
Local Government Roads Wetland Replacement Program

Work Group Report

December 16, 2024

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Executive Summary

The Minnesota Board of Water and Soil Resources (BWSR) and the Minnesota Department of Transportation (MnDOT) convened a Work Group of key transportation and local government organizations to review the status of the Local Government Roads Wetland Replacement Program (LGRWRP) and develop recommendations to ensure predictable and adequate funding to ensure its long-term viability.

The Work Group met four times in Fall 2024 and are making the following recommendations:

- i. Fund the program through a combination of Operating Budget (General Funds) and the Capital Budget (General Obligation Bond funds and General Funds); and
- ii. Pursue federal and state one-time funding that could provide “catch-up funding”.

Background

The Local Government Roads Wetlands Replacement Program (LGRWRP) was established in Minnesota Statutes [103G.222](#), subd. 1 in 1996. Under this program, BWSR is responsible for providing required wetland mitigation for certain qualifying road reconstruction, repair, and rehabilitation projects conducted by local road authorities (cities, counties, townships). This program also generally provides wetland mitigation for local road projects as required by Section 404 of the Federal Clean Water Act and some DNR Public Waters Work Program. Since its inception, approximately 7,000 credits have been generated to offset over 4,000 acres of wetland impacts by local road projects.

Funding to comply with this directive has been provided through the Capital Budget – General Obligation (GO) Bonds and General Funds. This funding has typically been substantially less than the amount requested (see table 1). Since 2017, the LGRWRP has received approximately 33% of requested funding.

Table 1. LGRWRP Funding History 2017-2024

Year	Agency Budget Request (millions)	Appropriation
2017	\$15.3	\$10
2018	\$16.38	\$6.7
2019	\$26.4	\$0
2020	\$26.4	\$23
2021	-	-
2022	\$20	\$0
2023	\$24	\$12
2024	\$26.5	\$0

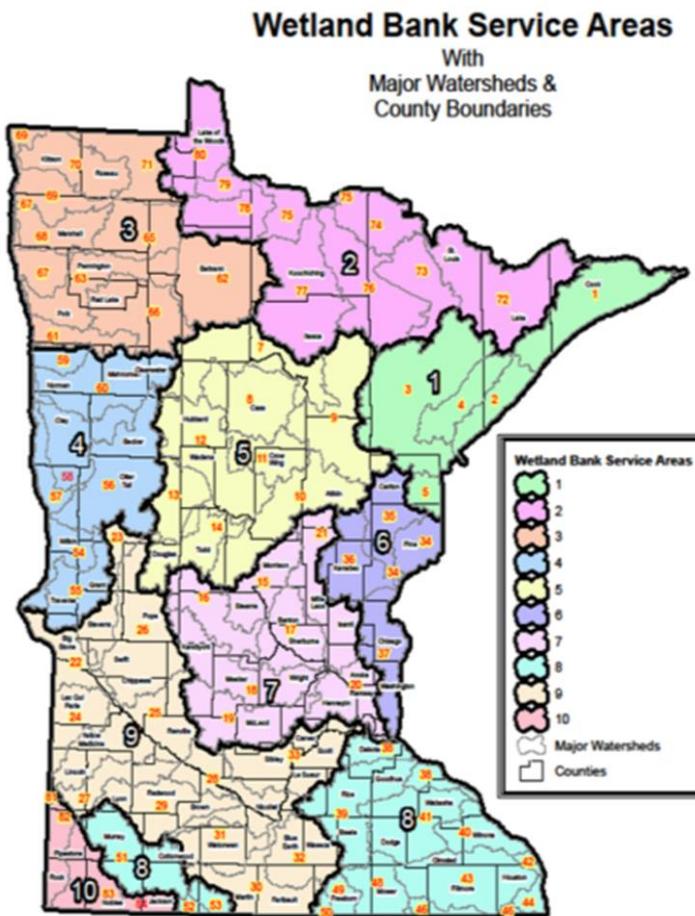


Table 2. Wetland Credits as of
September 6, 2024, by BSA*

BSA	Credit Balance	Average Annual Demand
1	23.3	7
2	100.9	7
3	42.2	29
4	8.4	10
5	35.9	22
6	0.1	13
7	5.7	50
8	4.6	5
9	9.9	28
10**	0	0
	231.1	171

* Red indicates less than a one-year credit balance

** BSA 10 has an average demand of less than 1 credit per year

Table 2 shows the wetland credit balances in each BSA as of September 6, 2024. Please note that 2 of the 10 BSA's have a credit balance of just over a year, and 5 have a balance of less than one-year of demand.

LGRWRP Credit Goal

BWSR has the goal of achieving a 5-year wetland credit balance in each bank service area (BSA). The purpose of this goal is to account for the uncertainties in receiving funding, the variations in credit demand and the timelines for wetland banking projects to deliver credits. Table 3 below shows the credit gaps and an estimate of the cost to achieve this goal using the September 6, 2024, balances, and the average cost per credit of \$50,000. Finally, it is noted that the cost to achieve the 5-year credit balance goal is more than the 2024 capital budget request.

Table 3. Funding to Achieve 5-Year Credit Goal

Bank Service Area	Annual Demand	5-Year's Demand	9/6/24 Balance	Credit Gap	Cost to reach 5-Year Demand
1	7	35	23.3	11.7	\$585,000
2	7	35	100.9	0	\$0
3	29	145	42.2	102.8	\$5,140,000
4	10	50	8.4	41.6	\$2,080,000
5	22	110	35.9	74.1	\$3,705,000
6	13	65	0.1	64.9	\$3,245,000
7	50	250	5.7	244.3	\$12,215,000
8	5	25	4.6	20.4	\$1,020,000
9	28	140	9.9	130.1	\$6,505,000
10*	0	0	0	0	\$0
TOTALS	171	513	231.1	689.9	\$34,495,000

* BSA 10 has an average demand of less than 1 credit per year

Capital Budget vs. Operating Budget

Program funding has been almost exclusively from the Capital Budget using GO Bond Funds. Below are some factors and differences between GO Bond Funds and General Funds as they relate to the efficient and effective implementation of the LGRWRP.

GO Bond Funds

- The largest source of funds
- Constraints on how it can be spent
 - Direct project costs only (easement, construction, vegetation)
 - Cannot be used for direct credit purchases
 - Staff
 - Equipment
- Sunset dates
 - Funds must be spent or encumbered within 4 years

General Funds

- Typically, a small portion of funding
- Greater flexibility on use of funds
 - Can be used for direct credit purchases
 - Equipment
 - Staff Costs
- Funds do not have sunset dates
- Can remedy immediate needs by direct credit purchase

Wetland Bank Project Development Timeline

Another important factor to consider is the amount of time required for an appropriation to result in wetland credits. As noted in Figure 1 below, it generally requires 7 to 10 years from appropriation to final credit release. The result of this timeline is that funding must be based on wetland credit needs 3 to 10 years into the future. As noted previously, BWSR has a goal of having a minimum balance of wetland credits, in each BSA, of 5 times the average annual need.

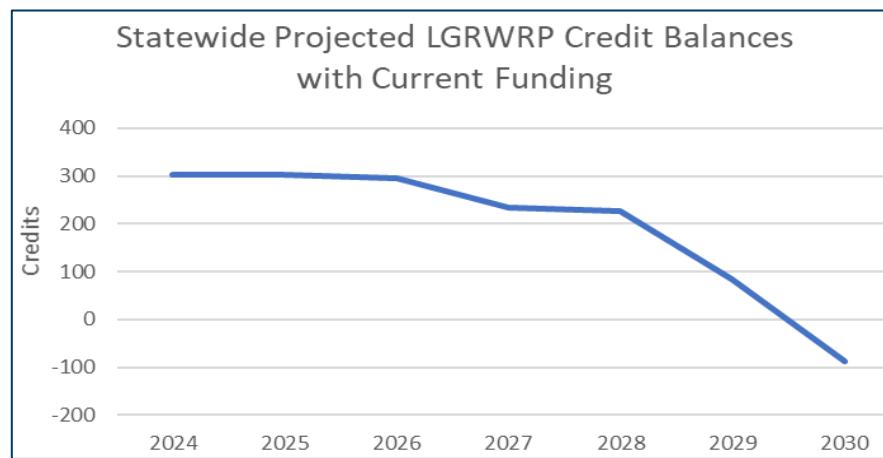
Figure 1. Wetland Bank Project Development Timeline



Long-term Projections

The prospect of being unable to meet the statutory obligation is once again looming (see Figure 2 below). Should the state have low or zero credit balances in some BSA's, local governments may not be able to address infrastructure needs, may need to delay needed improvements (thereby increasing project costs), may need to pay for wetland mitigation, or may not be able to effectively plan for ongoing road maintenance and improvement.

Figure 2. Statewide Projected Credit Balancers with Current Funding



Consequences of Inadequate Funding

The results of not addressing the systemic funding issues could include increased costs for local governments, reduced funds for road improvements, delays, or denial of permit issuance due to replacement and project plan approvals and local road authorities will need to receive Corp approval of replacement plans and develop, fund and manage mitigation requirements

Additional impacts of inadequate funding include the inefficient use of credits due to the need to use credits from another BSA to meet mitigation requirements, thereby incurring penalties. The unpredictability of funding also causes challenges in soliciting wetland banking projects. Wetland bankers and companies that work in the field of environmental mitigation cannot properly participate in the LGRWRP if they cannot plan their work to coincide with the availability of project funds. Similarly, BWSR has maintained a limited staff to manage the program due to the unpredictable and highly variable funding and would require time to increase agency capacity should funding be substantially increased.

Local Government Roads Wetland Replacement Program Work Group

In Summer 2024 BWSR and the Minnesota Department of Transportation convened a Work Group consisting of the following organizations:

- Association of Minnesota Counties
- Minnesota Inter-County Association
- Minnesota Rural Counties
- Minnesota County Engineer's Association
- League of Minnesota Cities
- Association of Metropolitan Municipalities
- Coalition of Greater Minnesota Cities
- Minnesota Association of Small Cities
- City Engineers' Association of Minnesota
- Minnesota Association of Townships
- Minnesota Transportation Alliance

The purpose of the Work Group is to evaluate and develop recommendations to ensure predictable and adequate funding for the LGRWRP. The main questions that Work Group discussed and evaluated are:

- What sources of funding should be considered to meet public road wetland mitigation needs (all costs, including agency personnel and program management, and developing and purchasing wetland credits)?
- What are the consequences of the State not meeting its statutory obligation?

Work Group Meetings

The Work Group met on the following dates and the associated meeting purpose:

- September 27 LGRWRP Status and Overview
- October 21 Evaluate Policy and Funding Options
- November 18 Continued Evaluation of Options
- December 16 Finalize Recommendations and Legislative Strategy

Funding and Policy Options

The Work Group evaluated the following policy and funding options for the LGRWRP.

Policy Options:

1. Repeal or amend M.S. 103G.222, subd. 1(m)
2. Maintain the status quo
3. Fully integrated state-local transportation project wetland mitigation system.
4. Use/sell donated land resulting from city development agreements.
5. Repeal or adjust the session law that requires using wetland credits from anywhere in the state to mitigate a public transportation project to the extent permitted by state or federal law.

Funding Options:

- A. General Fund/Operating Budget
- B. Capital Budget.
- C. Highway Users' Tax Distribution Fund.
- D. Charge a fee to local road authorities based on their use of the LGRWRP.
- E. Explore a tax or fee the public would pay that would directly fund local road wetland mitigation
- F. Transportation Advancement Account
- G. Conservation Funds.

In evaluating these options, the Work Group was strongly supportive of keeping the LGRWRP. Some of the factors discussed for not further considering many of these options include legal and policy obstacles, unequal impacts to individual local governments, and the desire to meet the goals of this effort – to provide adequate and predictable funding for the program.

This discussion also included the possibility of funding the LGRWRP through both transportation and environmental sources and resulted in general support for the following:

- i. Funding for the program through a combination of the Operating Budget (General Funds) and the Capital Budget (General Obligation Bond funds and General Funds); and
- ii. Pursue federal and state one-time funding that could provide “catch-up funding”.

The Work Group conducted further analysis and evaluation of funding the LGRWRP through a combination of the Operating Budget and the Capital Budget as provided below. Table 5 shows what adequate funding looks like for the LGRWRP - in terms of the biennial need and what is necessary to make-up for past underfunding and work towards achieving the 5-year credit balance in each BSA.

LGRWRP Funding Scenarios

Assumptions:

- 171 Average annual wetland credit demand
- \$50,000 Average cost of wetland credits
- \$19,000,000 Biennial need for program management and credit acquisition and development
 - \$2,000,000 Annual program management, including acquisition and stewardship
 - \$7,500,000 Annual funding for credit acquisition and development

Table 5. LGRWRP Funding Scenarios

Scenario	General Fund Base	General Fund One-time	Other One-Time	Capital Funds
1. All Operating Budget	<ul style="list-style-type: none"> ▪ \$4M Agency Biennial Management ▪ \$15M Biennial Credit Demand 	<ul style="list-style-type: none"> ▪ \$26.5M 2024 Capital Budget Request* 		
2. Combination of Operating Budget and Capital Budget	<ul style="list-style-type: none"> ▪ \$4M Agency Biennial Management ▪ \$15M Biennial Credit Demand 			<ul style="list-style-type: none"> ▪ \$26.5M 2024 Capital Budget Request*
3. All Capital Budget (status quo)				<ul style="list-style-type: none"> ▪ \$19M Biennial Credit Demand ▪ \$26.5M 2024 Capital Budget Request*
4. Other -?				

*2024 Capital Budget Request (\$10M GO, \$16.5M GF)

Recommendations

The LGRWRP Work Group supports and recommends the following actions be taken to ensure the long-term viability of the LGRWRP:

- Funding for the program through a combination of Operating Budget (General Funds) and the Capital Budget (General Obligation Bond funds and General Funds); and
- Pursue federal and state one-time funding that could provide “catch-up funding.”