



State of Wisconsin
2021 - 2022 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 727**

February 18, 2022 - Offered by Representative KITCHENS.

1 **AN ACT to create** 36.25 (6) (f), 92.14 (16) and 92.14 (17) of the statutes; **relating**
2 **to:** creating a commercial nitrogen optimization pilot program, providing crop
3 insurance rebates for cover crops, creating a hydrogeologist position, providing
4 an exemption from emergency rule procedures, and granting rule-making
5 authority.

Analysis by the Legislative Reference Bureau

This bill creates a commercial nitrogen optimization pilot program, provides crop insurance premium rebates for planting cover crops, and creates a new hydrogeologist position at the University of Wisconsin-Madison Division of Extension.

Commercial nitrogen optimization pilot program

The bill requires the Department of Agriculture, Trade and Consumer Protection to create a commercial nitrogen optimization pilot program, under which DATCP awards grants to farmers to implement a project, for at least two growing seasons, that optimizes the application of commercial nitrogen. The farmer must collaborate with a University of Wisconsin System institution to monitor grant projects on-site. The institution may receive a grant for its monitoring requirements under the bill.

Under the bill, a grant to a farmer and the eligible university entity collaborating with the farmer may not exceed, in total, \$50,000. No more than 20 percent of this total amount may be awarded to the collaborating university entity.

The bill requires DATCP to attempt to provide grants to farmers in different parts of the state and to provide grants for projects in areas that have different soil types or geologic characteristics. The bill requires DATCP to prioritize projects that are innovative and that are not currently funded through existing state or federal programs and to prioritize farmers who plan to implement projects for longer periods. The bill also requires DATCP to collaborate with the farmer and the university when awarding grants under the pilot program.

Under the bill, a farmer and the university collaborating with the farmer are immune from civil liability and may not be subject to any remedial action or other administrative or enforcement action from DATCP or the Department of Natural Resources for any discharge of environmental pollution from the land involved in the project, if the actions were taken in good faith and conformed to the project specifications that were proposed in an application for a grant under the program.

The bill requires DATCP to request that the Joint Committee on Finance provide supplemental funding from the segregated environmental fund for the purpose of making these grants.

Cover crop insurance premium rebates

In addition, the bill authorizes DATCP to cooperate with the Risk Management Agency of the U.S. Department of Agriculture to provide rebates in the amount of \$5 per acre of a cover crop planted for crop insurance premiums paid for those acres. Under the bill, DATCP determines the cover crops for which crop insurance premium rebates are provided, and a person must plant cover crops before submitting an application to DATCP for a crop insurance premium rebate. Also, under the bill, a crop insurance premium rebate may not be provided for the planting of a cover crop on an acre for which funding for planting a cover crop is available from a producer-led watershed protection grant a lake management planning grant, a lake management grant, a river protection grant, the soil and water resource management program, the federal Environmental Quality Incentives Program, or the federal Conservation Stewardship Program.

The bill requires DATCP to request that JCF provide supplemental funding from the segregated environmental fund for the purpose of providing these rebates.

Hydrogeologist position

Finally, the bill requires the Board of Regents of the University of Wisconsin System to create a three-year project position for one full-time hydrogeologist for the geological and natural history survey, which is part of the Division of Extension of UW-Madison. The position must focus on developing groundwater resource information primarily at county or local scales and assisting state and local governments, industries, and the public in interpreting and using the information.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 36.25 (6) (f) of the statutes is created to read:

2 36.25 (6) (f) The Board of Regents shall create one full-time hydrogeologist
3 project position, which shall expire on June 30, 2025, for the geological and natural
4 history survey to be funded from the appropriation under s. 20.285 (1) (a). The
5 position shall focus on developing groundwater resource information primarily at
6 county or local scales and assisting state and local governments, industries, and the
7 public in interpreting and using this information.

8 **SECTION 2.** 92.14 (16) of the statutes is created to read:

9 92.14 (16) COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM. (a) In addition
10 to any grants provided under sub. (3), the department shall award grants from the
11 appropriation under s. 20.115 (7) (qf) to agricultural producers and to University of
12 Wisconsin System institutions as provided under this subsection.

13 (b) An agricultural producer may apply for and receive a grant to implement
14 a project, for at least 2 growing seasons, that optimizes the application of commercial
15 nitrogen. Any agricultural producer receiving a grant under this subsection shall
16 collaborate with any University of Wisconsin System institution under par. (c).

17 (c) A University of Wisconsin System institution shall collaborate with an
18 agricultural producer that applies for a grant under par. (b) to monitor the grant
19 project on-site. A collaborating institution may receive a grant to implement the
20 monitoring under this paragraph.

21 (d) The department may not make a grant to an agricultural producer and the
22 University of Wisconsin System institution collaborating with the agricultural
23 producer in an amount that totals more than \$50,000. No more than 20 percent of
24 this total amount may be awarded to the collaborating University of Wisconsin
25 System institution.

1 (e) In making a grant under this subsection, the department shall collaborate
2 with the University of Wisconsin System institution and the agricultural producer.
3 The department shall also seek to provide grants to agricultural producers in
4 different parts of the state and to provide grants for projects in areas that have
5 different soil types or geologic characteristics. The department shall prioritize
6 projects that are innovative and that are not currently funded through existing state
7 or federal programs and shall prioritize agricultural producers that plan to
8 implement projects for longer periods.

9 (f) An agricultural producer and the University of Wisconsin System
10 institution collaborating with the agricultural producer in implementing a project
11 under this subsection may not be held civilly liable and may not be subject to any
12 remedial action or other administrative or enforcement action from the department
13 or the department of natural resources for any discharge of environmental pollution
14 from the land involved in the project, if the actions were taken in good faith by the
15 agricultural producer and the institution and conformed to the project specifications
16 that were proposed to the department in an application for a grant under this
17 subsection.

18 (g) The department shall promulgate rules to implement this subsection.

19 **SECTION 3.** 92.14 (17) of the statutes is created to read:

20 **92.14 (17) CROP INSURANCE PREMIUM REBATES FOR PLANTING COVER CROPS.** (a)
21 From the appropriation under s. 20.115 (7) (qf), the department may provide rebates
22 in the amount of \$5 for each acre of a cover crop planted for crop insurance premiums
23 paid on those acres. In providing crop insurance premium rebates under this
24 subsection, the department may cooperate with the risk management agency of the

1 U.S. department of agriculture, and may cooperate with any related federal agency,
2 state agency, or agricultural organization.

3 (b) In providing crop insurance premium rebates under this subsection, the
4 department may promulgate the following rules:

5 1. Rules determining the cover crops for which crop insurance premium rebates
6 are provided under this subsection.

7 2. Rules establishing procedures for verifying that a cover crop is planted on
8 acres for which a crop insurance premium rebate is provided under this subsection.

9 3. Rules determining the maximum amount of acres for which an applicant
10 may receive funding in a year, except that the department may impose such a
11 maximum only in years in which the total amount of funding requested by eligible
12 applicants exceeds the total funding available.

13 4. Rules establishing the application and award process, including the
14 application deadline and grant award schedule.

15 (c) The department may not provide a crop insurance premium rebate under
16 this subsection for the planting of a cover crop on an acre for which funding for
17 planting a cover crop is provided from a federal or state grant or incentive program
18 other than this subsection, including from any of the following:

19 1. The federal environmental quality incentives program under 16 USC 3839aa
20 to 3839-8.

21 2. The federal conservation stewardship program under 16 USC 3839aa-21 to
22 3839aa-25.

23 3. A producer-led watershed protection grant under s. 93.59.

24 4. A grant provided under sub. (3).

25 5. A lake management planning grant under s. 281.68.

1 6. A lake management grant under s. 281.69.

2 7. A river protection grant under s. 281.70.

3 (d) To receive a crop insurance premium rebate under this subsection, a person
4 shall submit an application to the department, under the process established by the
5 department by rule, after a cover crop is planted on the acres for which the person
6 applies for a crop insurance premium rebate.

7 (e) The department may conduct inspections to verify that recipients of a crop
8 insurance premium rebate are in compliance with the provisions of this subsection
9 and any rules promulgated under this subsection.

10 **SECTION 4. Nonstatutory provisions.**

11 (1) SUPPLEMENTAL FUNDING REQUEST; DEPARTMENT OF AGRICULTURE, TRADE AND
12 CONSUMER PROTECTION. In the 2021-22 and 2022-23 fiscal years, the department of
13 agriculture, trade and consumer protection shall request under s. 13.101 (3) that the
14 joint committee on finance supplement the appropriation under s. 20.115 (7) (qf) with
15 sufficient funds from the environmental fund for the purpose of providing grants for
16 commercial nitrogen optimization under s. 92.14 (16) and grants for cover crop
17 insurance premium rebates under s. 92.14 (17). The committee may supplement
18 that appropriation for that purpose without finding that an emergency exists under
19 s. 13.101 (3) (a) 1.

20 (2) EMERGENCY RULES; COMMERCIAL NITROGEN OPTIMIZATION PILOT PROGRAM. No
21 later than the 90th day after the effective date of this subsection, the department of
22 agriculture, trade and consumer protection shall, using the procedure under s.
23 227.24, promulgate rules to implement s. 92.14 (16). Notwithstanding s. 227.24 (1)
24 (a), (2) (b), and (3), the department is not required to provide evidence that
25 promulgating a rule under this subsection as an emergency rule is necessary for the

1 preservation of the public peace, health, safety, or welfare and is not required to
2 provide a finding of emergency for a rule promulgated under this subsection.

3 (3) EMERGENCY RULES; CROP INSURANCE PREMIUM REBATES. The department of
4 agriculture, trade and consumer protection shall, using the procedure under s.
5 227.24, promulgate rules to implement s. 92.14 (17). Notwithstanding s. 227.24 (1)
6 (a), (2) (b), and (3), the department is not required to provide evidence that
7 promulgating a rule under this subsection as an emergency rule is necessary for the
8 preservation of the public peace, health, safety, or welfare and is not required to
9 provide a finding of emergency for a rule promulgated under this subsection.

10 (END)