, by reducing expenditures.

*** Includes funds encumbered (committed) for payments in future fiscal years, but that have not yet been expended.

Environmental Repair Fee (Tipping Fee)

4. The tipping fee is imposed on waste generators. A landfill owner or operator is

required to collect the fee from the generator or the person that hauls the waste to the landfill, and then pay the required tipping fees to the state. State tipping fees become part of a landfill operator's cost of doing business, and, to the extent possible, the operator builds the cost of the state assessment into the fees charged for waste disposal.

5. The administration estimates that an additional 30¢ tipping fee receivable by the nonpoint account would increase revenues by \$1,120,000 in 2009-10 and by \$2,240,000 in 2010-11. Total tipping fees received by the nonpoint account would be approximately \$6.6 million in 2009-10 and \$7.7 million in 2010-11. However, tipping fees received by the state from landfill operators could be lower than expected. This may occur given the increase of \$4.40 per ton in overall tipping fees as proposed in the bill, which could reduce demand for disposal services as the cost of generating waste increases. Further, the amount of waste being landfilled has declined due to current economic conditions. The revised revenue estimates are listed in Table 2.

TABLE 2

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	Estimated <u>2009-10</u>	Estimated <u>2010-11</u>
Base Tipping Fee Revenues	\$792,600	\$5,235,000	\$5,400,000	\$5,500,000
AB 75	---	---	1,120,000	2,240,000
Reestimate			(170,000)	(380,000)
Total Nonpoint Tipping Fee Revenues	\$792,600	\$5,235,000	\$6,350,000	\$7,360,000

Debt Service Conversion

6. The bill would convert estimated debt service of \$1,577,900 in 2009-10 and \$1,715,600 in 2010-11 from GPR to nonpoint account SEG. Total estimated debt service for the SWRM program would be \$2,425,600 in 2009-10 and \$2,563,300 in 2010-11. The total debt service payments that would be converted from GPR to nonpoint account SEG would be \$3,293,500 in the biennium. Total revenues from the 30¢ tipping fee increase would be \$2,940,400. The administration intends for this conversion to permanently reduce GPR obligations.

7. The debt service appropriation that would be converted to sum-sufficient is an annual appropriation under current law. As such, the full budgeted amount of \$847,700 SEG is used to make principal and interest payments before any GPR is expended from the sum-sufficient appropriation that would be repealed under the bill. GPR debt service in 2007-08 was \$560,000, and estimated GPR debt service in 2008-09 is \$2,203,200.

TABLE 3

Estimated Nonpoint Account Fund Condition under AB 75

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	Estimated <u>2009-10</u>	Estimated <u>2010-11</u>
Opening Balance	\$6,627,300	\$6,514,800	\$5,397,400	\$4,320,800
Revenue				
GPR Transfer	\$11,514,000	\$13,625,000	\$12,863,700	\$12,863,700
Tipping Fee	792,600	5,235,000	6,350,000	7,360,000
Interest	<u>333,900</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Total Revenue	\$12,640,500	\$18,960,000	\$19,313,700	\$20,323,700
Total Available	\$19,267,800	\$25,474,800	\$24,711,100	\$24,644,500
Expenditures				
<i>Agriculture, Trade and Consumer Protection</i>				
Soil and water management admin.	\$2,100,000	\$2,165,900	\$2,205,900	\$2,205,900
Soil and water management grants	5,616,700	10,745,100	10,615,500	10,615,500
Debt service	847,700	847,700	2,425,600	2,563,300
<i>Natural Resources</i>				
Integrated science services	256,400	411,800	420,200	420,200
Nonpoint source contracts	876,200	997,600	997,600	997,600
TMDL / Wisconsin Waters Initiative	826,700	914,300	877,700	877,700
Nonpoint source administration	452,300	544,600	612,200	612,200
Urban nonpoint source grants	993,600	1,399,000	1,385,000	1,385,000
Debt service	81,300	110,200	121,600	141,300
Administrative operations	215,100	219,300	281,000	291,700
Customer assistance	<u>185,600</u>	<u>187,100</u>	<u>212,400</u>	<u>212,400</u>
Authorized Expenditures	\$12,451,600	\$18,542,600	\$20,154,700	\$20,322,800
Planned Reductions		<u>-\$2,695,500</u>	<u>-\$4,497,600</u>	<u>-\$4,497,600</u>
Total Projected Expenditures		\$15,847,100	\$15,657,100	\$15,825,200
Transfers to the General Fund	\$301,400	\$4,230,300	\$4,733,200	\$4,733,200
Closing Cash Balance	\$6,514,800	\$5,397,400	\$4,320,800	\$4,086,100
Encumbrance/Continuing Balance	<u>6,463,900</u>	<u>4,721,000</u>	<u>4,721,000</u>	<u>4,721,000</u>
Available Balance	\$50,900	\$676,400	-\$400,200	-\$634,900

8. Table 3 shows the estimated condition of the nonpoint account under AB 75. The line showing planned reductions reflects the following transfers that the administration intends to make to the general fund in each year of the 2009-11 biennium: (a) \$3.5 million from the appropriation for soil and water management grants; (b) \$997,600 appropriated for nonpoint source contracts; and (c) the amounts of the 1% across-the-board reductions (\$235,600 annually). The

appropriation for soil and water management grants was increased by \$520,000 in 2005-06 and by \$6 million beginning in 2008-09 primarily to fund nutrient management grants to agricultural landowners, as nutrient management plans became required under administrative rule ATCP 50 effective January 1, 2008, for all agricultural land in the state to which nutrients are mechanically applied. The appropriation also supports DATCP grants to counties for soil and water conservation staff. Nonpoint source contracts are with a variety of agencies and organizations, including: (a) the UW-Extension for basin educator positions throughout the state; (b) the Wisconsin Land and Water Conservation Association (WLWCA), a nonprofit organization that represents county land conservation committees and departments; (c) independent research projects relating to nonpoint source water pollution abatement practices; and (d) the Wisconsin Agricultural Stewardship Initiative (WASI), an effort to develop environmentally compatible and economically sustainable farms.

9. Under the bill, authorized nonpoint account expenditures would exceed expected revenues by \$841,000 in 2009-10, but be approximately even in 2010-11. The projected June 30, 2011, account balance would be approximately -\$634,900. Therefore, expenditures from the nonpoint account, and/or transfers to the general fund would have to be reduced by \$634,900 over the biennium to maintain the account balance.

10. It could be argued that the state issues public debt (general obligation bonds) for each of the programs for abating nonpoint source water pollution because the benefits of pollution abatement accrue to the general public. Further, the use of GPR in repayment of principal and interest on general obligation bonds may be viewed as appropriate given the public water quality benefits that accrue from the use of bond proceeds for nonpoint source pollution abatement. However, it could also be argued that the tipping fee is broadly paid by persons and many businesses that generate waste, and that tipping fee revenues are charged for pollution prevention in relative proportion to the waste generated. Use of tipping fees for debt service would also reserve GPR to be used for other state programs or improve the general fund balance.

11. If the Governor's recommended tipping fee increase for nonpoint programs were deleted, the portion of the tipping fee deposited to the nonpoint account would remain at 75¢ per ton of solid waste. Revenues to the nonpoint account would be insufficient to support the debt service shift from GPR to nonpoint SEG under the bill (Alternative A2).

Nutrient Management and County Staffing Grants

12. Since 2006, DATCP's total allocation to counties for staffing and support grants has been \$5,081,900 GPR and \$4,225,100 nonpoint SEG, for an annual total of \$9,307,000. Staffing grants are used to pay for salary, supply and training costs of county employees for land and water conservation efforts, and to administer landowner cost-share grants. For 2009, DATCP has allocated \$9,317,000 for county staffing and support grants, consisting of \$5,091,900 GPR, including \$10,000 GPR that was unspent by counties in 2007, and \$4,225,100 nonpoint SEG.

13. Under the bill, DATCP would have the following amounts available annually for

grants to counties: (a) \$4,277,000 GPR for county staffing and support grants; (b) \$10,615,500 nonpoint SEG for both county staffing grants and landowner cost-sharing for nutrient management plans and other soft practices. "Soft practices" refers to best management practices such as conservation tillage that are non-structural and are therefore ineligible for funding from state bond issues, which must be used for more permanent capital projects. This recommended funding is shown in Table 4. The GPR amount recommended by the Governor reflects the following annual reductions from the \$5,081,900 GPR base level: (a) \$50,800 in an across-the-board 1% reduction; (b) \$254,100 in an additional 5% reduction; and (c) \$500,000 in a further targeted reduction. The three reduction items in the bill total \$804,900, or more than 15% of the base GPR appropriation. These reductions are intended to permanently reduce state GPR expenditures and improve the June 30, 2011, balance of the general fund.

TABLE 4

	<u>2008-09 Base</u>	<u>2008-09 Planned</u>	<u>2009-10</u>	<u>2010-11</u>
Staffing and Support (GPR)	\$5,081,900	\$5,081,900	\$4,277,000	\$4,277,000
Staffing and Support (Nonpoint SEG)	<u>4,225,100</u>	<u>4,225,100</u>	<u>4,225,100</u>	<u>4,225,100</u>
Staffing Total	9,307,000	9,307,000	8,502,100	8,502,100
Nutrient Management (Nonpoint SEG)	\$6,520,000	\$6,520,000	6,390,400	6,390,400
Available Nonpoint SEG Funding	\$10,745,100	\$10,745,100	\$10,615,500	\$10,615,500
Planned Transfer to General Fund (from Nutrient Management/Cost Sharing)	0	\$2,600,000	\$3,500,000	\$3,500,000
Net Nutrient Management	\$6,520,000	\$3,920,000	\$2,890,400	\$2,890,400

14. In addition to the nonpoint SEG allocations shown in the table, DATCP has a separate allocation for administration of the SWRM program. This includes expenditure authority of \$2,205,900 with 21.0 positions. The appropriations schedule combines into one appropriation DATCP's SWRM administration and funding for county staffing and landowner cost-sharing grants. For county grants in the 2010 and 2011 calendar years, DATCP has discretion to increase additional nonpoint SEG for county staffing grants and reduce nonpoint SEG funding for county cost-sharing grants to landowners. (DATCP could also transfer funds from county staffing to SWRM administration, or vice versa, although that transfer would require approval from the Department of Administration [DOA].) However, no legislative review would be required.

15. The available nonpoint SEG amounts shown in Table 4 for 2009-10 and 2010-11 reflect a \$129,600 reduction from 2008-09, which is part of a 1% across-the-board reduction. As this reduction applies to the entire appropriation, the administration has not indicated how that reduction would be distributed among county staffing grants, county cost-sharing grants and DATCP administration.

16. Some have suggested that providing additional nonpoint SEG to counties in 2010 and 2011 to offset recommended GPR reductions would be desirable to help counties maintain their conservation staffs and programs without relying on increased property tax levies. DATCP officials report this is an option being considered for 2010 and 2011 under the funding levels recommended by the Governor, but DATCP has not committed to this option at this time. On the other hand, it could be argued the state should maintain landowner cost-share grants in order to maximize water quality benefits from pollution abatement practices that may be implemented with nonpoint SEG funding.

17. DATCP stated in its 2009 allocation to counties that although a transfer of \$2.6 million will be required from the nonpoint SEG grants appropriation to the general fund in 2008-09, the Department preserved amounts customarily awarded for county staffing grants and instead reduced the amounts available for landowner nutrient management plan cost-shares. DATCP states that its policy has been to insulate county staffing grants as much as possible, and make any required transfers from funds designated for landowner cost-sharing grants. DATCP reports this practice is intended to maintain the personnel and expertise to deliver conservation programming and assistance to landowners, including technical assistance related to nutrient management plans.

18. If DATCP decided to augment the annual \$4,225,100 nonpoint SEG for staffing grants, this would further reduce the \$6.52 million nonpoint SEG appropriated by the Legislature for cost-sharing grants to landowners for the development of nutrient management plans required beginning January 1, 2008. The Legislature appropriated this funding because existing farms are generally only required to adopt a nutrient management plan if cost-sharing is offered to the landowner. It may be inconsistent with the Legislature's intent of providing the nutrient management funding if DATCP were to reallocate these amounts to county staffing. Further, one could also argue that it would be appropriate to reduce county staffing grants at similar levels to those for landowner nutrient management plans.

19. The Committee may wish to create three separate appropriations to specify the amounts of nonpoint SEG that could be used for: (a) DATCP administration; (b) county staffing grants; and (c) county nutrient management and cost-sharing grants. This would remove some discretion from DATCP in distributing funding between county staffing and cost-sharing, and it would give the Legislature greater authority in specifying uses of appropriated funds. However, the agency could still seek a transfer of funds between appropriations, as necessary, through a request of the Joint Committee on Finance under s. 13.10 of the statutes.

20. If the Committee wished to separate the three appropriations, or to offset some portion of county staffing grant GPR reductions with nonpoint SEG, the Committee could consider various allocations of nonpoint SEG. Four possible options are shown Table 5. The three appropriations would more accurately reflect the state budget purpose of each as state operations (DATCP administration), local assistance (county staffing grants), and aids to individuals (landowner cost-share grants). For example, the \$500,000 GPR reduction included in the bill was labeled as a state operations reduction by the administration, even though it reduced local assistance grants.

TABLE 5

	<u>Base</u>	<u>Alternatives</u>			
		<u>B 1a</u>	<u>B 1b</u>	<u>B 1c</u>	<u>B 1d</u>
DATCP Administration	\$2,165,900	\$2,183,800	\$2,183,800	\$2,183,800	\$2,183,800
County Staffing and Support	4,225,100	4,182,800	4,682,800	4,487,700	4,987,700
Nutrient Management and Cost-Sharing *	<u>6,520,000</u>	<u>6,454,800</u>	<u>5,954,800</u>	<u>6,149,900</u>	<u>5,649,900</u>
Total Nonpoint SEG Appropriation	\$12,911,000	\$12,821,400	\$12,821,400	\$12,821,400	\$12,821,400
County Staffing and Support (GPR)	\$5,081,900	\$4,277,000	\$4,277,000	\$4,277,000	\$4,277,000
Total County Staffing and Support (GPR and SEG)	\$9,307,000	\$8,459,800	\$8,959,800	\$8,764,700	\$9,264,200

* Amounts available for grants would likely be lower by \$3.5 million annually in 2009-11, as the administration intends to transfer this amount to the general fund from nutrient management and other cost-sharing.

In addition, the bill would provide DATCP with \$7 million in bonding authority over the biennium for cost-share grants for implementation of landowner structural best management practices. This is the same level provided in the 2007-09 biennium.

21. Under each of the four alternatives, no additional funding would be appropriated beyond the Governor's recommendation. Therefore, the estimated nonpoint account balances shown in Table 3 would be unchanged. Alternative B.1.a would represent the adjusted base funding level for each appropriation, but with the 1% reduction applied equally to each. The other alternatives would provide, relative to Alternative B.1.a, varying amounts of the GPR reductions recommended to county staffing by the Governor. Alternative B.1.b would offset \$500,000 of the GPR reduction in county staffing under the bill by shifting funds from nutrient management planning cost-shares. Alternative B.1.c would provide \$304,900 nonpoint SEG to county staffing grants to offset the amount of the 1% and 5% GPR reductions. Alternative B.1.d would shift nonpoint SEG from nutrient management grants and offset the entire GPR reduction recommended by the Governor, except for the 1% across-the-board reduction.

ALTERNATIVES

A. Debt Service Conversion

1. Adopt the Governor's recommendation to: (a) repeal the GPR sum-sufficient appropriation under DATCP for principal and interest payments on SWRM general obligation bonds; (b) convert the nonpoint account SEG debt service appropriation from annual to sum-sufficient, and reestimate debt service to \$2,425,600 in 2009-10 and \$2,563,300 in 2010-11; and (c) increase the nonpoint tipping fee by 75¢ per ton. Revenues under the bill would be expected to be lower than original estimates by \$170,000 in 2009-10 and \$380,000 in 2010-11.

ALT A1	Change to Bill
	Revenue
SEG	- \$550,000

2. Delete the Governor’s recommendation. (The nonpoint tipping fee would remain at 75¢ per ton and the GPR sum-sufficient debt service appropriation would be maintained.)

ALT A2	Change to Bill	
	Revenue	Funding
GPR	\$0	\$3,293,500
SEG	<u>-\$3,360,000</u>	<u>-\$3,293,500</u>
Total	-\$3,360,000	\$0

B. Nutrient Management and County Staffing Grants

1. Split the current single appropriation into three separate appropriations funded by the nonpoint account of the environmental fund for each of the following purposes: (a) DATCP administration of the soil and water resource management program; (b) grants to counties and other eligible entities for support of county land conservation personnel under the soil and water resource management program; and (c) amounts to counties for landowner cost-share grants for nutrient management plans and other best management practices, and to other eligible entities for activities to develop and implement these practices. Further, specify one of the following allocations of funding among each appropriation:

	<u>a</u>	<u>b</u>	<u>c</u>	<u>d</u>
DATCP Administration	\$2,183,800	\$2,183,800	\$2,183,800	\$2,183,800
County Staffing and Support	4,182,800	4,682,800	4,487,700	4,987,700
Nutrient Management and Cost-Sharing	<u>6,454,800</u>	<u>5,954,800</u>	<u>6,149,900</u>	<u>5,649,900</u>
Total Nonpoint SEG	\$12,821,400	\$12,821,400	\$12,821,400	\$12,821,400

2. Take no action. (DATCP and DOA would retain discretion over the allocations for the three purposes.)

Prepared by: Paul Ferguson