Wisconsin State Senate
24th Senate District

Serving Wood, Portage, Adams,
Waushara, Monroe, and Jackson

PATRICK TESTIN
STATE SENATOR

DATE: April 23, 2019

RE: Testimony on 2019 Senate Bill 137

TO: The Senate Committee on Natural Resources and Energy

FROM: Senator Patrick Testin

I would like to thank Chairman Cowles and the members of the Senate Committee on Natural Resources and Energy for hearing my testimony on Senate Bill 137 (SB 137) today.

As many of you know, nitrates are one of the most common groundwater contaminants in Wisconsin. Unfortunately, the Department of Health Services estimates that at least 10% of private wells in Wisconsin have high nitrate levels. The Federal Centers for Disease Control and Prevention has warned that high nitrate levels in water can be especially dangerous for pregnant women and infants. Clean water isn't just an environmental problem, it is a public health problem.

Senate Bill 137 aims to help private well owners have access to safe, clean drinking water. SB 137 would have the Department of Health Services (DHS) award grants up to $2,500 to eligible private well owners. The grant can be used to reimburse the well owner for testing of the well, to install a filtration system or to help pay to repair or replace an existing well. Preference would be given to households with a member who is pregnant, breast feeding, has a child under three years old, or over the age of 65.

As drafted, counties have the option to participate in the program, since not all areas of the state have equal nitrate issues. If a private well owner lives in a county that opts in, they may contact their local health department to have their well tested. The county will collect a sample's and send the sample to the state laboratory of hygiene or another state certified lab. If the sample nitrate levels exceed ten parts per million, the county will report the results to DHS and the private well owner, and put together a recommendation for one or more remediation actions for the well owner and the Department. That recommendation would contain an estimation of the cost of the remediation. If the private owner disagrees with the recommendation, they have 30 days to contact DHS to request a different approach or grant amount.

We have an amendment that would allow private sector water consultants to be used for collecting samples and making recommendations. These individuals are licensed, and do this

type of work daily. Plus, allowing these individuals to participate can help to alleviate manpower concerns the counties might have.

Given that this issue is a public health concern, we are anchoring this program in DHS. Health issues should be addressed by the agency that is staffed by health workers.

The fiscal lift on this bill is substantial, at $10 million over the biennium. However, the public health risk is so great that it requires that type of commitment. This level of funding will help us significantly address the issue and put a good dent in the number of contaminated wells in the state.

I hope you will join me in supporting Senate Bill 137.

TONY KURTZ

STATE REPRESENTATIVE • 50th ASSEMBLY DISTRICT

2019 Senate Bill 137

The Clean Water Health and Wellness Act

Relating to: nitrate testing pilot program, granting rule-making authority, and making an appropriation.

Senate Committee on Natural Resource and Energy

Thank you to Senator Cowles for holding a public hearing on Senate Bill 137 and thank you to the members of the committee for hearing my testimony today.

A little over half, or sixty percent, of the homes in Wisconsin have drinking water that comes from a public water supply. The 1972 Safe Drinking Water Act requires the Environmental Protection Agency to set safe levels for contaminates in drinking water and other subsequent federal laws determine how often public water supplies are tested and reported back to consumer and government agencies. However, a little under half, or about forty percent, of the homes in Wisconsin have drinking water that comes from a private well. And although the Wisconsin Department of Natural Resources requires testing for newly drilled wells, there are no requirements for continued monitoring. Therefore, many well owners do not test their well regularly, if they even know to do so at all.

Nitrate is the most commonly found contaminate in Wisconsin's groundwater and it is estimated that about one third of well owners have never tested for it. The national maximum contaminate level for nitrate is 10 parts per million (10 ppm). Individuals should avoid long term consumption of drinking water with more than 10 ppm. Populations who should especially avoid drinking or eating foods prepared with contaminated water are women who are pregnant, who may be become pregnant, and infants.

Under this bill private well owners can contact a local health department to have nitrate levels tested for their well. The local health department will then collect the sample, submit it to a state certified laboratory for testing, report the results to the Wisconsin Department of Health Services (DHS) and the well owner. The results will need to include a statement of fees for the testing that the well owner can receive reimbursement for and, if needed, a recommendation for a remediation approach. Private well owners can apply for a grant to assist with the associated costs and can receive only one grant per parcel up to $2,500 to assist with costs associated with the testing of private wells, installation of a filtration system, payment for well repair, or

P.O. Box 8952 • Madison, WI 53708-8952 • (608) 266-8531 • Toll Free: (888) 534-0050
Rep.Kurtz@legis.wi.gov

payment to replace an existing well. Under this bill, preference would be given to applications who have a member of their household who is pregnant, breast-feeding, a young child or an elderly adult. Maintaining this program at DHS allows more targeted program in other agencies to continue to carry out their original mission while also properly addressing the nitrate issue as a public health concern. The size of the allocation is to go along with the perceived size of problem.

I thank you for your time and for listening to my testimony. I would be honored to have earned your support of SB 137 and hope to answer any questions you may have at this time.

April 19, 2019
State Senator Patrick Testin
Room 131 South
State Capitol
Madison, WI 53707

WQA supports SB 137/AB 148: Testin/Kurtz Nitrate Bill

TO WHOM IT MAY CONCERN:

Thank you for your work on Senate Bill 137 and Assembly Bill 148. As a representative of the drinking water treatment industry, the Water Quality Association (WQA) commends the efforts within this legislation to support nitrate remediation for private well owners.

We ask for the following recommendations to be reviewed:

- Expand the eligibility for grant funds to additional ground water contaminants. Include any health-contaminant as defined by the Safe Drinking Water Act;
- Provide additional funding for the program;
- Allow private well owners to submit samples directly to certified laboratories;
- Recommend private well owners seek remediation recommendations from licensed plumber or plumber-restricted.

WQA represents over 2,500 companies in the water treatment industry international, with 74-member companies in Wisconsin. WQA promotes best practices for superior products and environmental sustainability with the guidance of respected, independent standards. Its training programs promote professionalism and ethics and its American National Standards Institute (ANSI) accredited laboratory conducts rigorous testing and product certification. Learn more at WQA.org.

Nitrate in drinking water can be responsible for a temporary blood disorder in infants called methemoglobinemia (blue baby syndrome). This condition can be fatal to infants, especially those less than six months old. Very high levels of nitrate can also cause central nervous disorders in adults.

There are numerous Point-of-Use and Point-of-Entry drinking water treatment products which have been independently certified to remove nitrate. Product Certification to American National Standards (ANSI Standards) is designed to ensure that the products remove the contaminants which they claim to remove, that the products do not leach dangerous chemicals into the drinking water, that unexpected pressure spikes will not cause them to leak or burst, and that there is no manufacturing drift which will compromise their performance or safety.

4151 Naperville Road
Lisle, Illinois 60532-3696 USA
Phone 630-505-0160
Fax 630-505-9637
www.wqa.org

Certified Point-of-Use and Point-of-Entry drinking water treatment products are also available for a wide range of other drinking water contaminants including arsenic, lead, PFAS, radium, and many other contaminants.

We appreciate the opportunity to collaborate on water quality legislation that removing contaminants from drinking water. We will be happy to work with you and others to answer questions surrounding water treatment.

Please do not hesitate to call us anytime to discuss further.

Sincerely,

David Loveday
Water Quality Association
Global Government Affairs Director
Phone: 630-929-2537
dloveday@wqa.org

State of Wisconsin
Department of Health Services
Tony Evers, Governor
Andrea Palm, Secretary-designee

Senate Committee on Natural Resources and Energy

2019 Senate Bill 137: Relating to: nitrate testing pilot program, granting rule-making authority, and making an appropriation.

April 23, 2019

Submitted electronically

Good afternoon, members of the Senate Committee on Natural Resources and Energy. The Department of Health Services is pleased to provide input for information only on Senate Bill 137. Senate Bill 137 proposes to require the Department of Health Services to award grants to eligible well owners for testing of nitrate levels and related remediation costs. The Department recognizes this bill addresses an important issue facing many private well owners and could significantly increase testing across the state. Funds to support well remediation may also be beneficial.

Because nitrate and bacterial contamination (coliforms & E. coli) often co-occur, the bill could further promote public health by including measures of bacterial contamination, as both present risks to vulnerable populations. We note that this would likely double the proposed testing funds. In addition, the bill suggests that DHS gives preference to applicants who have household members who are pregnant, breast-feeding, under 3 years old, or over age 65. Although DHS "may not set an income limitation for eligibility", giving preference to low income individuals would more directly address health disparities.

The bill also includes a requirement that participating local health departments collect nitrate samples nut does not appear to allow for other approaches (e.g., distribution of sampling kits). This requirement would ensure that testing is performed, but also means that existing environmental health

capacity at local health departments may be a key factor when they are considering whether to participate.

Finally, as currently written, the bill requires DHS to provide grants for well remediation. Although DHS could do this, DHS is not well-positioned to manage this type of program. Well remediation has traditionally been managed by DNR given the agency's expertise in this area. Providing remediation funds to existing well programs at DNR (such as the well compensation fund), or creating a new program at DNR, would be more efficient and avoid duplication across state agencies. Further conversation with DNR would be required if this option is pursued.

Please contact Lisa Olson at DHS with any questions.

Wisconsin Land+Water Conservation Association

131 W. Wilson Street, Suite #601 · Madison, Wisconsin 53703
(608) 441-2677 · Fax: (608) 441-2676 · www.wisconsinlandwater.org

Senator Robert Cowles
Chairman, Senate Committee on Natural Resources and Energy
Wisconsin State Capitol
P.O. Box 7882
Madison, WI 53707-7882

April 23, 2019

Dear Chairman Cowles and Members of the Senate Committee on Natural Resources and Energy,

I am writing for informational purposes only regarding SB 137, related to the nitrate testing pilot program. I am hoping my comments can be considered as part of today's public hearing.

Wisconsin Land and Water Conservation Association (WI Land+Water) represents county conservation departments and the county committees that oversee them. Statewide, we have over 800 members working to advance conservation on a local level, in every county in the state.

As you know, people across Wisconsin are showing concerns about the safety of their drinking water, particularly from private wells. County conservation departments are right in the middle of this issue, working with concerned residents to better understand groundwater concerns, working to bridge connections to local and state health departments, and working with land managers and farmers to implement conservation practices on the landscape that are protective of groundwater.

SB 137 seeks to remedy the costs that private well owners incur as they attempt to find clean water solutions for contaminated wells. As such, we're supportive of the concept underlying the bill, and applaud the bill's authors for the effort. However, we have several questions about specific provisions in the bill that prevent us from supporting it at this time, which we hope to be able to work through with the bill's authors.

The proposed $2,500 grant for private well owners is a good start at alleviating well contamination costs, but that dollar amount seems insufficient. It might provide well treatment relief (reverse osmosis, ion exchange, distillation, etc.) for a temporary period of time, but only that. A longer-term solution would be to offset well replacement and abandonment costs, but those would likely be substantially greater than the proposed grant amount, as the following example will illustrate.

Department of Natural Resources estimates provide that the costs of drilling a new are approximately $1,000, plus $40 per foot, and that the costs of abandoning a well are approximately $7.50 per foot. Let's assume that a private well, drilled to a depth of 75 feet, is contaminated with unsafe levels of nitrate. Well decommissioning costs would be approximately $562.50. Let's also assume that in order to find safe, potable water, the new well replacing it must be drilled to a depth of 140 feet. Using the above estimates, the costs for constructing a new well would be $6,600. The grand total would be $7,162.50.

Another way to look at this issue is using data from the *2018 Wisconsin Groundwater Coordinating Council Report to the Legislature*, which estimates that 42,019 wells in the state exceed the human nitrate health standard of 10 parts per million. The replacement cost estimate for these wells is $446 million, which translates to a cost of $10,614 per well. A one-time grant of $2,500 will obviously be of assistance to well owners with contaminated wells, but these examples illustrate that in many cases, it will likely only cover a fraction of replacement costs.

Secondly, we are uncertain about the capacity of county staff to administer the proposed sampling program, as described in 20.435 (4), which states "the local health department shall collect the necessary samples." This could constitute a substantial increase to existing heavy workloads for local health departments, even with the proposed $500,000 in funding per county. Local health departments providing sample kits to private well owners may alleviate this potential staff capacity issue.

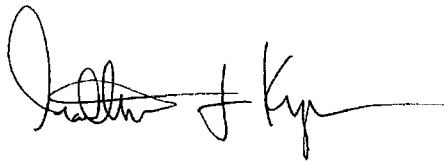
We also have questions about whether funds could be further prioritized in proposed grant program for private well owners. Could the "worst" wells—those that are above 20 or 30 parts per million nitrate—receiving funding priority? Some baseline criteria are defined in 20.435 (6), including households with pregnant or breast-feeding mothers and children under the age of three, and these are sensible. We think there is room to apply further criteria ensuring the households that have wells exceeding the human health standard by the most significant margins would also be prioritized for funding.

This proposed legislation is by design a response to drinking water contamination issues we're currently facing in Wisconsin. It attempts to meet an immediate need, and we are supportive of that. However, equally important in this discussion should be consideration of "prevention" approaches that deal with the root problems that contribute to the well contamination issues we're seeing across the state. This could include funding for practices that protect groundwater, technical staff to support implementing these practices, monitoring and research, and educational programs. Whether or not the prevention issue is addressed in the proposed legislation, it is our opinion that it needs to be a part of the discussion.

Lastly, it is not clear to us at this time how the proposed grant program interfaces with the existing Well Compensation Program, and could see there being confusion and possibly redundancy with two similar but separate programs providing compensation to private well owners.

Thank you for the opportunity to provide input on this important topic.

Sincerely,



Matt Krueger
Executive Director

cleanwisconsin
your environmental voice since 1970

Committee on Natural Resources and Energy
Senate Bill 137 – Nitrate Testing Pilot Program
Clean Wisconsin, Submitted Testimony
Scott Laeser, Water Program Director
April 22, 2019

Thank you Committee Chair, Senator Cowles, for the opportunity to submit written testimony on Senate Bill 137 relating to the nitrate testing pilot program introduced by Senator Testin, yourself – Senator Cowles, Representative Kurtz, and Representative Krug.

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air, and clean energy issues. We were founded almost fifty years ago and have 20,000 members and supporters around the state. We've been working on water pollution issues in Wisconsin since our founding, and while some of the particulars have changed, Wisconsin remains a state with abundant water resources but also abundant challenges in restoring and protecting those waters.

Clean Wisconsin employs scientists, policy experts, and legal staff to bring all the tools at our disposal to protect and improve our air and water resources. In 2014, we filed a Safe Drinking Water Act petition with the EPA when calls for action to address groundwater contamination in Kewaunee County went unanswered. We've worked closely with researchers and counties in Southwest Wisconsin to support the efforts to initiate and fund the Southwest Wisconsin Groundwater and Geology Study. And we've worked with decision makers for many years to support state financial and technical investments in protecting Wisconsin's air, water, and natural resources.

The evidence of nitrate pollution in both our private and municipal wells is growing. In the last year, reports of high nitrate levels in the Central Sands, the La Crosse area, and Southwest WI have added to the body of evidence already in existence. We also have a growing understanding of the health risks associated with exposure to nitrates; blue baby syndrome and central nervous system birth defects in fetuses or young children, and for adults, thyroid disease and colorectal cancer. Research tells us that most of the nitrates contaminating our groundwater are coming from agricultural sources. Even conservative estimates place the number of wells in Wisconsin exceeding the 10mg/l nitrate health standard at over 40,000, while other estimates are closer to 80,000 wells. It is clear, addressing this drinking water contamination is overdue and a comprehensive approach that combines efforts to provide clean drinking water to affected citizens with pollution reduction efforts is the appropriate response.

A $10 million investment that provides access to safe drinking water for those dealing with nitrate contamination is not insignificant. As a concept, we greatly appreciate this effort. We do have concerns with some key features of the bill, including the regulating/implementing agency, limitations the grant cap places on well replacement, and confusion with the current well compensation program at DNR.

The heart of this bill is well-intentioned, and we acknowledge the need to provide access to safe drinking water to families that do not have it. It is also important to keep in mind that although this is a $10 million investment in drinking water access, it is an investment after contamination has occurred. Without concurrently addressing the root cause of the pollution, nitrate contamination in private wells will continue to occur and spread. Clean Wisconsin advocates for a holistic approach to nitrate

contamination that provides access to clean drinking water but also ultimately prevents nitrate pollution from occurring. Without this broad effort, this $10 million only addresses part of this complex challenge and will likely result in the continued contamination of citizens' wells.

Clean Wisconsin submits the following observations and questions concerning certain aspects of the bill:

- Under this bill, the nitrate testing pilot program is a new program created at the Department of Health Services (DHS). DNR already administers a well replacement program and creating a new structure at DHS would be very inefficient and likely confusing to people. When it comes to water quality issues and the ability to enforce groundwater standards, the Department of Natural Resources (DNR) is the agency that should be the regulatory authority over this program, which could be combined with the current well compensation program.
- We are concerned with the degree to which this bill relies on filtration systems to address this problem. Filtration systems require regular maintenance and continued investment in replacement filter cartridges. Filters also do not work in very high nitrate contamination instances.
- This bill only allows for a maximum grant of $2500, which is not nearly enough to cover the cost of well replacement, the only solution to nitrate contamination in circumstances where the concentration is beyond what filters can treat. The existing well compensation program provides funds of up to $12,000, almost five times the cap for this program, in recognition of the high cost of well replacement.
- In some counties, the county conservation department staff are involved in well contamination issues and have varying relationships with the local health departments. To what degree will this bill affect that work, and could the requirement a county health department request the grants be extended to include county conservation departments (perhaps one or the other, or a joint application, per county)?
- Does the $500,000 cap per county include the testing, evaluation, and administration costs as well as the grants provided to well owners?

Families need access to clean drinking water now and they need to know their leaders are working to clean up the pollution contaminating their wells. We need to do a better job using the tools we already have to protect our water from agricultural pollution sources. All Wisconsin farms should meet a minimum standard set of conservation practices on their land. Currently, only 36% of agricultural lands in the state are covered by a Nutrient Management Plan. We need to invest in preventing nitrate pollution from contaminating wells in the first place, and if we are truly going address the widespread well contamination from nitrates, we will need to consider new steps. This could include limiting the amount of nitrogen we put on certain fields – to balance the importance of the continued success of the agricultural industry in our state with our obligation to provide access to clean drinking water.

Clean Wisconsin appreciates the significant investment in a nitrate testing pilot program and subsequent grant program for affected well owners. However, the concerns about the administration of this new proposal should be addressed to ensure we are maximizing the assistance we are delivering to families plagued by polluted water. We must take additional steps to prevent nitrate contamination from occurring in the first place and affecting these same families, or their neighbors, in the future. While immediate access to clean drinking water is an important step, it is only one part of a bigger solution to nitrate contamination that stops pollution in the first place.