Natural Resources

Waste, Remediation, and Air

(LFB Budget Summary Document: Page 434)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #	Title
-	Environmental Management Account Overview (Paper #460)
1	PFAS Action Plan Implementation and Staffing (Paper #461)
2	PFAS Municipal Grant Program (Paper #462)
3	PFAS-Containing Firefighting Foam Disposal (Paper #463)
4	PFAS Public Water Supply Sampling (Paper #464)
9 & 10	Bonding for Great Lakes Contaminated Sediment Removal and Milwaukee Metropolitan Sewage District Dredged Material Management Facility (Paper #465)
11	Tipping Fee Exemption for Waste-To-Energy Facilities (Paper #466)

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Item #	Title
5	PFAS Standards
6	Financial Responsibility for PFAS
7	Certified PFAS Testing Laboratories
8	Hazardous Substance Discharge Investigations
14	Ban on Coal Tar-Based Sealants
15	Local Regulation of Auxiliary Containers

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June, 2021 Joint Committee on Finance Paper #460

Environmental Management Account Overview (Natural Resources -- Waste, Remediation, and Air)

CURRENT LAW

The segregated environmental fund consists of: (a) the nonpoint account, which is the primary funding source for nonpoint source water pollution abatement programs in Wisconsin; and (b) the environmental management account, which primarily supports Department of Natural Resources (DNR) programs related to recycling, groundwater, and cleanup of contaminated lands. The two accounts are statutorily designated as one fund but are tracked separately for budgetary purposes. For discussion of the nonpoint account, see the budget paper entitled "Nonpoint Account Overview."

The environmental management account receives revenues primarily from several state solid waste tipping fees paid by Wisconsin landfills for each ton of solid waste disposed in the landfill. State tipping fees total $12.997 per ton, including $9.64 deposited in the environmental management account, $3.20 in the nonpoint account, and $0.157 in other accounts. Environmental management account revenues include tipping fees related to recycling, and several other fees and revenues.

The environmental management account provides funding for: (a) recycling financial assistance to local governments; (b) DNR administration of contaminated land, brownfields cleanup, and recycling programs, including staff in remediation and redevelopment, solid waste management, air management, groundwater management, and central administrative programs; (c) brownfields grant programs; (d) debt service costs for general obligation bonds issued for state funded cleanup of contaminated land and sediment; (e) state-funded cleanup of contaminated properties where there is no responsible party able or willing to pay for the cleanup; (f) debt service costs for general obligation bonds issued under the former point source water pollution abatement grant program, which ended in 1990; (g) certain environmental and recycling programs in the Department of Agriculture, Trade and Consumer Protection (DATCP), and the Departments of

Health Services (DHS) and Military Affairs (DMA); and (h) remediation of specific sites using moneys received under court-approved settlement agreements or orders.

DISCUSSION POINTS

1. This paper provides a general overview of the environmental management account, including the estimated condition and general information about revenues and expenditures for the account during the 2021-23 biennium. Discussion and alternatives for individual issues affecting the environmental management account are included in separate budget papers.

Revenues

2. Wisconsin landfills pay state solid waste tipping fees for each ton of solid waste disposed of in the landfill. Table 1 shows the state tipping fee rates per ton. State tipping fee rates are $12.997 per ton for municipal solid waste and non-high-volume industrial waste. The recycling and solid waste landfill administration tipping fees are assessed and collected quarterly. Other environmental management (environmental repair, groundwater, and well compensation), nonpoint, and Solid Waste Facility Siting Board fees are assessed annually in May for tons disposed of during the previous calendar year. Of the total state tipping fees, $9.64 per ton of municipal solid waste and non-high-volume industrial waste is deposited in the environmental management account. High-volume industrial waste is subject to tipping fees of $0.497 per ton, of which $0.34 per ton is deposited in the environmental management account. The state tipping fee was increased from $3.80 per ton to $5.90 per ton in the fall of 2007 and to $12.997 per ton by the fall of 2009.

TABLE 1

State Solid Waste Tipping Fees Per Ton

Fund, Fee	Type	Municipal and Non-High-Volume Industrial Waste	High-Volume Industrial Waste	PCB-Contaminated Sediment
Recycling	SEG	$7.000	$0.000	$0.000
Environmental repair	SEG	2.500	0.200	0.850
Groundwater	SEG	0.100	0.100	0.100
Well compensation	SEG	0.040	0.040	0.040
Subtotal Environmental Management		$9.640	$0.340	$0.990
Nonpoint account	SEG	3.200	0.000	3.200
DNR solid waste landfill administration	PR	0.150	0.150	0.150
DOA Solid Waste Facility Siting Board	PR	0.007	0.007	0.007
Subtotal Nonpoint/Program Revenue Accounts		$3.357	$0.157	$3.357
Total State Tipping Fee		$12.997	$0.497	$4.347

3. Table 2 shows the total tons of solid waste disposed of in Wisconsin landfills for the past six years, from 2015 through preliminary data for calendar year 2020. Tonnages are shown on a

calendar-year basis, and fees are mostly received before the end of the following fiscal year; fees for calendar year 2020 disposal will primarily be received as fiscal year 2020-21 revenues. The number of tons of waste subject to state statutory tipping fees has ranged between 6.4 million to 6.9 million tons during the past six years.

TABLE 2

Tons of Solid Waste Landfilled in Wisconsin by Category and Year

Type of Waste	2015	2016	2017	2018	2019	2020
Tons subject to nonpoint and environmental tipping fees[1]	5,448,036	5,415,827	5,741,122	5,889,031	5,984,078	5,690,019
High-volume industrial waste subject to environmental tipping fees [2]	1,185,236	1,263,949	988,999	1,055,341	914,403	698,565
Tons subject to state statutory tipping fees	6,633,272	6,679,776	6,730,121	6,944,373	6,898,481	6,388,584
Tons exempt from state statutory tipping fees [3]	1,586,691	1,898,128	1,726,215	1,849,430	1,800,035	1,565,608
Total waste landfilled in Wisconsin	8,219,963	8,577,904	8,456,336	8,793,803	8,698,516	7,954,191
Percent change in total tons landfilled in Wisconsin	0.7%	4.4%	-1.4%	4.0%	-1.1%	-8.6%
Landfilled tons from out-of-state [4]	328,413	354,510	384,802	363,348	429,795	340,331

[1] Some of these tons are subject to reduced rates for, or exemption from, certain state tipping fees.
[2] Includes utility power plant ashes and sludges, pulp and papermill waste, foundry manufacturing waste, and energy recovery incinerator ash. These wastes are not subject to nonpoint or recycling tipping fees.
[3] DNR assesses a $0.15 per ton landfill license surcharge fee to some of these tons under administrative code provisions.
[4] Tons from out-of-state are a subset of total waste landfilled in Wisconsin, and may be included in various categories of waste.

4. The environmental management account provides funding for several recycling and environmental programs. Under current law, during the 2021-23 biennium, the largest expenditure from the environmental management account would be base funding of $20 million annually for DNR recycling grants to local governments, which pays for a portion of local costs of operating a recycling program that meets state program requirements. Second would be approximately $15.3 million annually for DNR administration of contaminated land, brownfields cleanup, and recycling programs, including 102.57 staff in remediation and redevelopment, solid waste management, air management, groundwater management, and central administrative programs. The third-largest expenditure area would be debt service costs for general obligation bonds issued for state-funded cleanup of contaminated land and sediment, for the former point source water pollution abatement grant program that ended in 1990, and for DNR administrative facilities. Additional expenditure areas include: (a) brownfields and well compensation grant programs; (b) state-funded cleanup of contaminated

properties where there is no responsible party able or willing to pay for the cleanup; (c) certain environmental and recycling programs in DATCP, the Wisconsin Economic Development Corporation, and DHS and DMA.

5. Table 3 shows the condition of the environmental management account in 2019-20 through 2022-23 under current law and Committee action to date. In the 2021-23 biennium, approximately 90% of revenue to the environmental management account is anticipated to be received from solid waste tipping fees. The remaining 10% of revenues include a transfer from the segregated petroleum inspection fund, several license and other environmental fees, and revenues received for designated purposes. Additionally, under 2019 Wisconsin Act 9, $6.15 million each year from the environmental management account's general revenue is transferred to the nonpoint account of the environmental fund beginning in 2019-20.

6. The environmental management account is expected to have an available balance of approximately $24 million on June 30, 2021. Further, account revenues of $54 million each year in the 2021-23 biennium are expected to exceed authorized and budgeted expenditures of $48.1 million in 2021-22 and $45.8 million in 2022-23. One reason for the estimated balance in the environmental management account is because debt service payments have declined significantly for the former point source water pollution abatement grant program that ended in 1990.

TABLE 3

Environmental Management Account Condition

	2019-20 Actual	2020-21 Budgeted	2021-22 Estimated	2022-23 Estimated	2022-23 Staff
Opening Balance -- July 1	$24,656,500	$29,044,700	$32,980,900	$38,646,500	
Revenues					
Solid Waste Tipping Fees - Recycling [1]	$40,524,100	$38,845,900	$39,060,000	$39,270,000	
Solid Waste Tipping Fees - Environmental [1]	15,692,400	15,245,000	15,358,600	15,435,600	
Transfer to Nonpoint Account	-6,150,000	-6,150,000	-6,150,000	-6,150,000	
Transfer from Petroleum Inspection Fund	1,704,800	1,704,800	1,704,800	1,704,800	
Pesticide and Fertilizer Fees	1,600,500	1,580,000	1,580,000	1,580,000	
Hazardous Waste Generator Fees	898,400	900,000	900,000	900,000	
Site-Specific Remediation	1,917,600	100,000	100,000	100,000	
Other Fees and Income	1,508,800	1,168,000	1,168,000	1,168,000	
Additional Prior Year Collections [1]	6,212,300	7,507,500	6,818,000	6,818,000	
Billed Amounts Outstanding on June 30 [1]	-7,507,500	-6,818,000	-6,818,000	-6,818,000	
Total Revenue	$56,401,400	$54,083,200	$53,721,400	$54,008,400	
Total Revenue Available	$81,057,900	$83,127,900	$86,702,300	$92,654,900	
Expenditures					
DNR Recycling Grants to Local Governments	$20,000,000	$20,000,000	$20,000,000	$20,000,000	
DNR Programs and Operations	15,225,900	14,669,800	15,319,100	15,325,400	102.57
DNR Cleanup or Well Grants	2,224,500	2,492,700	2,492,700	2,492,700	
DNR Site-Specific Remediation	2,520,100	400,000	100,000	100,000	
Debt Service for General Obligation Bonds	10,048,500	9,589,000	8,042,300	5,814,100	
WEDC Brownfields Grants	1,000,000	1,000,000	1,000,000	1,000,000	
Other Agencies [2]	994,200	1,095,500	1,101,700	1,101,700	2.00
Expenditure of Prior Year Encumbrances	0	900,000	0	0	
Total Expenditures	$52,013,200	$50,147,000	$48,055,800	$45,833,900	
Cash Balance	$29,044,700	$32,980,900	$38,646,500	$46,821,000	
Encumbrances, Continuing Balances	-10,136,000	-9,059,800	-9,059,800	-9,059,800	
Closing Available Balance -- June 30	$18,908,700	$23,921,100	$29,586,700	$37,761,200	

[1] Tipping fee revenues reflect amounts billed, with adjustments shown for previously billed amounts collected and current billings not received by the close of the fiscal year.

[2] Includes Department of Agriculture, Trade and Consumer Protection clean sweep, Department of Health Services groundwater and air quality standards, and Department of Military Affairs emergency response training.

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June, 2021 Joint Committee on Finance Paper #461

PFAS Operations and Positions (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 434, #1; Page 611, #19]

CURRENT LAW

The statutes direct the Department of Natural Resources (DNR) to serve as the central unit of state government to protect, maintain, and improve the quality and management of the waters of the state, ground and surface, public and private. DNR also has general authority for implementation of the state's direct-response hazardous substances cleanup programs, and for establishment and administration of cleanup standards for contaminated media, such as groundwater, soil, surface water, sediments, other materials, and indoor air. DNR also manages fish and wildlife populations to ensure their general preservation and conservation, and in the case of game animals, their abundance and suitability for consumption.

DISCUSSION POINTS

1. In recent years, per- and polyfluoroalkyl substances (PFAS) have been found throughout Wisconsin in soils, surface water, and groundwater. PFAS are a class of synthetic chemicals commonly found in nonstick surfaces, cookware, paint, and firefighting foam. The National Institutes of Health report that there are at least 4,700 unique types of PFAS. They are temperature, water, and oil resistant. Research and studies indicate that PFAS are toxic to humans, as they do not easily degrade and tend to accumulate in humans and the environment. In parts of the state, PFAS have dispersed through the environment from such sources as: (a) discharges of firefighting foams in municipal and military firefighting uses; and (b) industrial waste discharged to municipal sewerage systems, and then applied to land as septage (bio-solids).

2. Since 2013, more than 30 contaminated sites with PFAS groundwater, drinking water, surface water, sediment, or soil contamination have been reported to DNR at locations around the

state as a result of various private and governmental uses of the chemicals. DNR indicates that the number of PFAS-contaminated sites are unknown. Currently, the DNR remediation and redevelopment program's online database lists 78 sites associated with PFAS contamination in more than 30 municipalities, including such sites as manufacturers of PFAS-containing products, airports, military installations, landfills, and sites with no known responsible party or sources.

3. In 2019, the Governor issued Executive Order No. 40 to address the public health risks of environmental contamination by PFAS in the state and instructed DNR to establish and lead a council to consider state and local responses to the proliferation of PFAS uses and the presence of PFAS in the environment. In December, 2020, the Wisconsin PFAS Action Council (WisPAC) published the PFAS Action Plan, including numerous recommendations to address PFAS contamination in the state.

4. The PFAS Action Plan recommended multiple actions for DNR and other state agencies to address PFAS contamination, including: (a) establishing PFAS standards for air and water, as well as standards and practices for disposal and cleanup; (b) identifying potential PFAS sites and publishing confirmed sources in an interactive public web application; (c) standardizing PFAS sampling methods; (d) testing all public water systems for PFAS; and (e) increasing research of PFAS baseline concentrations in various media, as well as means of PFAS transport through media or biological systems.

5. To date, DNR has engaged in several PFAS responses, including: (a) promulgating rules, in conjunction with recommendations from the Department of Health Services (DHS), for groundwater, drinking water, and surface waters; (b) surveying fire departments about use of PFAS-containing firefighting foams; and (c) sampling water, air, and wildlife tissue for the presence of PFAS. Other agencies that have been involved in state PFAS responses include the UW System, State Lab of Hygiene, Military Affairs, Safety and Professional Services, and Transportation.

6. Assembly Bill 68/Senate Bill 111 would provide funding of $731,300 SEG in 2021-22 and $936,700 SEG in 2022-23 with 11.0 positions to implement portions of the Wisconsin PFAS Action Plan released in December, 2020. Additionally, the bill would provide $600,000 environmental management SEG each year in the DNR continuing appropriation for state responses to hazardous substance spills and discharges. The bill would also provide $80,000 environmental management SEG each year in ongoing operations funding for testing of PFAS contamination in water supplies, including: (a) $55,000 for waterway testing and sampling; and (b) $25,000 each year for PFAS testing at wastewater treatment facilities

7. Table 1 summarizes positions under AB 68/SB 111. All positions shown would be funded from the environmental management account of the environmental fund, except those for wildlife management, which would be supported by the fish and wildlife account of the conservation fund.

TABLE 1

PFAS Action Plan Positions and Funding

DNR Program / Positions	2021-22	2022-23	Positions
Drinking and Groundwater			
Water Supply Specialists	$197,100	$253,100	3.00
Water Quality			
Wastewater Specialists	121,100	158,400	2.00
Air Management			
Air Management Engineer / Air Management Specialist*	171,000	208,400	2.00
Remediation and Redevelopment			
Hydrogeologist Program Coordinator / Hydrogeologist	121,100	158,400	2.00
Waste and Materials Management			
Hydrogeologist	60,500	79,200	1.00
Wildlife Management			
Toxicologist	60,500	79,200	1.00
Total	$731,300	$936,700	11.00

* The air management specialist would be a four-year project position.

8. The 3.0 water supply specialists would sample for and address emerging contaminant risks to drinking water, primarily related to emerging contaminants such as PFAS compounds. The 2.0 wastewater specialists would develop and implement water quality standards for PFAS compounds, assist communities and businesses in identifying and eliminating PFAS in wastewater, and develop procedures for water quality monitoring. The 2.0 air management positions would establish air toxics and best control technology standards and develop an ambient air deposition monitoring network. The 3.0 hydrogeologist positions would focus on statewide investigations and cleanup work and conduct site-specific sampling for PFAS. The 1.0 wildlife toxicologist position would conduct wildlife sampling, coordinate with other states on research and data, and coordinate with the DHS on health advisories for consumption of PFAS-contaminated wildlife.

9. DNR reports that at least 20 staff persons in the Environmental Management Division are currently involved in PFAS activities as part of, or in addition to, their original position responsibilities. The Department reports that, to date, PFAS-related work has largely been incorporated into existing staff workload, including meeting ongoing demands for technical assistance, engagement, and coordination with local governments to support communities impacted by PFAS contamination.

10. Table 2 shows PFAS-related all-funds expenditures for the 2019-20 and 2020-21 fiscal years, with data for 2020-21 through May 6. Most expenditures have come in the DNR remediation and redevelopment program, which has general authority for cleanup of contamination. Of the funding shown, $2.1 million to date is from environmental management SEG. Figures shown include $1.0 million in 2019-20 and $1.2 million to date in 2020-21 attributable to salary and fringe benefits of staff working on PFAS issues.

TABLE 2

DNR PFAS-Related Expenditures

DNR Program Area	2019-20	2020-21*	Total
Remediation and Redevelopment	$881,000	$1,001,700	$1,882,700
Water Quality	244,900	196,100	441,000
Air Management	81,500	154,700	236,200
Waste and Materials Management	86,200	99,000	185,200
Drinking and Groundwater	41,800	45,500	87,300
Environmental Analysis	60,400	19,200	79,600
Fish and Wildlife Management	21,800	50,800	72,600
Enforcement and Other Programs	19,300	57,200	76,500
Total	$1,436,900	$1,624,200	$3,061,100

* Preliminary as of May 6, 2021.

11. DNR indicates that the responsibilities for additional work under the PFAS Action Plan could not be incorporated into existing positions' workload and responsibilities within the Department. DNR contends that ongoing demands for technical assistance, engagement, and coordination with local governments requires these 11.00 additional positions. It could be argued that because DNR-recorded expenditures for staffing costs in each of the last two fiscal years exceed the amounts under AB 68/SB 111, the agency has realized workload and incurred costs that justify the amounts.

12. DNR also contends that positions are needed in the range of subprograms to address the various ways in which PFAS may affect the environment and wildlife. The Department does not consider any area's proposed staffing to be a priority over another, which the Department argues reflects the multiple types of responses needed to address PFAS contamination.

13. Considering the recommendations outlined by the PFAS Action Plan and DNR's current demonstrated PFAS workload and expenditures, the Committee could approve the positions and funding for DNR PFAS response. Alternatives in 1 through 6 provide the Committee options to approve some or all DNR positions as shown in Table 1. If the Committee wishes to evaluate the positions and funding before approving ongoing resources, it could also approve the funding on a one-time basis and specify that any positions are project positions on a four-year [Alternative 9a] or two-year basis [Alternative 9b].

14. AB 68/SB 111 would appropriate $600,000 environmental management SEG in DNR's state-funded spills appropriation for: (a) additional funding for sampling private drinking water wells; (b) state investigations of PFAS groundwater contamination when the responsible party is unknown; and (c) potential support of water treatment systems for residences with PFAS-affected water supplies, in the event that a long-term resolution of the water contamination is not immediately likely. The spills response appropriation is used, among other purposes, for: (a) DNR-led cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site; (b) the state share at certain Superfund site cleanups; (c) the state match to federal funding to address

leaking underground storage tanks; (d) emergency spill response and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party cannot be identified; and (f) provision of temporary emergency water supplies.

15. DNR reports that it has encumbered $1.46 million to PFAS-related expenses from the state-funded spills appropriation. These amounts include costs for temporary emergency water, including $254,000 for residents in the Town of Campbell (La Crosse County) and $25,000 for the Town of Peshtigo (Marinette County). All of the appropriation's $2.15 million unencumbered balance is being held for emergency spills, emergency water, unexpected overruns on statutorily required actions, and other emergency actions. DNR indicates that these commitments preclude it from funding any additional non-emergency responses from the appropriation. Additional funding in the state-funded spills appropriation would give DNR funding for additional PFAS-related responses. The Committee could approve $600,000 SEG in additional funding each year [Alternative 7a].

16. The $55,000 for water testing [Alternative 7b] would target 44 rivers and watersheds covering approximately 80% of Wisconsin's land area. The $25,000 for wastewater treatment facility testing [Alternative 7c] would focus on facilities and sites where permits are expiring or where PFAS is highly suspected and applicants are unwilling to sample for PFAS. Each sampling would cost an estimated $400. The funding would be provided in DNR's environmental management SEG general operations appropriation under water quality.

17. Funding for the state-funded spills appropriation or the water testing could be provided on a one-time basis in the 2021-23 biennium [Alternative 7d]. This may be appropriate if the Committee were to approve any positions on a project basis and wished to further evaluate the effect of additional funding and positions in future biennia.

18. In addition to the 11.0 positions described in the table above, AB 68/SB 111 would provide UW's State Laboratory of Hygiene 1.0 emerging contaminant faculty position, with $105,300 GPR in 2021-22, and $140,300 in 2022-23. The position would serve as an academic focal point for various state activities. Additionally, the position would assist statewide efforts for training, education, and other outreach to support reducing PFAS exposure and other emerging contaminant exposures, as well as associated adverse environmental and public health impacts. Given the identified need in the PFAS Action Plan for further research on PFAS, the Committee could approve the faculty position [Alternative 8]. The Committee could also take no action [Alternative 10].

ALTERNATIVES

The Committee may select any of the following to implement portions of the Wisconsin PFAS Action Plan:

1. *Drinking and Groundwater.* Provide funding of $197,100 SEG in 2021-22 and $253,100 SEG in 2022-23 with 3.0 water supply specialist positions.

ALT 1	Change to Base	
	Funding	Positions
SEG	$450,200	3.00

2. *Water Quality.* Provide funding of $121,100 SEG in 2021-22 and $158,400 SEG in 2022-23 with 2.0 wastewater specialist positions.

ALT 2	Change to Base	
	Funding	Positions
SEG	$279,500	2.00

3. *Air Management.* Provide funding of $171,000 SEG in 2021-22 and $208,400 SEG in 2022-23 with 1.0 air management engineer and 1.0 air management specialist four-year project position.

ALT 3	Change to Base	
	Funding	Positions
SEG	$379,400	2.00

4. *Remediation and Redevelopment.* Provide funding of $121,100 SEG in 2021-22 and $158,400 SEG in 2022-23 with 1.0 hydrogeologist position and 1.0 hydrogeologist program coordinator position.

ALT 4	Change to Base	
	Funding	Positions
SEG	$279,500	2.00

5. *Waste and Materials Management.* Provide funding of $60,500 SEG in 2021-22 and $79,200 SEG in 2022-23 with 1.0 hydrogeologist position.

ALT 5	Change to Base	
	Funding	Positions
SEG	$139,700	1.00

6. *Wildlife Management*. Provide funding of $60,500 SEG in 2021-22 and $79,200 SEG in 2022-23 with 1.0 wildlife management toxicologist position.

ALT 6	Change to Base	
	Funding	Positions
SEG	$139,700	1.00

7. *PFAS Remediation and Testing Activities.* Provide any of the following:

a. $600,000 environmental management SEG each year in the DNR continuing appropriation for state responses to hazardous substance spills and discharges.

ALT 7a	Change to Base
SEG	$1,200,000

b. $55,000 environmental management SEG annually for waterway testing and sampling; or

ALT 7b	Change to Base
SEG	$110,000

c. $25,000 environmental management SEG each year for PFAS testing at wastewater treatment facilities.

ALT 7c	Change to Base
SEG	$50,000

d. In addition to any of Alternatives 7a, 7b, or 7c, specify that funding would be one-time.

8. *UW-Madison*. Provide funding of $105,300 GPR in 2021-22 and $140,300 GPR in 2022-23 with 1.0 PFAS emerging contaminant faculty position.

ALT 8	Change to Base	
	Funding	Positions
GPR	$245,600	1.00

9. In addition to any of the Alternatives 1 through 6, specify that the funding would be one-time, and the position(s) would be one of the following:

a. Four-year project positions that expire June 30, 2025; or

b. Two-year project positions that expire June 30, 2023.

10. Take no action.

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June, 2021 Joint Committee on Finance Paper #462

PFAS Municipal Grant Program
(Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 435, #2]

CURRENT LAW

Chapter 292 of the statutes (remedial action for environmental contamination) generally requires persons who control or possess a hazardous substance that is discharged to the environment to "take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state." Site remediation includes an investigation to determine the extent of contamination, and plans for interim and long-term actions to restore the site and soils, groundwater, or surface water.

Additionally, state and federal law provides for the prevention and elimination of toxic substances in public and private water supplies intended for human consumption. Water supplies exceeding certain levels of contamination are required to be removed from service. Depending on the nature of the water source and the contamination, a responsible party could be liable for providing for the replacement of the affected water supply.

DISCUSSION POINTS

1. In recent years, per- and polyfluoroalkyl substances (PFAS) have been found throughout Wisconsin in soils, surface water, and groundwater. PFAS are a class of synthetic chemicals commonly found in nonstick surfaces, cookware, paint, and firefighting foam. The National Institutes of Health report there are at least 4,700 unique types of PFAS. They are temperature, water, and oil resistant. Research and studies indicate that PFAS are toxic to humans, as they do not easily degrade and tend to accumulate in humans and the environment. In parts of the state, PFAS have dispersed through the environment from such sources as: (a) discharges of firefighting foams in municipal and military firefighting uses; and (b) industrial waste discharged to municipal sewerage systems, and

then applied to land as septage (bio-solids).

2. In 2019, the Governor issued Executive Order No. 40 to address the public health risks of environmental contamination by PFAS in the state and instructed the Department of Natural Resources (DNR) to establish and lead a council to consider state and local responses to the proliferation of PFAS uses and the presence of PFAS in the environment. In December, 2020, the Wisconsin PFAS Action Council (WisPAC) published the PFAS Action Plan, including numerous recommendations to address PFAS contamination in the state. The PFAS Action Plan recommended creation of a municipal grant program to: (a) investigate potential PFAS contamination sources; (b) sample private water supplies; (c) provide temporary emergency water, water treatment, or bulk water supply; and (d) remediate PFAS contamination.

3. Assembly Bill 68/Senate Bill 111 would create a municipal grant program with ongoing funding of $10,000,000 GPR for multiple activities to respond to suspected or known PFAS contamination. Eligible municipalities would include any city, village, town, county, utility district, lake protection district, sewerage district, or municipal airport, provided one of the following had occurred: (a) the municipality or a third party tested or trained with a Class B firefighting foam that contained intentionally added PFAS in accordance with applicable state and federal law, and within the boundaries of the municipality; (b) the municipality applied bio-solids to land under a DNR-issued wastewater permit; or (c) PFAS are impacting the municipality's drinking water supply, surface water, or groundwater within the municipality, and the responsible party is unknown, unwilling, or unable to take the necessary response actions.

4. DNR would award grants for any of the following activities:

(a) Investigating potential PFAS impacts to the air, land, or water at a site or facility;

(b) Treating or disposing of PFAS-containing firefighting foam containers from a municipal site or facility;

(c) Sampling a private water supply within three miles of a site or facility known to contain PFAS or to have caused a PFAS discharge;

(d) Providing a temporary emergency water supply, a water treatment system, or bulk water to replace water contaminated with PFAS;

(e) Conducting emergency, interim, or remedial actions to mitigate, treat, dispose of, or remove PFAS contamination in the air, land, or waters of the state; and

(f) Removing or treating PFAS in a public water system using the most cost-effective method to provide safe drinking water in areas where PFAS levels exceed either the maximum contaminant level or an enforcement standard for PFAS, or where the state has issued a health advisory for PFAS.

5. Applicants would be required to contribute matching funds equal to at least 20% of the amount of the grant, including either cash or in-kind contributions. Applicant municipalities would

be required to demonstrate the following: (a) financial and administrative commitment to performing and completing eligible activities; (b) the degree to which the project would have a positive impact on public health and the environment; and (c) other criteria on which DNR prioritizes available grant funds. DNR would be authorized to request that any applicant provide information necessary to determine the eligibility of the project, identify the funding requested, determine the priority of the project, and calculate the amount of a grant.

6. DNR would be authorized to issue emergency rules for the PFAS municipal grant program, without the finding of emergency or providing evidence that an emergency rule is necessary to preserve public health, peace, safety or welfare. DNR would not be required to prepare a scope statement and submit proposed emergency rules to the Governor.

7. The PFAS Action Plan recommended that DNR contract with a state-certified laboratory to offer discounted PFAS lab analysis rates for municipalities. DNR expects to partner with local governments, fire departments, municipal airports, and other municipal associations to carry out the grant program.

8. DNR contends that there are currently few resources available to support municipalities in efforts to treat and mitigate PFAS contamination. In general, because state law requires responsible parties to pay for costs of site remediation following a spill or discharge of a hazardous substance, there are limited sources of public funding for such purposes. Municipal water utilities and wastewater treatment facilities would be able to use the clean water fund program and safe drinking water loan program for financial assistance to address PFAS-contaminated drinking water or wastewater effluent. However, state standards for PFAS in these media are currently under administrative rule promulgation. Until standards are established, PFAS-related upgrades are not eligible uses under the clean water fund program. Such projects could receive financial assistance under the safe drinking water loan program to address a future exceedance of a pollutant, but such projects would be categorized as lower priority due to PFAS standards not yet being established.

9. Under administrative code Chapter NR 738, DNR may provide temporary emergency water supplies to persons with water supplies that have been adversely affected by contamination from a site or facility subject to cleanup requirements under the hazardous substance spills statute or environmental repair statute. Temporary emergency supplies include potable water obtained in bottles, by tank truck or by other similar means, or a temporary connection to an existing water supply, supplied at a capacity sufficient to satisfy water use functions impaired by the contaminated supply.

10. The environmental fund pays for temporary emergency water supplies if the following criteria are met: (a) the source of potable water is from a contaminated well or contaminated water supply; (b) the contamination is known or is suspected by DNR to be from environmental pollution or a hazardous substance discharge subject to the spills or environmental repair statutes; (c) water sampling is conducted in accordance with specific requirements; and (d) DNR or the Department of Health Services has issued a drinking water advisory notice for the water supply. DNR paid a cumulative total of approximately $268,900 as of June 30, 2020, for temporary emergency water supplies, including $400 in 2019-20. The environmental management account also pays for permanent replacement water supplies instead of temporary emergency water supplies under certain circumstances.

11. DNR has approximately $3.3 million of an authorized $50 million in general obligation bonding to fund the state's cost-share for cleanup of federal Superfund and leaking underground storage tank sites, and state-funded cleanups under the environmental repair statutes. Bonding authority can be used for public-purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and cleanup of a specific site when the responsible party is unknown, unable, or unwilling to fund the cleanup.

12. DNR also has base funding of $2,292,700 each year in a continuing appropriation from the environmental management account of the segregated (SEG) environmental fund. (A separate provision of AB 68/SB 111 would provide the appropriation additional funding of $600,000 each year to address PFAS contamination.) The appropriation is used for DNR expenditures related to DNR-led cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site; (b) the state share at certain federally-funded site cleanups; (c) emergency spill response and cleanups; (d) response and cleanup of abandoned containers of hazardous substances where the responsible party cannot be identified; (e) provision of temporary emergency water supplies; and (f) replacement of contaminated private wells under certain circumstances.

13. The PFAS Action Plan notes that multiple PFAS municipal grant and loan programs have been implemented in other states. In April, 2020, Michigan officials announced a $4 million program for municipal airports to monitor and test for contamination from Class B firefighting foams. New York in 2018 provided $200 million for water systems to upgrade treatment capabilities to remove emerging contaminants, including PFAS, from public water supplies. In May, 2020, Massachusetts also initiated a $2 million grant program for water treatment upgrades to address PFAS.

14. The DNR remediation and redevelopment program's online database currently lists 78 sites associated with PFAS contamination in more than 30 municipalities, including such sites as manufacturers of PFAS-containing products, airports, military installations, landfills, and sites with no known responsible party or sources. DNR has identified eight military sites that are confirmed or likely to have PFAS contamination. DNR cannot currently estimate how many of eight commercial airports in the state, 90 general aviation airports, 50 open landfills, hundreds of closed landfills, or other sites may have PFAS contamination.

15. DNR does not have a specific estimate for how $10 million annually would be allocated in the municipal grant program. The Department contends that each community's unique characteristics of hydrogeology, geography, known PFAS sources, and current resources, would determine what amounts of funding would be requested and for which activities.

16. According to DNR, the typical costs of the eligible activities under the program in AB 68/SB 111 vary widely. General PFAS site investigations can vary in cost, depending on bids by consultants. Emergency or interim remedial action activities may typically include PFAS foam removal from residential dwellings and waterways, or providing emergency water supplies. DNR indicates foam sampling and removal contracting may cost $2,500 for individual instances. DNR estimates that private water supply sampling may cost $1,500 per well. Temporary emergency water consists of bottled water, and DNR estimates a cost of between $400 and $1,000 to provide the water to residents for one year, depending on household size. Other advanced water treatment systems may

cost $5,000 to $15,000 to install and $1,000 to $3,000 annually for operation and maintenance. Other grant-eligible activities are potentially significantly more expensive. DNR estimates that private well replacements may cost up to $25,000 and $50,000 each. Utility-scale drinking water treatment systems vary by the size of the utility, but would cost between $100,000 and $300,000 annually, in addition to installation costs, according to DNR.

17. DNR contends that PFAS contamination is likely widespread in the state, to varying degrees. Exact levels and prevalence of contamination are not fully understood due to a lack of comprehensive collection, testing, and mitigation efforts and the funding to support these efforts. DNR intends for the municipal grant program, along with the accompanying PFAS position and funding provisions in AB 68/SB 111, to establish statewide PFAS investigation and mitigation efforts. However, the PFAS Action Plan noted that municipalities may have limited funding to investigate and clean up PFAS, particularly contamination resulting from use of firefighting foams by local fire departments. Additionally, for sites that have no responsible party identifiable, or one who is willing or able to conduct clean-up activities, the PFAS Action Plan argues that local governments may be better able to address their specific issues if provided support from the state.

18. Given the health and environmental hazards of PFAS, and the widespread occurrence of known or suspected contamination needing investigation and remediation, the Committee could provide $10 million GPR in ongoing funding for a PFAS municipal grant program [Alternative 1]. The Committee could also consider other funding sources. As noted in a separate paper, the environmental management account of the environmental fund is estimated to have an available July 1, 2021, balance of $23.9 million, with available balances increasing over the biennium. Environmental management SEG could be provided for the PFAS municipal grant program, although the account would not be expected to be able to support the level of ongoing funding proposed in AB 68/SB 111. The Committee could consider amounts of $5 million [Alternative 2] or $2.5 million annually on an ongoing basis to use SEG funding instead of GPR [Alternative 3].

19. Given the uncertainty surrounding the number of likely applicants and costs for which grantees would seek funding, the Committee could also consider approving one-time funding in 2021-22 to assess the demand and operation of the PFAS municipal grant program in the 2021-23 biennium before committing to ongoing funding. The Committee could consider one-time amounts of $10 million [Alternatives 4a and 4b] or $5 million [Alternatives 5a and 5b]. The Committee could also take no action [Alternative 6].

ALTERNATIVES

1. Create a grant program for municipalities to investigate and respond to PFAS contamination statewide, funded by a continuing appropriation with ongoing funding of $10,000,000 GPR each year. Specify eligible activities and grant applicants as under AB 68/SB 111, and require a 20% match from grant recipients, including cash or in-kind amounts. Authorize DNR to promulgate emergency rules, without the finding of an emergency, and waive requirements for a statement of scope and that emergency rules be submitted to the Governor in final draft form.

ALT 1	Change to Base
GPR	$20,000,000

2. Adopt the PFAS municipal grant provisions under Alternative 1, but provide ongoing funding of $5,000,000 each year in a continuing appropriation. Specify funding from one of the following sources:

a. GPR; or

ALT 2a	Change to Base
GPR	$10,000,000

b. Environmental management SEG.

ALT 2b	Change to Base
SEG	$10,000,000

3. Adopt the PFAS municipal grant provisions under Alternative 1, but provide ongoing funding of $2,500,000 each year in a continuing appropriation. Specify funding from one of the following sources:

a. GPR; or

ALT 3a	Change to Base
GPR	$5,000,000

b. Environmental management SEG.

ALT 3b	Change to Base
SEG	$5,000,000

4. Adopt the PFAS municipal grant provisions under Alternative 1, but provide one-time funding of $10,000,000 in 2021-22. Specify one of the following funding sources:

a. GPR; or

ALT 4a	Change to Base
GPR	$10,000,000

b. Environmental management SEG.

ALT 4b	Change to Base
SEG	$10,000,000

5. Adopt the PFAS municipal grant provisions under Alternative 1, but provide one-time funding of $5,000,000 in 2021-22. Specify one of the following fund sources:

a. GPR; or

ALT 5a	Change to Base
GPR	$5,000,000

b. Environmental management SEG.

ALT 5b	Change to Base
SEG	$5,000,000

6. Take no action.

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June, 2021 Joint Committee on Finance Paper #463

PFAS-Containing Firefighting Foam Disposal (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 436, #3]

CURRENT LAW

2019 Wisconsin Act 101 created a prohibition on the use of firefighting foam that contains per- or polyfluoroalkyl substances (PFAS), which are substances thought to have negative human health and environmental effects. Exempt activities under Act 101 include emergency firefighting operations, or test procedures in facilities with proper treatment, containment, and disposal measures. DNR is currently promulgating emergency and permanent rules that establish these measures. DNR has also provided outreach and training on proper storage, containment, and disposal of PFAS-containing foams for fire departments and entities that test foams. Further, DNR is developing best management practices to guide management and use of PFAS-containing foam.

DISCUSSION POINTS

1. PFAS-containing firefighting foams, also called aqueous film-forming foams (AFFFs), are used to suppress and extinguish high-hazard flammable liquid fires, which are typically referred to as Class B fires. AFFFs are effective at containing fires associated with flammable liquids such as petroleum products or aviation fuel. Many Wisconsin fire departments, and all commercial service airports, currently have and sometimes use PFAS-containing foams for emergencies. There are approximately 830 fire departments and at least eight aircraft rescue and firefighting (ARFF) units at commercial service airports.

2. Assembly Bill 68/Senate Bill 111 would provide $1,000,000 in 2021-22 in a new continuing appropriation from the environmental management account of the segregated (SEG) environmental fund for collecting and disposing of PFAS-containing firefighting foam. The bill would not create additional statutory provisions for the program, but would provide DNR with

authority to promulgate an emergency rule without the finding of an emergency, and DNR would not be required to prepare a scope statement or submit a final emergency rule draft to the Governor. DNR indicates that it would administer collection under contract with a third-party disposal provider using funding under the bill. Typical means of disposal of AFFFs include solidifying foams and storing at a hazardous waste landfill, or incinerating the compounds.

3. Prior to the introduction of AB 68/SB 111, the Wisconsin PFAS Action Plan recommended a collection and disposal program for PFAS-containing firefighting foam. Under the PFAS Action Plan, the program would: (a) be limited to foam in the possession of fire departments that are funded by local governments or that are volunteer in nature; (b) prioritize foams manufactured prior to 2003; and (c) utilize the results of the fire department survey (discussed later) to determine trajectories and costs. The PFAS Action Plan also recommended a partnership with the Department of Agriculture, Trade, and Consumer Protection (DATCP), which administers the state clean sweep program, to complete the collection and disposal. AB 68/SB 111 does not include these provisions.

4. The following states have planned or implemented programs for the collection and disposal of PFAS-containing firefighting foams: Colorado, Connecticut, Massachusetts, Michigan, New Jersey, New York, Rhode Island, Vermont and Washington. Some states' collection programs are part of larger PFAS-related funding, and information on amounts budgeted or expended directly for foam collection and disposal programs is not available in all cases. New York budgeted $700,000 for its program. Under the Michigan program, approximately 51,400 gallons were collected for disposal, at a cost of $1.4 million, or an average cost of $28 per gallon.

5. DNR states that there is no federal funding available for addressing PFAS-containing foams, nor is PFAS-containing foam regulated under federal hazardous waste laws. However, federal use restrictions related to AFFFs have been established. The FAA Reauthorization Act of 2018 directs the FAA to stop requiring the use of PFAS-containing foams by October 4, 2021. The National Defense Authorization Act of 2020 also requires the Department of Defense to phase out AFFF by October 2024, with an immediate prohibition of using it for military training exercises. The National Defense Authorization Act has occasionally provided resources to the Department of Defense (DOD) for PFAS-related clean up on or near military installations. There are eight DOD sites in Wisconsin.

6. 2019 Wisconsin Act 9, the 2019-21 biennial budget act, provided DNR $50,000 environmental management SEG in 2019-20 to survey state and local government emergency responders to determine the level of use of PFAS-containing firefighting foam in Wisconsin. The UW-Madison Survey Center, on behalf of DNR, mailed a survey to 825 fire departments across Wisconsin in January, 2020. Responses and data were gathered and analyzed in the subsequent months, and DNR published findings in September, 2020. DNR reports that a total of 596 fire departments responded (76%), and of these departments, 455 (77% of respondents) had purchased, stored, trained with, or used PFAS-containing firefighting foam in the past. Of those 455 departments, 382 (84%) reported having amounts in stock.

7. Of the fire departments that possessed or used PFAS-containing firefighting foam, 38% reported having guidelines or best practice policies to govern use of foams. A majority of fire departments (63%) reported using PFAS-containing firefighting foam only for emergency response to fires involving flammable liquids or gases. The most common methods that fire departments

reported using to dispose of expired or unwanted PFAS-containing firefighting foam were placing foam concentrates in storage (193 fire departments) or using foams in training (158 departments). Smaller numbers of departments reported returning foams to the manufacturer (21 departments), and sending foams to a landfill (nine departments). With regard to limiting or improving the use of PFAS-containing foams, approximately two-thirds of respondents rated the following information as "very" or "extremely" important: (a) varied disposal options; (b) alternative products; (c) liability standards; (d) best management practices; and (e) environmental and health impact information related to PFAS-containing foams.

8. Based on additional follow-up questioning of respondents, and the distribution of the volume of foams reported as being held by those fire departments, DNR estimates that the total amount of PFAS-containing firefighting foam held by all 825 fire departments in the state is between 63,200 gallons and 96,300 gallons. Of those amounts, DNR estimates that approximately 23,700 to 44,700 gallons are expired and in need of disposal, and these foams are located at just over half of fire departments in the state.

9. The Wisconsin Fire Chiefs Association estimates a cost of disposal of $50 per gallon for PFAS-containing firefighting foam. Based on DNR estimates of 23,700 to 44,700 gallons of expired foam in need of disposal, the total cost to dispose of all foam at $50 per gallon could be from $1,185,000 to $2,235,000. Based on a disposal cost of $28 per gallon, similar to the Michigan program, the total cost could be $663,600 to $1,251,600.

10. 2021 AB 140/SB 156 would also create a program for the collection and disposal of PFAS-containing firefighting foams. AB 140/SB 156 would create a continuing appropriation within DATCP's Division of Agricultural Resource Management and provide $1,000,000 environmental management SEG in 2021-22 from the environmental management account of the environmental fund to create a clean sweep program for PFAS-containing firefighting foams. Under the bills, DATCP would be responsible for administering a program to collect, store, or dispose of voluntarily surrendered PFAS-containing firefighting foam. The bills would allow DATCP to contract with a third party, and DATCP indicates that the agency would administer the collection through a contractor.

11. In addition to $1 million in funding under the program, the PFAS municipal grant program under AB 68/SB 111 (discussed in a separate paper) would include PFAS-containing foam disposal as an eligible grant activity. Under AB 68/SB 111, municipalities receiving funding under the PFAS grant program would have a 20% cost share to cover disposal of the foam. As proposed, neither AB 68/SB 111 nor AB 140/SB 156 would require a financial match from local governments for the PFAS collection and disposal program.

12. DNR argues that statewide AFFF collections could be most efficient and effective if all foam is collected in one effort, rather than in a decentralized manner among multiple communities. Given the negative health and environmental effects of PFAS, and the identified disposal needs, the Committee could approve funding of $1,000,000 in 2021-22 as proposed under AB 68/SB 111 [Alternative 1]. The Committee could also incorporate provisions of 2021 AB 140/SB 156 and approve $1,000,000 environmental management SEG for a collection program under DATCP [Alternative 2]. The Committee also could take no action [Alternative 3].

ALTERNATIVES

1. Provide the Department of Natural Resources $1,000,000 in 2021-22 in a new continuing appropriation from environmental management SEG for collecting and disposing of PFAS-containing firefighting foam.

ALT 1	Change to Base
SEG (DNR)	$1,000,000

2. Provide the Department of Agriculture, Trade and Consumer Protection $1,000,000 in 2021-22 for a program to collect and store or dispose of unused PFAS-containing firefighting foam that was voluntarily surrendered by the person in possession of the foam. Provide DATCP may contract with a third party for the collection and storage or disposal, and that priority be given to collecting from the state or from cities, villages, towns, and counties. Require foam collected to be stored in an environmentally safe manner until properly disposed of or treated in accordance with DNR rules. Specify the provision does not confer additional rule-making authority on DATCP or DNR.

ALT 2	Change to Base
SEG (DATCP)	$1,000,000

3. Take no action.

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June, 2021 Joint Committee on Finance Paper #464

PFAS Public Water Supply Sampling (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 436, #4]

CURRENT LAW

Under various federal and state laws, public water systems are required to test for various chemical and biological contaminants that could be health risks if consumed. The Department of Natural Resources (DNR) administers testing programs for public and private potable water supplies for bacteria, nitrates, and arsenic under Chapter 280 of the statutes, as well as under Chapter NR 809. Additional testing parameters can include manganese, strontium, fluoride, pesticides, lead, copper, and volatile organic compounds (VOCs). No statutory measures have been established specifically for PFAS testing in these water supplies.

DISCUSSION POINTS

1. The Wisconsin PFAS Action Plan notes that the U.S. Environmental Protection Agency (EPA) between 2013 and 2015 monitored large municipal public water systems serving populations of 10,001 or more, as well as a representative number of small public water systems, for six PFAS substances. Systems in La Crosse, Rhinelander, and West Bend detected PFAS in drinking water. Since 2013, the PFAS Action Plan notes that approximately 30 sites with PFAS groundwater and soil contamination have been reported to DNR at other locations around the state.

2. Assembly Bill 68/Senate Bill 111 would provide $750,000 SEG in 2021-22 in a new continuing appropriation of the environmental management account of the environmental fund for sampling and testing public water supplies for PFAS. DNR indicates that $750,000 would support a contract with the State Laboratory of Hygiene for sampling and testing of 1,373 municipal public and private potable water supply wells in Wisconsin, and additional limited-term employee (LTE) staffing for analytical support. The one-time funding would be available under a continuing appropriation

until fully expended. DNR reports that state funding would complement $254,000 that the state has received from the federal Public Water System Supervision Grant Program under the Safe Drinking Water Act to assist with PFAS sampling; the Department indicates that this funding is insufficient to sample all wells. DNR reports that the federal grant would cover the costs of testing 330 of a total 1,703 wells.

3. While evaluation and promulgation of standards for PFAS are ongoing, the Department of Health Services (DHS) has recommended groundwater enforcement standards for certain PFAS as low as 20 parts per trillion. DNR is currently promulgating administrative rules to establish drinking water maximum contaminant levels for certain PFAS. DNR indicates that sampling for PFAS in public water supplies is not currently required by federal or state law but will become required upon state drinking water standards taking effect. Water system sampling has generally been voluntary, or when public water supplies have been suspected of PFAS contamination.

4. DNR reports that the $750,000 SEG would be allocated as follows: (a) $549,200 for sampling and testing of 1,373 water systems at $400 per system; (b) $60,000 for 1.0 LTE position; and (c) $140,800 for confirmation and follow-up samples where there are exceedances of standards. DNR indicates that state funding would likely assess the occurrence of PFAS in: (a) smaller municipal public water systems serving fewer than 3,300 people; (b) community water systems, such as those for subdivisions not connected to municipal systems, or those for manufactured home communities; (c) certain systems known as non-transient, non-community water systems, which regularly serve at least 25 of the same persons over six months per year, and which include some schools, day care centers, and factories. DNR reports these systems tend to have completed less sampling than larger water systems.

5. It should be noted that in March, 2021, EPA announced requirements for PFAS sampling to begin in 2023 for certain community water systems serving 3,300 persons or more. The sampling would ensue in the three years following enactment of the rule, meaning that new sampling results from municipal water supplies would not be available until 2025 or later. The proposed state funding in the provision would provide sampling and testing for the water systems described in the previous discussion point, which are not federally required to test supplies. State funding would also likely expedite sampling relative to the schedule expected for larger systems.

6. DNR argues that without having significant understanding about the PFAS that could be present in public water systems statewide, the agency cannot establish practices, recommendations, or requirements to address the public health concerns or adequately allocate agency resources. The PFAS Action Plan notes that Wisconsin is among few Great Lakes region states not to have completed or started the process of sampling public water systems. According to DNR, Michigan, Ohio, Indiana, and Illinois have completed or are in the process of completing such sampling.

7. PFAS water supply testing funded by the provision could yield information useful to DNR and managers of smaller water systems. The Committee could approve one-time funding for water supply system testing in 2021-22 [Alternative 1]. The Committee could also consider providing $690,000 to accommodate the proposed testing without LTE funding [Alternative 2], or $549,200 to accommodate the initial testing at the planned sites [Alternative 3]. The Committee could also take no action [Alternative 4].

ALTERNATIVES

1. Provide $750,000 environmental management SEG in 2021-22 in a new continuing appropriation for sampling and testing public water supplies for PFAS, as well as LTE staffing and costs of follow-up sampling.

ALT 1	Change to Base
SEG	$750,000

2. Provide $690,000 in 2021-22 in a new continuing appropriation for initial and follow-up sampling and testing of public water supplies for PFAS.

ALT 2	Change to Base
SEG	$690,000

3. Provide $549,200 in 2021-22 in a new continuing appropriation for sampling and testing public water supplies for PFAS.

ALT 3	Change to Base
SEG	$549,200

4. Take no action.

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June, 2021 Joint Committee on Finance Paper #465

Bonding for Great Lakes Contaminated Sediment Removal and Milwaukee Dredged Material Management Facility (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 439, #9 and Page 440, #10]

CURRENT LAW

Bonding for Great Lakes Contaminated Sediment Removal

Since 2007, the Department of Natural Resources (DNR) has been authorized $36 million in contaminated sediment bonding authority to pay a portion of the costs of removal of contaminated sediment from Lake Michigan, Lake Superior, or their tributaries, if the project is in a water body that DNR has identified, under the federal Clean Water Act, as being impaired by contaminated sediment. Of these amounts, DNR has expended or committed $34.7 million as of March, 2021, on projects in which the state was responsible for cleanup, or a viable responsible party could not be identified. Debt service costs to repay the bonds are paid from a sum-sufficient appropriation from the segregated (SEG) environmental management account of the environmental fund, and totaled $1,536,200 in 2019-20.

Milwaukee Metropolitan Sewerage District

The Milwaukee Metropolitan Sewerage District is created under Subchapter II of Chapter 200 of the statutes. The District provides sewerage and storm water management services for 28 jurisdictions in Milwaukee, Ozaukee, Waukesha, and Racine Counties. The District is overseen by a board of 11 commissioners. The statutes give the District the general authority to plan, design, construct, operate and maintain sewerage transmission infrastructure and sewage treatment facilities, storm sewers, and other facilities and structures for the collection and transmission of storm water and groundwater. Additionally, s. 200.35 of the statutes authorizes several specific activities, including waterway diversions or stream improvements to manage storm water.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would increase DNR's bonding authority by $25,000,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries. Funding under the provision would support a portion of approximately $37.25 million in additional state funding obligations identified for remediation in the Milwaukee Estuary and St. Louis River (Douglas County) Areas of Concern (AOC). DNR reports that most of the $1.3 million remaining in existing bonding authority would also be designated for these areas.

2. Additionally, Assembly Bill 68/Senate Bill 111 would allow a commission for a metropolitan sewerage district serving a first-class city (the Milwaukee Metropolitan Sewerage District) to finance and construct a dredged material management facility (DMMF). The bill would specify that the authority to construct a dredged material management facility expires January 1, 2032. The bill would provide that MMSD, notwithstanding requirements to the contrary, shall cover costs of the facility through its capital budget and is to finance the cost over a period of 35 years. Finally, the bill would allow the MMSD Commission to reserve space in the dredged material management facility for disposal of sediment from flood management projects.

Bonding for Great Lakes Contaminated Sediment Removal

3. Under 2007 Wisconsin Act 20 (the 2007-09 biennial budget act), DNR was authorized $17 million in general obligation bonding authority for removal of contaminated sediment from Lake Michigan or Lake Superior or their tributaries if federal funds were provided for the project under the federal Great Lakes Legacy Act. In each of the three subsequent biennial budgets (2009-11 through 2013-15), an additional $5 million in bonding authority was provided, and in 2019-21 an additional $4 million was provided to reach the current total authorization of $36 million. Under 2009 Wisconsin Act 28, eligibility for use of the bonding authority was expanded so that projects do not have to receive federal funding under the Great Lakes Legacy Act for a portion of costs, but projects must be in Lake Superior or Lake Michigan or their tributaries, and DNR must have identified the waterway as being impaired by contaminated sediment.

4. DNR has focused use of the contaminated sediment bonding authority on five Great Lakes AOCs under EPA designation. These include the Milwaukee Estuary, Sheboygan River, Lower Green Bay and Fox River, Lower Menominee River (in Marinette, shared with Michigan), and St. Louis River (in Superior, shared with Minnesota). A general goal of listing AOCs is to implement practices to remediate the identified contamination and abate current pollution sources. Such management practices are intended to restore beneficial uses of the waterways by the public, as well as for fish and wildlife populations.

5. Table 1 shows the contaminated sediment cleanup projects as of April 1, 2021, that were funded, are currently being funded, or are committed from the current bonding authority, totaling $34.7 million.

TABLE 1

Contaminated Sediment Projects Funded from Existing Bonding Authority

Project	Bonding Expenditures Encumbrances/Commitments
Milwaukee – Kinnickinnic River	$7,617,953
Milwaukee – Lincoln Park / Milwaukee River Phase I	9,719,434
Milwaukee – Lincoln Park / Milwaukee River Phase II	3,387,420
Sheboygan Harbor	3,319,998
Marinette – Menominee River (Ansul/Tyco)	1,000,000
Marinette – Menekaunee Harbor	500,000
Portage Canal – Phase 1	533,814
Howard's Bay*	1,300,000
Munger Landing*	1,300,000
Milwaukee AOC Remedial Action/DMMF*	5,000,000
Superior Slips Feasibility*	525,000
Milwaukee Feasibility and Design Project Agreement	500,000
Total	$34,703,619
Remaining Uncommitted Currently Authorized Authority	$1,296,381

* All or part of the funding shown is committed but not yet encumbered.

6. Table 2 shows the potential contaminated sediment projects that meet eligibility requirements under current law. The timeline for each project varies, depending on the specific situation of each project, status of investigations of contamination, and status of negotiation or agreements with responsible parties and local and federal funding partners. While there is uncertainty about the timing of work at several of these sites, DNR anticipates committing all of the $25 million under the provision for the anticipated state costs for Lake Superior-area design and construction, and for Milwaukee AOC projects. DNR estimates that $34.7 million in state bonding expenditures for these projects would combine with at least $263.7 million in other expenditures, including $178.5 million in federal and local government funding, and $85.2 million by responsible parties. Approval of the $25 million would be expected to move these projects forward during the biennium [Alternative A1].

TABLE 2

Potential Sites for Cleanup with Additional Contaminated Sediment Bonding Authority

Project	Potential Bonding Expenditures (state cost share)
Milwaukee AOC Projects	$20,000,000
Superior Slips Construction	4,200,000
Superior Slips Design	800,000
Total	$25,000,000

7. Generally, when DNR has bonding authority in place and available for allocation to a project, it is easier to assemble project funding packages that include federal and local governments, private responsible parties, or other entities that can contribute funding to a project. The Department needs bonding authority in place before it can allocate it to a project. DNR commits or allocates funding for a project when the project study reaches a stage of feasibility, and negotiations with other potential funding partners results in development of a complete funding package.

8. Debt service costs for bonds issued under the contaminated sediment bonding authority are budgeted at $2.3 million in 2021-22 and $2.0 million in 2022-23 under Committee action to date. The $25 million in new bonding authority under the provision would not be expected to result in an increase in debt service costs in the 2021-23 biennium, but would be anticipated to increase debt service costs in future biennia as bonds are gradually issued to pay for contaminated sediment cleanup projects. Debt service costs on $25 million in general obligation bonds would be approximately $1.8 million annually when all of the bonds are issued, assuming a 20-year term and an interest rate of 4%. As the amount authorized and spent for contaminated sediment cleanup increases, the amount spent from the environmental management account for debt service would generally increase. This would decrease funding available for other purposes of the account, such as other contaminated land cleanup and recycling programs.

9. Another option would be to provide a smaller increase in bonding authority than the amount under the provision. For example, $12.5 million could be provided instead of $25 million [Alternative A2]. This would provide a total of $13.8 million in authority for use in the 2021-23 biennium ($1.3 million existing and $12.5 million new) that has not been allocated to projects yet. The Committee could also provide $4 million in bonding authority, the same amount as was authorized in 2019 Wisconsin Act 9 [Alternative A3]. This would provide DNR with authority to commit to some of the projects shown in Table 2.

10. The environmental management account is anticipated to have a June 30, 2021, balance of $23.9 million. Available balances are anticipated to increase under current law and Committee action to date to approximately $37.8 million by June 30, 2023. Although additional Committee action could reduce the anticipated June 30, 2023, balance, there is a sufficient balance that the Committee could consider providing funding in 2021-22 in a SEG continuing appropriation for contaminated

sediment removal. Such an appropriation from the account could be made instead of, or in addition to, any authorized bonding. The Committee could consider amounts of $5 million [Alternative A4a], $7.5 million [Alternative A4b], or $10 million [Alternative A4c].

11. Other contaminated sediment removal projects have been accomplished in the state with separate general obligation authority for remedial action and contaminated sediment cleanup, with debt service paid from a separate environmental management account SEG appropriation. This environmental repair bonding has included projects in Superior, Marinette, Milwaukee, and the Fox River. There is approximately $3.3 million in authorized, unallocated bonding from this source. DNR reports that no projects are currently prioritized for this $3.3 million. This bonding is used primarily for the state's share of cleanup of federal Superfund sites, and state-funded cleanups under the environmental repair and hazardous substances spills statutes. Since the separate contaminated sediment bonding authority was created in 2007, DNR has tried to separately manage the remedial action bonding authority for contaminated land cleanup projects, and the contaminated sediment bonding authority for projects in the Great Lakes and their tributaries. However, if the Committee chooses to not provide an increase in contaminated sediment bonding authority, DNR could choose to use the remedial action bonding authority for contaminated sediment projects if it allocates all of the existing contaminated sediment bonding authority and needs additional authority during the 2019-21 biennium.

12. If no action is taken to provide additional bonding authority, DNR would need to prioritize commitment of the currently authorized, unobligated authority for projects, or it could allocate remedial action bonding authority [Alternative A5]. Although uncertain, local governments and responsible parties might be able to provide part of the funding for priority projects.

Milwaukee Dredged Material Management Facility

13. The Milwaukee Estuary, encompassing parts of the Milwaukee, Menomonee, and Kinnickinnic Rivers, is one of five AOCs in Wisconsin. Part of the basis for the Milwaukee Estuary AOC designation is the accumulation of toxic substances in riverbeds from past heavy industrial activities, which has resulted in the deposition of such toxic substances as polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons, and heavy metals in area riverbeds. The AOC designation also is attributable to other identified impairments owing to ongoing activities in the heavily urbanized area. To ultimately resolve the Milwaukee Estuary's impairments and remove the AOC designation, planning has identified multiple remedial actions, including: (a) dredging of contaminated sediments in tributaries and nearshore waters of Lake Michigan; (b) nonpoint source pollution control; (c) wetland and waterway improvements for water quality and recreational purposes; and (d) enhancing fish and wildlife habitat and populations.

14. Dredging of contaminated sediment would include approximately 10.9 miles of the Milwaukee, Kinnickinnic, and Menomonee Rivers, with an estimated 1.4 million cubic yards of contaminated sediment to be removed. Funding of approximately $260 million is expected mostly from the federal Great Lakes Legacy Act, primarily for dredging activities.

15. Planning has identified a dredged material management facility (DMMF) as the most cost-effective method for proper disposal of contaminated sediment from the rivers' beds, as opposed

to hauling dredge spoils to landfills for disposal. A DMMF would function by receiving contaminated sediment in a secured, walled containment facility that prevents migration of toxic substances outside the structure. The DMMF would allow dredge spoils to settle over time and water to evaporate. Over time, the land formed from the accumulated sediment can be capped and reclaimed for other uses. The DMMF would occupy approximately 42 acres of lakebed southeast of downtown Milwaukee situated north of and adjoining an existing Jones Island sediment combined disposal facility (CDF) and along the eastern side of Interstate 794. The DMMF is designed to store up to 1.9 million cubic yards of sediment. The project is estimated to take two to four years.

16. MMSD indicates that the current estimated cost of the DMMF is $96.2 million. DNR, MMSD and other state, local and private entities would contribute various cash and in-kind amounts to the DMMF project, which is the primary local commitment to match federal funding. The provision under AB 68/SB 111 is primarily intended to grant authority to the MMSD to construct the DMMF using the District's existing processes for capital budgeting. The bill would amend obsolete statutory language for a 1990s shore protection project relating to the MMSD Deep Tunnels to accomplish the authorization. AB 68/SB 111 would specify that the District may finance the project over a period of 35 years.

17. MMSD would finance the DMMF and manage construction. At this time, MMSD would intend to finance the project using district general obligation bonding authority and a loan under the federal Water Infrastructure Finance and Innovation Act (WIFIA). The WIFIA loan program is administered by the EPA for eligible local, state, tribal, and federal water and wastewater infrastructure environmental rehabilitation projects. WIFIA loans can fund up to 49% of project costs. Interest rates on WIFIA loans are set based on the rate for similarly termed U.S. Treasurys on the date of loan closing. It is assumed that the MMSD project could borrow 49% of the $96.2 million project total, or $47.1 million, under a maximum repayment term of 30 years and at an estimated interest rate of perhaps 2% to 2.5%. WIFIA also allows loan repayment to be deferred for five years from the first disbursement of loan proceeds.

18. MMSD's revenues consist of two primary sources. Operating revenues consist mostly of user charges for sewerage conveyance and treatment paid by the municipalities that are part of the District, as well as fertilizer (Milorganite) sales. Additionally, s. 200.55 (6) of the statutes authorizes MMSD to levy a property tax to pay principal, interest, and any premiums on general obligation bonds or notes issued by the District. Audited financial statements for the District show 2019 operating revenues of $99.1 million and property tax revenues of $100 million. MMSD staff indicate that the District's levy has increased an average of approximately 2% over the last 10 years, and the District would not anticipate any appreciable change during the financing of the DMMF.

19. The District contends that current statutory provisions do not give sufficient authorization for the District to finance the DMMF through its capital budget process. The provision would allow MMSD to finance the debt obligations under both its general obligation bond issuance and the WIFIA loan repayment from its tax levy. The District indicates that the WIFIA loan process requires the statutory change before the District can proceed with the loan. AB 68/SB 111 would not affect other provisions regarding District powers or its regulatory or taxing authority.

20. As shown in Tables 1 and 2, DNR has preliminarily committed $5 million to the

Milwaukee Estuary AOC and the construction and permitting of the DMMF. Most of the additional authorization of contaminated sediment bonding under AB 68/SB 111 would also be planned for commitment to the Milwaukee Estuary AOC. State funding that may be allocated to the DMMF would reduce financing costs that MMSD would otherwise incur.

21. DNR and others argue that the removal of contaminated sediment, and ultimately the delisting of the Milwaukee Estuary as an AOC, will create significant benefits in and beyond the Milwaukee area. The Department contends that the state as a whole would benefit from healthier aquatic environments, cleaner water, and beneficial uses such as fishing, swimming, boating, and wildlife habitat. DNR also anticipates state contractors being used for consulting, engineering, and dredging activities in the project's implementation.

22. Considering the environmental remediation planned for the Milwaukee Estuary, coupled with the potential benefits of carrying out the dredging project and DMMF construction, the Committee could consider modifying s. 200.35 of the statutes to allow MMSD to finance and construct a dredged materials management facility [Alternative B1]. The Committee could also take no action [Alternative B2].

ALTERNATIVES

A. Bonding for Great Lakes Contaminated Sediment Removal

1. Provide bonding authority of $25,000,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries.

ALT A1	Change to Base
BR	$25,000,000

2. Provide bonding authority of $12,500,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries.

ALT A2	Change to Base
BR	$12,500,000

3. Provide bonding authority of $4,000,000 for removing contaminated sediments in Lake Michigan, Lake Superior, and their tributaries.

ALT A3	Change to Base
BR	$4,000,000

4. Create a continuing appropriation from the environmental management account of the segregated environmental fund for contaminated sediment removal projects under s. 281.87 of the statutes. Provide one of the following amounts in 2021-22:

a. $5,000,000 SEG;

ALT A4a	Change to Base
SEG	$5,000,000

b. $7,500,000 SEG; or

ALT A4b	Change to Base
SEG	$7,500,000

c. $10,000,000 SEG.

ALT A4c	Change to Base
SEG	$10,000,000

(Any of the Alternatives under A4 could be selected in addition to any of Alternatives A1, A2, or A3.)

5. Take no action.

B. Milwaukee Dredged Material Management Facility

1. Allow a commission for a metropolitan sewerage district serving a first-class city (the Milwaukee Metropolitan Sewerage District) to finance and construct a dredged material management facility. Specify that the authority to construct a dredged material management facility expires January 1, 2032. Provide that MMSD, notwithstanding requirements to the contrary, shall cover costs of the facility through its capital budget and is to finance the cost over a period of 35 years. Allow the MMSD Commission to reserve space in the dredged material management facility for disposal of sediment from flood management projects. (This alternative could be selected independently of, or in addition to, any of Alternatives under A1 through A5.)

2. Take no action.

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June, 2021 Joint Committee on Finance Paper #466

Tipping Fee Exemption for Waste-To-Energy Facilities (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 440, #11]

CURRENT LAW

State solid waste tipping fees are assessed on most solid waste disposed of in state landfills and solid waste disposal facilities. State tipping fees total $12.997 per ton for most municipal and non-high-volume industrial waste, which includes solid waste generated by residential, business, commercial, government facility, construction/demolition, and industrial uses that are not high-volume. This includes: (a) $9.64 per ton deposited in the environmental management account of the segregated environmental fund; (b) $3.20 per ton deposited in the nonpoint account of the environmental fund; (c) $0.15 per ton landfill license surcharge fee established under administrative rule and deposited in a Department of Natural Resources (DNR) program revenue appropriation for administration of solid waste and landfill requirements; and (d) $0.007 per ton deposited in a Department of Administration program revenue appropriation to support the Solid Waste Facility Siting Board. Certain wastes, such as high-volume industrial waste, including fly ash, bottom ash, paper mill sludge and foundry process waste, pay lower fees of $0.497 per ton.

Other wastes are exempt from statutory tipping fees. 2013 Wisconsin Act 301 exempts certain residual non-recyclable waste from qualified materials recovery facilities (MRFs) from all state statutory tipping fees totaling $12.847 per ton, effective with waste disposed of on or after January 1, 2015. DNR assesses this waste the $0.15 per ton landfill license surcharge under administrative code. The exemption is subject to the following caps: (a) for a construction and demolition MRF, 30% of the total weight of material accepted by the facility; and (b) for any other MRF, 10% of the total weight of material accepted by the facility.

A qualified materials recovery facility is defined as either: (a) a facility where the recyclable materials that are banned from landfills, such as aluminum or glass containers, newspaper, and

cardboard, and that are not mixed with other solid waste, are processed for reuse or recycling, provided the operator of the MRF is self-certified under s. NR 544.16 of the administrative code, and the facility is in compliance with its approved plan of operation; or (b) a facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under Chapter 289 of the statutes as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

In calendar years 2015 (the first year of the exemption) through 2020, a total of 885,000 tons were exempt from statutory tipping fees under the provision. This includes 124,000 tons in 2019 and 129,000 tons in 2020.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would create an exemption from the statutory tipping fees for facilities that: (a) are licensed as a municipal solid waste combustor; (b) under their approved plan of operation, must report the weight of material entering facility, the weight of material rejected by facility and where it was sent, and the weight of residue and where it was sent; and (c) are in compliance with their approved plan of operation. Facilities meeting the requirements would have an exemption from tipping fees for residual waste sent to landfills in the state, but not more than 30% of the total weight of material accepted by the facility. The exemption would not apply to ash generated by the facility. Under the bill, waste-to-energy facilities and currently exempt MRFs would become known as "qualified facilities."

2. It is expected that two facilities, one each in La Crosse and Barron Counties, would qualify for the exemption. DNR estimates a reduction in tipping fees of $272,100 annually for the environmental fund. An additional $200 annually in reduced program revenues would be estimated for the Solid Waste Facility Siting Board.

3. The Xcel Energy La Crosse French Island facility had a residual non-recyclable waste rate of 22% in 2019 and 26% in 2020 on incoming municipal solid waste going for combustion. This amount was 16,500 tons in 2019 and 19,100 tons in 2020. The provision would allow for up to 30% of residual waste to be tipping fee-exempt. If the La Crosse facility had used the full 30%, total residual tons would have been 22,600 in 2019 and 21,900 in 2020. If the facility were to maintain the 26% residual rate, tipping fee revenue would be reduced by $245,300 in each year of the 2021-23 biennium. If the facility had used the full 30% residual rate, tipping fee revenue would be reduced by perhaps $290,000 in each year of the 2021-23 biennium, based on recent incoming waste tonnages.

4. Barron County's facility had a residual non-recyclable waste rate of 3% in 2019 and 4% in 2020 on incoming municipal solid waste going for combustion. This amount was 1,100 tons in 2019 and 1,200 tons in 2020. The proposal would allow for up to 30% of residual waste to be tipping fee-exempt. If Barron County had used the full 30%, total residual tons would have been 10,900 in 2019 and 10,400 in 2020. If the facility were to maintain the 3% or 4% residual rates, tipping fee revenue would be reduced by perhaps $15,700 in each year of the 2021-23 biennium. If the facility

had used the full 30% residual rate, tipping fee revenue would be reduced by perhaps $140,000 in each year of the 2021-23 biennium, based on recent incoming waste tonnages.

5. Of the $272,100 annual segregated environmental fund revenue reduction, $204,300 would be from the environmental management account and $67,800 would be from the nonpoint account. The environmental management account is expected to have a June 30, 2021, available balance of $23.9 million and a June 30, 2023, balance of $37.8 million. The nonpoint account is expected to have an available balance of $5.4 million on June 30, 2021, and $8.8 million on June 30, 2023.

6. The provisions in AB 68/SB 111 would be substantially similar to provisions in 2019 AB 713/SB 670. The bills would have created a tipping fee exemption to apply to the same two facilities expected to be eligible currently. The bills had bipartisan co-sponsorship and passed the Assembly on February 18, 2020 on a voice vote. It failed to pass pursuant to Senate Joint Resolution 1.

7. In addition to tipping fee exemptions for MRFs under current law, there are also full or partial tipping fee exemptions various purposes, including: (a) waste generated by clean-up from a natural disaster; (b) waste by a nonprofit that attempts to recycle or reuse materials, and that employs or provides services to persons with disabilities (Goodwill); (c) waste removed at the request of DNR to mitigate environmental issues; (d) unusable post-consumer papermaking materials, if the material cannot be further used to make pulp, paper, or paperboard; and (e) lake and river sediment contaminated with polychlorinated biphenyls (PCBs). In general, fee exemptions can provide incentives for certain desirable activities to occur, such as removal of contaminated material, or eliminate disposal costs for activities for which the Legislature has determined the imposition of fees is imprudent, such as natural disaster recovery or waste from nonprofit organizations.

8. Fee exemptions in general also reduce the base of contributing payers, resulting in relatively fewer activities that bear the imposition of fees. Further, although the volume of waste typically disposed of by the eligible facilities under the provision is a negligible amount (0.3%) of the approximately 8 million tons of waste disposed of in Wisconsin landfills annually, foregone tipping fees would reduce revenues that could be directed toward waste management and other environmental programs.

9. The tipping fee exemption could be viewed as providing equitable treatment of facilities that divert a substantial amount of material they receive from entering landfills. Further, conserving existing landfill capacity is generally seen as preferable to siting and constructing new landfills in the state. For these reasons, the Committee could provide for the exemption under AB 68/SB 111 [Alternative 1]. On the other hand, the Committee could also take no action to leave current tipping fee exemptions unchanged [Alternative 2].

ALTERNATIVES

1. Create an exemption from solid waste disposal fees (tipping fees) for facilities that incinerate solid waste for the purpose of energy recovery. Specify that the exemption applies to

facilities that: (a) are licensed as a municipal solid waste combustor for the purpose of energy recovery; (b) under their approved plan of operation, must report the weight of material entering facility, the weight of material rejected by facility and where it was sent, and the weight of residue and where it was sent; and (c) are in compliance with their approved plan of operation. Specify that qualified waste-to-energy facilities meeting the requirements would have an exemption from tipping fees for residual waste sent to landfills in the state, but not more than 30% of the total weight of material accepted by the facility. Specify that the exemption would not apply to ash generated by the facility.

ALT 1	**Change to Base**
SEG-REV	- $544,200
PR-REV	- $400

2. Take no action.

Prepared by: Moriah Hayes

Natural Resources -- Waste, Remediation, and Air

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
12	Rural Electronics Recycling Grants
13	Air Management Positions Transfer