

Danielle C Kaeding

From: Sen.Cowles <Sen.Cowles@legis.wisconsin.gov>
Sent: Thursday, February 15, 2024 3:30 PM
To: *Legislative All Senate; *Legislative All Assembly
Subject: Co-Sponsorship of LRB 5897/1 relating to: proposed rules relating to the development of numerical groundwater quality standards for per- and polyfluoroalkyl substances, promulgated by the Department of Natural Resources.
Attachments: 23-5897_1.pdf

CO-SPONSORSHIP MEMORANDUM

TO: All Legislators
FROM: Senators Robert Cowles and Eric Wimberger
DATE: Thursday, February 15th, 2024
RE: Co-Sponsorship of LRB 5897/1 relating to: proposed rules relating to the development of numerical groundwater quality standards for per- and polyfluoroalkyl substances, promulgated by the Department of Natural Resources.

DEADLINE: 5:00 PM on Tuesday, February 20th, 2024

In early 2018, Senators Cowles and Hansen and Representative Nygren wrote a letter to Governor Walker asking his administration to begin the rulemaking process for PFOA and PFOS groundwater standards. Governor Walker agreed, and had his DNR submit a request to DHS for recommendations. More than 2,000 days later and after three previous fiscal estimates that did not indicate concerns with REINS Act compliance, the Governor's administration notified the Legislature that a new fiscal estimate did trigger the REINS Act, halting all work on the rule.

The costs of the groundwater standards could be significant. However, the benefits are substantial by finally stopping the spreading of biosolids contaminated by PFAS which leads to rural property values tanking and the potential for millions in remedial costs down the line. Additional benefits come from reduced or avoided health implications from the consumption of high levels of PFAS. Those financial costs and benefits were recognized nearly six years ago when this rulemaking process began, and remain true today.

LRB 5897 allows the rulemaking process to continue for this set of groundwater standards rulemaking. This legislation does not exempt the Legislature's final review of the proposed standards, but instead simply ensures the process can make its way to a public comment period, Natural Resources Board consideration, and Legislative review, with each step providing opportunities to determine if the exact proposal by the DNR is protective yet appropriate for Wisconsin.

If you have questions or would like to co-sponsor this bill, please reply to this email or contact Senator Cowles' office at 6-0484 **before 5:00 PM on Tuesday, February 20th, 2024**. Your name will be added to the Senate and Assembly version unless otherwise specified.

Under current law, agencies are generally required to prepare economic impact analyses (EIAs) for proposed permanent rules, which must contain certain information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. Current law further provides that if an EIA prepared by an agency indicates that \$10,000,000 or more in implementation and compliance costs are reasonably expected to be incurred by or passed along to businesses, local governmental units, and individuals over any two-year period as a result of the proposed rule (cost threshold), the agency proposing the rule must stop work on the proposed rule and may not continue promulgating the proposed rule. The agency may only proceed with the rule-making process if the agency modifies the proposed rule so as not to meet this cost threshold or if a bill is enacted authorizing the agency to continue with the rule-making process for the proposed rule.

On December 19, 2023, the Department of Natural Resources notified the legislature that DNR had prepared a final EIA for a proposed permanent rule relating to the development of numerical groundwater quality standards (groundwater quality rule) and that DNR had, in that EIA, determined that the groundwater quality rule would meet or exceed that cost threshold. The groundwater quality rule would establish numerical standards to minimize the concentration of certain per- and polyfluoroalkyl substances (PFAS) in groundwater in this state.

This bill is introduced pursuant to s. 227.139 (2) (a), stats., to authorize DNR to continue with the rule-making process for the groundwater quality rule. The bill does not affect the applicability of other steps of the rule-making process that must be completed in order to promulgate the proposed permanent rule.