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Joint Committee on Finance

Paper #603

PFAS Statewide Testing and Emergency Measures (Natural Resources -- Waste, Remediation, and Air)

[LFB 2023-25 Budget Summary: Pages 454-455, #3 and 4]

CURRENT LAW

Per- and polyfluoroalkyl substances (PFAS) are a class of synthetic chemicals commonly found in nonstick surfaces, cookware, paint, and firefighting foam. The Environmental Protection Agency reports that there are at least 12,000 unique types of PFAS. They are temperature, water, and oil resistant. Epidemiological research and studies indicate that PFAS are toxic to humans, as they do not easily degrade and tend to accumulate in humans, animals, and the environment. In parts of the state, PFAS have dispersed through the environment from such sources as: (a) discharges of firefighting foams in municipal and military firefighting uses; and (b) industrial waste discharged to municipal sewerage systems, and then applied to land as septage (bio-solids).

Currently, promulgation of federal standards for the various types of PFAS compounds are underway, with a proposed drinking water standard for two compounds (PFOA and PFOS) recommended at four parts per trillion (ppt). Wisconsin's standard is currently set at 70 parts per trillion.

Because PFAS are prolific compounds that have been found in nearly every medium including water, soil, air, animals, and humans, it is recommended by most health and environmental organizations to test these media and address contamination in excess of established limits, for the sake of human and environmental health. The state does not currently have any dedicated funding for PFAS-specific sampling or testing programs.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$1,480,000 in 2023-24 and \$730,000 in

2024-25 for statewide PFAS sampling and testing. The funds would be intended for the following activities: (a) \$750,000 in 2023-24 for well sampling and testing; (b) \$600,000 each year for state-led investigation, mitigation, and testing for PFAS and other emerging contaminants on properties where responsible parties cannot be identified, refuse to take timely action, or where contaminants pose an active threat to human health; (c) \$55,000 each year to survey and analyze 44 large rivers across the state and their watersheds for PFAS; (d) \$50,000 in each year to collaborate with the University of Wisconsin-Madison and nearby states to identify sources of PFAS, impacted waterways, and possible fish consumption concerns for vulnerable populations; and (e) \$25,000 each year to sample wastewater where PFAS is suspected. The \$730,000 provided in 2024-25 would continue as base funding in future biennia. All funding would be from the environmental management account of the segregated (SEG) environmental fund, except the funding for fish and wildlife sampling, which would be supported by the fish and wildlife account of the segregated conservation fund.

2. Additionally, AB 43/SB 70 would provide \$900,000 environmental management SEG annually to support PFAS emergency measures, such as distributing bottled water or other alternative water supplies to communities impacted by PFAS contamination in drinking water. Table 1 summarizes these amounts and purposes.

TABLE 1

PFAS Sampling, Testing, and Emergency Measures Funding -- AB 43/SB 70

<u>Activity</u>	<u>2023-24</u>	<u>2024-25</u>
Emergency Measures	\$900,000	\$900,000
Private Well Sampling	\$750,000	\$0
State-Led Investigations, Sampling, and Response	600,000	600,000
Waterways Survey and Analysis	55,000	55,000
Fish and Wildlife Research	50,000	50,000
Wastewater Treatment Facility Testing	<u>25,000</u>	<u>25,000</u>
Total	\$2,380,000	\$1,630,000

3. DNR reports that funding for sampling and testing would be used or allocated as follows:

- \$750,000 in 2023-24 for well testing would fund such activities for an estimated 1,500 to 2,000 private wells. DNR indicates that private well testing funds may be distributed through a number of different methods, but most likely through grants to county health departments. DNR estimates there are approximately 700,000 to 800,000 private wells in Wisconsin.

- \$600,000 each year for investigation, mitigation, and testing is based on the estimated cost of \$30,000 for initial rounds of groundwater testing, equal to initial assessment tests being conducted at up to 20 sites throughout the state.

- Of the \$55,000 for surface water surveys, DNR reports that \$40,000 would fund lab analysis at an estimated average cost of \$400 per sample analyzed, and \$15,000 would be for salary

for a limited-term employee, travel, supplies, and services.

- \$50,000 in each year is the estimated amount needed to fund investigation and research on waterways and fisheries by researchers at UW-Madison to identify sources of PFAS.
- \$25,000 each year is intended to cover the cost for 30 to 40 samples per year from publicly-owned treatment works, including lab analysis, supplies, staff time, and travel time.

4. Table 2 shows the amounts for emergency measures, sampling, and testing by appropriation in which funding would be provided. Funding of \$880,000 in 2023-24 and \$130,000 in 2024-25 would be provided in general operations SEG appropriations for the Divisions of Environmental Management (\$830,000 in 2023-24, and \$80,000 annually thereafter) and Fish, Wildlife, and Parks (\$50,000 annually). The operations appropriations are annual, meaning funding not expended or encumbered as of each June 30 lapses to the respective SEG account balance. This would include funding of \$750,000 for private well sampling that would lapse to the environmental management account balance if not encumbered by June 30, 2024.

TABLE 2

PFAS Sampling, Testing, and Emergency Measures Funding

<u>Appropriation/Activity</u>	<u>2023-24</u>	<u>2024-25</u>
<i>Environmental Repair/Response</i>		
Emergency Measures	\$900,000	\$900,000
State-Led Investigations, Sampling, and Response	<u>600,000</u>	<u>600,000</u>
Subtotal	\$1,500,000	\$1,500,000
<i>Environmental Management General Operations</i>		
Private Well Sampling	\$750,000	\$0
Waterways Survey and Analysis	55,000	55,000
Wastewater Treatment Facility Testing	<u>25,000</u>	<u>25,000</u>
Subtotal	\$830,000	\$80,000
<i>Fish and Wildlife General Operations</i>		
Fish and Wildlife Impacts Research	<u>\$50,000</u>	<u>\$50,000</u>
Total	\$2,380,000	\$1,630,000

5. DNR also administers a state-funded environmental response appropriation through the environmental management account of the environmental fund. Table 2 shows \$1,500,000 annually in additional base funding would be provided to this appropriation, in which DNR also has base funding of \$2,292,700 environmental management SEG. The appropriation typically is used for DNR expenditures related to: (a) DNR-led cleanups of contaminated sites where the responsible party is unknown or cannot or will not clean up the site; (b) the state share at certain federally-funded site cleanups; (c) emergency spill response and cleanups; (d) response and cleanup of abandoned

containers of hazardous substances.

6. The appropriation is also statutorily authorized for use in providing temporary emergency water supplies where contamination has made the water undrinkable due to health concerns, and for replacement of contaminated private wells under certain circumstances. The appropriation had \$6.9 million available for expenditures in the 2021-23 biennium, including continuing balances and new appropriations. Annual expenditures have averaged \$2.52 million over the last five fiscal years. DNR reports spending approximately \$490,000 annually from this appropriation for provision of temporary emergency water supplies related to PFAS contamination.

7. Although this state-funded response appropriation is authorized for use in providing temporary emergency water supplies, DNR indicates that the future need for these emergency water supplies may increase in the coming biennium, due to increasing numbers of water supplies being found to have PFAS contamination in excess of the state standard. The Department reports that water costs can range from \$300 to \$1,500 per year, per household. Due to PFAS sampling required under state and federal law and Wisconsin residents' substantial interest in drinking water quality, the Department estimates identifying at least 200 more communities in need of emergency water supplies in the biennium. This may cost from \$60,000 to \$300,000, according to DNR's estimates above, and depending on location and severity of the contamination.

8. The environmental management account is expected to have an available balance of \$33.2 million on June 30, 2023. Further, estimated account revenues of \$52.3 million each year in the 2023-25 biennium are expected to exceed authorized and budgeted expenditures of \$46.3 million in each year. Therefore, the account could reasonably accommodate this additional expense.

9. Funding in any of the general operations or environmental repair appropriations would be allocable to any purposes otherwise funded by those appropriations, and not restricted by statute to the purposes intended by the bill. From environmental management SEG, DNR also would have discretion to allocate funds among the identified testing purposes of wastewater treatment facilities, surface waters, and in 2023-24, private wells. Further, funds in the environmental repair continuing appropriation would remain in the appropriation balance and do not lapse to the account balance unless otherwise directed by the Legislature. This would restrict funding from being available for appropriation to other program areas funded by the environmental management account.

10. It is not clear what level of funding is needed, and over what period, to identify all or most occurrences of PFAS contamination in Wisconsin lands and waters. It is likely PFAS contamination will continue to be found throughout the state given the prevalence of PFAS in consumer products and other commercial or industrial applications, their long-term use, and their exceedingly low reactivity with other substances that leads to persistence in the environment.

11. Due to the health hazards of PFAS, especially in drinking water, and the likelihood of increased need for emergency water supplies, the Committee could approve the annual funding of \$900,000 environmental management SEG [Alternative A1]. Given that DNR currently reports spending approximately \$490,000 annually for emergency water supplies and expects additional expenditures, the Committee could consider an amount closer to current need, such as \$500,000 annually [Alternative A2]. The Committee could also consider providing funding for emergency

water supplies in a new annual appropriation [Alternative A3a], biennial appropriation [Alternative A3b], or the existing environmental repair continuing appropriation [Alternative A3c]. The Committee could also take no action [Alternative A4]. If no funds were provided for the provision of emergency water supplies due to PFAS contamination, DNR may have to postpone certain state-funded cleanup activities under the state-funded response appropriation, should needs for emergency temporary water supplies dictate a funding reallocation.

12. If the Committee wished to provide funding of \$750,000 in 2023-24 for private well sampling, it could create a separate continuing appropriation for grants or contracts for that purpose [Alternative B1a]. The environmental management general operations appropriation could also be considered [Alternative B1b]. The Committee could provide the full \$600,000 each year for state-led investigations [Alternative C1], \$250,000 each year for this purpose [Alternative C2], or take no action.

13. Finally, the Committee could provide the full requested funding amounts for waterways, wastewater, and fisheries sampling. The alternatives provide several funding source options that would allow the Committee to determine an allocation among environmental management SEG, fish and wildlife SEG, or GPR, or to take no action.

ALTERNATIVES

A. Emergency Measures

1. Provide \$900,000 environmental management SEG each year to support PFAS emergency measures including distribution of bottled water or other alternative water supplies to communities impacted by PFAS contamination in drinking water.

ALT A1	Change to Base
SEG	\$1,800,000

2. Provide \$500,000 environmental management SEG each year for PFAS emergency measures.

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

3. In addition to Alternatives A1 or A2, specify funding in one of the following:

- a. A new annual appropriation for providing temporary water supplies;
- b. A new biennial appropriation for providing temporary water supplies; or

- c. The DNR environmental repair appropriation under s. 20.370 (4)(dv).
- 4. Take no action.

B. Private Water Supply Testing

- 1. Provide \$750,000 in 2023-24 for well sampling and testing. Provide funding in one of the following ways:
 - a. A new continuing appropriation; or
 - b. DNR's environmental management general operations appropriation.

ALT B1b	Change to Base
SEG	\$750,000

- 2. Take no action.

C. State-Led Investigation, Mitigation, and Testing

- 1. Provide \$600,000 each year for investigation, mitigation, and testing for PFAS and other emerging contaminants on properties where responsible parties cannot be identified, refuse to take timely action, or where contaminants pose an active threat to human health.

ALT C1	Change to Base
SEG	\$1,200,000

- 2. Provide \$250,000 each year for state-led investigation, mitigation and testing for PFAS.

ALT C2	Change to Base
SEG	\$500,000

- 3. Take no action.

D. Waterway, Wastewater and Fisheries Sampling

- 1. Provide one of the following amounts for DNR Division of Environmental Management operations for additional PFAS-related sampling and testing:
 - a. \$80,000 each year, equal to \$55,000 each year to survey and analyze watersheds for PFAS, and \$25,000 for sampling and testing at wastewater treatment facilities; or

ALT D1a	Change to Base
SEG	\$160,000

- b. \$55,000 each year; or

ALT D1b	Change to Base
SEG	\$110,000

- c. \$25,000 each year.

ALT D1c	Change to Base
SEG	\$50,000

2. Provide \$50,000 SEG each year from one of the following for sampling and testing related to PFAS impacts on fisheries and fish consumption:

- a. Fish and wildlife SEG;

ALT D2a	Change to Base
SEG	\$100,000

- b. Environmental management SEG; or

ALT D2b	Change to Base
SEG	\$100,000

- c. GPR.

ALT D2c	Change to Base
GPR	\$100,000

3. Take no action.

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