Natural Resources

Water Quality

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21	Hydrologic Restoration Council and General Permit

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June, 2021 Joint Committee on Finance Paper #470

Well Compensation Grant Program (Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 443, #1]

CURRENT LAW

The well compensation grant program was created in 1984 to provide financial assistance for replacing, reconstructing, or treating contaminated wells that serve certain private residences or are used for watering livestock. Grants can also pay costs of well abandonment. Wisconsin's Department of Natural Resources (DNR) determines that wells meet certain eligibility criteria related to contamination from substances such as heavy metals, volatile organic compounds, industrial solvents, gasoline, fuel oil, paint, and pesticides. Under some circumstances, eligibility includes contamination from arsenic, livestock fecal bacteria, or nitrates. Grant recipients must have a family income not exceeding $65,000. The maximum eligible cost is $16,000, and the grant may cover up to 75% of eligible costs, equaling a maximum grant of $12,000. Grant recipients must pay a $250 copayment, unless the grant is for well abandonment.

The program is funded from a continuing appropriation in the segregated (SEG) environmental management account of the environmental fund, which means that appropriated unexpended funds are carried forward for expenditure in subsequent years. The program is appropriated $200,000 SEG in 2020-21, and in addition had an available carry-in balance of $802,000 from 2019-20. Any funds not spent in 2020-21 will carry forward and be available for expenditure in 2021-22.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would adopt the following provisions regarding the well compensation grant program:

(a) Provide $1,000,000 GPR each year in a new annual appropriation for well compensation and well abandonment grants.

(b) Increase the maximum annual family income of the landowner or lessee of the property on which the contaminated well is located from $65,000 to $100,000.

(c) Specify that a well or private water supply that produces water with a concentration of at least 10 parts per billion of arsenic or 10 parts per million of nitrate nitrogen is an eligible contaminated well or contaminated private water supply.

(d) Delete the requirement that if a claim is based on contamination by nitrates and not by any other substance, DNR may make a well compensation award only if the well: (1) is used as a source of drinking water for livestock or for both livestock and a residence; (2) is used at least three months of each year and while in use provides an estimated average of more than 100 gallons per day for consumption by livestock; and (3) produces water containing nitrates exceeding 40 parts per million (ppm) nitrate nitrogen. This would make residential wells that are not also used to water livestock, and that have nitrate contamination, eligible for the program.

(e) Make the following program changes regarding well compensation grant awards: (1) allow a claimant whose family income is below the state's median income to receive a grant of up to 100% of eligible project costs, rather than 75% under current law, but not to exceed $16,000 as under current law; and (2) eliminate the requirement to reduce an award by 30% of the amount by which the claimant's income exceeds $45,000 if the claimant's family income exceeds $45,000.

(f) Create an exception to the current requirement that DNR must allocate money for the payment of claims according to the order in which completed claims are received. The exception would specify that if the well compensation grant program has insufficient funds to pay claims, DNR would have discretion to prioritize claims based on nitrate contamination in the following order of priority: (1) claims based on water containing more than 40 ppm nitrate nitrogen; (2) claims based on water containing more than 30 but not more than 40 ppm nitrate nitrogen; (3) claims based on water containing more than 25 but not more than 30 ppm nitrate nitrogen; (4) claims based on water containing more than 20 but not more than 25 ppm nitrate nitrogen; and (5) claims based on water containing more than 10 but not more than 20 ppm nitrate nitrogen. The bill would apply this prioritization to funding if the existing well compensation grant appropriation of $200,000 environmental management SEG each year were insufficient to pay claims.

Current Program

2. The well compensation grant program provides two types of grants. First, it provides financial assistance for replacing, reconstructing, or treating contaminated wells that serve certain private residences or are used for watering livestock. Second, grants can also pay costs of well abandonment. An owner or lessee of the property on which the contaminated well is located may submit a claim. Eligible wells include private water supplies used for potable water and that are: (a) a residential water supply, which is a well that is used for humans or humans and livestock and is connected to 14 or fewer dwelling units; or (b) a livestock water supply well used only for livestock. To be considered contaminated, the water supply must have been tested twice, at least two weeks

apart, according to specified procedures, and the results exceed state or federal water standards for contaminants. In the past 15 years, well compensation grants have addressed contamination from livestock fecal bacteria, arsenic, metals, benzene, gasoline additives, nitrates, and pesticides.

3. Under certain circumstances, current eligibility includes contamination from nitrates. The statutes specify that if a claim is based on contamination by nitrates and not by any other substance, DNR may make a well compensation award only if the well: (a) is used as a source of drinking water for livestock or for both livestock and a residence; (b) is used at least three months of each year and while in use provides an estimated average of more than 100 gallons per day for consumption by livestock; and (c) produces water containing nitrates exceeding 40 parts per million expressed as nitrate-nitrogen. Residential wells contaminated by nitrates and not by any other substance are not eligible unless they are also used for livestock as described above.

4. Bacterial contamination is eligible if it is from livestock fecal contamination and in an area DNR has declared to be an area of special eligibility. DNR has declared 33 areas of special eligibility since 2006, seven of which were in Kewaunee County. Of this total, DNR declared three areas in 2018 through 2020, including one in Washington County, one in Brown County, and one in Dodge County. The statutes specify that a claim is ineligible if the contaminated private water supply is a residential water supply, is contaminated by bacteria or nitrates or both, and is not contaminated by any other substance, except if it is in an area of special eligibility.

5. The statutes specify that a claim is ineligible if all of the contaminants upon which the claim is based are naturally occurring substances and the concentration of the contaminants in water produced by the well does not significantly exceed the background concentration of the contaminants in groundwater at that location. Contamination from arsenic is currently eligible under the program only if it is equal to or exceeds a concentration of 50 parts per billion (ppb), also described as 50 micrograms per liter, which DNR has determined is the background concentration statewide.

6. Under administrative code Chapter NR 738, funds from a separate state-funded spills response appropriation from the environmental management account of the environmental fund are used to provide a permanent replacement water supply if the owner of the contaminated well is otherwise eligible for a well compensation grant and demonstrates financial hardship beyond the amount of financial assistance available through a well compensation grant. This appropriation is primarily used for DNR-led cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site. In cases where the owner of the contaminated well meets financial hardship criteria, the grant recipient first receives a grant under the well compensation grant appropriation. Supplemental expenditures are made through the state-funded spills response appropriation rather than the well compensation grant appropriation. When supplemental financial hardship assistance is provided, the sum of assistance provided to a recipient sometimes exceeds the maximum eligible costs of $16,000 and maximum grant of $12,000 under the well compensation grant program.

7. When DNR makes a financial hardship payment from the state-funded spills response appropriation for a permanent replacement private water supply, the Department bases the payment on the annual family income of the well owner as follows: (a) if the annual family income of the well owner is 50% or less of the county median income for the county in which the residence is located,

DNR may pay 100% of the remaining eligible costs not covered by a well compensation award, less a deductible amount of $250; (b) if the annual family income of the well owner is more than 50% but not more than 75% of the county median income for the county in which the residence is located, DNR may pay 50% of the remaining eligible costs not covered by a well compensation award, less a deductible amount of $250; and (c) if a well owner has received a well compensation grant, and if the well owner's share of eligible costs for the permanent replacement water supply exceeds 25% of the annual family income of the well owner, DNR may pay the remaining eligible costs not covered by a well compensation grant, less a deductible amount of 5% of the annual family income.

8. Table 1 shows expenditures under the well compensation grant program appropriation for the prior 10 fiscal years, and for 2020-21 to date. Expenditures can occur in the same or subsequent year as the year of the grant award. The number of well compensation awards for replacement, reconstruction, or treating the contaminated well ranged from five to 10 per year during the 10 years. The number of well abandonment awards ranged from 46 to 100 per year during the same time period. Table 1 also shows expenditures for supplemental financial hardship assistance for well compensation under the separate state-funded response appropriation. Annual expenditures have averaged almost $170,000 for the prior 10 fiscal years for the combined well compensation and supplemental financial assistance programs. DNR indicates it is unable to estimate how many wells are eligible for well compensation grants under current program eligibility requirements.

9. The well compensation grant appropriation has $1,146,700 available during the 2019-21 biennium for expenditures, including $200,000 in 2019-20 and $200,000 in 2020-21, and an unencumbered carry-in balance of $746,700. As shown in Table 1, expenditures were $144,700 in 2019-20. Thus, $1,002,000 remains available for expenditure in 2020-21. Any funds not expended during 2020-21 will carry forward to be available for expenditure during the 2019-21 biennium.

10. The environmental management account currently has an estimated June 30, 2021 closing balance of $23.9 million SEG. Considering the condition of this account and its purpose of supporting environmental and water-quality programs, the Committee could consider using environmental SEG funds to fund the well compensation grant program increase, as discussed in a later section.

TABLE 1

Well Compensation Expenditures
2010-11 Through 2020-21

Fiscal Year	Well Compensation Grant Appropriation Expenditures	Supplemental Financial Hardship Expenditures*	Total
2010-11	$154,050	$50,398	$204,448
2011-12	113,274	41,843	155,117
2012-13	130,772	81,348	212,120
2013-14	88,579	25,584	114,163
2014-15	153,260	41,979	195,239
2015-16	115,585	35,910	151,495
2016-17	97,692	4,854	102,546
2017-18	123,288	61,350	184,638
2018-19	106,785	12,876	119,661
2019-20	144,714	111,210	255,924
2020-21**	124,194	21,713	145,907

* Expenditures made from SEG state-funded spills response appropriation.
** As of June 3, 2021.

Arsenic and Nitrate Contamination

11. Arsenic is an element that occurs naturally in soil and bedrock formations, and can be released into the groundwater and drawn into wells. The federal and state drinking water standards are 10 parts per billion (ppb). High levels of arsenic can increase the risk of some types of cancer, and may increase the negative health effects of blood vessel damage, high blood pressure, nerve damage, anemia, stomach upsets, and skin changes. DNR and the Department of Health Services (DHS) recommend that no one drink water that exceeds the drinking water standard of 10 ppb.

12. Nitrate is a compound made up of nitrogen and oxygen. Typical sources of nitrate include nitrogen fertilizers, animal manure, and human waste from septic systems or wastewater treatment facilities. The state and federal nitrate drinking water standards are 10 parts per million (ppm). High levels of nitrates can negatively impact the ability of blood in a person's body to carry oxygen, which, in infants can cause a harmful health condition known as "blue baby syndrome." Studies suggest that high levels of nitrates may also increase the risk of certain other health problems, such as thyroid disease, diabetes, and some types of cancer. DNR and DHS recommend that no infant or any female who is or may become pregnant should consume any water that exceeds the nitrate standard, either by drinking or eating foods prepared with the water (such as formula, juices, and coffee). In addition, DHS recommends that all people avoid long-term consumption of water that has a nitrate level greater than 10 ppm.

13. DNR believes arsenic is being released into groundwater at elevated levels in the areas of Outagamie, Winnebago, and Brown Counties, at least partly because people are using more water than many years ago. This has lowered the water table, drawing more arsenic into groundwater. High levels of arsenic have been found in wells in most areas of the state. Recent studies of private wells have identified high levels of nitrates in wells in the northeastern, western, and southwestern areas of Wisconsin. It is uncertain how many wells have water exceeding both the arsenic and nitrate standard.

14. The well compensation grant program was created in 1983 Wisconsin Act 410, the groundwater act, after a 1982 Legislative Council study committee made several recommendations related to groundwater. There was discussion during the development of the legislation about which contaminants were of great enough concern to be eligible for compensation. The original authorizing language created the limitation on eligibility for residential wells contaminated by nitrates and not used for livestock, and this provision has existed since then. The state nitrate standard went into effect prior to creation of the program, and the federal standard went into effect several years after the program was created.

15. In the 1980s, it was sometimes considered acceptable to address nitrate contamination by providing bottled drinking water for infants and pregnant women. DNR currently considers provision of bottled water a temporary solution to drinking water quality issues and not a viable long-term solution because it is cumbersome and expensive. NR 738 authorizes provision of temporary emergency water supplies for up to six months when a water supply is adversely affected by environmental pollution or a hazardous substances discharge. However, this code provision specifically excludes contamination by nitrates.

16. DNR recommends, but does not require, that private well owners test their water annually. The state does not require private well owners to take any specific action if their well produces water with arsenic concentrations above 10 ppb or nitrate concentrations above 10 ppm. If a well owner wants to reduce the consumption of water containing arsenic or nitrate, the owner generally has the following options: (a) replace the well by constructing a new deeper well; (b) install a treatment system designed to remove nitrates; (c) connect to a community water supply (a public water system that serves at least 15 service connections used by year-round residents) instead of continuing to use the well; (d) reconstruct the well by deepening it, adding a liner, replacing the pump or making other physical modifications; or (e) temporarily use bottled drinking water. There is no specific nitrate or arsenic concentration threshold that determines which of these options a well owner should take. The well owner's decision on how to respond to arsenic or nitrate contamination is based on factors such as the owner's level of concern about the health risks of nitrates or arsenic, whether infants or pregnant women are consuming the water, the cost and affordability of options, the expected timeframe for a residence to be using the well, nearby land uses that may produce nitrates affecting the well, the well depth necessary to obtain water that does not exceed the drinking water threshold, the ability of a treatment system to treat the specific arsenic or nitrate level at the well, and the availability and proximity of a nearby community water supply.

17. The rationale for expanding grant eligibility to residential well contamination from nitrates that exceeds 10 ppm and arsenic that exceeds 10 ppb is that these are the federal and state standards. DNR does not track how many residential wells have nitrate contamination above 10 ppm,

but the Department estimates that approximately 42,000 wells (6% of approximately 700,000 private wells in the state) produce water with nitrate contamination above the 10 ppm standard. DNR does not track how many wells have arsenic contamination above 10 ppb, but the Department estimates that 40,000 wells (5.7% of approximately 700,000 private wells in the state) produce water with arsenic contamination above the 10 ppb standard and below the currently eligible 50 ppb background concentration threshold.

18. The income distribution of households with contaminated wells is unknown. If owners of 50% of the wells with nitrate contamination exceeding 10 ppm (21,000) and 50% of the wells with arsenic contamination between 10 ppb and 50 ppb (20,000) would meet the proposed maximum income threshold of $100,000, the AB 68/SB 111 program expansions for nitrate contamination, arsenic contamination, and household income between $65,000 and $100,000 could result in perhaps 41,000 additional private wells becoming eligible under the program. The U.S. Census Bureau American Community Survey 2019 data report median household income was $64,168 in 2019, while median family income was $81,829. It is possible that more than half of households with wells contaminated with nitrates or arsenic, and income up to $100,000, would become eligible under the bill. Table 2 shows the potential number of wells that might become eligible under the bill and a potential cumulative cost of replacing wells, assuming 50% of eligible contaminated wells under the bill were for grantees meeting income eligibility. As mentioned earlier, it is uncertain how many wells have water exceeding both the nitrate and arsenic standards. Table 3 shows the maximum funding that may be needed to accommodate the increased number of wells that might be replaced under the bill's changes to eligibility with regard to contaminants.

TABLE 2

Well Compensation Program Expansion -- AB 68/SB 111

Substance	Private Wells (Est.)	Percent Eligible (Est.)	Contaminated Eligible Wells	Percent Contaminant-Eligible with Income < $100,000	Number Contaminant-Eligible Below $100,000	Avg. Well Replacement Cost	Total Program Expansion
Nitrate	700,000	6.0%	42,000	50.00%	21,000	$18,900	$396,900,000
Arsenic	700,000	5.7%	40,000	50.00%	20,000	18,900	$378,000,900
			82,000		41,000		$774,900,900

TABLE 3

Well Compensation Funding Need -- AB 68/SB 111

Substance	Number Contaminant-Eligible	Well Replacement Eligible Cost	DNR Grant Percentage	Grant Amount	Program Total
Nitrate	21,000	$16,000	75%	$12,000	$252,000,000
Arsenic	20,000	16,000	75	12,000	240,000,600
	41,000				$492,000,600

19. If approximately half of the wells contaminated with nitrates or arsenic have income not exceeding $100,000, the estimated total cost to address the contamination at the estimated 41,000 additional potentially eligible wells would be $775 million, based on a DNR estimate of $18,900 for the average replacement cost for a well. This cumulative total cost would include: (a) $397 million to address the contamination at the estimated 21,000 wells with nitrate contamination; and (b) $378 million to address the contamination at the estimated 20,000 wells with arsenic contamination. The cost to replace a specific well can vary widely, based on the local geology and depth that nitrate penetrates into the groundwater.

20. The cumulative state well compensation grant expenditures would be some portion of the $775 million cost, depending on any changes that may be made to the grant formula, as described in a separate section. Eligible costs under the bill could approach $492 million, including: (a) $252 million for wells with nitrate contamination; and (b) $240 million for wells with arsenic contamination. This estimate assumes: (a) DNR would make all grants for 75% of the replacement cost, rather than the optional 100% of costs for certain grantees under the bill; and (b) well replacement grants would average $12,000, based on the typical well replacement cost exceeding the $16,000 maximum eligible cost under the program. Table 3 does not account for some likely amount of grant reductions under current law phase-out provisions for grantees with income exceeding $45,000, if that provision were to remain in effect. Additionally, this estimate does not account for the unknown number of wells that would meet eligibility requirements under the bill for both nitrate and arsenic. Any such wells would lower the estimated effect of the AB 68/SB 111 expansion provisions. Conversely, if a household had income up to the median family income ($81,829 in 2019), DNR could award a grant for 100% of eligible costs as authorized under the bill. Thus, the cumulative state grant expenditures could be higher if a significant percentage of grant awards were for 100% of eligible costs rather than 75% of costs. AB 68/SB 111 also would remove the reduction in grant amounts for households with income over $45,000. The relative impact of these variables cannot be determined at this time.

21. It is uncertain how many owners of newly eligible additional wells would submit well compensation grant applications, and when, if the recommended program expansions were approved. If a significant portion of the eligible applicants would seek funding immediately, it would create a significant workload and potential backlog of eligible claims waiting for funding to become available. On the other hand, it is likely some owners of contaminated wells would seek other means of replacing

their well rather than wait an indefinitely long period to address their contaminated drinking water supply with limited grant funding.

22. Due to the public health concerns in consuming water from wells contaminated with nitrate and arsenic, the Committee could consider adopting provisions of AB 68/SB 111 to change eligibility for the well compensation grant program [Alternatives A1 and B1]. While the bill would expand eligibility to nitrate and arsenic contamination, the eligibility expansion would conflict with two provisions in current law. The bill would not exempt arsenic or nitrate contamination from the requirement that DNR must deny claims that exceed the background level of contamination. Currently, this statutory provision precludes claims with arsenic concentration less than 50 ppb. In addition, the bill does not exempt arsenic or nitrate contamination from the requirement that DNR must deny claims if the contaminated private water supply is a residential water supply contaminated by bacteria or nitrates or both, and is not contaminated by any other substance. If the Committee chooses to expand eligibility for arsenic [Alternative A1] or nitrates [Alternative B1], it would be appropriate to include these exemptions from the current provisions for denial of claims to make it clear that arsenic and nitrate contamination are eligible. It could also be argued that DNR should be required to prioritize claims with nitrate contamination according to the level of contamination [Alternative B2], due to the desirability of eliminating wells with the greatest risks to public health.

23. Some may suggest that the recommended expansion of eligibility for arsenic and nitrate contamination should not be approved because: (a) contaminated wells should be replaced by the owner as a normal part of the responsibility of owning a property; and (b) households that do not have sufficient funds on hand to pay for the cost of replacing a contaminated well have the option of seeking a loan from a financial institution. The Committee could take no action on expansion for nitrates [Alternatives A2 and B3].

Income Limit and Grant Formula Changes

24. The maximum well compensation grant program income had not been increased since 1995. A decision on whether to increase the maximum income limit could be made separately from the decision on whether to change the eligibility for arsenic and nitrate contamination. Some might argue that the maximum eligible income should be increased to $100,000 to benefit additional households with moderate incomes [Alternative C1]. This would also recognize the financial difficulty that a household with income between $65,000 and $100,000 might experience in paying for the $18,900 average well replacement cost estimated by DNR. A $100,000 maximum eligibility income may also be appropriate given $65,000, when adjusted for inflation by either the national or Midwest Consumer Price Index since July, 1995, would be approximately $113,800 or $108,400, respectively, in present value.

25. To avoid a significant increase in the program's income limit, the Committee could also approve an increase to $80,000 in annual family income [Alternative C2]. Leaving the program income limit at $65,000 [Alternative C3] would also continue to target assistance to those households perhaps least likely to afford the cost of well replacement.

26. Providing all grants at 75% of costs instead of phasing the grant down by 30% of the amount by which income exceeds a threshold (such as the $45,000 current law threshold) as income

increases could be viewed preferable to avoid additional administrative impositions on DNR program staff. Further, DNR indicates the grant reduction formula often results in no, or a minimal, well abandonment award, which are generally smaller awards than well compensation grants. The Committee could consider repealing the grant phase-out [Alternative D1].

27. The Committee could also begin the phase-out at $65,000, the current program income limit [Alternative D2]. This may be appropriate should the income eligibility be increased to some amount higher than current law ($65,000). The Committee could also take no action, which would continue to phase out grant awards at $45,000 [Alternative D3].

28. Under AB 68/SB 111, DNR would be authorized to award grants of up to 100% of costs for households with up to the statewide median family income (estimated at $81,829 in 2019). This could be viewed as reasonable to provide additional support to families and households under the program [Alternative E1]. However, many state grant programs require some percentage match by participants, which helps ensure grantees administer projects with appropriate oversight for costs and quality if the project involves state funding. The Committee could authorize DNR to issue 100% grants for grantees below the statewide median family income rather than the median household income (estimated at $64,168 in 2019), to better target assistance to those most in need [Alternative E2]. The Committee could also take no action [Alternative E3], under which DNR could continue using hardship provisions of NR 738.

29. Table 4 shows the possible grants at various income levels under current law and the AB 68/SB 111 provision for assistance of 75% of costs and optional 100% of costs. The alternative maximum grant (second column) assumes an income eligibility of $100,000 [Alternative C1], with grant phase-out beginning at $65,000 [Alternative D2].

TABLE 4

Well Compensation Grant Comparison

Household Income	Current Law Maximum Grant	Alternative Maximum Grant	AB 68/SB 111 Maximum Regular Grant	AB 68/SB 111 Potential Hardship Grant
$45,000	$12,000	$12,000	$12,000	$16,000
55,000	9,000	12,000	12,000	16,000
65,000	6,000	12,000	12,000	16,000
75,000	0	9,000	12,000	16,000
81,829*	0	6,952	12,000	16,000
85,000	0	6,000	12,000	12,000
95,000	0	3,000	12,000	12,000
100,000	0	1,500	12,000	12,000
Above 100,000	0	0	0	0

* According to the U.S. Census Bureau American Community Survey 2019 estimates, the estimated Wisconsin median family income was $81,829.
Note: Current law and the budget bill require the claimant to pay a $250 copayment.

Program Funding

30. The environmental management account of the environmental fund is expected to have a closing balance on June 30, 2023, of approximately $37.8 million, based on current law and Committee action to date. This is expected to provide a sufficient account balance under the bill to fund an increase in the well compensation grant appropriation of the amount proposed under AB 68/SB 111.

31. The Committee could approve $1,000,000 in additional grant funding annually from GPR [Alternative F1a] or environmental management SEG [Alternative F1b], or a lesser amount of $500,000 from GPR [Alternative F2a] or environmental management SEG [Alternative F2b]. The Committee could also take no action [Alternative F3].

32. DNR estimates that with $1 million of additional funding, $900,000 would be awarded as well compensation grants, and $100,000 would be awarded as well abandonment grants. In FY20, 9 well compensation grants were awarded, and 49 well abandonment grants were awarded. With an additional $1 million of funding annually, DNR estimates that 64 well compensation grants will be awarded (611% increase) and that 98 well abandonment grants will be awarded (100% increase).

33. The provision would not provide additional staffing for the well compensation program. DNR estimates an annual workload equal to perhaps 1.4 positions with approximately $150,000 of salary, fringe benefits, and supply costs would be incurred under the proposed expansions. DNR believes that it will need to hire limited-term employees or reallocate staff from other grant programs to staff the expanded well compensation grant program.

34. It is not anticipated that all private well replacement would be eligible for federal funding under the American Rescue Plan Act (ARPA) of 2021. A U.S. Treasury Department interim final rule requires water infrastructure projects to adhere to eligibility terms of the clean water and safe drinking water state revolving fund programs. (These are administered in Wisconsin as the clean water fund and safe drinking water loan program.) Federal eligibility under the safe drinking water program extends to public water systems, whether publicly or privately owned, that serve at least 15 connections or serve at least 25 persons. Households with a water supply not meeting those requirements would be ineligible.

ALTERNATIVES

A. Eligibility for Arsenic Contamination

1. Approve the Governor's recommendation to add to the definition of eligible contaminated well or private water supply a well that produces water containing arsenic of at least 10 parts per billion. In addition, exempt wells with arsenic contamination of at least 10 parts per billion from the current requirements that: (a) a claim shall be denied if the concentration exceeds the background concentration of the contaminant; and (b) the contaminated private water supply is a residential water supply contaminated by bacteria or nitrates or both, and is not contaminated by any other substance.

2. Take no action. (Wells with contamination from arsenic of at least 10 ppb and less than 50 ppb would continue to be ineligible for the program.)

B. Eligibility for Nitrate Contamination

1. Approve the Governor's recommendation to: (a) add to the definition of eligible contaminated well or private water supply a well that produces water containing nitrates of at least 10 parts per million; (b) delete the current limitations on claims for contamination by nitrates, making residential wells with nitrate contamination eligible; and (c) authorize DNR to prioritize claims for nitrate contamination based on five categories of concentration of parts per million nitrate nitrogen, with higher priority provided to higher concentrations, as specified in AB 68/SB 111. In addition, exempt wells with nitrate contamination of at least 10 parts per million from the current requirements that a claim be denied if: (a) the concentration exceeds the background concentration of the contaminant; and (b) the contaminated private water supply is a residential water supply contaminated by bacteria or nitrates or both, and is not contaminated by any other substance.

2. Approve Alternative B1, but require DNR to prioritize eligibility for higher concentrations of nitrates.

3. Take no action. (Residential wells with nitrate contamination that do not also provide water to livestock would continue to be ineligible for the program.)

C. Maximum Income

1. Increase the maximum annual family income of the landowner or lessee of the property on which the contaminated well is located to $100,000.

2. Increase the maximum annual family income of the landowner or lessee of the property on which the contaminated well is located to $80,000.

3. Take no action. (This would maintain the current $65,000 maximum annual family income.)

D. Grant Formula

1. Repeal the current requirement that the grant is reduced by 30% of the amount by which the claimant's family income exceeds $45,000.

2. Specify grants are reduced by 30% of the amount by which the claimant's family income exceeds $65,000 (instead of $45,000 under current law).

3. Take no action. (This would maintain the current law reduction of the grant by 30% of the amount by which the claimant's family income exceeds $45,000.)

E. Eligibility for 100% Grant

1. Authorize DNR to award a grant of up to 100% of eligible costs if the annual family income of the claimant is below the median family income of the state ($81,829 in 2019).

2. Authorize DNR to award a grant of up to 100% of eligible costs if the annual family income of the claimant is below the median household income of the state ($64,168 in 2019).

3. Take no action. (DNR could continue to utilize the current administrative code provisions of NR 738 for supplemental financial assistance beyond the amounts provided from the well compensation grant appropriation.)

F. Well Compensation Grant Program Funding

1. Provide $1,000,000 each year in a new annual appropriation for well compensation and well abandonment grants. Specify one of the following fund sources:

a. GPR; or

ALT F1a	Change to Base
GPR	$2,000,000

b. Environmental management SEG.

ALT F1b	Change to Base
SEG	$2,000,000

2. Provide $500,000 each year in a new annual appropriation for well compensation and well abandonment grants. Specify one of the following fund sources:

a. GPR; or

ALT F2a	Change to Base
GPR	$1,000,000

b. Environmental management SEG.

ALT F2b	Change to Base
SEG	$1,000,000

3. Take no action. (Program funding would remain $200,000 environmental management SEG each year.)

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June, 2021 Joint Committee on Finance Paper #471

Well Inspector Position
(Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 444, #4]

CURRENT LAW

The Department of Natural Resources (DNR) is responsible for enforcing standards for the drilling and construction of wells for water for human consumption under Chapter 280 of the statutes, as well as under Chapter NR 812 and several related provisions of the administrative code. As part of these duties, DNR licenses well drillers, heat exchange drillers, and pump installers, and is authorized to inspect wells and well construction activities.

DISCUSSION POINTS

1. Currently, DNR is authorized 9.0 private water supply field inspectors, or well inspectors in the Department's drinking water and groundwater program. The primary position responsibilities include: (a) conducting field inspections of drillers, pump installers, and other contractors; (b) responding to well contamination complaints and monitoring groundwater contamination areas; (c) reviewing requests for variances from established specifications for well construction, and issuing decisions; and (d) enforcement of the well and pump code in NR 812 and related provisions.

2. DNR reports that approximately 8,000 private wells are newly-constructed each year. Not all wells are required to be inspected. The Department attempts well inspections for roughly 15% of these during and after construction, totaling 1,200 inspected wells. By inspecting 15% of new wells annually, DNR intends to provide sufficient oversight of drilling activity and further statewide compliance with NR 812 standards, while ensuring safety of water supplies and verifying that well drillers are complying with state regulations. DNR prefers to conduct inspections at the time of well construction.

3. Assembly Bill 68/Senate Bill 111 would reallocate 1.0 vacant position in the DNR air management program funded from operating permit fees for federally regulated (Title V) stationary air pollution sources to a well inspector in the DNR drinking water and groundwater program. The provision would provide $56,100 in 2021-22 and $74,700 in 2022-23 from the groundwater management appropriation for salary and fringe benefits for the position. Funding of $74,700 annually would be deleted from the air management program, as would an additional $35,600 annually for supplies and limited-term employees (LTEs) for groundwater management. In total, the provision would delete -$89,800 PR.

4. DNR indicates that it intends to use the position to conduct 250 to 300 additional well inspections per year. DNR expects that this would increase the rate of inspections from around 12% to 15%, which is the Department's preferred rate of well inspections.

5. DNR reports that the appropriation from which the position would be funded under AB 68/SB 111, as well as two other groundwater research and local assistance appropriations funded from well notification fees and high-capacity well fees, typically has annual revenues insufficient to support authorized expenditures. Provisions under AB 68/SB 111 to establish a fee for variances in well construction standards and to increase fees for well notification were intended in part to provide additional revenues to support authorized expenditures. The provisions were removed from consideration under earlier Committee action. Without additional revenues for groundwater management, it may not be feasible to add the 1.0 well inspector position to the groundwater management PR appropriation.

6. The environmental management account of the environmental fund currently supports 20.54 SEG positions in the general operations of the drinking and groundwater program. (The account's condition under current law and Committee action to date is shown in a separate paper under Natural Resources -- Waste, Remediation, and Air entitled "Environmental Management Account Condition.") The account currently has ongoing revenues that exceed base expenditures.

7. Given that DNR intends to increase well inspections and that the 1.0 well inspector position would not add position authority or funding, the Committee could reallocate the position but transfer the position to environmental management SEG [Alternative 1]. The Committee could also take no action [Alternative 2].

ALTERNATIVES

1. Delete 1.0 PR position and $74,700 annually in the Department of Natural Resources air management program. Delete $20,400 in LTE salaries and $15,200 in supplies and services annually from the DNR groundwater management appropriation. Provide 1.0 SEG well inspector in the DNR drinking water and groundwater program with $56,100 SEG and $74,700 SEG in 2022-23 from the environmental management account.

ALT 1	Change to Base	
	Funding	Positions
PR	- $220,600	- 1.00
SEG	130,800	1.00
Total	- $89,800	0.00

2. Take no action.

Prepared by: Moriah Hayes

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June, 2021 Joint Committee on Finance Paper #472

Great Lakes Erosion Control Loan Program (Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 444, #5]

CURRENT LAW

The Department of Natural Resources (DNR) is responsible for management and protection of the waters of the state, including regulation of shoreland development. Under current law, DNR imposes restrictions on development adjacent to navigable waterways and requires permits for modification of shorelines or placement of fill material in water bodies.

DISCUSSION POINTS

1. During the 2020 season, Lake Superior and Lake Michigan-Huron[1] experienced record high lake levels. As seen in the attachment, Superior water levels reached record monthly highs in May of 2019 and remained high through much of 2020. Further, Michigan-Huron similarly reached record monthly highs from January through August of 2020. Lake levels have since dropped from historic highs, and as of May, 2021, Michigan-Huron is 18 inches lower and Superior is six inches lower than in 2020. However, these levels remain significantly above normal, with Michigan-Huron 18 inches above average while Superior is six inches above average.

2. Water levels on the Great Lakes have been known to vary significantly in recent decades, and exact determinants are difficult to identify. Research is ongoing, although trends reflecting increasing precipitation in the Midwest are believed to contribute to record high lake levels. The U.S. Global Change Research Program is required to report to Congress and the President at least every four years on effects of climate change on the natural environment, economy and human health, and

[1] While historically described as two lakes, water levels in Michigan and Huron vary in unison as water flows through the Straights of Mackinac. Thus, Michigan-Huron is considered one lake for purposes of hydrologic study.

identify trends for anticipated changes in the next 25 to 100 years. The program's 2018 report identified that precipitation in the Midwest has increased by 5% to 15% during the period of 1986 to 2015, relative to 1901 to 1960. Further, since data began being collected in 1895, four of Wisconsin's five highest precipitation years have occurred since 2010, with the wettest recorded in 2019. Based on conservative climate models, it is anticipated that precipitation levels will continue to increase in Wisconsin throughout the twenty-first century.

3. As lake levels have risen, lakefront landowners have experienced significant erosion in recent years, with shorelines receding more than 50 feet or more in certain areas. It is difficult to estimate the value of property lost to coastal erosion on Great Lakes. However, the Great Lakes and St. Lawrence Cities Initiative, a consortium of cities located on coastal areas of the Great Lakes and St. Lawrence River, estimates that flooding and coastal erosion caused at least $500 million in damage to coastal areas during 2019 and 2020. In some instances, erosion has caused homes and roads to collapse into Michigan and Superior.

4. Assembly Bill 68/Senate Bill 111 would provide $5,000,000 from the environmental management account of the segregated (SEG) environmental fund in 2021-22 to create a revolving loan fund for municipalities and homeowners to ensure structural integrity of buildings threated by erosion of shoreline on Michigan and Superior. The bill would require DNR to promulgate rules to administer the program, including establishing eligibility criteria and income limits for loans. Further, DNR would be authorized to promulgate an emergency rule while final rules were being drafted. DNR suggests that the program could support perhaps 12 to 13 projects per year based on the proposed funding level.

5. According to DNR, Wisconsin has approximately 1,000 miles of coastline on Superior and Michigan. No reliable estimate is available for the cost to reinforce Great Lakes shorelines to limit property damage associated with erosion. The cost to install protective structures along coastlines often exceeds $1,000 per foot of shoreline. For example, an Ozaukee County homeowner reported receiving a cost estimate of $1,400 per foot of shoreline. Based on the 1,000 miles of Great Lakes coastline in Wisconsin, a cost of $1,000 per foot would total perhaps $5.3 billion to install protective structures along its entire coastline. However, significant portions of shoreline may not be inhabited or otherwise at immediate risk of significant erosion. Assuming a cost of $1,000 per foot of shoreline, the AB 68/SB 111 proposal would provide initial loans sufficient to protect perhaps one mile of shoreline. Regardless of any cost to reinforce Great Lakes shorelines, such practices may not be effective in preventing shoreline erosion in the long term. Further, while protective structures prevent erosion along one portion of shoreline, they may exacerbate erosion along adjacent areas by diverting or strengthening wave action.

6. Provision of funding for a Great Lakes erosion control program would be dependent on availability of funding in the environmental management account of the environmental fund. Based on Committee action to date, the environmental management account is anticipated to have a June 30, 2023, available balance of $37.8 million. Given that proposed funding would be one-time, it is expected that the account balance could support the proposal without affecting future availability of funding for other environmental management programs.

7. Given relatively high lake levels in recent years, the high property damage costs

associated with shoreline erosion, and the availability of environmental management account revenues, the Committee could consider creating a Great Lakes erosion control loan program [Alternative 1]. Conversely, given that lake levels have begun to decline from their record highs in 2019 and 2020, and that proposed funding may not be cost-effective in preventing long-term erosion along Great Lakes shorelines, the Committee could consider taking no action [Alternative 2].

ALTERNATIVES

1. Create a Great Lakes erosion control revolving loan fund by creating a continuing appropriation and providing $5,000,000 environmental management account SEG in 2021-22. Specify that funding be provided as loans to municipalities and homeowners to cover costs related to ensuring structural integrity of buildings threatened by erosion of the shoreline of Lake Superior and Lake Michigan. Require DNR to promulgate rules to administer the program, including establishing eligibility criteria and income limits for loans. Further, allow DNR to promulgate an emergency rule while final rules are being drafted.

ALT 1	Change to Base
SEG	$5,000,000

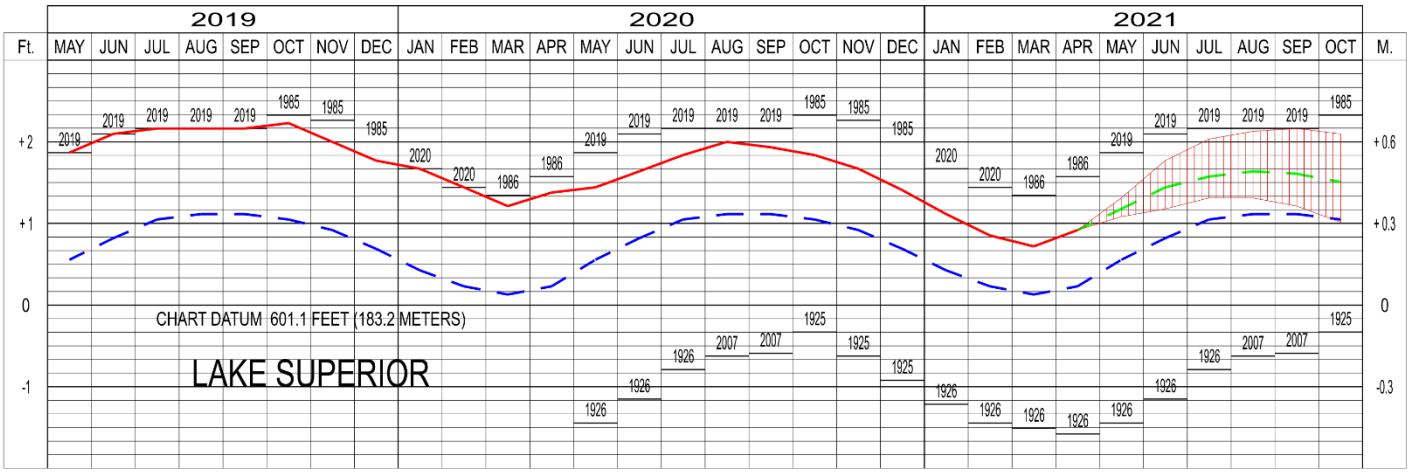
2. Take no action.

Prepared by: Rory Tikalsky
Attachment

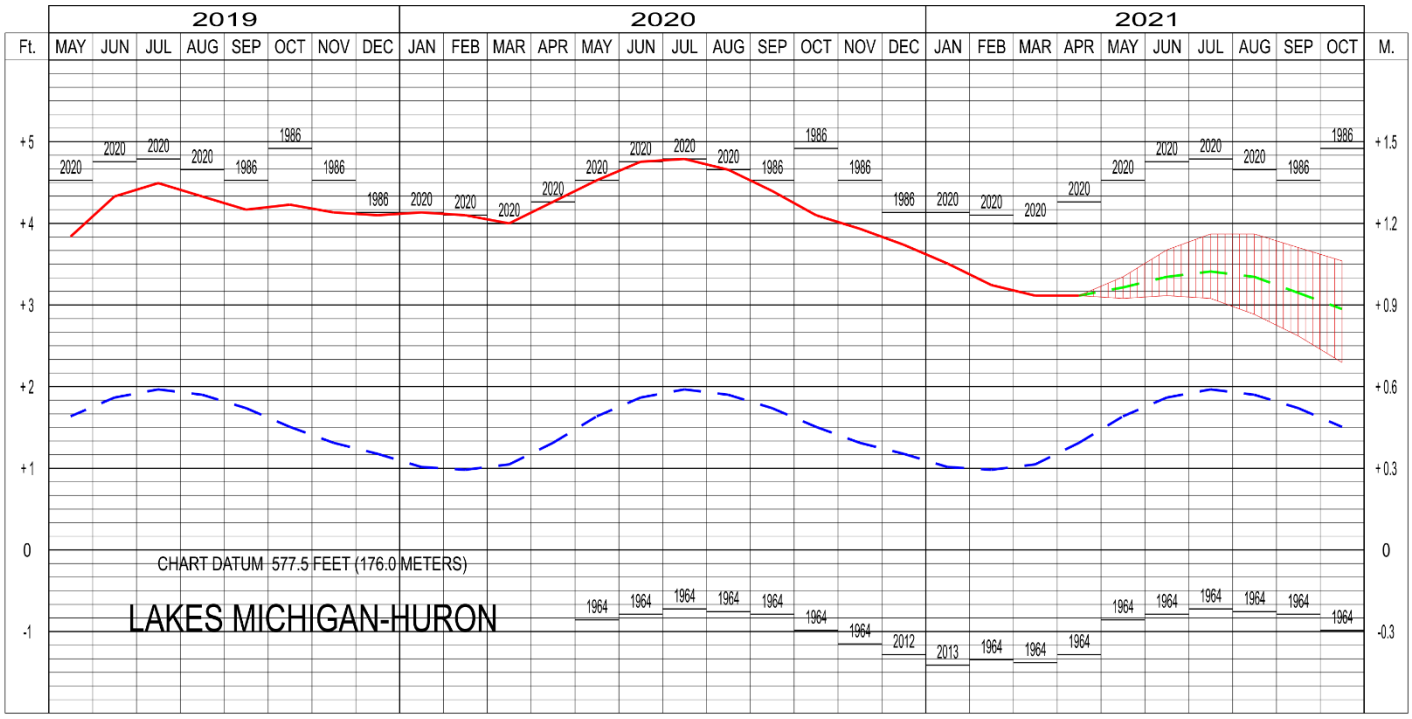
ATTACHMENT

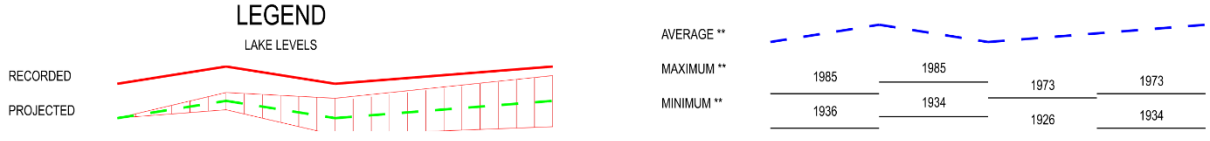
Great Lakes Water Levels 2019-2021

LAKE SUPERIOR WATER LEVELS - MAY 2021



LAKES MICHIGAN-HURON WATER LEVELS - MAY 2021





Source: U.S. Army Corps of Engineers

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June, 2021 Joint Committee on Finance Paper #473

Nonpoint Account Overview (Natural Resources -- Water Quality)

CURRENT LAW

The 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 environmental management account, see the budget paper entitled "Environmental Management Account Overview."

The nonpoint account supports state and local programs to prevent and control nonpoint source water pollution in rural and urban settings. The account funds two basic types of grants to assist local governments: (a) grants from the Department of Agriculture, Trade and Consumer Protection (DATCP) to county land conservation departments for costs associated with land and water conservation staff; and (b) DATCP and DNR grants distributed to landowners through counties, or directly to municipalities for the installation of structures and practices to abate nonpoint source water pollution. In most cases, state law requires an offer of cost-sharing if agricultural landowners are to be required to modify existing practices or structures to abate nonpoint source water pollution. This share typically must be at least 70% of the cost of installation. Projects related to urban storm water management may be cost-shared at up to 50% of eligible project costs, although state cost-sharing is not required for projects or practices installed to bring urban areas into compliance with state performance standards.

DISCUSSION POINTS

1. This paper provides a general overview of the nonpoint 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 budget issues affecting the nonpoint account are included in separate budget papers. However, any changes in expenditures from the account under specific budget issues will impact the availability of funding for other items under consideration.

Revenues

2. Table 1 shows revenues to the nonpoint account. While nonpoint SEG represents the primary funding source for nonpoint programs, funding also comes from federal Clean Water Act (Section 319) funding, bond revenues, and GPR.

3. Nonpoint account revenues are derived from: (a) a portion of state tipping fees on solid waste disposed of at a Wisconsin landfill, equal to $3.20 per ton and totaling $17.6 million in 2019-20; (b) an annual transfer from the general fund of $7,991,100; (c) an annual transfer from the environmental management account of $6,150,000; and (d) interest earnings and miscellaneous income, equal to $289,200 in 2019-20. Under operations reductions directed by the Governor and Department of Administration in response to COVID-19, the general fund transfer is reduced by $998,900 to $6,992,200 in 2020-21.

4. During the 2021-23 biennium, tipping fees are expected to contribute 56% of nonpoint revenues, the GPR transfer will contribute 25% of revenues, and the environmental management account transfer will contribute 18%, with the small remaining amount reflecting interest income from investment of the fund balance.

TABLE 1

Nonpoint Revenues by Category

	GPR Transfer	SEG Transfers	Tipping Fee[a]	Other Revenue	Total Revenue
2007-08	$11,514,000	$0	$792,600	$333,900	$12,640,500
2008-09	13,625,000	0	5,259,400	35,300	18,919,700
2009-10	12,863,700	0	10,662,000	-2,300	23,523,400
2010-11	12,863,700	0	17,773,900	-4,500	30,633,100
2011-12	10,974,200	0	12,851,400	-2,500	23,823,100
2012-13	11,315,500	0	24,399,100	31,100	35,745,700
2013-14	11,143,600	650,000[b]	13,432,800	27,600	25,254,000
2014-15	11,143,600	1,300,000[b]	19,822,700	2,000	32,268,300
2015-16	11,143,600	1,000,000[c]	8,615,800	3,100	20,762,500
2016-17	11,143,600	1,000,000[c]	14,977,700	10,200	27,131,500
2017-18	7,991,100	3,652,500[b]	21,921,800	28,900	33,594,300
2018-19	7,991,100	3,652,500[b]	19,491,300	98,400	31,233,300
2019-20	7,991,100	6,150,000[b]	17,639,300	289,200	32,069,600
2020-21[d]	6,992,200[e]	6,150,000[b]	18,090,700	209,600	31,442,500

[a] Tipping fees vary based on timing of year-end billings, which may be collected the following fiscal year.

[b] From the environmental management account.

[c] From the segregated agricultural chemical cleanup fund.

[d] Estimated.

[e] Reduced by $998,900 in 2020-21 in response to COVID-19 lapse requirements.

Expenditures

5. As seen in Table 2, nonpoint account expenditures support (a) debt service payments on general obligation bonds issued for nonpoint grants (47% of budgeted expenditures in 2020-21); (b) grants for nonpoint programs (35%); and (c) DATCP and DNR regulatory and technical assistance staff, and other administration costs (18%). Grants are provided from both nonpoint SEG and nonpoint SEG-supported bonding. Grants supported by bond revenues represent long-term improvements to the state's waters. To reflect these long-term benefits, projects are financed through bond revenues and subsequent nonpoint SEG-supported debt service payments. The account supports 20.30 positions at DATCP and 19.15 at DNR related to regulation of nonpoint pollution and administration of nonpoint grant programs. DNR is also appropriated nonpoint SEG for contracts with UW-Extension and other organizations for education, research, and technical assistance activities related to nonpoint source water pollution.

TABLE 2

Nonpoint Expenditures by Category

	Debt Service	Grants	Operations	Total Expenditures	Transfers to General Fund
2007-08	$847,700	$6,610,300	$4,993,500	$12,451,500	$301,400
2008-09	847,700	6,851,100	5,339,500	13,038,300	4,230,300
2009-10	5,203,000	6,833,800	4,585,300	16,622,100	7,547,500
2010-11	10,699,400	5,915,200	4,305,900	20,920,500	6,943,500
2011-12	13,279,600	6,053,800	4,522,300	23,855,700	0
2012-13	14,388,500	7,968,000	5,324,600	27,681,100	0
2013-14	15,528,600	6,850,300	4,454,500	26,833,400	0
2014-15	14,844,900	8,684,600	5,570,800	29,100,300	0
2015-16	15,724,100	9,599,000	5,361,300	30,684,400	0
2016-17	15,309,100	9,537,100	5,652,600	30,498,800	0
2017-18	15,582,500	8,839,900	4,733,200	29,155,600	0
2018-19	16,004,100	10,281,900	4,609,700	30,895,700	0
2019-20	15,682,500	10,272,700	5,573,900	31,529,100	0
2020-21 [a]	15,567,100	11,436,900	5,868,400	32,872,400	0
2021-22 [b]	14,190,800	10,861,900	5,442,300	30,495,000	0
2022-23 [b]	15,071,500	10,861,900	5,447,700	31,381,100	0

[a] Budgeted.
[b] Base budget, including Committee action prior to June 3, 2021.

6. Funding under Assembly Bill 68/Senate Bill 111 shown in Table 2 for the 2021-23 biennium is lower than the 2020-21 base year primarily due to expiration of one-time funding and lower anticipated debt service costs, as well as slightly lower staff and administration costs. Funding provided on a one-time basis during the 2019-21 biennium totaled $1,075,000 each year, consisting of: (a) $500,000 each year for nonpoint research and education contracts; (b) $475,000 each year for county conservation staffing grants; and (c) $100,000 each year for rural nonpoint grants. Based on debt reestimates approved under previous Committee action, debt service costs are anticipated to be

$1,376,300 lower in 2021-22 and $495,600 lower in 2022-23 as compared to the base budget. Further, standard budget adjustments reduced administration costs by $43,400 in 2021-22 and $38,000 in 2022-23.

7. As seen in Table 3, AB 68/SB 111 would provide additional funding for nonpoint programs as follows: (a) $3,600,000 in 2021-22 and $3,708,000 in 2022-23 for county conservation staffing grants; (b) $1,000,000 each year in one-time funding for grants for flood mapping and flood insurance studies; (c) $940,000 each year for soil and water resource management grants related to producer-led watershed protection groups, regenerative agriculture, and grazing; (d) $615,000 each year for nonpoint research and education contracts; (e) $150,000 each year in one-time funding for continued development of a nonpoint best management practices implementation tracking system; and (f) $100,000 each year for rural nonpoint grants. The bill would also provide additional bonding authority, consisting of: (a) $13.5 million for rural nonpoint programs at DATCP and DNR, equal to the 2019-21 biennial authorization; and (b) $12 million for urban nonpoint programs at DNR, an increase from the $4 million authorized during the 2019-21 biennium. AB 68/SB 111 does not propose changes to nonpoint-funded administration staff or funding outside of standard budget adjustments.

TABLE 3

Nonpoint Account-Supported Grants and Contracts under AB 68/SB 111

	Fund Source	Base/Prior Authorization*	AB 68/SB 111 2021-22	AB 68/SB 111 2022-23
Agriculture, Trade and Consumer Protection				
County Conservation Staffing Grants	SEG	$5,936,900	$9,536,900	$9,644,900
SWRM Grants - Nutrient Management and Cooperators	SEG	3,675,000	3,675,000	3,675,000
SWRM Grants - Producer-Led Groups	SEG	750,000	1,000,000	1,000,000
SWRM Grants - Regenerative Agriculture	SEG	0	370,000	370,000
SWRM Grants - Grazing	SEG	0	320,000	320,000
DATCP Rural Nonpoint Bonding	BR	7,000,000*	7,000,000	
Natural Resources				
Rural Nonpoint Grants	SEG	$ 0	$100,000	$100,000
Urban Nonpoint Grants	SEG	500,000	500,000	500,000
Flood Mapping and Flood Insurance Studies	SEG	0	1,000,000†	1,000,000†
Research and Education Contracts	SEG	267,600	882,600	882,600
Best Management Practices Tracking System	SEG	0	150,000†	150,000†
DNR Rural Nonpoint Bonding	BR	6,500,000*	6,500,000	
DNR Urban Nonpoint Source and Municipal Flood Control Bonding (UNPS/MFC)	BR	4,000,000*	12,000,000	

*Bonding amounts represent the 2019-21 biennial authorization.
†One-time funding during the biennium.

Fund Condition

8. Table 4 shows the estimated nonpoint account condition under a base budget and Committee action prior to June 3, 2021. Under such a scenario, nonpoint account revenues are estimated to exceed expenditures by approximately $3.4 million during the biennium. The nonpoint

account would be expected to have an available balance of approximately $8.8 million on June 30, 2023, up from $5.4 million as of June 30, 2021.

9. As considered under other budget papers, the Committee may wish to continue one-time nonpoint funding or provide additional funding for various grant programs. If the Committee wished to increase funding for nonpoint programs, it could allocate approximately $1.7 million each year in additional ongoing expenditures while still maintaining balance with available revenues. Additionally, the Committee could consider allocating a portion of the fund balance as one-time funding, although any ongoing funding allocations that exceed available annual revenues could limit future availability of funding for nonpoint programs.

TABLE 4

Nonpoint Account Condition

	Actual 2019-20	Estimated 2020-21	Base Plus JFC 2021-22	Base Plus JFC 2022-23	2022-23 Staff
Opening Balance	$11,396,300	$11,936,800	$10,506,900	$12,592,600	
Revenues:					
Tipping Fee	$17,639,300	$18,090,700	$18,239,600	$18,319,300	
GPR Transfer	7,991,100	6,992,200	7,991,100	7,991,100	
Env. Mgmt. Transfer	6,150,000	6,150,000	6,150,000	6,150,000	
Misc. Income	289,200	209,600	200,000	200,000	
Total Revenue	$32,069,600	$31,442,500	$32,580,700	$32,660,400	
Expenditures:					
Debt Service	$15,682,500	$15,567,100	$14,190,800	$15,071,500	
Grants	10,272,700	11,436,900	10,861,900	10,861,900	
DNR Contracts	642,900	767,600	267,600	267,600	
DNR Administration	2,614,800	2,781,800	2,841,400	2,842,200	19.15
DATCP Administration	2,316,200	2,319,000	2,333,300	2,337,900	20.30
Total Expenditures	$31,529,100	$32,872,400	$30,495,000	$31,381,100	39.45
Cash Balance	$11,936,800	$10,506,900	$12,592,600	$13,871,900	
Encumbrances/Continuing	-14,350,500	-14,350,500	-14,350,500	-14,350,500	
Tipping Fees Receivable	9,116,600	9,234,000	9,266,400	9,315,100	
Available Balance	$6,702,900	$5,390,400	$7,508,500	$8,836,500	

Prepared by: Rory Tikalsky

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June, 2021 Joint Committee on Finance Paper #474

Urban Nonpoint and Municipal Flood Control Programs (Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 445, #6 and #7]

CURRENT LAW

The Department of Natural Resources (DNR) administers several grant programs to reduce urban nonpoint source water pollution and increase resiliency to flooding events in urban areas. The urban nonpoint source and storm water management (UNPS) grant program provides financial assistance for planning or practices undertaken by urban municipalities to assist in managing discharges of storm water into waters of the state. UNPS grants are provided in two categories: planning and construction. UNPS planning grants support engineering, feasibility studies, public information initiatives, and ordinance drafting and enforcement. UNPS construction grants support stream bank and shoreland stabilization or other structural best management practices for preventing urban runoff; funded practices may include costs of land acquisition, structural removal, and street sweeping equipment. The Department also operates the municipal flood control and riparian restoration (MFC) program, which provides grants to municipalities to conduct planning or mitigation for flood control purposes. MFC grants support practices including: (a) property acquisition and demolition; (b) floodproofing of structures; (c) riparian restoration; and (d) establishment of flood collection and detention structures.

During the 2019-21 biennium, DNR is provided $500,000 nonpoint SEG each year and $4,000,000 in additional bonding authority to operate its UNPS and MFC programs. Under current law, funding allocations are made to both programs jointly, and DNR exercises its discretion in allocating funding between the two programs. The Wisconsin Constitution generally requires bonds be used for permanent improvements such as construction projects or property acquisition. Thus, DNR allocates nonpoint SEG funding to non-structural practices such as planning, ordinance drafting, or feasibility studies.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would provide $12,000,000 in nonpoint-SEG supported general obligation bonding for the UNPS and MFC programs. The bill would specify that $8,000,000 is to be allocated for MFC grants. Typically, DNR determines allocation of urban nonpoint bonding authorizations between the two programs, and would retain that flexibility for the remaining $4,000,000 of the new authorization. Historically, an additional increment of bonding authority is authorized each biennium for UNPS and MFC programs, and DNR allocates the entire authorization each biennium. Under 2019 Wisconsin Act 9, the biennial budget act, DNR was provided an additional $4,000,000 in bonding for UNPS and MFC. Table 1 shows funding allocations for UNPS and MFC since 2011-13.

TABLE 1

UNPS and MFC Allocations

	Nonpoint SEG	Additional Bonding Authority
2009-11	$2,695,400	$6,000,000
2011-13	2,626,400	6,000,000
2013-15	2,626,400	5,000,000
2015-17	1,400,000	3,000,000
2017-19	1,050,000	3,700,000
2019-21	1,150,000	4,000,000
2021-23*	3,000,000	12,000,000

*AB 68/SB 111 proposed.

2. DNR reports the intended $8,000,000 increase above the 2019-21 biennial funding level would be intended to support additional demand for grants under MFC. Table 2 shows awards and demand for MFC grants since 2010. DNR notes that severe flooding events in 2018 prompted a surge in applications during the 2020 grant round. DNR reports that it received applications for acquisition or removal at 172 properties, while a typical grant cycle would usually total 20 to 30 properties.

TABLE 2

Municipal Flood Control Allocations

	Requests	Awards
2010	$5,586,318	$3,000,000
2012	4,460,405	3,000,000
2014	3,099,350	2,500,000
2016	2,061,439	1,500,000
2018	2,587,038	2,421,408
2020	10,558,937	2,655,000

3. DNR notes that recipients often use Federal Emergency Management Agency (FEMA) funding awarded for mitigation efforts in disaster zones to meet match requirements. Under the federal disaster declaration made in 2018 in response to severe storms and flooding occurring from August 17, 2018, to September 14, 2018, in west central Wisconsin, including Crawford, Dane, Juneau, La Crosse, Marquette, Monroe, Richland, Sauk, and Vernon counties, Wisconsin Emergency Management received $68 million in requests for relief funding. Of this amount, WEM estimated approximately $20 million was associated with floodplain acquisition and removal projects. According to FEMA's declared disasters database, there have been 19 major disaster declarations in Wisconsin related to flooding since 1969. Five of these disasters have occurred since October, 2016.

4. Allocation of MFC funding is dependent on proposed project activities. Under administrative code Chapter NR 199, MFC project priority is ranked by activity in the following manner: (a) acquisition and removal of structures that cannot be rebuilt, or are in the 100-year flood plain; (b) acquisition and removal of repetitive loss structures or other flood-damaged structures; (c) flood proofing, including reinforcement of walls, anchoring, or placement of utilities above flood levels; (d) restoration activities, including removal of dams, and stream bank and habitat restoration; (e) acquisition of vacant land for flood water flowage easements; (f) construction of detention ponds; and (g) flood mapping.

5. Due to these prioritization criteria, the majority of MFC funding since 2002 has been provided for the highest priorities related to acquisition and removal ($14.3 million, equal to 60%), followed by riparian restoration ($3.9 million, 16%), floodproofing and elevation of structures ($3.3 million, 14%), and construction of detention ponds ($2.4 million, 10%). In instances where limited funding is available, it is common for lower priority activities to receive little to no funding in a grant round. Notably, in 2020, DNR awarded funding only for acquisition and removal of structures. DNR suggests that provision of additional funding for MFC would allow it to fund a wider variety of activities, such as riparian restoration or construction of detention ponds.

6. Alongside proposed additional bonding authority for MFC, AB 68/SB 111 would provide an additional $1,000,000 nonpoint SEG each year of the biennium in one-time funding for MFC projects related to preparation of flood insurance studies and other flood mapping projects. The bill would direct additional funding to floodplain mapping regardless of existing prioritization under NR 199. DNR reports that since 2002, MFC has not provided funding for floodplain mapping or flood insurance studies. In 2020, DNR received one request for $33,000 for such activities, but did not award it funding. DNR suggests that such projects likely do not apply for funding because activities are ranked last in prioritization for MFC funding.

7. DNR currently conducts floodplain mapping in collaboration with FEMA for the purpose of maintaining regulatory maps for federal flood insurance programs. FEMA provides DNR federal funding to cover costs of these activities, and directs prioritization of floodplain mapping efforts to areas with outdated maps and where flooding poses a high risk to human safety. Due to this prioritization of limited funding, FEMA-funded mapping efforts often focus in urban areas; thus, rural areas tend to have more outdated maps. However, communities may fund and conduct floodplain mapping outside of existing FEMA program funding, and submit revised maps to FEMA. DNR intends that additional proposed funding of $1,000,000 each year would support increased mapping

efforts in these communities not served with current federal mapping efforts. DNR contends that improved floodplain maps would allow for residents to better assess need and rates for flood insurance, and improve community planning and development in flood-prone areas.

8. Increased funding for flood mitigation activities would also address increasing instances of severe flooding and rainfall in Wisconsin. The U.S. Global Change Research Program is required to report to Congress and the President at least every four years on effects of climate change on the natural environment, economy and human health, and identify trends for anticipated changes in the next 25 to 100 years. The program's 2018 report identified that precipitation in the Midwest has increased by 5% to 15% during the period of 1986 to 2015, relative to 1901 to 1960. Further, since data began being collected in 1895, four of Wisconsin's five highest precipitation years have occurred since 2010, with the wettest recorded in 2019. Based on conservative climate models, it is anticipated that precipitation levels will continue to increase in Wisconsin throughout the twenty-first century.

9. The Wisconsin Initiative on Climate Change Impacts (WICCI), a partnership between the UW-Madison Nelson Institute for Environmental Studies and the Department of Natural Resources, studies the impact of climate change on Wisconsin. WICCI has compared historical records of precipitation and applied international consensus climate models to Wisconsin conditions to estimate future potential changes in Wisconsin climate. Figure 1 shows historical change in precipitation in Wisconsin by region since 1950. In west, southwest, and south central Wisconsin, total annual precipitation has increased approximately 20% since 1950. Under an intermediate projection of climate change, WICCI estimates annual precipitation would further increase by 5% statewide relative to current levels by the 2041 to 2060 period. Further, Figure 2 shows the projected increase in severe rainfall events across Wisconsin, defined as those exceeding two inches in one day, by the 2041 to 2060 period, relative to the 1981 to 2010 period. While increasing precipitation overall may not necessarily be indicative of increased flooding events, increased occurrences of days with significant rainfall can demonstrate the potential for adverse flooding events that overwhelm existing capacity to absorb rainfall and mitigate flooding.

10. Provision of additional bonding authority for urban nonpoint prevention and flood control efforts would increase resiliency of urban areas and limit property loss associated with severe rainfall events. Further, improved floodplain mapping may improve municipal planning, development, and mitigation efforts, and reduce overall property damage and resulting need for financial assistance in response to flooding events. Given the observed increases in annual rainfall in Wisconsin since 1950, and anticipated further increases in rainfall in coming decades, it could be considered appropriate to allocate additional funding for flood control and mapping efforts.

FIGURE 1

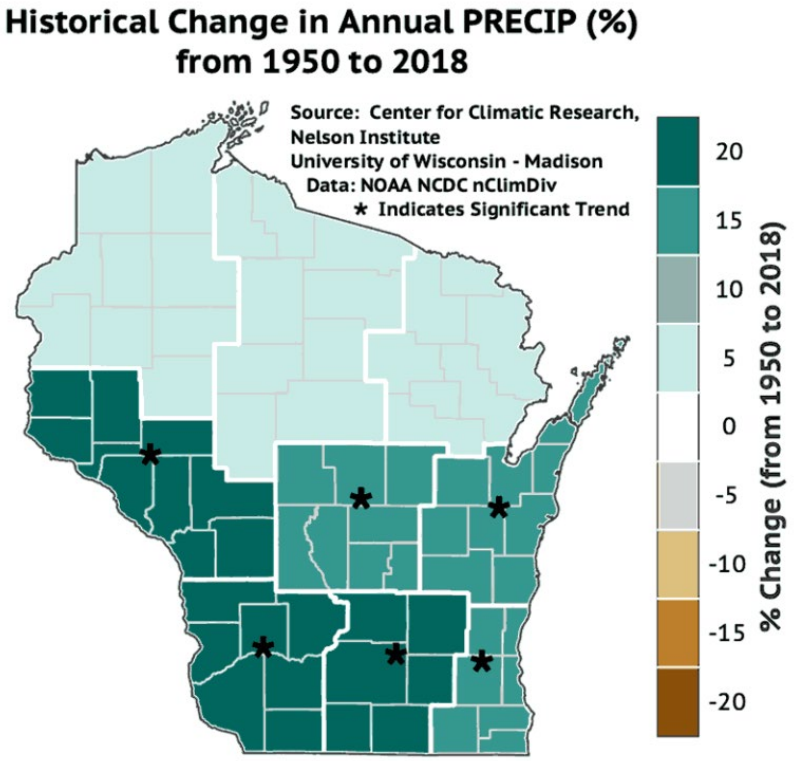
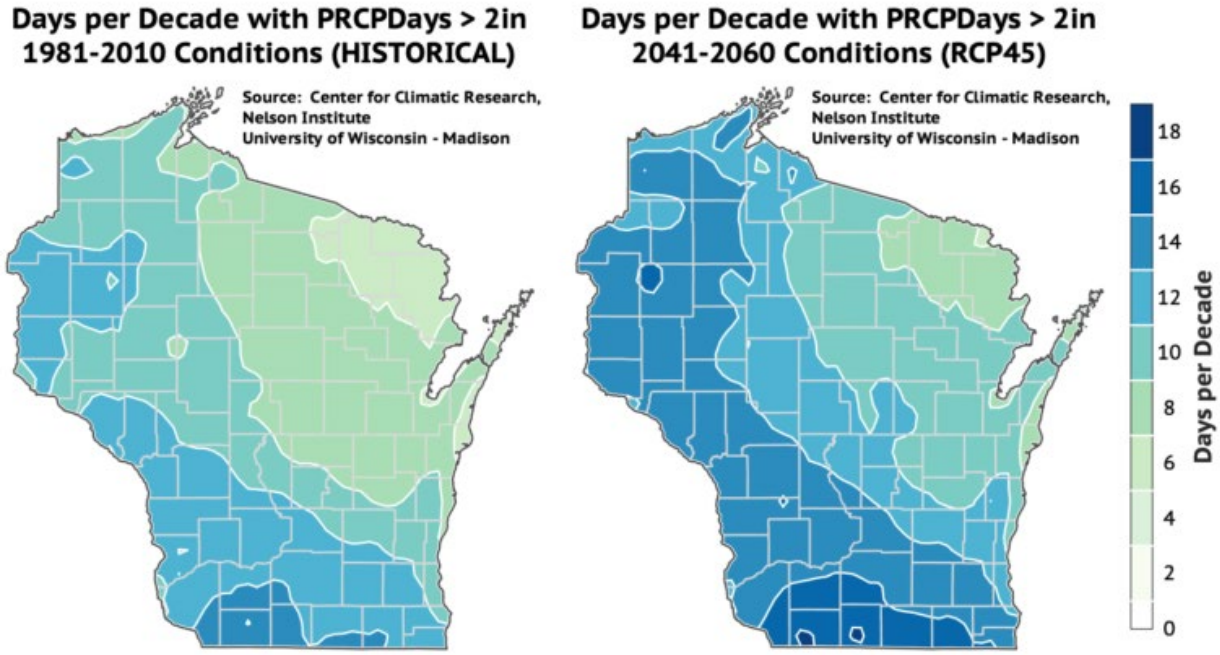


FIGURE 2



11. Provision of additional nonpoint SEG and nonpoint SEG-supported bonding authority for UNPS and MFC is dependent on availability of funding in the nonpoint account of the environmental fund. Based on Committee action to date, the nonpoint account is anticipated to have a June 30, 2023, available balance of $8.8 million, equal to an increase of approximately $3.4 million during the 2021-23 biennium. Thus, across all budget items related to nonpoint programs, the Committee could consider providing an additional approximately $1.7 million nonpoint SEG each year in ongoing expenditures while still maintaining the balance with available revenues. Further, the Committee could consider allocating a portion of the fund balance as one-time funding, although any ongoing funding allocations that exceed available annual revenues could limit future availability of funding for nonpoint programs.

12. Given the increasing demand and potential future increased need for flood control and planning activities, the Committee could consider providing an additional $12,000,000 in nonpoint SEG-supported bonding authority for UNPS and MFC during the 2021-23 biennium [Alternative A1], and an additional $1,000,000 nonpoint SEG each year on a one-time basis for floodplain mapping [Alternative B1]. The Committee could also consider providing an additional $6,000,000 in bonding authority [Alternative A2], or an additional $500,000 nonpoint SEG each year [Alternative B2].

13. To conserve nonpoint SEG funding, the Committee could continue current bond-funded programs at the same level as 2019-21 and authorize an additional $4,000,000 in bonding for urban nonpoint programs [Alternative A3], and take no action related to additional nonpoint SEG funding [Alternative B4]. The Committee could also take no action related to additional bonding authority [Alternative A4].

14. If the Committee wished to improve availability of existing funding for floodplain mapping efforts, it could consider modifying the MFC program to require DNR to prioritize allocation of 20% of available nonpoint SEG funding for UNPS and MFC programs for use in floodplain mapping efforts [Alternative B3]. This set-aside would allow DNR to support floodplain mapping efforts with existing MFC funding, and make available $100,000 each year for floodplain mapping. However, availability of funding for existing nonpoint SEG-funded non-structural practices under UNPS planning and MFC programs would be decreased.

ALTERNATIVES

A. Bonding Authority

1. Provide an additional $12,000,000 in nonpoint SEG-supported bonding authority for UNPS and MFC programs during the 2021-23 biennium. Require DNR to allocate $8,000,000 of this funding for the MFC program.

ALT A1	Change to Base
BR	$12,000,000

2. Provide an additional $6,000,000 in nonpoint SEG-supported bonding authority for UNPS and MFC programs during the 2021-23 biennium.

ALT A2	Change to Base
BR	$6,000,000

3. Provide an additional $4,000,000 in nonpoint SEG-supported bonding authority for UNPS and MFC programs during the 2021-23 biennium.

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

4. Take no action.

B. Nonpoint SEG Funding

1. Provide an additional $1,000,000 nonpoint SEG each year of the 2021-23 biennium on a one-time basis for flood insurance studies and flood mapping.

ALT B1	Change to Base
SEG	$2,000,000

2. Provide an additional $500,000 nonpoint SEG each year of the 2021-23 biennium on a one-time basis for flood insurance studies and flood mapping.

ALT B2	Change to Base
SEG	$1,000,000

3. Require DNR to prioritize allocation of 20% of nonpoint SEG funding for UNPS and MFC programs for use in flood insurance studies and flood mapping.

4. Take no action.

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June, 2021 Joint Committee on Finance Paper #475

Nonpoint Contracts (Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 446 and 447, #11 and #12]

CURRENT LAW

The Department of Natural Resources (DNR) is appropriated funds for contracts with entities providing research, education, and outreach related to nonpoint source water pollution abatement programs. DNR is appropriated $767,600 each year during the 2019-21 biennium for these purposes, which includes $267,600 in base funding and $500,000 in one-time funding. Contracts are funded by the nonpoint account of the environmental fund.

DISCUSSION POINTS

A. Nonpoint Contracts Funding

1. Table 1 lists contract allocations during the 2019-21 biennium. Funding supports:

- The Natural Resources Educators Program at UW-Madison Division of Extension, which provides technical assistance and outreach to farmers and municipalities to support implementation of nonpoint performance standards.

- SnapPlus nutrient management planning software, which is free software that assists farmers in planning nutrient and fertilizer application to increase effectiveness, limit runoff, and reduce fertilizer costs.

- U.S. Geological Survey research, which seeks to quantify and evaluate best management practices (BMPs) for reducing urban nonpoint runoff, such as calculating phosphorus runoff to waterways that is avoided through practices such as street sweeping.

- The BMP implementation tracking system, discussed later.

- The Standards Oversight Council, which develops best management practices for implementation to prevent and control nonpoint runoff consistent with state and federal requirements.

- The Center for Land Use Education at UW-Stevens Point which supports technical assistance to counties and municipalities for development and implementation of shoreland zoning ordinances.

- Research related to nitrogen application efficiency and infiltration, and groundwater impacts of nutrient application in areas with Silurian bedrock. Research informs development of more tailored nonpoint standards and more accurate modelling of the sources of nonpoint pollution.

TABLE 1

2019-21 Nonpoint Contracts

Project Name	Project Sponsor	2019-20	2020-21
Natural Resources Educators Program*	UW-Madison Division of Extension	$300,500	$355,900
SnapPlus Nutrient Management Software Development and Maintenance*	College of Ag. & Life Sciences (UW-Madison)	180,000	180,000
Urban Nonpoint Best Management Practices Effectiveness Research*	U.S. Geological Survey	110,200	80,000
Best Management Practices Implementation Tracking System*	TAPFIN Process Solutions	80,000	75,000
Standards Oversight Council*	Wisconsin Land and Water Conservation Association	42,000	42,000
Center for Land Use Education (CLUE)*	UW-Stevens Point	20,000	20,000
Silurian Groundwater Monitoring	Wisconsin Geological and Natural History Survey	0	43,700
Nitrogen Use Efficiency Research	Discovery Farms (UW-Madison Division of Extension)	0	30,500
Nitrate Leaching Research	College of Ag. & Life Sciences (UW-Madison)	0	25,000
Total		$732,700	$852,100

*Ongoing project.
Note: Due to unexpended allocations in 2019-20, total amounts may exceed total appropriations, as funding is reallocated in the subsequent year.

2. Table 2 shows a history of nonpoint contract funding since 2011-12. Assembly Bill 68/Senate Bill 111 would provide an additional $615,000 nonpoint SEG each year for nonpoint

contracts on an ongoing basis, for a total of $882,600 each year. Final allocation decisions by the Department are subject to appropriations by the Legislature, program need, and proposals received from contractors. However, DNR reports it intends for future nonpoint contract funding to support: (a) ongoing projects identified in Table 1; and (b) additional research and evaluation to improve mapping, refine implementation of, and evaluate the targeted performance standard under Chapter NR 151 of the administrative code that requires different nutrient application practices for varying depths of soil to Silurian bedrock.

TABLE 2

Nonpoint Contracts Funding History

	Ongoing	One-Time	Total
2011-12	$997,600	$0	$997,600
2012-13	997,600	0	997,600
2013-14	997,600	0	997,600
2014-15	997,600	0	997,600
2015-16	227,600	770,000	997,600
2016-17	227,600	770,000	997,600
2017-18	267,600	500,000	767,600
2018-19	267,600	500,000	767,600
2019-20	267,600	500,000	767,600
2020-21	267,600	500,000	767,600
2021-22*	882,600	0	882,600
2022-23*	882,600	0	882,600

*AB 68/SB 111 proposed.

3. Research and development funded by nonpoint contracts are the basis for nonpoint grant allocations and regulatory standards. Funding provided for technical assistance and best management practices development allows for consistent implementation of nonpoint standards and helps to ensure the effectiveness of the approximately $24 million in annual nonpoint grants provided by DNR and the Department of Agriculture, Trade and Consumer Protection (DATCP). Further, research and monitoring activities allow DNR to respond to emerging nonpoint source water pollution issues and develop targeted regulatory standards that more effectively prevent and reduce nonpoint pollution. Finally, nonpoint contracts provide DNR flexibility to fund organizations providing outreach, education, and direct services to assist farmers seeking to implement nonpoint standards.

4. Provision of additional funding for nonpoint contracts is dependent on availability of funding in the nonpoint account of the environmental fund. Based on Committee action as of June 3, 2021, the nonpoint account is anticipated to have a June 30, 2023, available balance of $8.8 million, equal to an increase of approximately $3.4 million during the 2021-23 biennium. Thus, across all budget items related to nonpoint programs, the Committee could consider providing an additional $1.7 million nonpoint SEG each year in ongoing expenditures while still maintaining balance with available revenues. Further, the Committee could allocate a portion of the fund balance as one-time funding, although any ongoing funding allocations that exceed available annual revenues could limit

future availability of funding for nonpoint programs.

5. Given the availability of nonpoint funding, and the impact nonpoint contracts have on effective allocation of grants, outreach and education to farmers, and development of nonpoint regulatory standards, the Committee could consider providing an additional $615,000 nonpoint SEG each year for nonpoint contracts [Alternative A1]. The Committee could also consider providing an additional $500,000 nonpoint SEG each year for nonpoint contracts for a total of $767,600 each year, equal to the 2019-21 allocation [Alternative A2]. The Committee could also take no action, and contracts would be budgeted at $267,600 each year [Alternative A4].

6. As seen in Table 2, nonpoint contracts have regularly been authorized one-time funding in recent years to ensure future availability of nonpoint funding. Thus, the Committee could provide funding on a one-time basis during the 2021-23 biennium [Alternative A3].

B. Best Management Practices Implementation Tracking System

7. The best management practices implementation tracking system allows DNR, in conjunction with DATCP and other collaborators, to track use and impacts of nonpoint pollution-reducing practices installed as a result of grants or regulatory requirements. The system is currently in development, and current modules allow for tracking of activities supported under DNR's rural targeted runoff management grant program and point source discharger compliance with the state's phosphorus standard. As part of the 2019-21 nonpoint contract allocation, DNR is developing modules related to: (a) DNR's notice of discharge (NOD) rural nonpoint grant program, for animal feeding operations issued an NOD and cost-sharing to correct impermissible discharges of wastewater; (b) urban nonpoint grant programs; and (c) NR 151 performance standards.

8. In addition to nonpoint contract funding, AB 68/SB 111 would provide $150,000 nonpoint SEG each year in one-time funding to support continued development of the BMP implementation tracking system. DNR reports the additional funding would support development of modules related to water quality trading and adaptive management activities.

9. In certain instances, point and nonpoint source dischargers regulated by DNR may pursue alternative approaches to reducing water quality impacts of their operations. Through adaptive management or water quality trading activities, regulated entities may partner with others operating in their watershed to reduce discharges more cost-effectively than through modifications at the original discharge site. For example, municipal and industrial wastewater treatment facilities partner with local farmers to reduce phosphorus runoff from agricultural land. In doing so, facilities can avoid installing increasingly expensive technology while still meeting phosphorus discharge requirements under their Wisconsin pollutant discharge elimination system (WPDES) permit.

10. Implementation of modules to track adaptive management and water quality trading activities would allow regulated entities and their partners to more easily report and track progress toward meeting nonpoint pollution reduction goals. Further, DNR contends that improved BMP implementation tracking would help it more readily identify progress towards nutrient reduction goals and more effectively pursue improvements to water quality in Wisconsin.

11. As noted previously, provision of funding for further development of the BMP

implementation tracking system is dependent on availability of funding from the nonpoint account of the environmental fund. The account is anticipated to have a June 30, 2023, available balance of $8.8 million. As the proposed system development costs are one-time, an allocation of the amount proposed would not significantly affect the fund balance.

12. Given the potential enhancements of a BMP implementation tracking system to water quality trading and adaptive management efforts by municipal, industrial, and nonpoint dischargers, and the availability nonpoint funding, the Committee could consider providing an additional $150,000 nonpoint SEG each year of the 2021-23 biennium on a one-time basis for development of water quality trading and adaptive management modules [Alternative B1].

13. DNR currently funds development of its BMP implementation tracking system through existing nonpoint contracts. If development of water quality trading and adaptive management modules were a Department priority, it could consider allocating funding within its existing biennial authorization for nonpoint contracts as determined above, and the Committee could take no additional action related to BMP implementation tracking system funding [Alternative B2].

ALTERNATIVES

A. Nonpoint Contracts Funding

1. Provide an additional $615,000 nonpoint SEG each year for nonpoint contracts. (Budgeted amounts for nonpoint contracts would total $882,600 each year of the 2021-23 biennium.)

ALT A1	Change to Base
SEG	$1,230,000

2. Provide an additional $500,000 nonpoint SEG each year for nonpoint contracts. (Budgeted amounts for nonpoint contracts would total $767,600 each year of the 2021-23 biennium.)

ALT A2	Change to Base
SEG	$1,000,000

3. Specify that funding be provided on a one-time basis during the 2021-23 biennium. (This alternative could be selected in addition to A1 or A2 above.)

4. Take no action. Budgeted amounts for nonpoint contracts would total $267,600 each year of the 2021-23 biennium.

B. Best Management Practices Implementation Tracking System

1. Provide an additional $150,000 nonpoint SEG each year in one-time funding for development of a water quality trading and adaptive management module for the Department's best

management practices implementation tracking system.

ALT B1	Change to Base
SEG	$300,000

2. Take no action.

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June, 2021 Joint Committee on Finance Paper #476

Concentrated Animal Feeding Operation Fees (Natural Resources -- Water Quality)

[LFB 2021-23 Budget Summary: Page 447, #15]

CURRENT LAW

The federal Clean Water Act requires the Environmental Protection Agency (EPA) to regulate point source dischargers of pollutants into waters of the United States. Under a 1974 memorandum of understanding with EPA, the Department of Natural Resources (DNR) is delegated regulatory authority to enforce national water pollution standards in Wisconsin. Under this authority, DNR regulates concentrated animal feeding operations (CAFOs) as point sources of discharges with Wisconsin Pollutant Discharge Elimination System (WPDES) permits issued under s. 283.31 of the statutes. CAFOs are defined as large-scale animal feeding operations of 1,000 animal units or more and some smaller operations with certain discharges of pollutants into state waters. Permitting on the basis of animal units adjusts for the relative size and manure production of different animals, with 700 dairy cows, 1,000 beef cattle, and 125,000 broiler chickens each approximating 1,000 animal units. Permits are issued with five-year terms, and DNR reports 319 permitted CAFOs as of January 1, 2021.

CAFO permittees currently pay a fee of $345 annually, which is deposited into a PR continuing appropriation, authorized to expend all monies received on staff and operations costs associated with CAFO regulation. DNR is required to report annually to the Legislature on use of CAFO fee revenues. In 2019-20, DNR reports revenues supporting nutrient management planning, spill and runoff response and inspections, engineering review of CAFO project specifications, communication and outreach, policy development, permit drafting, enforcement and compliance efforts, and information technology improvements.

In 2020-21, CAFO permitting and oversight staff at the Department, including both administrative and field staff, totaled 26.0 positions, consisting of 8.5 from general purpose

revenues (GPR), 12.5 from the nonpoint account of the segregated (SEG) environmental fund, 2.0 environmental improvement fund SEG, 1.0 from program revenues (PR) collected from WPDES permit fees assessed on CAFO operators, and 2.0 from federal (FED) funding. Funding associated with these positions totaled $2,715,800, consisting of $966,800 GPR, $1,245,000 nonpoint SEG, $184,900 environmental improvement fund SEG, $79,700 PR and $239,400 FED.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would increase the annual fee for CAFOs from $345 annually to $545 annually, and establish an application fee of $3,270 for those applying for a new permit. As written, the bill does not specify if the proposed application fee applies only to operations first applying for a CAFO permit, or also to operations applying for renewal of their permit, which occurs every five years. The administration indicates it intends for the new fee to apply only to applications submitted by new operations. (Alternatives incorporate language to clarify this intent.)

2. As of January, 2021, there are 319 permitted CAFOs in Wisconsin. Further, DNR estimates approximately nine new CAFOs are permitted each year. An additional annual fee of $200 is estimated to produce approximately $66,000 PR each year, and an application fee of $3,270 for new CAFOs is estimated to produce $29,000 PR each year, for a total of $190,000 PR over the biennium. Under current law, CAFOs are expected to generate total fee revenues of approximately $115,000 each year. Thus, under AB 68/SB 111, CAFO fees would generate approximately $210,000 each year of the 2021-23 biennium.

3. The proposed increase in CAFO fees is intended to provide additional funding for DNR's regulatory efforts related to CAFOs. The administration contends that the proposed increase represents a reasonable increase in the share of regulation costs passed on to CAFOs, noting that CAFO fees cover only 4% of staff costs related to CAFO oversight under current law. The proposed increase under AB 68/SB 111 would increase fees to approximately 7% of CAFO regulatory staff costs.

4. Regulatory fees are often assessed on regulated entities to cover the state's costs associated with their oversight and regulation. For example, the Department of Safety and Professional Services, Department of Financial Institutions, and Public Service Commission are all largely funded by program revenue assessments on the entities that they are charged with regulating. However, under current law, CAFO fees are insufficient to support staff dedicated to CAFO regulation, which are estimated to cost approximately $2,715,000 each year of the 2021-23 biennium. A fee structure sufficient to raise the approximately $2,715,000 annually necessary to fully fund current and proposed CAFO staff would require an annual fee of $8,500 per permitted facility or $2.00 annually per animal unit kept at a facility.

5. As part of a WPDES permit, CAFOs are required to report the number of animal units they keep. As of May, 2021, DNR reports CAFO facilities kept approximately 1,400,000 animal units, with the average CAFO keeping approximately 4,450 units, and the median CAFO keeping approximately 2,760 units. Due to their size and complexity, CAFOs with more animal units would be expected to require more staff time associated with both permit application review, and inspection

and enforcement activities. Establishing a fee based on animal units would result in fees that are more proportional to the expected cost of regulating each entity. Further, as CAFOs increase in size, the amount of manure and wastewater produced also increases. Because measurement in animal units reflects the relative size and manure production of different animals, a fee per animal unit would allow DNR to correlate fees with the expected manure production and wastewater discharge of an operation. As a result, operations with larger potential environmental impacts would contribute more towards DNR regulatory efforts intended to prevent and reduce any environmental impacts of CAFOs.

6. During the Department's April 7, 2021, agency briefing before the Joint Committee on Finance, the DNR Secretary indicated that increased CAFO fees would be intended to support additional staff related to inspection and oversight of CAFOs. However, AB 68/SB 111 does not provide additional position authority associated with the fee increase. The Committee could consider providing additional position authority, or DNR could submit a request under section 16.505 of the statutes for additional PR positions if revenues support additional staffing.

7. If the Committee wished to increase the contribution of CAFOs to their cost of regulation, it could increase the annual CAFO fee by $200 and create an application fee of $3,270 for new CAFOs [Alternative 1]. Given the relatively increased regulatory cost and potential environmental impact of CAFOs with more animal units, the Committee could consider assessing additional CAFO fees based on the number of animal units kept at a facility. An additional fee of 7¢ per animal unit annually would generate an equivalent amount of revenue to the increase proposed under AB 68/SB 111 [Alternative 2].

8. Alternatives 1 and 2 each would reestimate the PR appropriation receiving deposits of CAFO permit fees, which is authorized to expend all monies received to the account. Under base funding and Committee action to date on standard budget adjustments, the appropriation is budgeted $92,600 each year. Alternatives 1 and 2 would estimate expenditures at $210,000 each year, consistent with expected fee revenues.

9. If the Committee wished to increase fees to support additional CAFO regulatory staff, it could also consider providing an additional 1.5 PR positions for CAFO regulation [Alternative 3]. The Committee could also take no action [Alternative 4], and CAFOs would continue to pay annual fees of $345, which would generate approximately $115,000 PR per year.

ALTERNATIVES

1. Increase annual CAFO fees from $345 to $545, and establish an application fee for new CAFOs of $3,270. Reestimate CAFO fee revenue at $210,000 PR each year, an increase of $117,400 each year.

ALT 1	Change to Base	
	Revenue	Funding
PR	$190,000	$234,800

2. In addition to the current law fee of $345, create an annual CAFO fee equal to 7¢ per animal unit kept at the CAFO. Reestimate CAFO fee revenue at $210,000 PR each year, an increase of $117,400 each year.

ALT 2	Change to Base	
	Revenue	Funding
PR	$190,000	$234,800

3. Provide an additional 1.5 PR positions for CAFO regulation. (This alternative could be selected in addition to Alternative 1 or 2.)

ALT 3	Change to Base
	Positions
PR	1.50

4. Take no action.

Prepared by: Rory Tikalsky

Natural Resources -- Water Quality

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
8	Dam Safety Bonding
9	Rural Nonpoint Source Bonding
10	Nonpoint Source Grants
13	Waterway and Wetland Permitting Database
14	Wetland Mitigation Program Staff
16	Floodplain Technical Support Project Position
17	Upper Mississippi Management Project Position
18	Storm Water Management Appropriation
19	Aquatic Plant Management Appropriation
20	Clean Water Fund Program Operations
22	Create Wetlands and Waterways Subprogram