
Wisconsin Legislative Council

AMENDMENT MEMO



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2023 Assembly Bill 318

**Assembly
Amendment 1**

BACKGROUND

Under current law, the Department of Natural Resources (DNR) must establish an aquatic plant management program to: (1) implement efforts to protect and develop diverse and stable communities of native aquatic plants; (2) regulate how aquatic plants are managed; and (3) administer and establish procedures and requirements for aquatic plant management permits. [s. 23.24 (2) (a), Stats.]

Current law generally requires a person to obtain a permit from DNR before manually removing aquatic plants or utilizing chemicals or biological agents to control aquatic plants in waters of the state. DNR may require that an application for an aquatic plant management permit contain a plan for DNR's approval, which specifies how the aquatic plants will be introduced, removed, or controlled. [s. 23.24 (3) (a) and (b), Stats.]

Among other exceptions from the permitting requirements, current law authorizes DNR to waive the permit requirement for a person proposing to manually remove aquatic plants from a body of water that is entirely confined on the property of that person. More limited waiver authority applies to the use of chemical treatments, specifically relating to controlling bacteria on swimming beaches and certain other public health-related purposes. [s. 23.24 (4) (c), Stats.]

2023 ASSEMBLY BILL 318

2023 Assembly Bill 318 makes several changes to current law relating to aquatic plant management. The bill makes the following changes relating to the purposes and general implementation of the aquatic plant management program:

- Modifies the statutory purposes for DNR's aquatic plant management program by specifying that the purpose of regulation is to ensure that invasive or nuisance plants are suppressed or eradicated.
- Directs DNR to use widely accepted methods supported by peer-reviewed science to suppress or eradicate such plants.
- Requires DNR to give equal consideration to chemical treatments when approving proposed aquatic plant management plans.
- Prohibits DNR from imposing an undue financial burden on aquatic plant management permit applicants or property owners.

In addition, the bill creates two new exemptions from the general aquatic plant management permit requirement. First, the bill allows commercial applicators to apply certain chemical treatments to a private pond without obtaining a permit, subject to certain conditions. Second, the bill creates an exemption from the permit requirement for the use of biological agents in private ponds.

For purposes of those new exemptions, the bill defines “private pond” to mean a pond that: (1) is less than 10 acres in size; (2) is surrounded by the private property of one or more owners; (3) has no public access to the water; and (4) has either no surface water discharge or surface water discharge that can be controlled.

To qualify for the exemption for the use of chemical treatments in private ponds, a treatment must satisfy all of the following conditions:

- The treatment is made by a commercial applicator certified by the Department of Agriculture, Trade, and Consumer Protection.
- The person uses only those chemicals that have been labeled and registered for aquatic plant control by the U.S. Environmental Protection Agency (EPA).
- The person follows EPA’s label directions for appropriate application method and rates.
- The owners of all parcels that abut the private pond have been notified of the application of the chemical treatment.
- The person retains a record of any pesticide applied to a private pond for at least two years and makes the record available to DNR for inspection upon request.

To qualify for the exemption for the use of biological agents in private ponds, a biological agent must be used to improve water quality, at a concentration that does not cause acute or chronic toxicity for aquatic organisms or a dye that is not labeled for herbicide use.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 makes two significant changes to the bill. First, the amendment removes the provisions of the bill that relate to the purposes and general implementation of the aquatic plant management program, including changes that modify the purpose of the aquatic plant management program, prohibit DNR from imposing an undue burden, and require DNR to give equal consideration to chemical methods.

Second, the amendment narrows the scope of the exemption for chemical treatments in private ponds, by applying the exemption only to private ponds that are less than five acres in size. For private ponds that are greater than five acres in size, the amendment instead specifies that an aquatic plant management permit is valid for a period of not less than five years.¹

BILL HISTORY

Representative Dallman offered Assembly Amendment 1 on January, 24, 2024. On February 8, 2024, the Assembly Committee on Environment recommended adoption of the amendment on a vote of Ayes, 9; Noes, 0, and passage of the bill, as amended, on a vote of Ayes, 6; Noes, 3.

For a full history of the bill, visit the Legislature’s [bill history page](#).

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¹ DNR’s current administrative rules allow DNR to grant aquatic plant management permits with a longer than annual term in some instances, but an annual term is the default permit period.