



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #235

Small Business Clean Air Assistance Program and Small Business Environmental Council (Commerce and WEDC)

[LFB 2011-13 Budget Summary: Page 117, #8 (part); and Page 526, #1 (part)]

CURRENT LAW

The Department of Commerce (Commerce) assists DNR in administration of the small business clean air assistance program under s. 285.79 (the air pollution chapter) of the statutes that DNR is required to administer under the federal Clean Air Act. The Commerce program assists small business stationary sources (generally sources of air pollution that emit less than certain thresholds of regulated air pollutants and employ 100 or fewer people) with technical assistance that helps the small businesses comply with federal Clean Air Act requirements. Commerce staff develop publications, answer compliance questions, conduct on-site consultations to individual businesses, review proposed federal air regulations that affect small businesses, and coordinate environmental compliance workshops. Commerce has base funding of \$232,500 PR and 2.0 PR positions. Funding is provided from air emission tonnage fees that are collected by DNR from federally-regulated sources of air pollution.

There is a Small Business Environmental Council attached to Commerce. The duties of the Council are to: (a) advise DNR about the small business clean air assistance program, difficulties encountered by small business stationary sources in complying with air pollution statutes, and the degree and severity of enforcement against small business stationary sources; (b) review information to be provided to small businesses about air pollution statutes to ensure that the information can be understood by persons without technical training; and (c) provide other advice related to assisting small businesses in complying with federal and state air pollution laws. The Council consists of nine members appointed for three-year terms, including: (a) three members of the general public who are not owners, or representatives of owners, of small business stationary sources; (b) four members who own, or who represent, a small business stationary source, one of whom is appointed by the President of the Senate, one by the Speaker of the Assembly, one by the Minority Leader of the Senate, and one by the Minority Leader of the Assembly; (c) one member appointed by the Secretary of DNR to represent the DNR; and (d) one member appointed by the Secretary of Commerce to represent Commerce.

GOVERNOR

Delete \$237,200 PR and 2.0 PR positions annually in Commerce and repeal the clean air act compliance assistance appropriation. Repeal the requirement that Commerce assist DNR in administration of the small business clean air assistance program. Transfer the 2010-11 year-end unencumbered balance of the appropriation to the Wisconsin Economic Development Corporation (WEDC) PR appropriation for receipt of unencumbered appropriation balances from Commerce. Provide expenditure authority of \$237,200 PR annually to WEDC to equal the amount of expenditure authority deleted under the program.

Transfer the Small Business Environmental Council under s. 15.157 (10) from Commerce to the Department of Safety and Professional Services (DSPS), however, repeal the duties of the Council under s. 560.11.

DISCUSSION POINTS

1. DNR administers federal air permitting requirements under the Clean Air Act and administers a small business stationary source compliance assistance program. Examples of program activities are to: (a) develop and coordinate information regarding methods that small business stationary sources can use to comply with the federal Clean Air Act; (b) provide small businesses with information concerning methods of operation that help reduce air pollution; (c) assist small businesses in determining applicable requirements and receiving air pollution permits in a timely manner; and (d) provide assistance to ensure small businesses receive information that provides them adequate time to comply with the Clean Air Act. The two positions in Commerce provide assistance to small business stationary sources under the DNR program.

2. The DNR and Commerce activities are funded from fees based on the tonnage of emissions of certain air pollutants generated by federally-regulated stationary sources. DNR collects the fees and transfers revenue to the Commerce appropriation. Under the bill, estimated annual emission tonnage fees are \$6.9 million and authorized expenditures are \$7.7 million. Based on an anticipated carryforward balance of approximately \$1.0 million, authorized expenditures would exceed available revenues by over \$0.5 million during the 2011-13 biennium. Under the bill, DNR will have to reduce expenditures below authorized levels to remain within available revenues.

3. The Secretary of DOA submitted an errata memo to the Joint Committee on Finance recommending the current Commerce responsibilities related to assisting DNR in administration of the small business clean air assistance program be transferred to UW-Extension instead of being deleted. DOA recommended providing \$237,200 PR and 2.0 PR positions to UW-Extension.

4. If the small business clean air assistance program is transferred to UW-Extension, DNR will have to further reduce expenditures in order to transfer revenue to UW-Extension to pay for UW-Extension activities under the program. DNR officials indicate the Department would have to reduce staff activities related to providing direct permit review and approval to businesses. DNR staff funded from air emission tonnage fees include air permit writers, air permit modelers who analyze the impact of air emissions allowed by a permit on air quality, and compliance assistance staff.

5. If the Committee chooses to provide funding and staff to UW-Extension to assist

DNR with providing compliance information and assistance to small businesses, it may wish to also consider reducing the DNR appropriation for permitting of federally-regulated sources by \$237,200 PR and 2.0 PR positions annually [Alternative #A2]. This would more accurately reflect budgeting of available revenues from federally-regulated stationary sources.

6. DNR officials indicate the Department would prefer to work directly with small business stationary sources on air compliance issues rather than to send revenues to UW-Extension to assist small businesses with these issues. DNR officials also indicate that: (a) in most states, the Clean Air Act small business assistance program is attached to the state environmental agency; (b) DNR provision of assistance to small businesses would complement the Department's increased focus on supporting small businesses; (c) maintaining the whole program in DNR would allow the Department's air management staff to balance work on permitting with provision of assistance to businesses; (d) DNR administration of the program would better allocate limited emission fee revenues; and (e) at least one of the two current Commerce program staff has already transferred to DNR and will provide the Department with expertise in the program.

7. The DOA Secretary's errata memo also indicated that \$237,200 PR annually was included in the WEDC PR appropriation for receipt of unencumbered appropriation balances from Commerce. The \$237,200 PR cannot be provided to WEDC because the source of the current funding is air emission tonnage fees from federally-regulated stationary sources. Federal requirements provide these fees must be used for the regulation and permitting of these sources. It would be appropriate to delete the expenditure authority in WEDC. This reduction could be made whether the bill's deletion of funding is approved [Alternative #A1] or whether funding is provided to UW-Extension for the program [Alternative #A2].

8. The bill deletes the duties of the Small Business Environmental Council, but transfers the Council to DSPS. The Committee could choose to delete the Council, in addition to deleting the duties of the Council [Alternative #B1].

9. The Council met three times in each of 2009 and 2010. It provides advice to DNR on implementation of air permitting programs for small business stationary sources. The Council is currently staffed by the Commerce positions that provide clean air compliance assistance. These functions are provided by economic development programs, rather than safety and buildings and environmental regulatory services programs that are transferred to DSPS. DOA budget office officials recently indicated the administration recommends transferring the Council from Commerce to the UW-System, along with the small business clean air assistance program and staff, specifying that the UW-System (rather than Commerce currently or DSPS under the bill) appoint a member on the Council to represent UW-System. They also recommend retaining the s. 560.11 duties of the Council, and specifying that the UW-System staff would provide assistance to the Small Business Environmental Council [Alternative #B2].

10. DNR officials have expressed interest in transferring the Council to DNR, and believe it would allow the Department to better coordinate assistance related to air permitting requirements to small businesses. The Committee could choose to transfer the Council, and its duties, to DNR. The bill could also be amended to delete the references to Commerce in Council membership and duties [Alternative #B3].

ALTERNATIVES

A. Small Business Clean Air Assistance Program

1. Approve the Governor’s recommendation to repeal the small business clean air assistance program in Commerce. In addition, delete: (a) \$237,200 PR annually in the WEDC PR appropriation for receipt of 2010-11 unencumbered balances from repealed Commerce appropriations; and (b) delete the transfer of the 2010-11 unencumbered balance of the small business clean air assistance appropriation to the WEDC PR appropriation.

ALT A1	Change to Bill WEDC
PR	- \$474,400

2. Provide UW-Extension with \$237,200 PR and 2.0 PR positions annually from air emission tonnage fees collected by DNR from federally-regulated stationary sources. Direct UW-Extension to assist DNR in administration of the small business clean air assistance program under s. 285.79. In addition, delete: (a) \$237,200 PR and 2.0 PR positions annually in DNR for permitting of federally-regulated stationary sources; (b) \$237,200 PR annually in the WEDC PR appropriation for receipt of 2010-11 unencumbered balances from repealed Commerce appropriations; and (c) the transfer of the 2010-11 unencumbered balance of the small business clean air assistance appropriation to the WEDC PR appropriation.

ALT A2	Change to WEDC		Change to UW System		Change to DNR		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
PR	-\$474,400	0.00	\$474,400	2.00	-\$474,400	- 2.00	-\$474,400	0.00

B. Small Business Environmental Council

1. Approve the Governor's recommendation to delete the duties of the Small Business Environmental Council. In addition, delete the Council and its membership instead of transferring it to DSPS.

2. Transfer the Small Business Environmental Council and its duties to UW-System. Provide that the UW-System would appoint a member on the Council to represent the UW-System, and would staff the Council. Delete references to Commerce related to Council membership and duties.

3. Transfer the Small Business Environmental Council and its duties to DNR. Delete the references in Council membership and duties to Commerce.

Prepared by: Kendra Bonderud