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ROBERT L. COWLES

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Testimony on 2021 Senate Bill 489

Senator Robert Cowles

Senate Committee on Utilities, Technology and Telecommunications

August 26th, 2021

Thank you, Chairman Bradley and Committee Members, for holding a hearing and allowing me to testify on 2021 Senate Bill 489. This bill makes a series of consensus changes to the Environmental Improvement Fund.

The Safe Drinking Water Loan Program (SDWLP) and Clean Water Fund Loan Program (CWFP), the two main programs in the Environmental Improvement Fund, have been immensely successful over the past approximately 30-years in providing below market interest rate loans for water and wastewater utility projects that are necessary to comply with state and federal regulations. With just a 20% state match required to capitalize on federal funds, Wisconsin has been able to offer more than \$5 billion to our local clean water experts for hundreds of projects around the state.

These loans offer our local water experts the opportunity to seek financing that saves ratepayers money through lower interest payments for a series of projects including new wells, wellhouse rehabilitation and watermain replacements under the SDWLP and sewer replacement or rehabilitation and wastewater treatment facility or plant upgrades under the CWFP. In State Fiscal Year 2020, 20 loans were issued to different local governments under the SDWLP for a total of about \$102 million, and 40 loans were issued to 35 different entities through the CWFP for a total of about \$268 million. In my area, the 2nd Senate District, the past three state fiscal years have seen six SDWLP loans and three CWFP loans issued to communities serving my constituents, and I would bet that many of your local communities have utilized these programs in recent years as well.

While local utilities continue to successfully utilize these programs to complete projects throughout Wisconsin, the Department of Natural Resources (DNR) and stakeholders have noted the need for updates to the statutes to better align the two programs and provide more clarity and functionality for applicants. In short, Senate Bill 489 makes small yet substantive changes to the Environmental Improvement Fund that will create less paperwork and fewer unnecessary steps for applicants and the DNR, including:

1. Repealing the requirement that an applicant submit a notice of intent to apply for the SDWLP and CWFP at least six months prior to the beginning of the state fiscal year, significantly shortening the overall time spent in the loan application process.
2. Repealing the SDWLP requirement that an applicant submit their application by June 30th of the prior state fiscal year, instead requiring the DNR to establish application submittal instructions at least annually, including any deadlines for certain loans such as principal forgiveness loans. This allows for a rolling application process, which is similar to the way the CWFP has operated for years.
3. Repealing the requirement that an applicant submit an engineering report before receiving SDWLP assistance, instead allowing the DNR to have discretion over whether engineering reports must be submitted for a particular project based on a list that they already have prepared.

4. Repealing the stipulation that applicants are not allowed to submit more than one application for the same project within the same year for the SDWLP or twelve-month period for the CWFP. This change allows water and wastewater utilities to withdrawal and resubmit applications when necessary, such as if the scope or certain details of the planned project have changed.
5. Repealing the requirement that the Department of Administration (DOA) release SDWLP assistance allocated to a project if the applicant has not closed the loan by the June 30th following the year the award was made, leaving more time for a project applicant to finalize construction contracts or obtain required approvals.

The amount of planning that goes into major projects by our local water and wastewater utilities is already burdensome enough. Adding more hoops to jump through, some well in advance of applying to receive funding for these utilities, creates more unnecessary burden and lengthens the timeline for projects that are crucial for the continued delivery of clean water to our faucets and discharged into our waterbodies. The DNR has rightly identified ways to reduce the administrative burden and add consistency between the two programs, with these changes seen in Senate Bill 489. This is especially helpful for small communities which may have a municipal official dealing with both programs. This consistency is not only good for water and wastewater utilities, but it's good for the DNR to reduce their administrative burden as well.

The DNR has confirmed that the federal Environmental Protection Agency (EPA) has been consulted on these changes and is "supportive of the effort," ensuring our compliance with the program and ensuring we're not putting future federal funding at risk. Finally, all of these provisions have been recommended by the DNR and DOA which jointly operate the Environmental Improvement Fund programs.

Once again, I appreciate the opportunity to be heard today on Senate Bill 489, and hope for your support of this proposal and others we're presenting today to reduce red tape on water and wastewater utilities to help ease their burdens to continue their vital local efforts.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony on 2021 Senate Bill 489

Representative Joel Kitchens

Senate Committee on Utilities, Technology and Telecommunications

August 26th, 2021

Thank you, Chairman Bradley and Committee Members, for holding a hearing and allowing me to testify on 2021 Senate Bill 489. This bill makes a series of changes to the Safe Water Loan Program (SDWLP) and Clean Water Fund Loan Program (CWFP) in order to reduce the administrative burden for water and wastewater utility projects.

Over the last 30 years, the SDWLP and CWFLP, the two main components of the Environment Improvement Fund, have been successful in providing below-market interest rate loans for water and wastewater utility projects. These projects are necessary to comply with state and federal regulations. Wisconsin has been able to provide local clean water experts more than \$5 billion for hundreds of projects around the state, including new wells, well house rehabilitation and water main replacements under the SDWLP and sewer rehabilitation or replacement and wastewater treatment upgrades through the CWFP.

While the SDWLP and CWFP have been successfully utilized, there remains a need to amend certain provisions to reduce the administrative burden and add consistency between the two programs. Senate Bill 489 includes changes that the Department of Natural Resources identified as ways of reducing these burdens. These changes include:

1. Eliminating the requirement to submit a final notice of intent to the DNR at least six months in advance of applying for financial aid.
2. Repealing the prohibition on municipalities from submitting more than one application per year under the CWFP and the SDWLP.
3. Altering the requirement for an applicant for assistance for the SDWLP to instead allow the DNR to determine whether the submission of engineering reports is required at their discretion.
4. Removing the requirement for SDWL program applicants to submit their application on or before June 30 the fiscal year before the applicant wishes to receive funding, instead requiring that the DNR annually provide instructions for application submission.
5. Repealing the requirement that the DOA release SWFLP assistance allocated to a project if the applicant has not closed the loan by June 30th the following year the award was made, thus leaving more time for a project applicant to finalize construction contracts or obtain approvals.

In short, SB489 makes meaningful changes to the Environmental Improvement fund programs to create less paperwork and eliminate unnecessary burdens for water and wastewater utilities.

Once again, I appreciate the opportunity to testify today on Senate Bill 489 and hope for your support of this proposal in order to ease the administrative burden on water and wastewater utilities in order to continue their vital efforts in our communities.



Senate Committee on Utilities, Technology and Telecommunications

2021 Senate Bill 489

Procedural changes for CWFP and SDWLP applications

August 26, 2021

Good morning Chairman Bradley and members of the Committee. My name is Matt Marcum, and I am a Section Chief for the Environmental Loans Program with the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify in support of Senate Bill 489, which relates to procedural changes for applications for funding from the Clean Water Fund Program (CWFP) and the Safe Drinking Water Loan Program (SDWLP).

The Department of Natural Resources and the Department of Administration jointly and collaboratively manage the State's Environmental Improvement Fund, which includes both of these loan programs. These programs provide financial assistance to municipalities for construction of wastewater, storm water, and drinking water infrastructure projects. The DNR appreciates the legislature's interest in making procedural changes to the CWFP and SDWLP that would streamline the programs, provide clarity, and make the loan processes for the CWFP and SDWLP more consistent, and, therefore, easier for our municipal customers throughout the state to navigate.

Specifically, SB 489 includes: the elimination of the requirement to submit a notice of Intent to Apply before applying for both programs; a change to both programs that would eliminate the prohibition on submitting more than one application within a 12-month period for the same project; correction of a procedural inaccuracy in the timing of engineering report submittals relative to SDWLP application submittals; and removal of the statutory deadlines for application submission and loan closing for the SDWLP.

Removal of the Intent to Apply requirements for both programs and the application and loan closing deadlines for the SDWLP would improve the ability of the department to streamline the programs in order to best meet the needs of our customers and to make the application process shorter and less cumbersome; it would allow the SDWLP to operate on a continuous funding cycle similar to how the CWFP operates; and, perhaps most importantly, it would allow the department to set a separate application deadline for the Private Lead Service Line Replacement Program so that the remaining funds can be awarded in priority score order within a timeframe that corresponds with the construction season. Leaving the deadlines in the statute would cause extreme difficulties in equitably allocating limited funds in the second round of funding for lead pipe removal in the 2022 construction season.

Removal of the restriction preventing a municipality from submitting more than one application per year for the same project would give municipalities and the department more flexibility to handle scenarios in which the design or construction of a project is delayed by an unforeseen reason or in instances where the original application was incomplete. The language was originally intended to prevent applicants from withdrawing an application and then resubmitting it just a few months later. With the CWFP's

continuous funding cycle and the availability of supplemental funding for SDWLP projects, this language potentially limits the timing of application submittal for some applicants.

And finally, correcting the procedural inaccuracy relating to engineering report submittal will clarify the submittal process and eliminate the problem of having two different sets of engineering report submittal requirements depending on whether a municipality is seeking SDWLP funding or obtaining funding elsewhere.

In addition to benefiting the SDWLP and CFWP's municipal customers, the changes proposed in SB 489 are expected to have a positive administrative effect for the department by providing opportunities for streamlining the loan process and by reducing workload bottlenecks resulting from existing Intent to Apply, application, and loan closing deadlines.

The department would like to suggest one additional procedural change pertaining to the submittal of project plans and specifications. Currently, the department receives **approvable** plans and specifications with applications for both programs and has seen on several occasions that the project details aren't fully fleshed out at the time of application (plans and specifications are hurriedly prepared just to meet the application submittal requirements). This can result in multiple DNR reviews of the plans and specifications as the municipality works through the final design; it limits the DNR's ability to move the project quickly towards loan closing; and it can tie up principal forgiveness, keeping it from other municipalities whose projects are ready to move forward. DNR could more efficiently move projects from application to loan closing if there was flexibility to require **approved** plans and specifications at the time of application. Section 281.58, Wis. Stats., currently permits that flexibility for the CFWP, but s. 281.61, Wis. Stats., requires **approvable** plans and specifications for the SDWLP. Respectfully, the department suggests aligning the two programs by removing the phrase "that are approvable by the department under this section" from s. 281.61(5)(a) Wis. Stats.

If this bill is passed, the department stands ready to engage our customers to establish a framework that ensures all interested applicants have an equal opportunity to compete for funds, including principal forgiveness, and develop program timelines that complement municipal budgeting processes and Wisconsin construction cycles. Changes would be implemented initially through our annual Intended Use Plan and eventually in administrative code.

On behalf of the Department of Natural Resources, we would like to thank you for your time today. I would be happy to answer any questions you may have.