



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0378/1
MCP:all

ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO SENATE BILL 312

February 22, 2024 - Offered by Representatives SHANKLAND and BILLINGS.

1 **AN ACT** *to renumber* 281.58 (8e); *to amend* 281.61 (6) and 281.75 (7) (c) 2. a.;
2 and *to create* 66.0811 (4), 196.49 (7), 281.58 (8e) (bm), 281.75 (5m), 292.315,
3 292.32 and 292.34 of the statutes; **relating to:** programs and requirements to
4 address PFAS, modifying administrative rules related to emergency utility
5 services and test wells for community water systems, and making an
6 appropriation.

Analysis by the Legislative Reference Bureau

This bill creates several new programs and requirements relating to PFAS, which is defined in the bill to mean any perfluoroalkyl or polyfluoroalkyl substance.

Municipal PFAS grant program

The bill requires the Department of Natural Resources to create a municipal PFAS grant program, which applies only to types of PFAS for which there is a state or federal standard, a public health recommendation from the Department of Health Services, or a health advisory issued by the federal Environmental Protection Agency. Under the bill, the municipal PFAS grant program provides all of the following grants:

1. Grants to municipalities (defined under current law as a city, town, village, county, county utility district, town sanitary district, public inland lake protection

and rehabilitation district, or metropolitan sewage district) for PFAS testing at municipal water systems and municipal wastewater treatment facilities, or for reimbursement for such testing if performed at properties owned, leased, managed, or contracted for by municipalities and if there are promulgated standards for those types of PFAS.

2. Grants to nonmunicipal entities regulated as public or community water systems, distributed in equal shares up to \$1,800, to test their drinking water supply for PFAS, if required to do so by DNR, or for reimbursement for such testing.

3. Grants to privately owned landfills, in equal shares up to \$15,000, to test for the presence of PFAS in leachate.

4. Grants to municipalities to test for PFAS levels at municipally owned, leased, managed, or contracted locations where PFAS may be present, including testing for PFAS levels in leachate at landfills. If the property to be tested is not owned by the municipality, DNR may not issue a grant unless the property owner gives the municipality written consent to enter the property and conduct testing. These grants are not available to municipalities that receive a grant under this program to test for PFAS at municipal water systems and municipal wastewater treatment facilities. For these grants, DNR may require matching funds of up to 20 percent from the applicant.

5. Grants to municipalities and privately owned landfills to dispose of PFAS-containing biosolids or leachate at facilities that accept such biosolids or leachate or to purchase and install on-site treatment systems to address PFAS contained in biosolids or leachate. For these grants, DNR may require matching funds of up to 20 percent from the applicant and the grants may not be used for costs associated with landspreading.

6. Grants for capital costs or debt service, including for facility upgrades or new infrastructure, to municipalities that are small or disadvantaged or in which rates for water or wastewater utilities will increase by more than 20 percent as a direct result of steps taken to address PFAS contamination. When issuing these grants, DNR must give priority to projects that are necessary to address an exceedence of an applicable state or federal standard.

7. Grants to municipalities for capital costs or other costs related to PFAS that are not otherwise paid from the segregated environmental improvement fund, including costs for addressing landfills or other contaminated lands owned, leased, managed, or contracted for by municipalities or costs incurred by fire departments; grants to municipalities for the preparation and implementation of pollutant minimization plans; and grants to municipalities for costs incurred by public utilities or metropolitan sewerage districts for pretreatment or other PFAS reduction measures in certain circumstances. For these grants, DNR may require matching funds of up to 20 percent from the applicant.

For all of the grants provided under the municipal PFAS grant program, DNR may not require a grant recipient to take any action to address PFAS unless PFAS levels exceed any applicable standard under state or federal law or unless another applicable state or federal law allows DNR to require a grant recipient to take such action. The bill also prohibits DNR from publicly disclosing the results of any PFAS

testing conducted under this grant program unless DNR notifies the grant recipient at least 72 hours before publicly disclosing any test result, with certain exceptions.

Current law provides that whenever a state agency is authorized to provide state funds to any county, city, village, or town for any purpose, funds may also be granted by that agency to any federally recognized tribal governing body for the same purpose.

Innocent landowner grant program

The bill also requires DNR to create an innocent landowner grant program, which applies only to types of PFAS for which there is a state or federal standard, a public health recommendation from the Department of Health Services, or a health advisory issued by the federal Environmental Protection Agency.

Under the program, DNR may provide grants to an eligible person who owns, leases, manages, contracts for, or holds a department-issued solid waste facility license for property that is contaminated by PFAS. DNR may also provide grants to a person who is applying on behalf of multiple eligible persons that are located in the same geographic area, if the applicant will be the entity performing any authorized activities. Under the program, an “eligible person” is 1) a person that spread biosolids or wastewater residuals contaminated by PFAS in compliance with any applicable license or permit, 2) a person that owns land upon which biosolids or wastewater residuals contaminated by PFAS were spread in compliance with any applicable license or permit, 3) a fire department or municipality that responded to emergencies that required the use of PFAS or that conducted training for such emergencies in compliance with applicable federal regulations, 4) a solid waste disposal facility that accepted PFAS, and 5) a person that owns, leases, manages, or contracts for property on which the PFAS contamination did not originate.

The total amount of grants awarded to each eligible person may not exceed \$250,000 and DNR may require grant recipients to provide matching funds of not more than 5 percent of the grant amount. The bill requires DNR to give priority to applications for grants under this program that address PFAS contamination in wells serving a private water supply.

Limitations on DNR actions relating to PFAS

Under the bill, DNR may not require the owner of a property to test for PFAS under the current spills law without probable cause that the property had or currently has an amount of PFAS that is likely to pose a substantial present or potential hazard to human health or the environment.

Under the bill, DNR may not prevent, delay, or otherwise impede any construction project or project of public works based on a presence of PFAS contamination unless DNR determines that 1) the project poses a substantial risk to public health or welfare, 2) there is a substantial risk that the project will create worsening environmental conditions, 3) the entity proposing to complete the project is, as a result of negligence or intentional conduct, responsible for the original contamination, or 4) DNR is specifically required under the federal Clean Water Act to prevent, delay, or otherwise impede the project. “Public works” is defined to mean the physical structures and facilities developed or acquired by a local unit of government or a federally recognized American Indian tribe or band in this state to

provide services and functions for the benefit and use of the public, including water, sewerage, waste disposal, utilities, and transportation, and privately owned landfills that accept residential waste.

In addition, under the bill, if DNR seeks to collect samples from lands not owned by the state based on permission from the landowner, such permission must be in writing, and DNR must notify the landowner that such permission includes the authority to collect samples, to test those samples, and to publicly disclose the results of that testing. The landowner may revoke such permission at any time prior to the collection of samples. Under the bill, DNR also may not publicly disclose such PFAS testing results unless it notifies the landowner of the test results at least 72 hours before publicly disclosing them. The bill also requires DNR, or a third-party contract by DNR, to respond in a timely manner to requests from any person to conduct PFAS testing on samples taken from the person's property if practicable and if funds are available to do so, if there is a reasonable belief that PFAS contamination may be present on the property, and if existing information such as public water supply testing data is not available.

The bill also requires DNR, in the 2023-25 fiscal biennium, to increase its voluntary PFAS testing activities.

Fire fighting foam

The bill requires DNR to survey or resurvey local fire departments about their use and possession of PFAS-containing fire fighting foam, send communications and information, and contract with a third party to voluntarily collect PFAS-containing firefighting foam.

Well compensation grant program

Under current law, an individual owner or renter of a contaminated private well, subject to eligibility requirements, may apply for a grant from DNR to cover a portion of the costs to treat the water, reconstruct the well, construct a new well, connect to a public water supply, or fill and seal the well. The bill provides that a grant for costs to treat the water may be used to cover the cost of a filtration device and up to two replacement filters.

In addition, under the bill, if DNR determines that a claimant who is applying for a grant under the well compensation grant program on the basis of PFAS contamination would be eligible for a grant under the innocent landowner grant program created under the bill, and funding under that program is available, DNR must refer the claimant's application to that program instead of processing it under the well compensation grant program. If the claimant is denied under the innocent landowner grant program, DNR must refer the claim back to the well compensation grant program.

Portable water treatment system pilot project

The bill requires DNR to contract with an entity to conduct a pilot project in which PFAS-contaminated surface water is partially or fully diverted to a portable treatment system and treated water is returned to the surface water. DNR and the entity must conduct tests to evaluate the success of the pilot project.

Remedial action at sites contaminated by PFAS

The bill allows DNR, or a contracted third party, to begin response and remedial actions, including site investigations, at any PFAS-contaminated site where a responsible party has not been identified or where the responsible party qualifies for a grant under the innocent landowner grant program. The bill directs DNR to prioritize response and remedial actions at sites that have the highest levels of PFAS contamination and sites with the greatest threats to public health or the environment because of PFAS.

Assistance for testing laboratories

The bill requires DNR and the Board of Regents of the University of Wisconsin System to enter into a memorandum of understanding to ensure that the state laboratory of hygiene provides guidance and other materials, conducts training, and provides assistance to laboratories in this state that are certified to test for contaminants other than PFAS in order for them to become certified to test for PFAS, and to assist laboratories certified to test for PFAS in this state to reduce their testing costs and shorten the timeline for receiving test results.

Under the bill, the Board of Regents, in coordination with DNR, may provide grants to laboratories in this state that are certified to test for PFAS, or that are seeking such certification, to assist with up to 40 percent of the costs of purchasing equipment necessary for testing for PFAS.

The bill requires the state laboratory of hygiene to prepare a report on these efforts and provide the report to the legislature.

PFAS studies and reporting

The bill requires DNR and the Board of Regents of the University of Wisconsin System to enter into a memorandum of understanding to 1) study and analyze the cost, feasibility, and effectiveness of different methods of treating PFAS before they are released into a water system or water body; 2) conduct a cost-benefit analysis of different options for disposing of biosolids or sludge that contains or may contain PFAS; 3) study and analyze the cost, feasibility, and effectiveness of different destruction and disposal methods for PFAS; 4) study and analyze the cost, feasibility, and effectiveness of different methods for remediating PFAS that leave the contaminated medium in place and methods that remove the contaminated medium; 5) study and analyze the migration of PFAS into the bay of Green Bay; 6) study and analyze the migration of PFAS into the Wisconsin and Mississippi Rivers and their tributaries; 7) create a comprehensive, interactive map showing all available PFAS testing data and, for each data point, whether it exceeds any applicable state or federal standard for PFAS; and 8) conduct any additional studies related to PFAS, as approved by the Joint Committee on Finance. Such data may not contain any personally identifiable information unless the entity to which the data applies is a municipal entity that is required to test and disclose its results under state law.

DNR reporting requirements

The bill requires DNR to report to the legislature once every six months for a period of three years to provide a detailed description of DNR's expenditures under

the bill and a detailed description of DNR's progress in implementing the provisions of the bill.

Clean Water Fund Program and Safe Drinking Water Loan Program

Under current law, the Department of Administration and DNR administer the Safe Drinking Water Loan Program (SDWLP), which provides financial assistance to municipalities, and to the private owners of community water systems that serve municipalities, for projects that will help the municipalities comply with federal drinking water standards. DNR establishes a funding priority list for SDWLP projects, and DOA allocates funding for those projects. Also under current law, DNR administers the Clean Water Fund Program (CWFP), which provides financial assistance to municipalities for projects to control water pollution, such as sewage treatment plants.

Under the bill, if DNR, when ranking SDWLP or CWFP projects or determining an applicant's eligibility for assistance under those programs, considers whether an applicant that intends to extend service outside municipal boundaries because of water contamination is "small" or "disadvantaged," DNR must determine the applicant to be small or disadvantaged if the area receiving the extended service would normally be determined to be small or disadvantaged, regardless of whether the existing service area would normally be determined to be small or disadvantaged.

Public water utility projects

Under current law, a public utility may not engage in certain construction, expansion, or other projects unless the Public Service Commission grants a certificate of authority (CA) for the proposed project. Under the bill, if a water public utility or a combined water and sewer public utility (water utility) fails to obtain a CA before commencing a project for which one is required, PSC may not investigate, impose a penalty against, or bring an action to enjoin the water utility if 1) the water utility undertook the project in response to a public health concern caused by PFAS, the presence of which was unknown to the water utility until shortly before it commenced the project and the water utility provides evidence showing that the utility has exceeded or is likely to exceed the applicable state or federal standard for that type of PFAS; 2) the water utility promptly notifies PSC of the work and, within 30 days after commencing the work, submits the appropriate application and supporting documentation to PSC; and 3) the total cost of the project is not greater than \$2,000,000.

In the PSC administrative code, the bill adds an emergency resulting from water supply contamination to the circumstances under which PSC authorization is not necessary prior to a utility beginning necessary repair work. The current administrative code limits this to an emergency resulting from the failure of power supply or from fire, storm, or similar events.

Use of revenue for PFAS source reduction measures

The bill authorizes a municipal public utility or metropolitan sewerage district to use revenues from its water or sewerage services for up to half of the cost of pretreatment or other PFAS source reduction measures for an interconnected customer or other regular customer if the costs incurred are less than the costs of the

upgrades otherwise required at the endpoint treatment facility and if the costs are approved by the governing body of the municipality or the metropolitan sewerage district.

Test wells for community water systems

Under rules promulgated by DNR relating to community water systems (a system for providing piped water for human consumption to the public and that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents), DNR must pre-approve any test wells that will be converted into permanent wells and any test wells that will pump at least 70 gallons per minute for more than 72 hours. DNR rules require test wells to be drilled for permanent wells for community water systems to determine geologic formation information and water quality and quantity data. DNR rules also allow DNR to designate special well casing depth areas within which wells must be drilled to a greater depth and meet other requirements to avoid contamination.

This bill provides that test wells for community water systems must also be approved by DNR if they are located in special well casing depth areas that have been designated based in whole or in part on the presence of PFAS.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0811 (4) of the statutes is created to read:

2 66.0811 (4) Notwithstanding subs. (2) and (3) and s. 66.0901 (11), a municipal
3 public utility or a metropolitan sewerage district created under ch. 200 may use
4 funds derived from its water or sewerage services for up to one-half the cost of
5 pretreatment or other perfluoroalkyl and polyfluoroalkyl substances source
6 reduction measures for an interconnected customer or other regular customer if the
7 costs incurred are less than the costs of the upgrades otherwise required at the
8 endpoint treatment facility and if the costs are approved by the governing body of the
9 municipality or the metropolitan sewerage district.

10 **SECTION 2.** 196.49 (7) of the statutes is created to read:

11 196.49 (7) With respect to a water public utility or a combined water and sewer
12 public utility, the commission may not investigate, impose a penalty against, or bring
13 an action to enjoin the public utility for failing to obtain a certificate of authority

1 before commencing a project for which one is required under this section if all of the
2 following apply:

3 (a) The public utility undertook the project in response to a public health
4 concern caused by PFAS, as defined in s. 292.315 (1), the presence of which was
5 unknown to the public utility until shortly before it commenced the project, and the
6 public utility provides evidence showing that the utility has exceeded or is likely to
7 exceed the applicable promulgated state or federal standard for that type of PFAS.

8 (b) The public utility promptly notifies the commission of the work and, within
9 30 days after commencing the work, submits the appropriate application and
10 supporting documentation to the commission.

11 (c) The total cost of the project is not greater than \$2,000,000.

12 **SECTION 3.** 281.58 (8e) of the statutes is renumbered 281.58 (8e) (am).

13 **SECTION 4.** 281.58 (8e) (bm) of the statutes is created to read:

14 281.58 **(8e)** (bm) If the department, when ranking projects under this
15 subsection or determining an applicant's eligibility for assistance under this section,
16 considers whether an applicant that intends to extend service outside the boundaries
17 of a municipality because of water contamination is small or disadvantaged, the
18 department shall, to the extent allowable under federal law, determine the applicant
19 to be small or disadvantaged if the area receiving the extended service would
20 normally be determined to be small or disadvantaged, regardless of whether the
21 existing service area would normally be determined to be small or disadvantaged.

22 **SECTION 5.** 281.61 (6) of the statutes is amended to read:

23 281.61 **(6)** PRIORITY LIST. The department shall establish a priority list that
24 ranks each safe drinking water loan program project. The department shall
25 promulgate rules for determining project rankings that, to the extent possible, give

1 priority to projects that address the most serious risks to human health, that are
2 necessary to ensure compliance with the Safe Drinking Water Act, 42 USC 300f to
3 300j-26, and that assist applicants that are most in need on a per household basis,
4 according to affordability criteria specified in the rules. For the purpose of ranking
5 projects under this subsection, the department shall treat a project to upgrade a
6 public water system to provide continuous disinfection of the water that it distributes
7 as if the public water system were a surface water system that federal law requires
8 to provide continuous disinfection. If the department, when ranking projects under
9 this subsection or determining an applicant's eligibility for assistance under this
10 section, considers whether an applicant that intends to extend service outside the
11 boundaries of a local governmental unit because of water contamination is small or
12 disadvantaged, the department shall, to the extent allowable under federal law,
13 determine the applicant to be small or disadvantaged if the area receiving the
14 extended service would normally be determined to be small or disadvantaged,
15 regardless of whether the existing service area would normally be determined to be
16 small or disadvantaged.

17 **SECTION 6.** 281.75 (5m) of the statutes is created to read:

18 281.75 **(5m)** REFERRAL TO THE INNOCENT LANDOWNER GRANT PROGRAM. If the
19 department determines that a claimant that submits a claim under this section on
20 the basis of contamination by perfluoroalkyl or polyfluoroalkyl substances would be
21 eligible for a grant under the innocent landowner grant program under s. 292.34, and
22 moneys are available under s. 292.34, the department shall refer the claim to the
23 program under s. 292.34 instead of reviewing the claim under this section. If the
24 claimant's claim is denied under s. 292.34, the department shall refer the claim back
25 to the program under this section.

SECTION 7. 281.75 (7) (c) 2. a. of the statutes is amended to read:

281.75 (7) (c) 2. a. Equipment used for treating the water, including a filtration device and up to 2 replacement filters;

SECTION 8. 292.315 of the statutes is created to read:

292.315 Municipal PFAS grant program. (1) DEFINITION. In this section, “PFAS” means any perfluoroalkyl or polyfluoroalkyl substance.

(1m) APPLICABILITY. This section applies only to PFAS for which there is a state or federal standard, a public health recommendation from the department of health services under s. 160.07, or a health advisory issued by the federal environmental protection agency.

(2) GRANTS. The department shall provide all of the following grants:

(a) Grants to municipalities to test for PFAS levels at municipal water systems and municipal wastewater treatment facilities, or to reimburse municipalities for PFAS testing performed at properties owned, leased, managed, or contracted for by those municipalities after applicable standards for the chemical being tested have been promulgated. The department shall base the amount of grant awards under this paragraph on the cost of testing and the amount of testing needed in each community, while ensuring that funding is available to every eligible applicant that submits a claim under this paragraph. The department may not require a municipality that submits a claim for a grant under this paragraph to provide information other than the basic information necessary to process the claim and may not require the recipient of a grant under this paragraph to provide any matching funds.

(b) Grants, provided in equal shares not to exceed \$1,800, to entities that are not municipalities and that are regulated as public or community water systems for

1 the entity to test its drinking water supply for PFAS if required to do so by the
2 department, or for reimbursement to the entity for PFAS testing performed after
3 applicable standards for the chemical being tested have been promulgated. An entity
4 that is not a municipality may apply to the department one time for a grant under
5 this paragraph, by a deadline set by the department. The department may not
6 require the recipient of a grant under this paragraph to provide any matching funds.

7 (c) Grants, provided in equal shares not to exceed \$15,000, to the owner or
8 manager of, or the holder of a solid waste facility license issued by the department
9 for, privately owned solid waste disposal facilities to test for the presence of PFAS in
10 leachate. An entity may apply to the department one time for a grant under this
11 paragraph, by a deadline set by the department. The department may not require
12 the recipient of a grant under this paragraph to provide any matching funds.

13 (d) Grants to municipalities to test for PFAS levels at locations that are owned,
14 leased, managed, or contracted for by a municipality and where PFAS may be
15 present, including airports, water systems, wastewater treatment facilities, or
16 contaminated lands, and to test for PFAS levels in leachate at solid waste disposal
17 facilities that are owned, leased, managed, or contracted for by a municipality. If the
18 property is not owned by the municipality, the department may not issue a grant
19 under this paragraph unless the property owner has given the municipality written
20 consent for the municipality to enter the property and conduct testing or the ability
21 to enter the property and conduct testing is permitted under an existing agreement
22 between the property owner and the municipality. The department may not provide
23 a grant under this paragraph to test for PFAS in a water system or wastewater
24 treatment facility if the applicant has received a grant under par. (a), unless the
25 applicant demonstrates that it has used all of the grant funds provided to it under

1 par. (a). The department shall accept applications for grants and provide grants
2 under this paragraph on a rolling basis. The department may not require the
3 recipient of a grant under this paragraph to provide matching funds in an amount
4 greater than 20 percent of the amount of the grant.

5 (e) Grants to municipalities and the owner or manager of, or the holder of a solid
6 waste facility license issued by the department for, privately owned solid waste
7 disposal facilities to dispose of PFAS-containing biosolids or leachate at facilities
8 that accept such biosolids or leachate or to purchase and install on-site treatment
9 systems to address PFAS contained in biosolids or leachate. Grant moneys received
10 under this paragraph may not be used for any cost associated with landspreading.
11 The department may not require the recipient of a grant under this paragraph to
12 provide matching funds in an amount greater than 20 percent of the amount of the
13 grant.

14 (f) Grants for capital costs or debt service, including for facility upgrades or new
15 infrastructure, to municipalities that are small or disadvantaged or in which rates
16 for water or wastewater utilities will increase by more than 20 percent as a direct
17 result of steps taken to address PFAS contamination. A grant provided under this
18 paragraph may not exceed 50 percent of the municipality's capital or debt service
19 costs, and no municipality may receive grants under this paragraph that total more
20 than 20 percent of the funding available for grants under this paragraph. The
21 department shall give priority under this paragraph to projects that are necessary
22 to address an exceedance of an applicable promulgated state or federal standard.
23 The department shall accept applications for grants and provide grants under this
24 paragraph on a rolling basis. A municipality may submit an application for a grant

1 under this program at the same time as submitting an application for financial
2 assistance under s. 281.58 or 281.61.

3 (g) Grants to municipalities for capital costs or other costs related to PFAS that
4 are not otherwise paid from the environmental improvement fund, including costs
5 for addressing solid waste disposal facilities or other contaminated lands owned,
6 leased, managed, or contracted for by the municipality and costs incurred by fire
7 departments, including to replace PFAS-containing fire fighting foam; grants to
8 municipalities for the preparation and implementation of pollutant minimization
9 plans; and grants to municipalities for costs incurred by municipal public utilities or
10 metropolitan sewerage districts created under ch. 200 for pretreatment or other
11 PFAS source reduction measures for an interconnected customer or other regular
12 customer if the costs incurred are less than the costs of the upgrades otherwise
13 required at the endpoint treatment facility and if the costs are approved by the
14 governing body of the municipality or the metropolitan sewerage district. No
15 municipality may receive grants under this paragraph that total more than 20
16 percent of the funding available for grants under this paragraph. The department
17 may not require the recipient of a grant under this paragraph to provide matching
18 funds in an amount greater than 20 percent of the amount of the grant. The
19 department shall accept applications for grants and provide grants under this
20 paragraph on a rolling basis.

21 **(3) LIMITATIONS.** (a) The department may not require the recipient of a grant
22 under sub. (2) to take action to address PFAS contamination unless testing
23 demonstrates that PFAS levels exceed any applicable promulgated standard under
24 state or federal law or unless another applicable state or federal law allows the
25 department to require a grant recipient to take such action.

(b) The department may not publicly disclose the results of any PFAS testing conducted under this section unless the department notifies the grant recipient at least 72 hours before publicly disclosing any test result. This paragraph does not apply to any testing required or conducted under ch. 281 or 283.

SECTION 9. 292.32 of the statutes is created to read:

292.32 Limitations on department actions relating to PFAS. (1)

DEFINITIONS. In this section:

(a) “Construction project” means a building project that will affect one or more parcels.

(b) “PFAS” has the meaning given in s. 292.315 (1).

(c) “Public works” means the physical structures and facilities developed or acquired by a local unit of government or a federally recognized American Indian tribe or band in this state to provide services and functions for the benefit and use of the public, including water, sewerage, waste disposal, utilities, and transportation, and privately owned solid waste disposal facilities that accept residential waste.

(2) PROBABLE CAUSE REQUIRED FOR TESTING. Notwithstanding any conflicting provisions of this chapter, the department may not require the owner of a property to conduct testing under this chapter for the presence of PFAS without probable cause that the property had or currently has an amount of PFAS that is likely to pose a substantial present or potential hazard to human health or the environment. For purposes of this subsection, property does not include a property used for industrial purposes, including manufacturing. For purposes of this subsection, a basis for probable cause includes the reporting of a PFAS spill under this chapter or under section 304 of the federal Emergency Planning and Community Right-to-Know Act.

1 **(3) CONSTRUCTION PROJECTS.** Notwithstanding any conflicting provisions of this
2 chapter, the department may not prevent, delay, or otherwise impede any
3 construction project or project of public works on the basis of a presence of PFAS
4 contamination unless the department determines any of the following:

5 (a) The project poses a substantial risk to public health or welfare.

6 (b) There is a substantial risk that the project will create worsening
7 environmental conditions.

8 (c) The entity proposing to complete the project is, as a result of reckless or
9 intentional conduct, responsible for the original contamination.

10 (d) The department is specifically required under the federal Clean Water Act
11 to prevent, delay, or otherwise impede the project.

12 **(4) PFAS TESTING AND ENFORCEMENT ON NONSTATE LANDS.** If department staff or
13 a 3rd-party entity contracted by the department seeks to conduct voluntary testing
14 under this chapter for PFAS, all of the following shall apply:

15 (a) If the department, or an entity contracted by the department, seeks to
16 collect voluntary samples from lands not owned by the state based on permission
17 from the landowner, such permission shall be in writing, and the department shall
18 notify the landowner that such permission includes the authority to collect samples,
19 to test those samples, and to publicly disclose the results of that testing. A landowner
20 may revoke such permission at any time prior to the collection of samples.

21 (b) The department may not publicly disclose the results of any PFAS testing
22 conducted on samples taken from lands not owned by the state unless the
23 department notifies the landowner of the test results at least 72 hours before publicly
24 disclosing the test results.

1 **(5) PFAS TESTING REQUESTS.** The department shall, in a timely manner, respond
2 to requests from any person to conduct PFAS testing on samples taken from the
3 person's property if practicable and if funds are available to do so, if there is a
4 reasonable belief that PFAS contamination may be present on the property, and if
5 existing information such as public water supply testing data is not available. The
6 department may contract with a 3rd party to respond to requests for testing under
7 this subsection.

8 **SECTION 10.** 292.34 of the statutes is created to read:

9 **292.34 Innocent landowner grant program. (1)** In this section, "PFAS"
10 has the meaning given in s. 292.315 (1).

11 **(1m)** This section applies only to PFAS for which there is a state or federal
12 standard, a public health recommendation from the department of health services
13 under s. 160.07, or a health advisory issued by the federal environmental protection
14 agency.

15 **(2)** The department shall administer a program under which the department
16 may provide a grant to an eligible person who owns, leases, manages, contracts for,
17 or holds a department-issued solid waste facility license for property that is
18 contaminated by PFAS; or to a person who is applying on behalf of multiple eligible
19 persons that are located in the same geographic region and that will be conducting
20 similar activities under sub. (4), if the applicant will be the entity conducting the
21 activities under sub. (4).

22 **(3)** All of the following are persons eligible for a grant under this section:

23 (a) A person that spread biosolids or wastewater residuals contaminated by
24 PFAS in compliance with any applicable license or permit.

1 (b) A person that owns land upon which biosolids or wastewater residuals
2 contaminated by PFAS were spread in compliance with any applicable license or
3 permit.

4 (c) A fire department or municipality that responded to emergencies that
5 required the use of PFAS or that conducted training for such emergencies in
6 compliance with applicable federal regulations.

7 (d) A solid waste disposal facility that accepted PFAS.

8 (e) A person that owns, leases, manages, or contracts for property on which the
9 PFAS contamination did not originate.

10 (4) Grants under this section may be used to cover costs associated with
11 additional testing; environmental studies; engineering reports; clean drinking water
12 supplies, including temporary potable water, filtration, well replacement, or
13 interconnection to a municipal water supply; remediation costs; and any other cost
14 resulting from landspreading of contaminated biosolids, detection of groundwater
15 contamination, or other contamination events affecting the property.

16 (5) The department shall accept applications for grants and award grants
17 under this section on a rolling basis. The department shall give priority to
18 applications for grants under this section that address PFAS contamination in wells
19 serving a private water supply, as defined in s. 281.75 (1) (f).

20 (6) Grants awarded under this section may not exceed \$250,000 for each
21 eligible person. The department may require the recipient of a grant under this
22 section to provide matching funds in an amount not to exceed 5 percent of the amount
23 of the grant.

24 **SECTION 11.** NR 811.12 (1) (g) 2. of the administrative code is renumbered NR
25 811.12 (1) (g) 2. (intro.) and amended to read:

1 NR 811.12 (1) (g) 2. (intro.) ~~Test wells to be converted to permanent wells or test~~
2 ~~wells to be pumped at a rate of 70 gallons per minute or more for a period of more than~~
3 ~~72 hours~~ All of the following test wells shall be approved by the department prior to
4 their construction;

5 **SECTION 12.** NR 811.12 (1) (g) 2. a., b. and c. of the administrative code are
6 created to read:

7 NR 811.12 (1) (g) 2. a. Test wells to be converted to permanent wells.

8 b. Test wells to be pumped at a rate of 70 gallons per minute or more for a period
9 of more than 72 hours.

10 c. Test wells located in special well casing depth areas that are designated by
11 the department as special well casing depth areas based in whole or in part on the
12 presence of perfluoroalkyl or polyfluoroalkyl substances. Approval under this subd.
13 2. c. shall include review and approval of specifications and plans relating to drilling,
14 well casing, and filling and sealing.

15 **SECTION 13.** PSC 184.06 of the administrative code is amended to read:

16 **PSC 184.06 Emergency work.** In case of an emergency resulting from the
17 failure of power supply or from fire, storm, or similar events, a utility may begin
18 necessary repair work without receiving prior commission authorization. In case of
19 an emergency resulting from the contamination of water supply, a utility may begin
20 necessary repair, temporary treatment, or other emergency work to address the issue
21 without receiving prior commission authorization. The utility shall promptly notify
22 the commission of the emergency work and shall, within 30 days after commencing
23 the work, furnish the commission with the information required under s. PSC 184.04
24 (3).

25 **SECTION 14. Nonstatutory provisions.**

1 (1) PORTABLE TREATMENT SYSTEM PILOT. The department of natural resources
2 shall contract with an entity to conduct a pilot project in which surface water is
3 partially or fully diverted to a portable treatment system and treated water is
4 returned to the surface water. Project activities under this subsection shall be
5 conducted at locations with surface water with the highest concentration of
6 perfluoroalkyl or polyfluoroalkyl substances and where a responsible party has not
7 been identified or the responsible party is unable to pay for remediation. The
8 department of natural resources and the entity contracted under this subsection
9 shall evaluate the success of the pilot project by conducting tests upstream and
10 downstream of the locations where the portable treatment system is used.

11 (2) REMEDIAL ACTION AT SITES CONTAMINATED BY PFAS. The department of
12 natural resources may begin response and remedial actions, including site
13 investigations, at any site contaminated by perfluoroalkyl or polyfluoroalkyl
14 substances where a responsible party has not been identified or where the
15 responsible party qualifies as an innocent landowner under s. 292.34. The
16 department of natural resources may contract with a 3rd party to conduct response
17 and remedial actions under this subsection. The department of natural resources
18 shall prioritize response and remedial actions at sites with the highest levels of
19 perfluoroalkyl or polyfluoroalkyl substances and sites with the greatest threats to
20 public health or the environment as a result of perfluoroalkyl or polyfluoroalkyl
21 substances.

22 (3) PFAS TESTING LABORATORIES.

23 (a) The department of natural resources and the Board of Regents of the
24 University of Wisconsin System shall enter into a memorandum of understanding
25 to jointly ensure that the state laboratory of hygiene provides guidance and other

1 materials, conducts training, and provides assistance to laboratories in this state
2 that are certified under s. 299.11 (7) to test for contaminants other than
3 perfluoroalkyl or polyfluoroalkyl substances to become certified under s. 299.11 (7)
4 to test for perfluoroalkyl or polyfluoroalkyl substances, and to assist laboratories in
5 this state that are certified under s. 299.11 (7) to test for perfluoroalkyl or
6 polyfluoroalkyl substances in reducing the costs of such testing and shortening the
7 timeline for receiving such testing results.

8 (b) The Board of Regents of the University of Wisconsin System, in coordination
9 with the department of natural resources, may provide grants to laboratories in this
10 state that are certified under s. 299.11 (7) to test for perfluoroalkyl or polyfluoroalkyl
11 substances, or that are seeking such certification, to assist with the cost of
12 purchasing equipment necessary for testing for perfluoroalkyl or polyfluoroalkyl
13 substances. A grant under this paragraph may not exceed 40 percent of the cost of
14 such equipment. All laboratories in this state that are certified under s. 299.11 (7)
15 to test for perfluoroalkyl or polyfluoroalkyl substances, or that are seeking such
16 certification, shall be given equal opportunity to receive a grant under this
17 paragraph.

18 (c) The state laboratory of hygiene shall prepare a report on its efforts under
19 this subsection and shall deliver the report to the joint committee on finance and the
20 standing committees with jurisdiction over natural resources and the environment
21 no later than August 31, 2025.

22 (4) PFAS STUDIES AND REPORTING.

23 (a) In this subsection, "PFAS" has the meaning given in s. 292.315 (1).

24 (b) The department of natural resources and the Board of Regents of the
25 University of Wisconsin System shall enter into a memorandum of understanding

1 to jointly do all of the following, with the assistance of University of Wisconsin
2 institutions, the department of natural resources and other relevant state agencies,
3 county land and water conservation departments, and local 3rd parties, if available:

4 1. Study and analyze the cost, feasibility, and effectiveness of different methods
5 of treating PFAS before they are released into a water system or water body.

6 2. Conduct a cost-benefit analysis of different options for disposing of biosolids
7 or sludge that contains or may contain PFAS.

8 3. Study and analyze the cost, feasibility, and effectiveness of different
9 destruction and disposal methods for PFAS.

10 4. For sites contaminated by PFAS, in consultation with persons who are able
11 and qualified to conduct environmental remediation in this state, study and analyze
12 the cost, feasibility, and effectiveness of different methods for remediating PFAS that
13 leave the contaminated medium in place and methods that remove the contaminated
14 medium.

15 5. Study and analyze the migration of PFAS into the bay of Green Bay,
16 including where the PFAS are entering the bay and what effects PFAS may have in
17 the bay.

18 6. Study and analyze the migration of PFAS into the Wisconsin River and its
19 tributaries and the Mississippi River and its tributaries, including where the PFAS
20 are entering surface waters and unconfined groundwater and what effects PFAS
21 may have in those rivers.

22 7. Create a comprehensive, interactive map showing all available PFAS testing
23 data and whether each data point on the map exceeds any applicable promulgated
24 state or federal standard for PFAS. Such data may not contain any personally

1 identifiable information unless the entity to which the data applies is a municipal
2 entity that is required to test and disclose its results under ch. 281 or 283.

3 8. Conduct any additional studies related to PFAS, as approved by the joint
4 committee on finance.

5 (c) The Board of Regents of the University of Wisconsin System shall require
6 the University of Wisconsin-Madison division of extension to provide the map and
7 reports on the studies required under this subsection to the joint committee on
8 finance and the standing committees with jurisdiction over natural resources and
9 the environment no later than 2 years after the effective date of this paragraph.

10 (5) REPORTS TO LEGISLATURE ON PROGRESS UNDER THIS ACT. For a period of 3 years
11 after the effective date of this subsection, the department of natural resources shall,
12 every 6 months, submit a report to the joint committee on finance and to the standing
13 committees with jurisdiction over natural resources and the environment. The first
14 report under this subsection shall be submitted no later than 6 months after the
15 effective date of this subsection. The report shall include a detailed description of the
16 department's expenditures under this act and a detailed description of the
17 department's progress in implementing the provisions of this act.

18 (6) PFAS TESTING. In the 2023-25 fiscal biennium, the department of natural
19 resources shall conduct additional voluntary PFAS testing activities.

20 (7) FIRE FIGHTING FOAM. The department of natural resources shall survey or
21 resurvey local fire departments about their use and possession of PFAS-containing
22 fire fighting foam, send communications and information regarding such foam, and
23 contract with a 3rd party to voluntarily collect such foam.

24 **SECTION 15. Fiscal changes.**

(1) In the schedule under s. 20.005 (3) for the appropriation to the department of natural resources under s. 20.370 (4) (mw), the dollar amount for fiscal year 2023-24 is increased by \$125,000,000 to address and prevent perfluoroalkyl and polyfluoroalkyl substances contamination in this state and to increase the authorized FTE positions for the department by 16.0 SEG positions for this purpose.

SECTION 16. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ADMINISTRATIVE RULES. The treatment of administrative rules takes effect as provided in s. 227.265.

(END)