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To: Senate Committee on Natural Resources and Energy  
From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities  
Date: June 5, 2023  
RE: SB 312 – Related to PFAS and the Creation of a Municipal Grant Program

Chairman Cowles, Vice-Chair Wimberger, and Committee Members,

My name is Toni Herkert and I am the Government Affairs Director with the League of Wisconsin Municipalities. The League represents almost all of the 606 cities and villages and their councils and boards from large and small communities throughout the state. From the City of Milwaukee to the Villages of Yuba and Stockholm, with populations of 74 and 76, and everywhere in between, the League represents a diverse array of municipal members.

Thank you for the opportunity to provide testimony on the important topic of PFAS and the impact the emerging chemicals have on municipalities across the state. The League appreciates all the work that went into this proposal and the opportunity to participate in the conversations that led to the creation of this bill. We also want to thank Chairman Cowles, Senator Wimberger, Representative Mursau, and Representative Swearingen for their leadership on this important issue. This legislation is a step in the right direction and as a state we must act soon.

The League would also like to thank Senator Wimberger and Senator Felzkowski for their leadership on the funding provisions in the Joint Finance process. As members of the powerful budget writing committee, we appreciate that you recently championed the significant \$125 million investment in the segregated PFAS trust fund. To utilize the funding committed, it is necessary to get this policy proposal across the finish line.

As you know, PFAS is impacting municipalities on a many different levels including drinking water, wastewater with surface water/ground water WPDES effluent discharge criteria, biosolids disposal, transportation, utility projects and economic development projects.

All water utilities are in the process of testing for PFOA and PFOS to meet the state standards of 70 ppt although the 20 ppt health advisory standard is also being utilized as well as the understanding that the EPA will deliver a final maximum contaminant level later this year or early next year which could be much lower.

There are approximately 635 entities which receive municipal wastewater discharge permits. Some are Sanitary Districts (which generally service townships) and about 50 are current industries doing some type of pre-treatment, or they are state owned facilities that serve

properties such as prisons or state parks. All these WPDES permittees are in the process of receiving PFAS limitations in their permitting.

We are also seeing increased testing being required at approximately 100 remediation and redevelopment sites and some transportation and utility projects through the dewatering process.

Based on the aforementioned reasons, the League supports many of the provisions in SB 312. In particular, we support the creation of a municipal grant program as described in Section 9.

However, prior to finalizing the bill, the League would like to offer the following suggestions for the authors to consider as amendments to Senate Bill 312.

**Section 1. Annexation for Water/Wastewater Service** - The League suggests deleting this provision. While we understand the reason that the authors are looking at this modification, we believe that an annexation prohibition creates a disincentive for addressing alternatives for drinking water.

**Section 2. Pretreatment** – If this provision is retained, the League would agree with MEG-Water that drinking water systems should be excluded from this section of the bill. Drinking water systems are not impacted by the current industrial customer classification in the manner addressed by this section.

The League would also support MEG Wastewater’s suggestion of deleting Section 2 of SB 312. There is a current pretreatment process for industrial dischargers that discharge wastewater containing constituents that are either incompatible with or too high strength for treatment at a wastewater treatment facility. The costs of pretreatment including the selection and implementation of methods for pretreatment are the responsibility of the discharger including the costs associated with pretreatment. Municipal wastewater facilities must adhere to WPDES effluent limits and when dischargers threaten to impact those limits, the municipality can require pretreatment to stay in compliance. Creating a separate pretreatment process for PFAS would allow the use of ratepayer dollars to fund one type of treatment and not others that are currently funded by industry.

**Section 4. Interim PFAS Response** - We appreciate the process and funding opportunities created in this section but would like to recommend that the authors consider revisions that would focus on the interim nature of the measures that are contemplated in this section. Often interim measures, like onsite temporary treatment, will be utilized until a permanent PFAS solution is implemented. We support not requiring these interim measures to obtain PSC construction approval and the utilization of grant funding to reduce potential rate increases.

**Section 9. Municipal PFAS Grant Program** – The League appreciates the provisions in section 9 and supports the creation of these grant programs. We would like to offer a couple recommendations to provide clarification in the bill.

*Municipal Utility Testing Grants.* While the ease of administration and intent of the provision (2)(a) is appreciated, the phrase “provided in equal shares” is confusing. The



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League supports maintaining a simple process without application, but one that would provide grants for testing on a per-sample basis and perhaps create separate programs for water and wastewater utilities. Remediation is not the same nor is the amount of testing required. Providing funding on a per-sample basis would equitably and simply provide funding to those utilities that have or will incur the most costs associated with required PFAS testing.

*Capital Cost or Other Costs Grants.* The League would like to recommend in section (2)(c) which provides grants to municipalities to test for PFAS at locations that are owned or managed by the municipality, that the language include locations that are “owned, managed, leased, or contracted” by a municipality. This modification would allow grants for testing at all areas that are under municipalities’ charge.

In section (2)(e), grants for capital costs or debt service, including for facility upgrades or new infrastructure, the League would like to recommend that language be added clarifying that the requirements of this grant program for capital costs or debt service do not impact an applicant from receiving funding under the Safe Drinking Water Revolving Loan Program or the Clean Water Revolving Loan Program and vice versa.

Finally, in section (2)(f), focusing on capital costs or other costs related to PFAS not otherwise paid for by EIF, the League would like to request that pollutant minimization plans are included and specifically listed in the eligible activities for this subsection of grant funding. PFAS is much easier to address if we can proactively encourage minimizing the overall usage of the chemicals in processes.

**Section 11. Nonstatutory Provisions** - Due to the amount of funding that may be required, the remedial action at contaminated sites that is required to be started by the DNR if a responsible party is unknown or unable to pay could be concentrated on environmental engineering studies and site preparation to better focus resources.

As you have heard today, emerging chemicals like PFAS are a significant concern and one that the League has been willing and remains committed to tackle by working with our members and the Legislature on measures that can be successful and sustainable within our communities today and for years to come.

The League would like to thank Chairman Cowles, Senator Wimberger, and the committee members for your leadership on this critical issue and your time and patience today. Thank you for your consideration of this important bill and your willingness to continue to work on this critical issue. I would be happy to answer questions now or you can contact me at your convenience at [therkert@lwm-info.org](mailto:therkert@lwm-info.org).