



Legislation Text

File #: 54777, Version: 3

Fiscal Note

The proposed resolution creates a Joint City-County Task Force on PFAS Contamination (per- and polyfluoroalkyl substances) to be a clearinghouse to review, analyze and provide recommendations for a comprehensive response to PFAS contamination in Madison. While there may be recommendations in the report with future fiscal implications, no appropriation is required at this time.

Title

SECOND SUBSTITUTE - Creating a special **joint City-County** task force on PFAS (per- and polyfluoroalkyl substances) contamination to review, analyze and provide recommendations for a comprehensive response to PFAS contamination in Madison.

Body

WHEREAS, per- and polyfluoroalkyl substances (PFAS) are a group of approximately 5000 synthetic chemicals, that include PFOA (perfluorooctanoic acid) and PFOS (perfluorooctane sulfonate), that have been used in numerous industries since its introduction by DuPont in 1938. The chemicals are persistent in the environment and in the human body and do not break down, meaning that they can accumulate over time; and,

WHEREAS, PFAS have been used for decades in firefighting foams, as commercial stain repellants in products like carpet and fabric, as a coating for nonstick cookware, and in consumer products such as fast food wrappers and dental floss; and,

WHEREAS, there are four major sources of PFAS: fire training/fire response sites, industrial sites, landfills, and wastewater treatment plants/biosolids where there is some primary source of PFAS that discharges to wastewater treatment plants and landfills; and,

WHEREAS, impacts of PFAS on human health are only now becoming known. **These chemicals can easily migrate into the air, dust, food, soil and water and can accumulate in the body.** These chemicals have been linked to adverse human health effects including low fertility, high cholesterol, immune system deficiencies, kidney and liver disease, risk of several types of cancer and stunted development of children and fetuses; and,

WHEREAS, the Environmental Protection Agency (EPA) and the Wisconsin Department of Natural Resources (WDNR) have been slow to respond to the public health threats caused by the accumulation of PFAS in the environment the Environmental Protection Agency (EPA) has promulgated a "health advisory" for a combined concentration of PFOS/ PFAS of 70 nanograms/liter (parts per trillion) and has only just begun the process to look at establishing a regulatory standard for this substance, including drinking water standards. Meanwhile, other states have begun to look at PFAS contamination and several states have established standards as low as 10 parts per trillion as a regulatory drinking water standard. Maine now requires testing of biosolids and Michigan now requires testing of wastewater; and,

WHEREAS, the voluntary phase-out of key PFAS substances, including PFOA and its precursors, by leading manufacturers starting in 2000, and continuing with US EPA stewardship program launched in 2006, has led to a decline of PFOA and PFOS in human blood serum levels. According to the Center for Disease Control from 1999 to 2014, blood PFOA and PFOS levels declined by more than 60% and 80%, respectively (<http://www.cdc.gov/exposurereport>); and,

WHEREAS, through 2001, PFOS and other PFAS chemicals were used in the manufacture of aqueous film forming foam (AFFF), which is used to extinguish liquid hydrocarbon fires. Manufacturers of AFFF in the United States now use PFASs other than PFOS; however, existing stocks of PFOS-based AFFF remain in use; and,

WHEREAS, in the United States, the recent U.S. Federal Aviation Administration (FAA) Reauthorization Act of 2018 will eliminate the requirement that most U.S. airports use fluorinated firefighting foams within three years. Washington is the first U.S. state to pass a law prohibiting the sale of firefighting foams containing fluorinated chemicals. The Washington ban will take effect in 2020-military, FAA-certified airports, petroleum refineries and terminals, and certain chemical plants will all be exempt from it; and,

WHEREAS, US EPA is concerned about a limited number of ongoing uses of PFOA-related chemicals, which are still available in existing stocks and from companies not participating in the PFOA Stewardship Program. In addition, exposure could occur via goods imported from countries where PFOS and PFOA are still used; and,

WHEREAS reported data indicate that blood serum concentrations of PFOS and PFOA are higher in workers and individuals living near facilities that use or produce PFASs than for the general population; and,

WHEREAS, a 2017 investigation by the Food and Drug Administration found toxic per- and poly-fluoroalkyl substances, or PFAS, in food, including meat, seafood and dairy products; sweet potatoes; pineapples; leafy greens, and chocolate cake with icing. The FDA has yet to make the results of its tests public but the agency's findings, were presented at an annual international environmental conference in early June 2019 in Helsinki, Finland; and,

WHEREAS, on April 3, 2019, Minnesota Department of Health (MDH) officials issued new health-based advisory values for perfluorooctane sulfonate, or PFOS, and perfluorohexane sulfonic acid, or PFHxS, two chemicals associated with groundwater contamination in the eastern Twin Cities. The new PFOS value of 15 parts per trillion (ppt) replaces the previous value of 27 ppt. The new health-based value for PFHxS is 47 ppt. MDH set the new values after reviewing the latest scientific data on the two chemicals. Since 2002, MDH and the Minnesota Pollution Control Agency (MPCA) have been helping communities in the East Metro address groundwater contamination linked to the use and disposal of PFAS by 3M; and,

WHEREAS, in Wisconsin sites with known PFAS contamination include Volk Field (Camp Douglas), Fort McCoy, and Mitchell Air Force base in Milwaukee. The highest PFAS groundwater contamination detected was at Tyco Fire Protection in Marinette; and,

WHEREAS, during testing in 2017, high levels of PFAS (600 times the advisory threshold) were detected in the immediate groundwater beneath the area at the Dane County owned Truax airfield where the Air National Guard (ANG) Wing #115 used firefighting foam containing PFAS in training sessions over many years; and,

WHEREAS, the Truax PFAS site is less than one mile from Well 15, which well provides roughly 400,000,000 gallons of drinking water per year to residents of the north and northeast sections of the City; and,

WHEREAS, in 2017, the Madison Water Utility (MWU) tested five wells that are located near the airport or old City landfills for PFAS contamination. The tests indicated trace amounts of PFAS in Well 16 (near Mineral Point Rd. and a former landfill) and subsequent tests have found more significant levels and several types of PFAS at Well 15 on East Washington Ave; and,

WHEREAS, on May 9, 2019 U.S. Senator Tammy Baldwin joined her colleagues Senators Debbie Stabenow (D-MI) and Marco Rubio (R-FL) to introduce the PFAS Accountability Act. This legislation would hold federal agencies accountable for addressing contamination for per- and polyfluoroalkyl substances (PFAS) at military bases across the country. It comes just days after the release of a new report <<https://www.cbsnews.com/news/drinking-water-may-contain-pfas-chemicals-in-43-states-according-to-new-study-by-environmental-working-group/>> by the nonprofit Environmental Working Group showing that 19 million people in 43 states have been exposed to PFAS-contaminated water; and,

WHEREAS, on May 16, 2019 the Madison Water Utility reported test results for 10 wells for 12 compounds with Wells No. 6, 9, 11, 14, 15 and 16 having 8 or more compounds in their water supplies. The Madison Water Utility is testing all wells for at least 24 different types of PFAS compounds, including PFOA and PFOS. By the end of summer 2019, all 23 city wells will be tested including the four seasonal wells; and,

WHEREAS, on June 4, 2019 the Madison Metropolitan Sewerage District issued a revised report titled "Background and actions to address per-and polyfluoroalkyl substances (PFAS)" and identified the need to develop federal standards for wastewater treatment plants; establish independent evaluation of sampling protocols, laboratory methodologies and accreditations related to PFAS for wastewater, effluent and biosolids, and review local sewer use ordinances and industrial permit review. The report identified eight key concerns and actions related to PFAS; and,

WHEREAS, on June 21, 2019, the Wisconsin Department of Health Services, the Wisconsin Department of Natural Resources, and the Wisconsin Department of Agriculture, Trade and Consumer Protection announced recommendations for groundwater enforcement standards and preventive action limits for two PFAS compounds at 20 nanograms per liter (ng/L). This standard applies to the sum of PFOA and PFOS concentrations in groundwater. The Wisconsin Department of Health Services recommends that the NR140 Groundwater Quality Public Health Preventive Action Limit be set at 10% of the enforcement standard because PFOA and PFOS have been shown to have carcinogenic, teratogenic, and interactive effects; and,

WHEREAS, on June 21, SB302 and AB 321 were introduced. The draft bills require Department of Natural Resources to establish, by rule, acceptable levels and standards, monitoring requirements, and required response actions for any PFAS in drinking water, groundwater, surface water, air, solid waste, beds of navigable waters, and soil and sediment, if the department determines that the

substance may be harmful to human health or the environment. These bills require the DNR to add PFOA, PFOS, PFHxS, PFNA, PFBS, PFHpA, and all other PFAS to the list of substances to be monitored. In addition, the bill requires DNR to set criteria for certifying laboratories to test for PFAS, and to certify laboratories that meet these criteria. Before these criteria are set, the bill allows DNR to require testing for PFAS to be done according to nationally recognized standards; and,

WHEREAS, the 2019 Public Health Madison Dane County operating budget includes \$5,000 to study PFAS substances in fish tissue and surface water, with the intention of using the funds in conjunction with a DNR study scheduled for the summer of 2019; and,

WHEREAS, the Air National Guard has indicated a willingness to investigate the PFAS contaminations at two Dane County-owned sites, and will prepare a statement of work to remediate the sites if needed; and,

WHEREAS, an inter-agency group consisting of representatives of the Air National Guard, the Wisconsin Department of Natural Resources, the Wisconsin Department of Health Services, Public Health Madison and Dane County, and the Madison Water Utility has formed to discuss agency efforts at the local, state and regional level on PFAS-related issues; and,

WHEREAS, with a lack of federal regulatory standards for drinking water and guidance on contaminated soils and groundwater from the EPA, the creation of a multi-jurisdictional task force that is focused on PFAS contamination and which includes elected officials, agency representatives, subject matter experts and community representatives, will enable the City and County to take the lead on addressing PFAS contamination; and,

NOW, THEREFORE, BE IT RESOLVED, that the Common Council creates a Task Force on PFAS Contamination with a total of ten (10) members: the Director of Public Health Madison and Dane County, or her designee; a member of the Water Utility Board, who shall be appointed by that Board; a member of the Common Council, a resident of the Well 15 service area, an at-large resident of the City, a licensed medical doctor, and two (2) residents of Dane County who are scientific experts, all of whom shall be appointed by the Mayor and approved by the Common Council; a representative of the Wisconsin Air National Guard, who shall be appointed by that entity; and a member of the Dane County Board of Supervisors, who shall be appointed by the Chair of the Dane County Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council creates a Task Force on PFAS Contamination with a total of thirteen (13) members:

- Chair of the Board of Public Health of Madison and Dane County, or their designee
- Chair of the Madison Water Utility Board, or their designee
- Two (2) Dane County Supervisors, including one serving on the County Environment, Agriculture, and Natural Resources Committee, appointed by the Chair of the Dane County Board of Supervisors
- Director of the Madison Metropolitan Sewerage District, or their designee
- Director of the Dane County Regional Airport, or their designee
- Representative of the Wisconsin Air National Guard, who shall be appointed by that entity
- Two (2) subject matter experts who reside in Dane County, specifically a licensed medical doctor with experience in environmental health, toxicology, endocrinology, or related field; and an environmental scientist, toxicologist, or limnologist or a specialist in a related field appointed by the Mayor and approved by the Common Council
- Two (2) members of the Common Council, appointed by the Mayor and approved by the Common Council;

- Resident, or liaison, to Hmong and Spanish-speaking residents in the Well 15 service area appointed by the Mayor and approved by the Common Council;
- Resident of the County appointed by the Chair of the Dane County Board of Supervisors; and,

BE IT FURTHER RESOLVED, that the Task Force be staffed by Public Health Madison and Dane County (PHMDC), with the assistance of other City and County staff as needed; and,

BE IT FURTHER RESOLVED, that the Task Force is to do the following:

- Act as clearinghouse to gather information from the Wisconsin Department of Natural Resources, Wisconsin Department of Health Services; the Madison Water Utility, the Madison Metropolitan Sewerage District; the Wisconsin Air National Guard; and US EPA and other technical working groups at state and federal levels on their activities, promulgation of standards and findings to-date on PFAS contamination and remediation plans based on emerging science.
- Provide a public forum where city and county residents can ask questions, share concerns, and receive up-to-date information, with attention to transparency and equity, particularly for the residents of color who live in the areas around Truax field as part of a collaborative community review process.
- Disseminate findings and emerging science to residents, local business, and other stakeholders to ensure local government coordination of work and information exchange.
- Identify knowledge gaps regarding local pathways of PFAS contamination in groundwater, aquifers, surface water, drinking water, air, soil, wastewater, biosolids, fertilizers and the food chain. Review data on potential risks to humans from airborne inhalation and waterborne absorption.
- Review the status of Truax Field remediation. Confer with federal representatives and Wisconsin Air National Guard representatives on the status of funding.
- Review the status of agencies' plans to track the off-base migration of PFAS from Truax Field and to address the significant soil and shallow groundwater contamination previously identified, such as Starkweather Creek
- Review the options for protecting the population served by contaminated wells from PFAS contamination of drinking water. Review results of a comprehensive testing program for PFAS at all Madison Water Utility wells and remediation at the well or home filters in order to provide confidence to the public that their drinking water is safe.
- Review the potential gaps in regulations for PFAS sampling of wastewater and biosolids, efforts to reduce PFAS from local sources and evaluate Madison Metropolitan Sewerage District's use of biosolids on local farms.

- **Review the potential effects of PFAS contamination on surface waters, including specifically Starkweather Creek and Lake Monona, and adopt a local PFAS specific "fish advisory," based on the available evidence.**
- **Confer with agencies and organizations in other states that have responded to elevated levels of PFAS in their water supply about their experiences, best practices and responses. Investigate whether PFAS should be designated as a "hazardous substance" under the Superfund law .**
- **Make recommendations to the Common Council and the County Board to encourage a comprehensive response to contamination, enforcement and treatment options based on peer review of emerging science. Ensure dissemination of the findings of the task force and the information it collects is shared equitably with residents; and,**

BE IT FINALLY RESOLVED that the Task Force shall complete an interim report of its findings **and recommend a framework to incorporate new knowledge and data within six months of its initial meeting and provide a comprehensive review of PFAS contamination with recommended actions** to the Mayor and Common Council on or before **December 31, 2020**.