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Rep. Shankland and Midwest Environmental Advocates Release Memo and Statement Detailing Problematic Impact of 2021 Assembly Bill 392 on the State's Spill Law

MADISON – Today, Rep. Katrina Shankland (D-Stevens Point) and Midwest Environmental Advocates released a [memo](#) detailing the impact of [2021 Assembly Bill 392](#) as passed by the Wisconsin State Assembly.

The memo, prepared by the Wisconsin Legislative Council, explains that while AB 392 directs the Department of Natural Resources to administer a program to provide grants to municipalities to address perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination, it also contains extremely troubling “waiver of action” provisions that could effectively limit resources available to impacted communities and give polluters a free pass.

Under the “waiver of action” provisions, any municipality or individual that benefits from a grant—through either a financial payment or a direct capital improvement—would be barred from bringing a claim or action against those who are responsible for the contamination. The bill could also restrict DNR’s enforcement authority, superseding the existing state “spill law” which requires parties responsible for the discharge of a hazardous substance to clean up the contamination and allows DNR to respond to spills of hazardous substances and regulate the discharge of them.

Tony Wilkin Gibart, Executive Director of Midwest Environmental Advocates, said, “Supporters of this bill claim it would provide aid to communities impacted by PFAS, but in reality, it would do just the opposite. Not only would the bill let polluters off the hook, it would also jeopardize DNR’s ability to continue providing assistance to impacted communities under the Spills Law.”

Rep. Shankland stated, “Every municipality deserves the resources to test for PFAS because we all have a right to know what’s in our water. The people of Wisconsin also deserve for their lawmakers to work relentlessly to clean up our water and hold polluters accountable. Unfortunately, this bill would force municipalities to choose between much-needed funds in the short term—funds that could be used to purchase bottled water, for example—and the longer-term assistance that DNR is authorized to provide under the Spill Law to address the source of the problem. To add insult to injury, the bill would take away the right to hold polluters accountable for cleaning up contamination.

“What is most striking about this bill is how it attempts to undermine Wisconsin’s spill law on the legislative level at the same time that WMC is in court suing the DNR in an attempt to undermine the spill law on the judicial level. The spill law is the only tool the DNR has in its toolbox right now to hold polluters accountable and clean up PFAS-contaminated water and soil. It is deeply troubling that WMC and its allies appear to be working to gut this bedrock environmental protection in the courts and in the Legislature, while at the same time, we continue to uncover more and more PFAS contamination across Wisconsin. The State Senate should take a hard look at the impacts of AB 392 and stop it in its tracks, and policymakers should be extra vigilant for additional legislative attempts to undermine the state’s spill law.”

Doug Oitzinger, of Marinette, added, “Corporate polluters who are responsible for putting PFAS into the environment must be held accountable. This bill threatens to make it more difficult--or even impossible--to do that. Marinette is the epicenter of PFAS contamination in Wisconsin. The people of this community can’t afford to sign away their rights to hold polluters accountable.”

Lee Donahue, from the Town of Campbell on French Island, continued, “Access to safe drinking water shouldn’t be a partisan issue. It is essential for human health, and it is essential to sustain and grow important sectors of our economy like agriculture, brewing, dairy, fisheries, forestry, hunting and tourism. Without safe drinking water, these industries, and the millions of residents who work in these industries will fail.”

Rep. Shankland concluded, “What we sorely need today is to advance PFAS legislation that actually helps people who can’t drink their water. It’s especially disappointing that the Legislature has squandered an important opportunity to support our municipalities with funds for PFAS testing and remediation in the governor’s proposed state budget. The Legislature can still advance the CLEAR Act instead of this harmful proposal, and I call on the Legislature to do so immediately.”