

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: **06/18/99**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Buildings/Safety - priv swg sys**

Extra Copies:

**Pre Topic:**

SDC:.....Walter - # 2726,

**Topic:**

Private sewage system replacement and rehabilitation loan and grant program

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 06/21/99	chanaman 06/22/99		_____			
/1			mclark 06/22/99	_____	gretskl 06/22/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Senate Amendment (SA-ASA1-AB133)

Received: 06/18/99

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1/?	rmarchan	cmr 6/22 /1	MRC 6/22	MRC/KJF 6/22			

FE Sent For:

<END>

yes

SDC

**Agency: Environmental Improvement Fund**

caucus number: 2701

duplicate flag:

Other reference numbers: Paper 430 alt 2

LFB Sum #:

duplicate with:

bill number/amendment number:

LRB draft #

LRB P-draft:

description: Safe Drinking Water Loan Program (Environmental Improvement Fund) Adopt Alt. 2 to Paper 430

other notes:

drafting instructions: Adopt Alt. 2 to Paper 430 which approves the Gov's recommendation as re-estimate to provide \$792,600 in 90-00 & \$1,010,000 in 00-01 for GPR debt service. Provide total project funding of \$50 mil in 99-01 by creating a state revenue bond program component

more instructions:

caucus number: 2726

duplicate flag:

Other reference numbers: Paper 431

LFB Sum #:

duplicate with:

FM 606

bill number/amendment number:

LRB draft #

LRB P-draft:

description: Private Sewage System Replacement and Rehabilitation Loan and Grant Programs. Delete Motion 606 to Paper 431 which provides highest priority for grants to systems that discharge sewage to Out Resource Waters or to groundwater.

other notes:

drafting instructions: Delete Motion 606 to Paper 431 (see above)

more instructions:

Agency: **Environmental Improvement Fund**

Number of Amendments: 2

IN 2726

Delete Motion 606 relating to Paper 431, which provides highest priority for grants to systems that discharge sewage to Out Resource Waters or to groundwater.



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 27, 1999

Joint Committee on Finance

Paper #431

### **Private Sewage System Replacement and Rehabilitation Loan and Grant Programs (Environmental Improvement Fund and Commerce - Building and Environmental Regulation)**

[LFB 1999-01 Budget Summary: Page 218, #4 and Page 155, #19]

#### **CURRENT LAW**

The clean water fund program provides low-interest loans to municipalities for planning, designing, constructing or replacing a wastewater treatment facility, or for nonpoint source pollution abatement or urban stormwater runoff control projects. Revenues to the fund come from federal grants, state match to the federal grants provided through general obligation bonding authority, loan repayments from clean water fund loans to municipalities, revenue bonding authority, direct use of general obligation bond proceeds and investment earnings. The clean water fund program does not currently provide financial assistance for private sewage systems or to individuals. DNR and DOA administer the program.

The Department of Commerce is appropriated \$3,500,000 GPR annually for the private sewage system replacement and rehabilitation grant program. The program provides financial assistance to home and small business owners who meet certain income and eligibility criteria, to cover a portion of the cost of repairing or replacing failing private sewage systems. The owner of a failing private sewage system applies to the county, Commerce provides grants to participating counties and the county is responsible for disbursing all grant awards to property owners (participants also include the Oneida Tribe and City of Franklin in Milwaukee County). In a year when approved applications exceed available funding, Commerce is required to prioritize funds, giving highest priority to category one systems which fail by discharging sewage to surface water, groundwater, drain tiles, bedrock or zones of saturated soils, and second priority to category two systems which fail by discharging sewage to the surface of the ground.

Private sewage system replacement or rehabilitation grants are available for homes or small commercial establishments that were constructed and inhabited prior to July 1, 1978, that

are occupied at least 51% of the year by the owner. The annual family income of a residential property owner may not exceed \$45,000. "Family income" is defined as the adjusted gross income of the owner and the owner's spouse, as computed for Wisconsin income tax purposes for the taxable year prior to the year in which the determination of system failure is made.

## **GOVERNOR**

Create a private sewage system replacement and rehabilitation no-interest loan program within the environmental improvement fund to be administered by the Departments of Commerce and Administration. Specify that it may be used only in a year in which Commerce must prorate funds under the private sewage system replacement and rehabilitation grant program. Provide \$3,000,000 SEG in 1999-00 as a one-time annual appropriation from the environmental improvement fund. The funding would come from general obligation bond proceeds and loan repayments from state funds under the clean water fund program.

In a year in which Commerce prorates funds under the private sewage system replacement and rehabilitation grant program, counties could apply to Commerce for a loan under the loan program. The county could only use a loan to increase the grant amount to eligible persons to the amount which the persons would have been eligible to receive under the grant program. A loan to a county would bear no interest. The loan amount could not exceed the difference between the amount the county would have received if Commerce had not prorated grants and the amount that the county did receive. If the amount available for loans under the program is insufficient to provide loans to all eligible counties in a year, Commerce would be required to prorate loans in the same manner as under the grant program.

A loan could be for no longer than 20 years. In order to obtain a loan, a county would pledge any security required by DOA and demonstrate the financial capacity to assure sufficient revenues to repay the loan. Commerce and DOA would enter into a financial assistance agreement with an eligible county.

Make the following changes in eligibility for the private sewage system replacement or rehabilitation grant program: (a) change the definition of annual family income to federal adjusted gross income (instead of Wisconsin income) of the owner of the failing private sewage system and the owner's spouse; and (b) provide grant eligibility if the private sewage system serving the principal residence or the small commercial establishment was installed before July 1, 1978 (rather than that the residence or commercial structure was constructed before that date).

## **DISCUSSION POINTS**

### **A. Loan Program**

1. County participation in the loan program would be optional. If a county would choose to borrow under the program to increase the amount of a private sewage system rehabilitation or replacement grant to a home or small business owner, the county would have to demonstrate to DOA that it could repay the loan.
2. The current program prioritizes funding for category one systems which have the greatest threat to groundwater or surface water and for households with lower incomes (under \$45,000). Commerce prorated grants under the existing grant program in 1995-96 through 1997-98 for category one systems, which are systems that fail by discharging sewage to surface water, groundwater, drain tiles, bedrock or zones of saturated soils. In each of the three fiscal years, there were not sufficient funds for lower priority category two systems, which are systems that fail by discharging sewage to the surface of the ground.
3. In 1998-99, Commerce fully funded all 1,284 category one and 20 category two grants with a total grant amount of \$3,527,700. Commerce expects to fully fund 1999-00 grant awards because 1,214 applications for \$3,317,100 were received by the February 1, 1999, deadline. Thus, the loan program under the bill will not be needed in 1999-00. The number of grant applications has decreased from 1,808 in 1995-96 to 1,214 for the 1999-00 funding cycle. The decrease in applications might be due in part to insufficient funding for category two systems in some recent years and no change in the current income factoring since 1991-92.
4. Commerce officials anticipate that they would promulgate administrative rule changes in Comm 87, the private sewage system grant program rule, to implement the program, and that loans would first be available in the summer or fall of 2000, for the 2000-01 grant/loan cycle.
5. Demand for grants will increase in 2000-01 because in 1998, Commerce revised the grant funding tables in Chapter Comm 87 of the Administrative Code so that grant applications received after February 1, 1999, will be eligible for funding (beginning in 2000-01) under the new funding tables. For example, the replacement of a conventional private sewage system for a three bedroom house is currently eligible for \$1,470 before income proration, but increases by 38% to \$2,025 under the revised grant funding tables. The attachment shows examples of the calculation of the private sewage grant amount for various types of systems under the current and revised funding tables. The grant funding tables are required to fund approximately 60% of the costs of private sewage system replacement or rehabilitation.
6. The Commerce March, 1998, fiscal estimate for the Comm 87 revisions indicated that there would be no state fiscal effects of the rule change, and that existing Commerce staffing levels would be adequate to perform additional tracking, review and monitoring of experimental system applications. However, in March, 1999, Commerce calculated that if the new grant funding

tables had been in effect for the 1998-99 grant cycle, the total eligible grant amount would have been \$4.7 million instead of \$3.5 million, an increase of \$1.2 million or approximately one-third.

7. Demand for grants will also increase because Commerce promulgated rules in Comm 87 to specify how it will begin providing grant awards for experimental private sewage systems in 2000-01. The 1993-95 biennial budget act authorized Commerce to allocate 10% of private sewage system grant funding for experimental private sewage systems, or \$350,000 annually, but no awards for experimental systems will be available until 2000-01 because the rules had not been promulgated.

8. It is not clear how much county interest there will be in applying for loans under the bill. A county that chooses to apply for a loan would have to place a higher priority on providing grants to private sewage system grants to individuals than to other activities in the county budget. At a March, 1999, meeting of the Wisconsin County Code Administrators (representing staff who administer the current grant program at the local level), the group passed a resolution in opposition to the loan program.

9. It is probable that a loan to an individual county would be small in any given year. For example, if the loan program had been available in 1997-98, the last year of grant proration, potential loans to counties would have ranged from less than \$1,000 up to \$20,000. It is possible that these small loans would not be a cost-effective use of state administrative resources. On the other hand, a county may only need a small loan and may want to use the option of borrowing to fully fund grants to residents of the county.

10. The loan program provides an alternative method for increasing funds for private sewage system replacement or replacement to increasing the \$3,500,000 GPR appropriation for the current grant program. However, use of the environmental improvement fund for the 0% private sewage system loan program instead of for low-interest wastewater loans under the clean water fund means that loan repayments to the environmental improvement fund will be reduced, with the effect that, in the future, the clean water fund would have to issue additional general obligation bonds with GPR debt service costs to replace the foregone loan repayments.

11. Some would argue that a county should not have to borrow money from the state in order to ensure that residents of the county receive the full eligible grant under the state grant program. Under this argument, grant funding for the program should be increased to meet the increased demand expected from the change in grant funding tables and implementation of experimental system grants. For example, a \$1,000,000 GPR increase in the 2000-01 grant appropriation would provide almost 30% more funds for the grant program, which is approximately the same percentage increase as provided in the revised grant funding tables.

12. Others would argue that state GPR support of grants for private sewage system replacement or rehabilitation should not be increased, and that existing grant funds sufficiently target resources to systems with the greatest threats to groundwater or surface water and to lower income households. Under this argument, any county that chooses to provide additional funds to its



residents could do so by borrowing from the state at a 0% interest rate.

13. It is possible that even if counties are interested in borrowing under the bill, demand for loans in 1999-01 would be less than the \$3,000,000 provided in the bill. Since the loan program is not needed in 1999-00, provision of \$1,500,000 instead of \$3,000,000, would likely fund potential demand for county loans in 2000-01 under the new grant funding tables and implementation of grants for experimental systems. Needs for loan and grant funding after the 1999-01 biennium could be evaluated during the 2001-03 biennial budget process.

14. Under the bill, technical modifications are necessary to meet the Governor's intent that the \$3,000,000 in loan funding be provided as a continuing appropriation rather than annual (under the bill loans could not be awarded after June 30, 2000) and to clarify that local loan repayments be deposited in the environmental improvement fund.

#### **B. Grant Program Eligibility**

15. Currently, income earned outside of Wisconsin can not be used to determine eligible income for the grant program. This means that if two applicants have the same income, but one household has 100% of income from Wisconsin, and one has a portion of income from out-of-state sources, the applicant with out-of-state income would be eligible for a higher grant than the household with 100% of income from Wisconsin. In addition, applicants who move to Wisconsin during the year and apply for a grant the next year would have less Wisconsin income than someone with the same total income who lived in the state the entire year, and would be eligible for a higher grant. It could be argued that using federal income provides a more accurate and fair method of determining income under the program.

16. The bill would use all income that is used for federal income tax purposes to calculate eligibility under the state grant program. Commerce has calculated that of 1,214 applications submitted for 1999-00 grant funding, 184 applicants (15%) verified income by submitting the federal income tax forms, of which 102 applicants (55%) would have had a greater income using the federal income tax forms, 69 (38%) would have had no change in income, and 13 (7%) would have had a lower income. Of the 184 applicants with federal income tax information, 23 (13%) would be eligible under the current use of only Wisconsin income but would not be eligible if federal income was used to determine eligibility. While this sample represents only 15% of 1999-00 grant applicants, it does demonstrate that the change in definition of income would affect grant eligibility for some households.

17. The change to connect eligibility to the age of the private sewage system rather than the age of the structure would focus the program on older systems rather than older structures. For example, if a residence was built prior to July 1, 1978, a private sewage system was installed in the 1980's to replace the original system, and the replacement system fails, it is currently eligible for funding under the program. It is likely that the 1980's system failure would occur by discharging sewage on the surface of the ground, a category two failure that is not as high a priority as contamination of groundwater or surface water under the program. Under the bill, if a system built

in the 1980's, such as in the above example, failed, it would not be eligible for grant funding.

18. Another example of the impact of the change is that a private sewage system installed with a mobile home before July 1, 1978, may still be usable after a mobile home is replaced with another mobile home. Currently, if the mobile home is replaced after July 1, 1978, and subsequently, the private sewage system needs replacement, the system is not eligible under the program, but would be under the bill.

19. The precise number of systems installed prior to July 1, 1978, is not known. However, Commerce estimated 350,000 to 400,000 systems may be at least that old. A typical life-span of a private sewage system is at least 20 years, or longer if properly maintained and pumped. Many of the older systems do not have regular maintenance or pumping.

20. Both changes in grant program eligibility would gain or remove grant eligibility for individual households, depending on how the change impacts them. While the changes could impact total demand for grants under the program, the extent of the impact would depend on the circumstances of individual applicants.

21. The grant eligibility changes would be effective on the effective date of the bill. Currently, an owner may submit a program application to the county at any time during the year, and county applications are due to Commerce before February 1. Applications received by the county on or after February 1, 1999, will be submitted to Commerce before February 1, 2000, for the 2000-01 grant funding cycle. Under the bill, some owners who submit applications based on the current eligibility formula might find their eligibility changes after passage of the bill. A delayed effective date for the grant changes would allow applicants to know in advance the grant eligibility formula that will be in effect for the grant cycle. A delayed effective date could be included for applications submitted to Commerce on or after February 1, 2000, for the 2001-02 grant cycle.

## ALTERNATIVES

### A. Loan Program - Alternatives to Bill

1. Approve the Governor's recommendation to provide \$3,000,000 SEG from the environmental improvement fund to create a private sewage system loan program, as technically modified to: (a) make the appropriation continuing, rather than annual; and (b) specify that loan repayments by local governments shall be deposited in the environmental improvement fund.

2. Approve Alternative 1 but provide \$1,500,000 SEG instead of \$3,000,000 SEG for the loan program.

Alternative 2	SEG
1999-01 FUNDING (Change to Bill)	-\$1,500,000

Shib  
Decker  
Huber

3. Delete the Governor's recommendation. Instead, provide \$1,000,000 GPR in 2000-01 for the Commerce private sewage system replacement or rehabilitation grant program.

Burke

<u>Alternative 3</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$1,000,000	- \$3,000,000	- \$2,000,000

4. Maintain current law.

<u>Alternative 4</u>	<u>SEG</u>
1999-01 FUNDING (Change to Bill)	- \$3,000,000

### B. Grant Program Eligibility - Alternatives to Base

1. Approve the Governor's recommendation to provide the following changes in the private sewage system replacement or rehabilitation grant program to:

a. change the definition of annual family income to federal adjusted gross income of the owner of the failing private sewage system and the owner's spouse;

b. provide grant eligibility if the private sewage system serving the principal residence or the small commercial establishment was installed before July 1, 1978.

2. In addition, provide a delayed effective date to apply to applications received by Commerce on or after February 1, 2000, for the 2001-02 grant cycle.

3. Maintain current law.

Prepared by: Kendra Bonderud

**ATTACHMENT**

**Examples of Calculation of Private Sewage System Grant Amount**

Component	A	B	Total Eligible Grant Amount							
	Grants Awards 1992-93 thru 1999-2000	Grant Awards Effective 2000-01	Example 1		Example 2		Example 3		Example 4	
			A	B	A	B	A	B	A	B
Site evaluation and soil testing	Flat \$200	Flat \$250	\$200	\$250	\$200	\$250	\$200	\$250	\$200	\$250
Installation or replacement of additional septic tank	\$400 to \$750, depending on tank size	\$500 to \$950, depending on tank size	450	550	450	550	450	550		
Installation of a pump chamber and lift pump or siphon	\$875 to \$1,000, depending on number of bedrooms	\$1,100 to \$1,250, depending on number of bedrooms			950	1,200	950	1,200		
Installation of a non-pressurized or in-ground pressure soil absorption area	\$375 to \$1,850, depending on percolation rate and number of bedrooms	\$800 to \$2,275, depending on percolation rate and number of bedrooms	825	1,225	825	1,225				
Installation of a high groundwater mound soil absorption area	\$1,625 to \$2,600, depending on number of bedrooms	\$2,250 to \$3,775, depending on number of bedrooms					2,200	2,550		
Installation of holding tank	\$1,250 to \$2,500, depending on number of bedrooms	\$2,250 to \$3,775, depending on number of bedrooms							1,250	2,250
<b>Total grant amount before income proration</b>			<b>\$1,470</b>	<b>\$2,025</b>	<b>\$2,425</b>	<b>\$3,225</b>	<b>\$3,800</b>	<b>\$4,550</b>	<b>\$1,450</b>	<b>\$2,450</b>

Example 1 = Replacement of a conventional system, 3 bedroom house.

Example 2 = Installation of an in-ground system, 3 bedroom house.

Example 3 = Installation of a high groundwater mound system, 3 bedroom house.

Example 4 = Installation of a holding tank, 3 bedroom house.

COMMERCE -- BUILDING AND ENVIRONMENTAL REGULATION

Private Sewage System Replacement and Rehabilitation Grant Program  
[LFB Paper #431]

Motion:

Move to provide the highest priority for private sewage system replacement or rehabilitation grants for current category one systems that fail by discharging sewage to an outstanding resource water (ORW), as designated by DNR, or to groundwater. Grants for this new category consisting of ORW and groundwater discharge systems would be paid in full before other grants are paid. If there are insufficient funds to provide payments for all priority one grants, these grants would be prorated and no funds would be available for other systems. The remaining current category one systems would become a second priority, be renamed category two, and include systems that fail by discharging sewage to surface water, drain tiles, bedrock or zones of saturated soils. Current category two and three systems would be renumbered three and four.

In addition, provide a delayed effective date for the change to apply to applications received by Commerce on or after February 1, 2000, for the 2001-02 grant cycle.

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Note:

DNR designates outstanding resource waters in administrative rule NR102.10 under statutory authority in s. 281.15 to designate water quality standards for different waters of the state. The motion would provide the highest priority for private sewage system replacement or rehabilitation grants to systems that discharge sewage to waters designated as outstanding resources waters (ORW) or that discharge sewage to groundwater. These systems are currently classified as category one systems under the grant program but would be provided higher priority than other systems that are classified as category one. All other current category one systems (systems that fail by discharging sewage to surface water, drain tiles, bedrock or zones of saturated soils) would become a second priority and be renamed category two. If funds are adequate to fully fund the new category one grants (ORW and groundwater), then the remaining funds would be used for the category two systems, and prorated if necessary. All current category two systems (systems that fail by discharging sewage to the surface of the ground) would become a third priority, be renamed category three systems and would be funded from any funds remaining after funding category one (ORW and groundwater) and two grants. All current category three systems (those which fail by causing the backup of sewage into the structure served) would be renamed category four systems. Currently, these systems are not eligible for grants under the program.

The change in grant priority would go into effect for applications received by Commerce on or after February 1, 2000, which would be funded in the 2001-02 grant cycle.

9-7  
adopted



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0733/8  
RJM:.....

SDO

CMY  
RMC

SDC:.....Walter - # 2726, Private sewage system replacement and rehabilitation loan and grant program

DUOTE

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

Substitute amendment

- 1 At the locations indicated, amend the ~~bill~~ as follows:
- 2 1. Page 1144, line 24: delete the material beginning with that line and ending
- 3 with line 15 ~~on page 1144~~ <sup>page 1145,</sup>
- 4 2. Page 1146, line 1: delete lines 1 to 9.
- 5 3. Page 1146, line 19: delete the material beginning with that line and ending
- 6 with line 9 ~~on page 1146~~ <sup>page 1147,</sup>
- 7 4. Page 1148, line 13: delete lines 13 to 19.
- 8 5. Page 1149, line 9: delete the material beginning with that line and ending
- 9 with line 5 ~~on page 1150~~ <sup>page 1150,</sup>

1           **6.** Page 1587, line 22: delete the material beginning with that line and ending

page 1588,

2           with line 2 ~~on page 1588.~~

3           **7.** Page 1606, line 24: delete the material beginning with that line and ending

page 1607,

4           with line 3 ~~on page 1607.~~

5

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0733/1dn

RJM:.....

*cmd*

Attached is the amendment you requested that deletes motion 606 to LFB paper 431, regarding eligibility for private sewage system replacement or rehabilitation grants. Please let me know if the amendment is not consistent with your intent. Thanks.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: [Robert.Marchant@legis.state.wi.us](mailto:Robert.Marchant@legis.state.wi.us)



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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0733/1dn

RJM:cmh:mrc

June 22, 1999

Attached is the amendment you requested that deletes motion 606 to LFB paper 431, regarding eligibility for private sewage system replacement or rehabilitation grants. Please let me know if the amendment is not consistent with your intent. Thanks.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0733/1  
RJM:cmh:mrc

SDC:.....Walter - # 2726, Private sewage system replacement and  
rehabilitation loan and grant program

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS AMENDMENT**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 1999 ASSEMBLY BILL 133**

- 1           At the locations indicated, amend the substitute amendment as follows:
- 2           **1.** Page 1144, line 24: delete the material beginning with that line and ending
- 3           with page 1145, line 15.
- 4           **2.** Page 1146, line 1: delete lines 1 to 9.
- 5           **3.** Page 1146, line 19: delete the material beginning with that line and ending
- 6           with page 1147, line 9.
- 7           **4.** Page 1148, line 13: delete lines 13 to 19.
- 8           **5.** Page 1149, line 9: delete the material beginning with that line and ending
- 9           with page 1150, line 5.

