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2017

Joint Committee on Finance

Paper #478

Nonpoint Source Water Pollution Funding (Natural Resources – Environmental Quality)

[LFB 2017-19 Budget Summary: Page 333, #4 and #5, and Page 462, #13]

CURRENT LAW

The Department of Natural Resources (DNR) administers several grant programs to prevent or reduce nonpoint source water pollution. The targeted runoff management (TRM) program provides financial assistance to projects addressing water quality concerns or impairments, primarily in rural or agricultural settings. TRM projects are funded mostly through general obligation bonding revenues (BR), with principal and interest supported by the nonpoint account of the segregated (SEG) environmental fund. Additional program funds also come from nonpoint SEG and federal funds (FED) under Section 319 of the Clean Water Act. These fund sources also support grants under a companion program to TRM, which makes grants to animal feeding operations that have received a notice of discharge (NOD) or a notice of intent (NOI) to issue a notice of discharge for animal waste runoff that has entered state waters.

Also, DNR is appropriated funds for contracts with entities providing research, education, and outreach related to nonpoint source water pollution abatement programs. DNR is appropriated \$997,600 each year in the 2015-17 biennium for these purposes, which includes \$227,600 in base funding and \$770,000 in one-time funding. The statutes require at least \$500,000 be allocated each year to contracts with the University of Wisconsin-Extension related to nonpoint source water pollution.

GOVERNOR

Provide \$100,000 nonpoint SEG annually in one-time funding for nonpoint source (TRM/NOD-NOI) grants. Further, provide an additional \$540,000 nonpoint SEG each year for nonpoint source contracts, including \$40,000 in ongoing funding and \$500,000 in one-time funding, for a total of \$767,600 each year of the biennium. Finally, repeal the requirement that

DNR allocate \$500,000 nonpoint SEG in each fiscal year to the University of Wisconsin-Extension to provide education and technical assistance related to nonpoint source water pollution.

DISCUSSION POINTS

A. Targeted Runoff Management Grants

1. Prior to 2015 Act 55, TRM grants had been provided from GPR and nonpoint SEG-supported bonding. Act 55 deleted GPR funding for TRM and replaced it with \$100,000 nonpoint SEG annually in one-time funding during the 2015-17 biennium. The Governor's proposal would restore this \$100,000 SEG annually in one-time funding through the end of the 2017-19 biennium.

2. In recent biennia, the majority of TRM funding has been provided as bonding, with \$5.9 million in new bonding authority authorized as part of 2015 Act 55. Most TRM projects install structural improvements, such as stream bank restorations, manure storage systems, or other systems for diverting or controlling farm runoff. The bill would authorize \$5.9 million in additional bonding during 2017-19. For further discussion of DNR bonding authorizations, see budget paper #479 entitled "Nonpoint Source Program Bonding."

3. The Wisconsin Constitution restricts use of bonding to structural improvements that benefit state waters. Thus, Section 319 FED and nonpoint SEG are often needed to support TRM or NOD/NOI projects that include local assistance activities or nonstructural practices, as bond proceeds cannot fund these activities.

4. Similar Department of Agriculture, Trade and Consumer Protection (DATCP) nonpoint SEG appropriations would also be a possible source of funding for nonstructural practices that may otherwise seek TRM funding. Under the bill, DATCP is funded \$3,325,000 nonpoint SEG annually during the 2017-19 biennium for nonpoint source water pollution abatement, primarily provided as cost sharing to landowners who voluntarily implement nutrient management planning. (For discussion of DATCP nonpoint program funding, see budget paper #148.)

5. Conversely, DNR funding provided for NOD/NOI grants is primarily used for regulatory action for more significant discharges or violations of performance standards. Since the state must offer 70% cost sharing to require implementation of most agricultural conservation practices, SEG, GPR, or FED has been a necessary component of the NOD/NOI grant program. Nonpoint SEG funding under current law and the bill allows DNR to offer cost sharing required for implementation of nonstructural practices as part of TRM and NOD/NOI grants. If the Committee chooses to delete nonpoint SEG funding for TRM grants, it is unclear to what extent DNR would be able to meet minimum state cost-share requirements, which may limit corrective actions and the installation of certain practices necessary to abate nonpoint source water pollution. Although DATCP would have grant funding under the bill for nonstructural agricultural practices, DATCP and DNR programs are also not necessarily administered in ways that would make DATCP funds available for use in DNR programs. Given concerns about limiting regulatory action and inability to fund nonstructural practices, the Committee could consider adopting the Governor's proposal

[Alternative A1], or modifying it to provide ongoing funding [Alternative A2].

6. The \$200,000 nonpoint SEG provided in the bill for DNR nonpoint programs represents a small portion of the total BR, FED and SEG amounts customarily available biennially to DNR for TRM and NOD/NOI grants. (These amounts totaled \$8.1 million during the 2015-17 biennium.) Given that the additional bonding authorization under the bill is lower than historical levels, and that nonpoint SEG cost sharing for TRM grants was \$200,000 or more each year through the 2013-15 biennium, the Committee could consider increasing SEG TRM funding to \$200,000 on an ongoing [Alternative A3] or one-time basis [Alternative A4] during the biennium. However, other funding, such as from DATCP nonpoint SEG appropriations, would remain available under the bill for support of nonstructural practices to prevent or limit agriculture-based nonpoint source water pollution. The Committee could therefore consider deleting the Governor's provision [Alternative A5].

B. Nonpoint Source Contracts

7. DNR is currently appropriated \$997,600 nonpoint SEG annually for contracts, which support administration and implementation of its nonpoint source pollution abatement programs, including research, education, or training services. Additionally, DNR is required to allocate \$500,000 of available contract funding in each fiscal year to UW-Extension. Funding for nonpoint source contracts has been \$997,600 since 2003-04. However, appropriated amounts occasionally have been transferred to the general fund; for instance, no contracts were awarded in 2009-10 or 2010-11. The bill would reduce funding for nonpoint source contracts to \$767,600 SEG annually, consisting of a base of \$267,600 and one-time funding of \$500,000.

8. Most nonpoint contracts have historically funded projects of UW-Extension or other UW System institutions. The majority of UW-Extension funding has typically been provided to the Natural Resources Education (NRE) program, which conducts education and outreach services related to water quality and land use. The NRE program was allocated \$400,000 in 2015-16 and \$500,000 in 2016-17, as well as \$375,000 annually in 2013-15 and \$355,000 annually in 2011-13. UW-Extension funding also included \$100,000 annually from 2013-14 through 2015-16 for a farmer-led watershed initiative in the area of the St. Croix and Red Cedar Rivers. UW System allocations in the 2015-17 biennium have supported: (a) a private well groundwater monitoring study in Kewaunee County (UW-Oshkosh); (b) the Center for Land Use Education (UW-Stevens Point); and (c) development of SnapPlus software used for nutrient management planning (UW-Madison). The administration indicates the recommended base funding increase of \$40,000 corresponds to the amounts DNR allocated in each of 2015-16 and 2016-17 for the groundwater monitoring study in Kewaunee County. Other entities receiving funds in recent years have included the U.S. Geological Survey, and the Wisconsin Land and Water Conservation Association, a group of county land and water conservation staff and county land conservation committees.

9. Given the structural condition of the nonpoint account, as discussed in budget paper #475 entitled "Environmental Fund Overview," it could be argued a reduction in nonpoint source contract funding is appropriate to better align account expenditures and revenues. Further, DATCP has also customarily used a portion of its nonpoint SEG appropriations for soil and water resource management-related contracts to the UW System for various statewide initiatives related to

nonpoint source water pollution abatement. This practice would be expected to continue under the bill. Given structural conditions in the nonpoint account, and other DATCP funding, the Committee could consider adopting the Governor's proposal [Alternative B1], or modifying it to provide funding on an ongoing basis [Alternative B2]. The Committee could also consider providing only the \$40,000 increase to base funding, for funding of \$267,600 each year [Alternative B3], providing \$450,000 each year for contracts [Alternative B4], or deleting the Governor's proposal and providing base funding of \$227,600 each year [Alternative B6]. Each alternative would reduce authorized expenditures in the 2017-19 biennium to preserve the nonpoint account balance. Additionally, the Committee could consider specifying that increased funding be on a one-time basis during the 2017-19 biennium [Alternative B7].

10. However, it could also be argued it is appropriate to fund nonpoint source contracts at levels closer to current law. DNR reports nonpoint source contracts provide for ongoing activities that cannot be carried out in DNR with existing staff resources. Further, it should be noted that research provided by nonpoint source contracts helps support regulatory action by DNR. In testimony before the Joint Legislative Audit Committee regarding the Legislative Audit Bureau's audit of wastewater permitting and enforcement, the DNR Secretary suggested work such as the previously mentioned groundwater study in Kewaunee County furthers research and is a necessary component of regulatory action. It is possible that reductions in spending on nonpoint source contracts could reduce research related to nonpoint source pollution and related aspects of surface and groundwater quality.

11. DNR reports that if funding were reduced, priority would be given to contracts based on how they assist in meeting gaps in core program areas. Although the ongoing portion of the recommended increase (\$40,000) corresponds to amounts provided each year of the 2015-17 biennium to a currently funded project in Kewaunee County, the Department reports it has not made any decisions for funding of future contracts, and it is unable to provide guidance on what contracts may be discontinued if funding were reduced. Restoring funding to historical amounts of \$997,600 annually would allow DNR to continue research and outreach with statewide benefits for soil conservation, nutrient management and water quality. The Committee could consider providing \$997,600 nonpoint SEG each year for nonpoint source contracts [Alternative B5].

C. UW-Extension Requirement

12. The bill would delete the requirement that DNR allocate \$500,000 annually to UW-Extension. DNR would not be prohibited from entering into contracts with UW institutions if the requirement were repealed, but the Department would have greater discretion in how funding would be distributed. The Committee could consider adopting the provision [Alternative C1].

13. If the Committee chooses to modify funding for nonpoint source contracts above, it could consider specifying that the UW-Extension allocation be one half the appropriated amount each year, which would reflect the same ratio for the UW-Extension allocation relative to amounts appropriated in recent biennia [Alternative C2]. It could also consider deleting the provision, and maintaining the UW-Extension allocation requirement at \$500,000 annually [Alternative C3]. Given contract allocations to other UW System schools, it could consider expanding the requirement to include all UW System schools, rather than just UW-Extension [Alternative C4].

ALTERNATIVES

A. Targeted Runoff Management Grants

1. Adopt the Governor's proposal to provide \$100,000 nonpoint SEG each year in one-time funding for TRM grants during the 2017-19 biennium.

ALT A1	Change to	
	Base	Bill
SEG	\$200,000	\$0

2. Modify the Governor's proposal to provide \$100,000 nonpoint SEG each year in ongoing funding for TRM grants during the 2017-19 biennium.

ALT A2	Change to	
	Base	Bill
SEG	\$200,000	\$0

3. Provide \$200,000 nonpoint SEG each year in ongoing funding for TRM grants during the 2017-19 biennium.

ALT A3	Change to	
	Base	Bill
SEG	\$400,000	\$200,000

4. Provide \$200,000 nonpoint SEG each year in one-time funding for TRM grants during the 2017-19 biennium.

ALT A4	Change to	
	Base	Bill
SEG	\$400,000	\$200,000

5. Delete provision. TRM grants would not be provided funding during the 2017-19 biennium.

ALT A5	Change to	
	Base	Bill
SEG	\$0	- \$200,000

B. Nonpoint Source Contracts

1. Adopt the Governor's recommendation to provide an additional \$540,000 nonpoint SEG each year of the biennium for nonpoint source contracts. The bill would provide \$767,600 SEG annually during the 2017-19 biennium for nonpoint source contracts, consisting of a base of \$267,600 and one-time funding of \$500,000.

ALT B1	Change to	
	Base	Bill
SEG	\$1,080,000	\$0

2. Adopt the Governor's recommendation to provide \$767,600 nonpoint SEG each year for nonpoint source contracts during the 2017-19 biennium, but specify funding is on an ongoing basis.

ALT B2	Change to	
	Base	Bill
SEG	\$1,080,000	\$0

3. Adopt the Governor's recommended increase of \$40,000 each year in base funding for nonpoint source contracts, but delete \$500,000 each year in one-time funding in the 2017-19 biennium.

ALT B3	Change to	
	Base	Bill
SEG	\$80,000	- \$1,000,000

4. Provide \$450,000 nonpoint SEG each year, an increase of \$222,400 each year from base funding, for nonpoint source contracts during the 2017-19 biennium.

ALT B4	Change to	
	Base	Bill
SEG	\$444,800	- \$635,200

5. Provide \$997,600 nonpoint SEG each year, an increase of \$770,000 each year from base funding, for nonpoint source contracts during the 2017-19 biennium.

ALT B5	Change to	
	Base	Bill
SEG	\$1,540,000	\$460,000

6. Delete provision. Funding for nonpoint source contracts would be \$227,600 each year during the 2017-19 biennium.

ALT B6	Change to	
	Base	Bill
SEG	\$0	- \$1,080,000

7. In addition to Alternative B4 or B5 above, specify that increased funding be one-time during the 2017-19 biennium.

C. UW-Extension Requirement

1. Adopt the Governor's recommendation to repeal the requirement that DNR allocate \$500,000 in each fiscal year to UW-Extension for nonpoint source contracts.

2. Require DNR to allocate one half the appropriated amount each year for nonpoint source contracts to contracts with UW-Extension.

3. Delete provision. DNR would be required to allocate \$500,000 in each fiscal year to UW-Extension for nonpoint source contracts.

4. Modify alternative C2 or C3 above to allow DNR to meet the allocation requirement by providing contracts to any UW System school.

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