

Capitol LINK

CURRENT ISSUES AFFECTING WISCONSIN AGRICULTURE & AGRI-BUSINESS

November 2008

OVERVIEW OF WISCONSIN'S ELECTION RESULTS

By Jordan Lamb

Major Changes in State Assembly

The State Assembly has switched from Republican control to Democratic control. The Republicans had control of the State Assembly since 1994. As a result of the November elections, the Democrats gained control of the State Assembly by defeating three incumbent Republicans in head-to-head races and by winning in two districts where Republican incumbents did not stand for re-election. The Democrats now have the majority with a margin of 52 – 46 with one (1) Independent.

The Democrats gained control by winning some seats held by Republican incumbents or seats previously held by Republican retirees from office (open seats). Incumbent Republican Frank Lasee of Bellevue in the 2nd Assembly District was defeated by Democrat Ted Zigmunt of Francis Creek; Fred Clark of Baraboo defeated incumbent Republican J. A. (Doc) Hines of Oxford in the 42nd Assembly District; and Kristen Dexter of Eau Claire defeated Republican Terry Moulton of Chippewa Falls in the 68th Assembly District.

Democrat Penny Bernard Schaber of Appleton defeated Republican Jo Egelhoff in the 57th Assembly District, left open by the retirement of Republican Steve Wieckert. Democrat Mark Radcliffe of Black River Falls defeated Republican Daniel Hellman of Onalaska to succeed Republican Terry Musser, who also declined running for re-election.

Democratic control of the Assembly will bring noticeable logistical changes and some philosophical changes to the legislature. First, every Assembly committee will have a new chairperson who is a Democrat and several new faces on these committees. Secondly, the philosophical divide between the Assembly and Governor Doyle will not be as substantial as it was under Republican control. The Assembly, under Democratic control, will more likely be supportive of Governor Doyle's proposals and the proposals emerging from the State Senate, which remains in Democratic control.

Little Change in State Senate

The State Senate will remain in Democratic control with the same 18 – 15 majority as in the previous session. However, two new faces will appear in the State Senate. Democrat Jim Holperin of Eagle River defeated Republican Tom Tiffany of Hazelhurst to continue the Democratic control of the 12th Senate District that was previously held by Democrat Roger Breske. Republican Randy Hopper of Fond du Lac defeated Democrat Jessica King, to succeed Republican Carol Roessler in the 18th Senate District.

Key Legislators for the Agriculture

The following are the key assignments of leadership that are of interest to the Wisconsin agriculture:

Assembly Speaker	Rep. Mike Sheridan (D-Janesville)
Assembly Majority Leader	Rep. Tom Nelson (D-Kaukana)
Assembly Minority Leader	Rep. Jeff Fitzgerald (R-Horicon)
Senate Majority Leader	Senator Russ Decker (D-Weston)
Senate Assistant Majority	Senator Dave Hansen (D-Green Bay)
Senate Minority Leader	Senator Scott Fitzgerald (R-Juneau)

Senate Members of Joint Finance Committee: Senator Mark Miller (D-Monona), Co-Chair; Senator Dave Hansen (D-Green Bay), vice chair; Senator Lena Taylor (D-Milwaukee); Senator John Lehman (D-Racine); Senator Judy Robson (D-Beloit); Senator Julie Lassa (D-Stevens Point); Senator Alberta Darling (R-River Hills); Senator Luther Olsen (R-Ripon).

Assembly Members of Joint Finance Committee: Rep. Mark Pocan (D-Madison), Co-Chair; Rep. Pedro Colon (D-Milwaukee), vice chair; Rep. Cory Mason (D-Racine); Rep. Jennifer Shilling (D-LaCrosse); Rep. Gary Sherman (D-Port Wing); Rep. Tamara Grigsby (D-Milwaukee); Rep. Robin Vos (R-Racine); Rep. Phil Montgomery (R-Green Bay).

Senate Environment Committee Chair Senator Mark Miller (D-Monona)

Senate Agriculture & Higher Education

Committee Chair

Senator Kathleen Vinehout (D-Alma)

Senate Economic Development

Senator Julie Lassa (D-Stevens Point)

Transportation, Tourism, Forestry and

Natural Resources Chair

Senator Jim Holperin (D-Eagle River)

Assembly committee chairs will be announced shortly.

BUDGET PREVIEW - DATCP Requests Lapse to the General Fund

By Jordan Lamb

As has been widely reported, the State is currently expecting a budget deficit of more than \$5 billion going into the next biennium. In the next days and weeks, expect to see more announcements from the Administration related to the Governor's plans and proposals to close this gap.

On November 18, the Secretary of the Department of Agriculture, Trade and Consumer Protection (DATCP), Rod Nilsestuen, submitted a plan to the State budget office to lapse (*i.e.*, transfer) \$3.2 million from the DATCP budget to the general fund in fiscal year 2008–09.

The proposal requests the transfer of \$1,500,000 from the Agricultural Chemical Cleanup Fund Balance; \$500,000 from the Agrichemical Management Fund Balance; \$1,000,000 from the appropriation nutrient management cost-share grants made available to land-owners under the department's soil and water resource management program; and \$200,000 of other miscellaneous program revenue appropriations to the general fund.

This transfer is representative of the kinds of transfers that are expected as part of the solution to make up some of the current state budget shortfall.

EPA's New CAFO Rule Means Little Change for Wisconsin Producers

By Jordan Lamb

The U.S. Environmental Protection Agency (EPA) has approved amendments to the EPA's "Concentrated Animal Feeding Operations Rule" in response to a 2005 ruling by the U.S. Court of Appeals for the Second Circuit, which vacated key portions of the rule originally adopted in 2003.

The court held that EPA could only regulate livestock operations with "actual" discharges of pollutants and could not regulate those with the "potential" to discharge (*Waterkeeper Alliance v. EPA*, 399 F3d. 486, 59 ERC 2089 (2nd Cir. 2005)). The circuit court directed EPA to remove the requirement for all CAFOs to apply for National Pollutant Discharge Elimination System (NPDES) permits and also directed EPA to add requirements for Nutrient Management Plans to be submitted by CAFOs with their permit applications, required those plans to be reviewed by permitting authorities and the public, and that the management plan terms be incorporated into permits.

In Wisconsin, the NPDES permitting system is managed by the Wisconsin Department of Natural Resources (DNR) and is called the Wisconsin Pollution Discharge Elimination System (WPDES) program.

As stated above, the revised EPA rule removes the requirement for all CAFOs to apply for NPDES permits. Instead, the revised rule requires only those CAFOs that discharge or propose to discharge nutrients to apply for permits. In addition, the final revised rule provides a voluntary no-discharge certification option for CAFOs that do not discharge or propose to discharge.

However, in Wisconsin, these changes will not eliminate the requirement for all animal feeding operations with more than 1,000 animal units to be permitted. In Wisconsin, the WPDES program regulates discharges to both groundwater and surface waters. Further, it is the position of the WDNR that *all* large CAFO's (*i.e.*, operations with more than 1,000 animal units) "that land apply manure or process wastewater or that have storage structures at or below grade have actual discharges to groundwater, and in most cases surface waters, so consequently all large CAFOs shall apply for a WPDES permit because they have actual discharges to waters of the state." See DNR's "Response to Comments" on Proposed Revisions to Wis. Admin. Code § NR 243, updated Mar. 2007, pg. 30. Accordingly, in Wisconsin, all CAFOs over 1,000 animal units are required to obtain a WPDES permit, as it is the opinion of the DNR that all of these operations have actual discharges.

The revised EPA rule also adds new requirements relating to nutrient management (NM) plans for permitted CAFOs. Under the 2003 rule, CAFO operators were required to develop and implement NM plans. The revised rule requires CAFOs to submit the plans as a part of their NPDES permit applications and also requires submission of any changes to those NM plans to the permitting authority (*i.e.*, DNR). The DNR is required to review the nutrient management plans; to provide the public with an opportunity for review and comment on the plans; and to include the plans as enforceable terms of the permit.

For Wisconsin WPDES permit-holders, this change to the NM planning section of the rule means that *if* a farmer is making a change to his or her NM plan, then he or she should notify the DNR as to the terms of that change.

Finally, please note that while all animal feeding operations are covered by both the EPA rule and Wisconsin's rule (Wis. Admin. Code § NR 243), only animal feeding operations with more than 1,000 animal units are automatically required to obtain a WPDES permit. In general, for medium and small farms, a WPDES permit is only required if there are discharges to navigable waters. In addition, the Department may require a WPDES permit for medium and small farms in cases where the farm has had a discharge that contaminated a water supply well.

In conclusion, the revisions to EPA's CAFO rule are not likely to produce dramatic changes for Wisconsin WPDES permit-holders. Further, this rule is *not* expected to trigger an amendment to Wisconsin's administrative program used to administer the WPDES program (Wis. Admin. Code § NR 243).

Wisconsin Political Trivia:

Question: Does Wisconsin have an official state dance?

Answer: Oh, yes. The polka! The Wisconsin Legislature has recognized a wide variety of state symbols over the years, including a state “dance” – the polka. In 1993, the Legislature added the polka as the state dance after a bill to make it so was introduced at the request of a second grade class from Charles Lindbergh Elementary School in Madison. The legislation was supported by the Wisconsin Polka Boosters, Inc. and the Wisconsin Folk Museum who provided documentation of the polka heritage in Wisconsin and evidence that the polka is deeply ingrained in Wisconsin culture and tradition.

Source: State of Wisconsin Blue Book 2007-2008

Capitol Link Details

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