



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #681

Invasive Species (DNR -- Water Quality)

[LFB 2001-03 Budget Summary: Page 490, #17]

CURRENT LAW

The water resources account of the conservation fund (motorboat gas tax revenue) supports DNR staff who provide technical and educational assistance to local governments, including public inland lake rehabilitation districts and lake and river associations. In addition, funding is used to conduct diagnostic studies, support demonstration projects, and to develop and distribute information on lakes and river management to lake districts and waterfront property owners.

Several exotic species, including Eurasian water milfoil, purple loosestrife, zebra mussels, carp, and rusty crayfish are already present in many inland Wisconsin waters. Invasive species that are currently present in the Great Lakes include spiny water flea, ruffe, round goby, and white perch. Under the 1999-01 biennial budget, \$25,000 was provided from the recreational boating program for 1999-01 only for informational and educational activities related to zebra mussels and other aquatic nuisance species.

GOVERNOR

Provide \$300,000 annually from the water resources account of the conservation fund to begin a comprehensive program to manage invasive species. In addition, authorize DNR to establish an invasive plants management program. The goal of the program would be to: (a) protect and develop diverse and stable communities of native aquatic plants; (b) regulate how aquatic plants are managed; and (c) provide education and conduct research concerning invasive aquatic plants. Further, the bill would authorize DNR to issue aquatic plant management permits, to charge fees and to enforce the provisions of the bill including the imposition of penalties for violations.

DISCUSSION POINTS

Funding

1. Funds provided would be used for watercraft inspection for invasive plants, information and educational efforts relating to the transport of invasive species, monitoring of affected ecosystems, and bio-control of purple loosestrife using *Galerucella* beetles.

2. Invasive species can disrupt native aquatic ecosystems and food chains. Current estimates of economic losses and expenditures resulting from non-native species in the United States approached \$138 billion in 2000. Expenditures nationwide to combat purple loosestrife are estimated at \$45 million annually; expenditures to combat zebra mussels approached \$3.1 billion over the last ten years.

3. It may be argued that invasive species pose a threat to fishing interests throughout the state. As an example, in the past, the introduction of sea lamprey and alewives into the Great Lakes lead DNR to initiate large-scale stocking of salmon and trout in order to control invasive populations. To the extent that invasive aquatic species are likely to have a negative effect on fish populations (and therefore, sport fish activities), it may be reasonable to contribute fish and wildlife account funds (hunting and fishing license revenues) to the management of invasive aquatic species.

Statutory Language Changes

4. The bill would address DNR's approach to managing invasive aquatic plants. The Department indicates that it is developing a management proposal for invasive species (other than plants) as well, but it was not prepared to request statutory language changes as part of its biennial budget proposal. However, given the impact of zebra mussels on Wisconsin water systems, it may be argued that authorization to address the management of this particular species should be included as well. Additional management authority for other invasive species could be addressed in subsequent legislation, when DNR was prepared to present a comprehensive invasive species management proposal.

5. Under the bill, DNR would be authorized to regulate the introduction, cutting, removal, destruction or suppression of invasive aquatic plants. Eurasian water milfoil, curly leaf pondweed, and purple loosestrife would be designated as invasive, and DNR would have the authority to designate any other aquatic plant as invasive by administrative rule if the plant (a) has the ability to cause significant adverse change to desirable aquatic habitat; (b) to significantly displace desirable aquatic vegetation; or (c) to reduce the yield of products produced by aquaculture.

6. DNR would also be authorized to issue aquatic plant management permits and assess penalties under the bill. Permits may specify (a) the quantity of the aquatic plant to be managed; (b) the species of the aquatic plant to be managed; (c) the areas in which the aquatic plants may be managed; (d) the methods that may be used for the management of aquatic plants; (e) the times during which aquatic plants may be managed; and (f) allowable methods for disposing of or using aquatic plants that are removed or controlled under an aquatic plant management permit.

The bill would require possession of a valid permit to do any of the following: (a) introduce non-native aquatic plants into the waters of this state; (b) manually remove aquatic plants from navigable waters; (c) control aquatic plants in any waters of the state by the use of chemicals or by the introduction of biological agents, or (d) control aquatic plants in navigable waters by any process that involves dewatering, desiccation, burning, or freezing or by mechanical means. A person violating these provisions would be subject to a forfeiture of not more than \$200. If a person has been convicted of violating this same provision within the last five years, they would forfeit not less than \$700 and not more than \$2,000, or could be imprisoned for not less than six months nor more than nine months, or both.

7. Under the bill, DNR would be authorized to establish fees for aquatic plant management permits; however, DNR would be allowed to establish a different fee for an aquatic plant management permit pertaining to plant management in a body of water that is entirely confined on the property of one owner. In addition, DNR could require that an application for an aquatic plant management permit contain a plan for the Department's approval as to how the aquatic plants will be introduced, removed, or controlled. The bill does not specify that the fees for aquatic plant management permits be established by rule. The bill could be clarified to specify this. Under the bill, a person who is convicted of a second or subsequent violation may be ordered by the court to abate any nuisance caused by the violation, restore any natural resource damaged by the violation, or take other appropriate action to eliminate or minimize any environmental damage caused by the violation.

8. The permit requirement would have several exceptions under the bill. Exemptions to the permit requirement would include: (a) manually removing aquatic plants from privately owned stream beds with the permission of the owner; (b) persons engaged in the harvesting of wild rice; and (c) persons engaged in the operation of an authorized fish farm. In addition, DNR could waive the permit requirement by rule for any of the following: (a) a person who owns property on which there is a body of water that is entirely confined on the property of that person; (b) a riparian owner who manually removes aquatic plants from a body of water that abuts the owner's property, provided that the removal does not interfere with the rights of other riparian owners; (c) a person who is controlling purple loosestrife; (d) a person who uses chemicals in a body of water for the purpose of controlling bacteria on bathing beaches; (e) a person who uses chemicals on plants to prevent the plants from interfering with the use of water for drinking purposes; or (f) a state agency or local governmental unit that uses a chemical treatment in a body of water for the purpose of protecting public health.

9. The distribution of an invasive aquatic plant would be prohibited under the bill. The forfeiture for distribution could not exceed \$100. In addition, removing, selling, or transporting any native plant or plant product commonly used to furnish food for game birds, including duck potato and wild celery, out of public waters would be prohibited. However, this would not apply to wild rice.

10. Under the bill, individuals would be required to remove aquatic plants from a boat, boat trailer, or boating equipment before placing it in a navigable water. Law enforcement officers

would be granted the authority to remove or prohibit the placement of a boat, boat trailer, or boating equipment in navigable water if the officer has reason to believe that that the equipment may have aquatic plants attached. DNR would be required to prepare a notice summarizing this information and to make the notices available. Further, owners would be required to post and maintain the notice at public boat access sites. The Department currently has the authority to prevent boats from entering the Lower St. Croix waterway if there is reason to believe that the boat may be carrying zebra mussels. Some have argued that this authority should be statewide in order to more effectively address the spread of zebra mussels in Wisconsin. Broadening the language under the bill to include zebra mussels as well as invasive plants would extend the authority that DNR currently has in the Lower St. Croix to other bodies of water, and may be effective in slowing the spread of the zebra mussel. On the other hand, it could be argued that invasive animal species should be addressed together in comprehensive legislation after DNR completes its review.

ALTERNATIVES TO BASE

A. Funding

1. Approve the Governor’s recommendation to provide \$300,000 annually to begin a comprehensive program to manage invasive species. Funds provided would be used for watercraft inspection for invasive plants, information and educational efforts relating to the transport of invasive species, monitoring of affected ecosystems, and bio-control of purple loosestrife using *Galerucella* beetles. Specify that funding would come from one of the following:

- a. Water resources account (Governor’s recommendation).
- b. Fish and wildlife account.
- c. Funded equally from the water resources and the fish and wildlife accounts.

| Alternative A1 | SEG |
|---|--------------|
| 2001-03 FUNDING (Change to Base) | \$600,000 |
| <i>[Change to Bill]</i> | <i>[\$0]</i> |

2. Maintain current law.

| Alternative A2 | SEG |
|---|--------------------|
| 2001-03 FUNDING (Change to Base) | \$0 |
| <i>[Change to Bill]</i> | <i>-\$600,000]</i> |

B. Statutory Language Changes

1. Approve the Governor's recommendation to authorize DNR to establish an invasive plants management program. The goal of the program would be to: (a) protect and develop diverse and stable communities of native aquatic plants; (b) regulate how aquatic plants are managed; and (c) provide education and conduct research concerning invasive aquatic plants. In addition, authorize the DNR to remove or prohibit the placement of a boat, boat trailer, or boating equipment in navigable water if the officer has reason to believe that that the equipment may have aquatic plants attached. Further, authorize DNR to issue aquatic plant management permits, to charge fees and to enforce the provisions of the bill including the imposition of penalties for violations.

2. Approve the Governor's recommendation. In addition, authorize DNR to remove or prohibit the placement of a boat, boat trailer, or boating equipment in navigable waters if the officer has reason to believe that the equipment may have zebra mussels attached.

3. In addition, specify that fees for aquatic species management permits be established by administrative rule.

4. Maintain current law.

Prepared by: Rebecca Hotynski