



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #676

Land and Water Resource Management and Rural Nonpoint Bonding (DNR -- Water Quality and DATCP -- Department and Resource Management)

[LFB 2001-03 Budget Summary: Page 92, #3 and Page 486, #2]

CURRENT LAW

The Wisconsin Departments of Natural Resources (DNR) and Agriculture, Trade and Consumer Protection (DATCP) work jointly in controlling nonpoint source water pollution and soil erosion in the state. Each agency has been providing bonding revenues to fund landowner cost-share grants for the installation for water pollution abatement or conservation practices. The bonding revenues provided to the programs can not be used for county program administration.

The purpose of the DATCP soil and water conservation program includes providing a mechanism for statewide coverage of soil and water conservation needs at the county level. DATCP receives state funds to provide grants for cost-shares to fund landowners' soil conservation practices. In 1999-01, \$3,575,000 in bonding authority was authorized for DATCP.

The intent of the DNR nonpoint source water pollution abatement financial assistance program is to focus resources where nonpoint source-related water quality problems and threats are the most severe and control is most feasible. DNR receives state funds to provide cost-share grants for rural landowners to install pollution abatement projects in designated priority watersheds. Funding not used for priority watershed projects is used to finance rural and urban competitive nonpoint source grants. In 1999-01, DNR was authorized \$22,400,000 in bonding authority for these activities.

GOVERNOR

Provide an increase in general obligation bonding authority of \$7,000,000 for the DATCP land and water resource management grant program. Further, provide an increase in general obligation bonding authority of \$22,400,000 for the DNR rural nonpoint source water pollution abatement program.

DISCUSSION POINTS

1. 1999 Act 9 provided bonding revenues of \$3.575 million to DATCP and \$22.4 million to DNR for state cost-share funding to landowners. As shown in Table 1, under the Governor's recommendation, the agencies would be provided \$29,400,000 in 2001-03. DATCP would receive \$3.4 million more than in 1999-01 while the two agencies combined would see an increase of 13.2% over the amount provided in 1999-01. Upon issuance, given a flat repayment schedule, debt service on \$29.4 million in general obligation bonds would total approximately \$2.3 million GPR annually for 20 years.

TABLE 1

Rural Nonpoint Bonding

	1999 Act 9 <u>1999-01</u>	Governor's Recommendation <u>2001-03</u>
DATCP	\$3,575,000	\$7,000,000
DNR	<u>22,400,000</u>	<u>22,400,000</u>
Total	\$25,975,000	\$29,400,000

2. DNR and DATCP provide grants to counties with a goal of funding cost-shares collectively of an average of \$100,000 (or more if funds are available) per county to fund up to 70%, except in cases of economic hardship, of the installation costs of landowner conservation practices. Under the bill, the average county would receive over \$200,000 annually in additional bonding (\$22.4 million from DNR and \$7 million from DATCP) for land and water conservation and rural nonpoint pollution abatement cost-share funding.

DNR Funding

3. DNR provides counties with active priority watershed projects with an anticipated cost-share reimbursement amount (ACRA), to be used to reimburse landowners for practices installed during each calendar year. The Land and Water Conservation Board approved a financial

plan that establishes the implementation of all currently designated priority watershed projects by 2009, based on continued 2000-01 funding for each project. Under the long-term allocation plan, an identical annual ACRA has been determined for every one of the rural grantees for each year until their project completion date. Thus, as priority watershed projects are completed, less funding is needed for the priority watershed program. Unspent ACRA's may be transferred between projects within the same county or between projects in the same priority watershed. Further, at the end of the year, DNR may encumber an unspent balance and allow a grantee to add it to their next year's ACRA. Unencumbered, unspent ACRA's are reallocated for grants in DNR's competitive nonpoint program.

4. Under the long-term financing plan approved by the Land and Water Conservation Board, it is anticipated that 50 counties will receive \$12.2 million in calendar year 2002 and 47 counties will receive \$10.6 million in 2003 from DNR for ACRA's in original priority watershed project areas (the lower number in 2003 is in anticipation of three priority watershed projects ending). Of these, 32 counties in 2002 and 31 counties in 2003 would receive over \$100,000 solely from DNR funding.

5. DNR also provides grants of up to \$150,000 each to governmental units for competitive nonpoint source projects to accelerate the implementation of nonpoint source pollution control to target areas that are of highest priority, and where pollution abatement can not be achieved through implementation of county soil and water resource activities funded under DATCP cost-shares. Targeted projects include projects for managing pollutants from animal feeding operations receiving a notice of discharge. These competitive projects may last for one to three years, unless DNR approves a one-year extension. It is envisioned that the competitive program will eventually replace the rural portion of the original nonpoint grant program. As original priority watersheds expire, available funding would be transferred to the competitive program.

6. DNR requested \$22.4 million in bond revenue for the biennium. In addition, DNR generally receives approximately \$2 million annually in federal funding for the rural nonpoint program. Thus, under the bill, a total of \$26.4 million would be available for rural cost-share grants through December 31, 2003. After reserves for purchasing easements are set aside and all competitive grant obligations and remaining funding obligations for calendar year 2001, 2002 and 2003 ACRA payments are met, approximately \$1 million in authorized bonding will remain available. Further, as shown in Table 2, counties biennially have under spent their ACRA's by at least 25%. If it were assumed that 2001 and 2002 ACRA's also would be under spent by 25%, an additional \$6.4 million (\$7.4 million total) would be available over the biennium for DNR competitive grants.

TABLE 2

Actual Expenditures for Rural Priority Watershed Cost-Shares

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Rural ACRA's	\$6,255,000	\$7,156,200	\$8,945,600	\$13,805,400	\$13,527,200	\$12,211,900
Reimbursed Amounts	4,372,800	5,605,000	6,406,900	6,518,100		
Remaining balance	\$1,882,200	\$1,551,200	\$2,538,700	\$7,287,300	\$3,381,800 *	\$3,053,000*
Biennial % Unexpended		25.6%		43.2%		25.0%

*Anticipated based on 25% underspending.

7. Therefore, it is estimated that a minimum of \$7.4 million remains available for DNR competitive grants in 2002 and 2003, including grants for projects to manage pollutants from animal feeding operations receiving a notice of discharge. In addition, DNR indicates that this funding may be used for a few nonpoint projects in lake districts that have been funded from the urban program but that may not meet the 1999 Act 9 population requirements of the urban program.

8. Table 3 portrays funding provided under the competitive grant program since its inception in 1999. DNR plans to use the remaining \$7.4 million for competitive grant projects, regardless of whether the projects are in rural or urban areas. The Committee may wish to modify the amount of bonding provided for the rural program, since expenditures for the competitive nonpoint program have been considerably lower than what would be available under the bill. After a May 1 postmark deadline, as of May 7, 2001, DNR had received applications requesting \$3.15 million in competitive grants for 2002. It is uncertain how many of these projects will meet eligibility requirements. Even if all projects were eligible, DNR would still have over \$4 million for competitive grants in 2003. If the Committee chose to provide an estimated \$2 million annually for competitive grants, the amount of DNR authorized bonding needed would be to \$19 million, rather than \$22.4 million under the bill.

TABLE 3

Competitive Grant Funding

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Municipal Funding	\$1,246,550	\$995,898	\$671,000
County Funding	<u>753,450</u>	<u>581,900</u>	<u>372,000</u>
Total	\$2,000,000	\$1,577,798	\$1,043,000

DATCP Cost-Share Bonding

9. DATCP requested \$7 million in bond revenue for the biennium. The majority of DATCP's currently authorized bonding revenue has been spent or allocated for cost-share projects in 2001. However, DATCP indicates that \$746,000 BR remains available for cost-sharing grants in 2002. In addition to the \$746,000 BR, DATCP has set aside \$289,700 GPR for cost-sharing grants in 2002 from unspent cost-shares in 2000.

10. Funding is allocated to counties based on approved Land and Water Resource Management (LWRM) plans. The grants may be used for activities to meet compliance with farmland preservation credit requirements, and, consistent with approved LWRM plans, activities related to animal waste management and ordinances, nonpoint source pollution abatement, shoreland management and other conservation practices determined by the county to be necessary for conservation and resource management in that county.

11. The 2001 joint final allocation plan allocates \$13,480,080 from DNR for cost-sharing grants to landowners for installation of pollution abatement projects in original priority watershed projects and \$1.9 million from DATCP for LWRM plan implementation cost-sharing. Regardless of whether a county was provided cost-share funding from DNR for priority watershed projects, DATCP allocated funds equally to all counties with approved LWRM plans, unless a county requested a lesser amount. Thus, while the average county received nearly \$215,000 for cost-sharing from the two programs, 32 counties received less than \$100,000.

12. The Committee could prioritize DATCP funding for those counties that do not receive at least \$100,000 from DNR for nonpoint pollution abatement cost-shares. When remaining bonding authority of \$746,000 in DATCP from previous years is considered, based on the long-term financing plan approved by the Land and Water Conservation Board for priority watershed counties, providing \$2.3 million in 2002 and \$3.6 million in 2003 in bonding (\$5.9 million BR for the biennium) would allow DATCP to provide all counties at least \$100,000 annually (while not providing additional funding to those counties receiving over \$100,000 from DNR).

13. However, counties with priority watershed projects may desire funding for cost-shares outside of their priority watershed project areas. These counties generally have more conservation staff than counties without priority watershed projects and, thus are able to generate more interest in pollution abatement activities, even outside of priority watershed areas. Therefore, these counties may seek more funding for projects throughout the county.

14. Conversely, some have criticized the nonpoint program for providing funding in limited areas and neglecting some counties. Further, arguably, priority watershed counties already are providing funding for pollution abatement in areas of greatest need (designated priority watersheds). In addition, all counties are eligible to apply for competitive nonpoint grants through DNR's targeted runoff management grant program, providing another funding mechanism for trouble areas in priority watershed counties outside of the designated areas. Thus, it may be beneficial to prioritize DATCP funding for counties that receive little or no nonpoint funding from

DNR to provide at least \$100,000 to each county.

15. Further, the Committee could allow counties to use DNR cost-share grants outside of priority watershed areas. This would allow counties the flexibility to set their own funding priorities. However, a county's priorities may not match DNR watershed priorities, thus limiting the state's ability to focus funding on watershed-based pollution abatement activities.

16. For 2002 cost-share grants, DATCP has chosen to provide performance-based awards in addition to base awards to counties with approved LWRM plans. DATCP has set the criteria for performance-based awards to include the relationship between grant requests and the types of projects listed in LWRM plans, the ability to spend prior allocated cost-share dollars on a timely basis and the availability of funds from other sources and programs. The affect of this decision is to lower the base amount of funding that all counties would be guaranteed to receive upon request for land and water resource management activities.

17. Some would argue that the intent of nonpoint redesign legislation in the 1999-01 biennial budget act was to provide cost-share funding through DATCP to ensure that all counties received a reasonable base of funding to protect water quality statewide. In addition, providing performance-based awards through DATCP could duplicate efforts under DNR's competitive grant program. Thus, the Committee may wish to limit DATCP to allocating competitive land and water resource management cost-sharing grants to counties only after each county has been allocated the lesser of \$100,000, or the amount it requested. This would allow all counties with approved land and water resource management plans to be guaranteed a minimum base level of funding.

18. On the other hand, DNR's competitive program operates somewhat differently in that funds may only be used in the targeted areas designated in the application. Under DATCP's competitive program, counties could use the additional funding throughout the county. Further, rewarding counties with performance-based funding for aggressively signing up landowners to cost-share agreements or for leveraging outside funds may lead to better water quality in these areas. However it also would limit funding in other counties where water quality needs may be as significant, but the county is less active in soliciting additional grant funding. Alternatively, considering that all counties will be required to implement water quality standards under rules being promulgated by the two agencies, funding could be moved from the DNR competitive grant program to DATCP to provide additional countywide funding.

Water Quality Standards

19. The 1997 biennial budget act contained language to develop water quality standards for agricultural facilities. DNR is promulgating rules prescribing performance standards and prohibitions for agricultural facilities and agricultural practices that are nonpoint sources. Under the legislation, the performance standards and prohibitions must be designed to achieve water quality standards by limiting nonpoint source water pollution. At a minimum, the prohibitions must provide that livestock operations have no:

- a. Overflow of manure storage structures.
- b. Unconfined manure piled in a "water quality management area," defined as follows: (1) the area within 1,000 feet from the ordinary high-water mark of a lake, pond or flowage; (2) the area within 300 feet from the ordinary high-water mark of navigable rivers or streams; and (3) sites that are susceptible to groundwater contamination or that have a potential to be a direct conduit to groundwater contamination.
- c. Direct runoff from a livestock operation or stored manure into waters of the state.
- d. Unlimited access by livestock to waters of the state where high concentrations of animals prevent adequate sod cover.

20. The legislation also provided that compliance with, or enforcement of, the performance standards, prohibitions, conservation practices and technical standards for agricultural facilities and practices for the abatement of nonpoint source water pollution caused or threatened to be caused by agricultural facilities and practices existing prior to October 14, 1997, is not required unless cost-sharing is available. DNR plans to submit these nonpoint source water quality rules to the Legislature for review in July, 2001. DATCP and DNR estimate the total 10-year cost of implementing all agricultural performance standards and prohibitions in their rules at between \$584 million and \$934 million. However, some of the standards also provide offsetting benefits or cost savings to farmers that are not included in the calculation.

21. Due to the pending implementation of these agricultural performance standards, some would argue that \$7 million in bonding revenues over the biennium might be inadequate. However, once rules are promulgated, it will take time for counties and landowners to become aware of the new standards before beginning to implement new conservation practices. Further, since cost-shares are paid as reimbursements, it is difficult to determine when newly required projects would be complete and funds needed for reimbursement.

22. The state's bond counsel has concluded that certain nutrient or pesticide management and conservation tillage practices, such as contour farming, high residue management systems and field strip cropping that would be required under the proposed rule may not be funded from bond revenue. Thus, DATCP would need to use GPR or other cash funding for these practices. A current draft of the rules increases state cost-share rates from 50% to 70% for these types of cropland practices. Further, draft rules as revised by the Natural Resources Board allow a phase in of one to seven years (depending on its location and whether it is existing cropland) before landowners are required to apply fertilizer according to a nutrient management plan and increase the length of time cost-share payments can be made for nutrient management from three to six years. At least \$289,700 GPR is available for these nonbondable practices in 2002 from unspent cost-shares in 2000. Anticipated federal funding through DNR of \$2 million annually would also be available for these practices.

ALTERNATIVES TO BASE

1. Approve the Governor’s recommendation to:

a. Provide an increase in general obligation authority of \$7 million BR for cost-shares under the DATCP land and water resource management grant program.

Alternative 1a	BR
2001-03 FUNDING (Change to Base)	\$7,000,000
<i>[Change to Bill]</i>	<i>\$0</i>

b. Provide an increase in general obligation authority of \$22.4 million BR for cost-shares under DNR’s rural nonpoint source water pollution abatement program.

Alternative 1b	BR
2001-03 FUNDING (Change to Base)	\$22,400,000
<i>[Change to Bill]</i>	<i>\$0</i>

2. Provide DATCP an increase in general obligation authority of \$5,900,000 BR for cost-shares under the land and water resource management grant program to provide all counties at least \$100,000 bonding annually.

Alternative 2	BR
2001-03 FUNDING (Change to Base)	\$5,900,000
<i>[Change to Bill]</i>	<i>- \$1,100,000</i>

3. Require DATCP to prioritize funding for those counties that do not receive at least \$100,000 from DNR for nonpoint pollution abatement cost-shares.

4. Limit DATCP to allocating competitive land and water resource management cost-sharing grants to counties only after each county has been allocated the lesser of \$100,000, or the amount it requested.

5. Provide an increase in general obligation authority of \$19 million BR for cost-shares under DNR’s rural nonpoint source water pollution abatement program. (An estimated \$2 million annually would be available for DNR competitive grants.)

Alternative 5	BR
2001-03 FUNDING (Change to Base)	\$19,000,000
<i>[Change to Bill]</i>	<i>- \$3,400,000</i>

6. Provide an increase in general obligation authority of \$10.4 million BR for cost-shares under the DATCP land and water resource management grant program and an increase of \$19 million BR for cost-shares under DNR's rural nonpoint source water pollution abatement program. (\$2 million annually would be available for DNR competitive grants and DATCP would receive an additional \$3.4 million BR.)

Alternative 6	BR
2001-03 FUNDING (Change to Base)	\$29,400,000
<i>[Change to Bill]</i>	<i>[\$0]</i>

7. Maintain current law.

Alternative 7	BR
2001-03 FUNDING (Change to Base)	\$0
<i>[Change to Bill]</i>	<i>-\$29,400,000]</i>

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