

2001 DRAFTING REQUEST

Bill

Received: 09/20/2000

Received By: kenneda

Wanted: As time permits

Identical to LRB:

For: Administration-Budget (608) 267-9546

By/Representing: Jablonsky

This file may be shown to any legislator: NO

Drafter: kenneda

May Contact:

Alt. Drafters:

Subject: Health - public health

Extra Copies: ISR

Pre Topic:

DOA:.....Jablonsky -

Topic:

Environmental sanitation licensing fees

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>
/?	kenneda 10/04/2000	jdyer 10/12/2000		_____			S&L
/1			martykr 10/13/2000	_____	lrb_docadmin 10/13/2000		S&L
/2	kenneda 01/09/2001	jdyer 01/10/2001	pgreensl 01/10/2001	_____	lrb_docadmin 01/11/2001		

FE Sent For:

<END>

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/1		1/2 1/10 jld	martykr 10/13/2000	1/10 PG/RS	lrb_docadmin 10/13/2000		

FE Sent For:

1/10/01
PG

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1?	kenneda	1 10/12 jld	1/12	PG 10 Xm 13			

FE Sent For:

<END>

DHFS

Department of Health and Family Services
1999-2001 Biennial Budget Statutory Language Request
September 11, 2000

Environmental Sanitation Licensing Fees

Current Language

Chapter 254 of the Wisconsin Statutes governs the assessment, management, control and prevention of environmental factors that may adversely affect the health, comfort, safety or well-being of individuals.

Proposed Change

~~245.64~~ **245.64 Permit.** (1) (a) No person may conduct, maintain, manage or operate a hotel, restaurant, temporary restaurant, tourist rooming house, vending machine commissary or vending machine if the person has not been issued an annual permit by the department or by a local health department that is granted agent status under s. 254. 69 (2). Failure to obtain an annual permit will result in a surcharge for operating without a permit.

~~245.64~~ **245.64 Permit.** (1) (b) No person may maintain, manage or operate a bed and breakfast establishment for more then 10 nights in a year without having first obtained a ~~biennial~~ ^{an} annual permit from the department.

Remove section 254.64 (4) (c) and renumber the remaining items. AM 254.64(4)(b)

254.65 Pre inspection. (1) The department or a local health department granted agent status under 254.69 (2) may not grant a permit to a person intending to operate a new hotel, tourist rooming house, bed and breakfast establishment, restaurant, public swimming pool, campground, recreational educational camp or vending machine commissary or to a person intending to be the new operator of an existing hotel, tourist rooming house, bed and breakfast establishment, restaurant, public swimming pool, campground, recreational educational camp or vending machine commissary without a preinspection. This section does not apply to a temporary restaurant or when a permit is transferred under s. 254.64 (4) (d). ? Showed to be 254-47

254.68 Fees. Except as provided in s 254 69 (2) (d) and (e), the department shall promulgate rules that establish, for permits issued under 254.64, permit fees, preinspection fees, reinspection fees, fees for operating without a license, and late fees for ultimately permit renewal. Additional fees may be charged for application for comparable compliance requests and for reviewing restaurant facility plans prior to permitting.

permit AM 254-69 (2)(e)?

The department may review restaurant plans before granting a permit under sub (1)(a) and may charge a fee for the review

Effect of and Rationale for the Change

1. Public Health Sanitarians from Wisconsin's Department of Health and Family Services (DHFS) Environmental Sanitation Regulation and Licensing (ESRL) Program are responsible for managing programs that enforce applicable state administrative codes for the inspection and licensure of the following programs:
 - ✓ Food service operations including restaurants, food vending operations and temporary restaurants.
 - ✓ Lodging establishments including hotels, bed and breakfast establishments, and tourist rooming houses.
 - ✓ Public pools, including whirlpools and water recreational attractions.
 - ✓ Campgrounds and educational campgrounds.
 - ✓ Tattoo and body piercing establishments.
2. Currently, significant time and effort is put forward by ESRL program staff on mandated activities such as re-inspections, pre-inspections, processing variances and other activities, for which DHFS does not assess a fee. Historically, the program has absorbed the cost of providing these services. However, this policy uses scarce DHFS resources and is inequitable to facilities that do not require the need for these additional services. This request proposes modifications to existing statutes, which will permit DHFS to charge assessments for certain mandated yet uncompensated activities.
 - ✓ **Assessing a fee for a required re-inspection due to significant non-compliance with existing administrative code.** Approximately 1,500 facilities per year will require a re-inspection by DHFS due to a determination of significant non-compliance with codes. These re-inspections use valuable DHFS resources and would be unnecessary if the facilities had initially achieved sufficient compliance. An assessment fee for providing services to facilities requiring re-inspection will permit DHFS to charge for the additional activities and will also serve as an incentive for facilities to achieve and maintain compliance with administrative rules.
 - ✓ **Assessing a fee for providing services to a facility operating without a license.** When DHFS encounters facilities operating out of compliance because they do not possess a valid permit, additional DHFS resources are needed to bring these facilities into compliance. Because the current assessment structure does not provide a financial incentive to comply with regulations, program staff believe these facilities often deliberately begin operations without a permit. An assessment fee for providing services to facilities operating without a permit will permit DHFS to be compensated for the additional workload and will serve as an incentive to facilities to operate with a valid permit.
 - ✓ **Assess for comparable compliance (variance) requests.** License holders and potential licensees may apply for comparable compliance or variances if they cannot comply with the administrative code. The specialized nature of these requests often needs significant time for research, discussion, and response. However, currently there is no assessment for providing

these services. Assessing a fee for comparable compliance requests will permit DHFS to be compensated for these activities.

- ✓ **Assess a fee for the service of reviewing facility plans prior to licensing.** Some facilities will require DHFS to review facility plans prior to licensing. Despite the fact that they require valuable DHFS resources, the service of reviewing facility plans prior to licensing is not assessed a fee. An assessment fee will permit DHFS to recoup for these activities
 - ✓ **Assess a fee for pre-inspections of Recreational/Educational Camps, Campgrounds, and Swimming Pools.** For certain facilities, the Department is required to engage in pre-inspection activities. Despite the fact that these activities impose a workload on DHFS, the service of pre-inspection of a facility is not assessed a fee. An assessment fee for pre-inspection will permit DHFS to recoup for these activities.
 - ✓ **Modify the licensing procedure for Temporary Restaurants.** Currently temporary restaurants are licensed on site, with the license being transferable from site to site. However, in order to ensure public health and safety, temporary restaurants should be inspected at each site and a new permit issued. The request proposes the aforementioned modification.
3. The Wisconsin ESRL program is one of the only licensing programs in the Midwest that does not charge for most or all of the above items. In Minnesota, Michigan, Illinois, Iowa and Indiana local agencies have these licensing and inspection responsibility. Each state allows the fee structure to be set by the local agency performing this service. In Wisconsin the majority of those Local Public Health Departments that have agreed to administer the program assess fees for re-inspections, plan review, and operating without a license.
 4. Other Wisconsin state agencies assess fees for similar activities. For example, the Department of Commerce (COMM) charges for a variety of inspection activities including re-inspections, reviewing facility plans and variance requests. The Department of Agriculture, Trade and Consumer Protection (DATCP) also charges for re-inspection and operating without a license.
 5. This request also proposes to change the licensing cycle for Bed & Breakfast establishments, from a biennial to an annual fee cycle. Among facilities regulated by the ERSL program, Bed & Breakfast establishments are the only ones that operate on a biennial licensing cycle. All others are on an annual cycle. The biennial cycle of permits for Bed & Breakfast establishments has created an administrative problem burden for the renewal and reimbursement processes. Altering this process to an annual permit is consistent with the other programs administered by the ERSL program and will reduce administrative workload. The amount of the fee would be changed to an annual amount.

Desired Effective Date: Upon Passage
Agency: DHFS
Agency Contact: Richard T. Chao
Phone: (608) 267-0356

Questions about -0421 Discussion w/ Rich Chao 10/4/00

① Preinspection - the swimming pool, campground + recreational + educational camp language should not be in 254.65(1), as proposed, but in s. 254.47

② The proposal seeks permission for DHFS to "charge assessments for certain mandated yet uncompensated activities"

Yet s. 254.69(2)(c) allows DHFS to "establish fees for its costs related to setting standards under this subchapter"

The language amending 254.68 gives authority to charge fees (whereas, 254.68 actually is giving DHFS rule-making authority to set fee amounts for impos. of fees for which it already has authority)

no. 2 fees - there are a state fee, wh the 1. health dept charges + DHFS charged fees

③ What is the exact situation re state fees v. local fees, anyway? what does 254.64(1m) apply to?

↓
The proposal conveys the idea that state inspectors are incurring costs; is this true? (yes)



Soon - In edit 10/4
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0421/3

DAK.....

D-NOTE

JLD

DOA:.....Jablonsky - Environmental sanitation licensing fees

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ HEALTH AND HUMAN SERVICES

✓ OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS, or a local health department that acts as an agent of DHFS, issues permits for operation of hotels, restaurants, temporary restaurants, tourist rooming houses, bed and breakfast establishments, vending machine commissaries, vending machines, campgrounds, camping resorts, recreational and educational camps, and public swimming pools. DHFS must promulgate rules establishing permit fees, preinspection fees, and late fees for untimely permit renewal for those establishments that DHFS directly regulates. For establishments that are directly regulated by a local health department that is granted agency status by DHFS, however, the local health department must establish its own fees and must impose both its own fees and fees (entitled "state fees"), which may be no more than 20% of the DHFS fees and which must be reimbursed to DHFS. This bill requires that DHFS promulgate rules establishing reinspection fees, fees for operating without a permit, fees for comparable compliance or variance requests, and fees for pre-permit review of restaurant plans. The bill also requires that DHFS establish these fees as state fees.

Currently, a permit to operate a temporary restaurant a restaurant that operates at a fixed location in conjunction with an event such as a fair, may be applied to a premises other than that for which it was issued if DHFS or a local health

STET

department so approves. A person who operates a bed and breakfast establishment for more than ten[✓] nights in a calendar year must obtain a biennial permit from DHFS. DHFS or a local health department that acts as an agent of DHFS may not without a preinspection[✓] provide a permit for operation of a new^{or} newly^{operated}, hotel, tourist rooming house, bed and breakfast establishment, restaurant³, or vending machine commissary.

This bill eliminates the authority for DHFS or a local health department to approve applying the permit for a temporary restaurant to a location other than that for which it was originally issued. The bill requires that a person operating a bed and breakfast establishment for more than ten nights in a calendar year obtain an annual, rather than a biennial, permit from DHFS. Lastly, the bill prohibits DHFS or a local health department acting as a DHFS agent from providing, without a preinspection, a permit for operation for a new, or newly^{operated}, public swimming pool, campground, or recreational or educational camp.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 254.47 (1m)^x of the statutes is created to read:

2 254.47 (1m) The department or a local health department granted agent status
3 under s. 254.69 (2)[✓] may not, without a preinspection, grant a permit to a person
4 intending to operate a new public swimming pool, campground, or recreational or
5 educational camp or to a person intending to be the new operator of an existing public
6 swimming pool, campground, or recreational or educational camp.

7 SECTION 2. 254.47 (2)^x of the statutes is amended to read:

8 254.47 (2) A separate permit is required for each campground, camping resort,
9 recreational and or educational camp and public swimming pool. No permit issued
10 under this section is transferable from one premises to another or from one person,
11 state or local government to another, except that the permit may be transferred from
12 an individual to an immediate family member, as defined in s. 254.64 (4) (a), if the

1 individual is transferring operation of the campground, camping resort, recreational
2 ~~and or~~ educational camp or public swimming pool to the immediate family member.

3 History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. 182, 477, 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237.

3 SECTION 3. 254.47 (4) of the statutes is amended to read:

4 254.47 (4) Permits issued under this section expire on June 30, except that
5 permits initially issued during the period beginning on April 1 and ending on June
6 30 expire on June 30 of the following year. Except as provided in s. 254.69 (2) (d) and
7 (e), the department shall promulgate rules that establish, for permits issued under
8 this section, amounts of permit fees, preinspection fees, and late fees for untimely
9 permit renewal.

10 History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237.

10 SECTION 4. 254.64 (1) (b) of the statutes is amended to read:

11 254.64 (1) (b) No person may maintain, manage or operate a bed and breakfast
12 establishment for more than 10 nights in a year without having first obtained a
13 biennial an annual permit from the department.

History: 1975 c. 413 ss. 13, 18; Stats. 1975 s. 50.51; 1983 a. 163, 203; 1987 a. 27, 81, 399; 1989 a. 31; 1993 a. 16 ss. 1491, 1492; 1993 a. 27 s. 67; Stats. 1993 s. 254.64; 1993 a. 183, 491; 1997 a. 191.

History: 1975 c. 413 ss. 13, 18; Stats. 1975 s. 50.51; 1983 a. 163, 203; 1987 a. 27, 81, 399; 1989 a. 31; 1993 a. 16 ss. 1491, 1492; 1993 a. 27 s. 67; Stats. 1993 s. 254.64; 1993 a. 183, 491; 1997 a. 191.

14 SECTION 5. 254.64 (4) (b) of the statutes is amended to read:

15 254.64 (4) (b) Except as provided in pars. ~~(c)~~ and par. (d), no permit is
16 transferable from one premises to another or from one person to another.

History: 1975 c. 413 ss. 13, 18; Stats. 1975 s. 50.51; 1983 a. 163, 203; 1987 a. 27, 81, 399; 1989 a. 31; 1993 a. 16 ss. 1491, 1492; 1993 a. 27 s. 67; Stats. 1993 s. 254.64; 1993 a. 183, 491; 1997 a. 191.

17 SECTION 6. 254.64 (4) (c) of the statutes is repealed.

18 SECTION 7. 254.68 of the statutes is amended to read:

19 254.68 Fees. Except as provided in s. 254.69 (2) (d) and (e), the department
20 shall promulgate rules that establish, for permits issued under s. 254.64, permit fees,
21 preinspection fees, reinspection fees, fees for operating without a permit, and late

1 fees for untimely permit renewal, fees for comparable compliance or variance
2 requests, and fees for pre-permit review of restaurant plans.

History: 1973 c. 333; 1975 c. 224; 1975 c. 413 s. 13; Stats. 1975 s. 50.53; 1977 c. 222; 1979 c. 34; 1981 c. 20; 1983 a. 27, 163, 203, 538; 1985 a. 135; 1987 a. 27, 399; 1991 a. 178; 1993 a. 16 s. 1493; 1993 a. 27 s. 71; Stats. 1993 s. 254.68; 1993 a. 183.

3 **SECTION 8. 254.69 (2) (am)** of the statutes is amended to read:

4 254.69 (2) (am) In the administration of this subchapter or s. 254.47, the
5 department may enter into a written agreement with a local health department with
6 a jurisdictional area that has a population greater than 5,000, which designates the
7 local health department as the department's agent in issuing permits to and making
8 investigations or inspections of hotels, restaurants, temporary restaurants, tourist
9 rooming houses, bed and breakfast establishments, campgrounds and camping
10 resorts, recreational and educational camps and public swimming pools. In a
11 jurisdictional area of a local health department without agent status, the
12 department of health and family services may issue permits, collect [✓] permit fees
13 established by rule under s. 254.68 and make investigations or inspections of hotels,
14 restaurants, temporary restaurants, tourist rooming houses, bed and breakfast
15 establishments, campgrounds and camping resorts, recreational and educational
16 camps and public swimming pools. If the department designates a local health
17 department as its agent, the department or local health department may require no
18 permit for the same operations other than the permit issued by the local health
19 department under this subsection. The department shall coordinate the designation
20 of agents under this subsection with the department of agriculture, trade and
21 consumer protection to ensure that, to the extent feasible, the same local health
22 department is granted agent status under this subsection and under s. 97.41. Except
23 as otherwise provided by the department, a local health department granted agent

1 status shall regulate all types of establishments for which this subchapter permits
2 the department of health and family services to delegate regulatory authority.

History: 1983 a. 203 ss. 15, 21; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27 ss. 1074m to 1076m, 3200 (24); 1987 a. 307; 1989 a. 31; 1991 a. 39, 315; 1993 a. 16; 1993 a. 27 s. 72; Stats. 1993 s. 254.69; 1993 a. 183; 1995 a. 27 s. 9126 (19).

3 SECTION 9. 254.69 (2) (e) of the statutes is amended to read:

4 254.69 (2) (e) The department shall establish state fees for its costs related to
5 setting standards under this subchapter and s. 254.47 and monitoring and
6 evaluating the activities of, and providing education and training to, agent local
7 health departments. State fees chargeable include permit fees, preinspection fees,
8 reinspection fees, fees for operating without a permit, late fees for untimely permit
9 renewal, fees for comparable compliance or variance requests, and fees for
10 pre-permit review of restaurant plans. Agent local health departments shall include
11 the state fees in the permit fees established under par. (d), collect the state fees and
12 reimburse the department for the state fees collected. For each type of
13 establishment, the state fee may not exceed 20% of the permit fees charged
14 chargeable under ss. 254.47 and 254.68.

History: 1983 a. 203 ss. 15, 21; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27 ss. 1074m to 1076m, 3200 (24); 1987 a. 307; 1989 a. 31; 1991 a. 39, 315; 1993 a. 16; 1993 a. 27 s. 72; Stats. 1993 s. 254.69; 1993 a. 183; 1995 a. 27 s. 9126 (19).

15 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0421/2dn

DAK.....

jd

To Sue Jablonsky and Rich Chao:

After speaking with Rich, I have changed this draft considerably from the material proposed. The following are explanations about what I have done and questions that arose in the course of drafting:

1. I have amended both ss. 254.68[✓] and 254.69 (2) (e)[✓], stats., explicitly to authorize charging certain fees, because each of these provisions confers authority to charge fees (s. 254.68, stats., refers to fees that DHFS may charge an establishment if no local health department agency status exists in the area, and s. 254.69 (2) (e), stats., refers to "state fees," which are collected by an agent local health department and may be no more than 20% of the fees under s. 254.68, stats.) Are these drafted as you wish? Do you want language, in addition, that is similar to the amendment to s. 254.69 (2) (e), stats., to be drafted for s. 254.69 (2) (d)[✓], stats., to allow expansion of local fees? Conversely, s. 254.69 (2) (d), stats., currently authorizes a local fee for issuance of duplicate permits; do you want language that would authorize fees under ss. 254.68 and 254.69 (2) (e), stats., for this purpose, as well? Lastly, have I drafted s. 254.68, stats., as you wish?
2. I have amended s. 254.47 (4)[✓], stats., to include preinspection fees because s. 254.47 (1m)[✓] authorizes preinspections.
3. Please note that I changed the term "recreational and educational camp" in s. 254.47 (2) to be "recreational or educational camp" and that I also used the latter language in creating s. 254.47 (1m)[✓] in the draft. The statutes in ss. 254.47[✓](2), 254.69[✓](2) (am), and 254.74 (1) (e)[✓], stats., appear to differentiate between the two, but referring either to "recreational camp and educational camp" or to "recreational or educational camp," and I have carried out this distinction. If I am in error, and a single camp that is regulated is *both* educational and recreational, please let me know and I will redraft and also change ss. 254.47 (1), 254.69 (2) (am), and 254.74 (1) (e), stats., accordingly.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0421/1dn
DAK:jld:km

October 12, 2000

To Sue Jablonsky and Rich Chao:

After speaking with Rich, I have changed this draft considerably from the material proposed. The following are explanations about what I have done and questions that arose in the course of drafting:

1. I have amended both ss. 254.68 and 254.69 (2) (e), stats., explicitly to authorize charging certain fees, because each of these provisions confers authority to charge fees (s. 254.68, stats., refers to fees that DHFS may charge an establishment if no local health department agency status exists in the area, and s. 254.69 (2) (e), stats., refers to "state fees," which are collected by an agent local health department and may be no more than 20% of the fees under s. 254.68, stats.) Are these drafted as you wish? Do you want language, in addition, that is similar to the amendment to s. 254.69 (2) (e), stats., to be drafted for s. 254.69 (2) (d), stats., to allow expansion of local fees? Conversely, s. 254.69 (2) (d), stats., currently authorizes a local fee for issuance of duplicate permits; do you want language that would authorize fees under ss. 254.68 and 254.69 (2) (e), stats., for this purpose, as well? Lastly, have I drafted s. 254.68, stats., as you wish?
2. I have amended s. 254.47 (4), stats., to include preinspection fees because s. 254.47 (1m) authorizes preinspections.
3. Please note that I changed the term "recreational and educational camp" in s. 254.47 (2) to be "recreational or educational camp" and that I also used the latter language in creating s. 254.47 (1m) in the draft. The statutes in ss. 254.47 (2), 254.69 (2) (am), and 254.74 (1) (e), stats., appear to differentiate between the two, but referring either to "recreational camp and educational camp" or to "recreational or educational camp," and I have carried out this distinction. If I am in error, and a single camp that is regulated is *both* educational and recreational, please let me know and I will redraft and also change ss. 254.47 (1), 254.69 (2) (am), and 254.74 (1) (e), stats., accordingly.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

Kennedy, Debora

From: Chao, Richard
Sent: Tuesday, January 09, 2001 1:43 PM
To: Kennedy, Debora
Cc: Jablonsky, Sue
Subject: Stat lang changes for Environment Sanitation



DOA

EnvironSan-stafflang.doc Hi Deb:

Attached are two suggested changes for the Chapter 254 statutory language request. I apologize for the late date. Thanks for your attention to this matter.

Rich

Richard T. Chao
Budget Section
Department of Health and Family Services
(608) 267-0356

Memorandum

Bureau of Environmental Health
P.O. Box 2659
Madison, WI 53701

DATE: January 9, 2001
SUBJECT: LRB Draft of Chapter 254 Changes
TO: Richard Chao
FROM: Tom Sieger

Rich – we have reviewed the proposed language changes from the LRB to support the biennial budget proposal for the restaurant, lodging and recreation facility regulation and licensing program. Overall, they have done a very nice job – we have only two suggestions that need to be made to the recommendations.

- ✓ 1. The proposed changes to 254.47(4) beginning on line 4 of page three should also make provisions for reinspection fees and fees for operating without a permit. This would provide for the same treatment of recreational facilities as is proposed for restaurant and lodging facilities in 254.68. The proposed language could be as follows:
“Except as provided in s. 254.69 (2) (d) and (e), the department shall promulgate rules that establish, for permits issued under this section, amounts of permit fees, preinspection fees, reinspection fees, fees for operating without a license and late fees for untimely permit renewal.”
- ✓ 2. The changes suggested for 254.69 (2) (e) of the statute, beginning on line 23 of page 4, are not necessary and should not be included. Historically, agent reimbursement to the department has only been calculated on the number of licenses issued by agent health departments. We are not proposing that this reimbursement be extended to include a percentage of preinspection fees, reinspection fees, fees for operating without a permit, late fees, etc. The language as it presently exists is acceptable and no changes are necessary in this section.

Rich – the remainder of the suggested changes are fine. Please extend our gratitude to individuals at DOA and the LRB for their assistance with this proposal. Let me know if you have additional questions. Thank you.



DOA:.....Jablonsky – Environmental sanitation licensing fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Do not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS, or a local health department that acts as an agent of DHFS, issues permits for operation of hotels, restaurants, temporary restaurants, tourist rooming houses, bed and breakfast establishments, vending machine commissaries, vending machines, campgrounds, camping resorts, recreational and educational camps, and public swimming pools. DHFS must promulgate rules establishing permit fees, preinspection fees, and late fees for untimely permit renewal for those establishments that DHFS directly regulates. For establishments that are directly regulated by a local health department that is granted agency status by DHFS, however, the local health department must establish its own fees and must impose both its own fees and fees (entitled "state fees"), which may be no more than 20% of the DHFS fees and which must be reimbursed to DHFS. This bill requires that DHFS promulgate rules establishing reinspection fees, fees for operating without a permit, fees for comparable compliance or variance requests, and fees for pre-permit review of restaurant plans. ~~The bill also requires that DHFS establish these fees as state fees.~~

Currently, a permit to operate a restaurant that operates at a fixed location in conjunction with an event such as a fair (temporary restaurant) may be applied to a premises other than that for which it was issued if DHFS or a local health

department so approves. A person who operates a bed and breakfast establishment for more than ten nights in a calendar year must obtain a biennial permit from DHFS. DHFS or a local health department that acts as an agent of DHFS may not without a preinspection provide a permit for operation of a new, or newly operated, hotel, tourist rooming house, bed and breakfast establishment, restaurant, or vending machine commissary.

This bill eliminates the authority for DHFS or a local health department to approve applying the permit for a temporary restaurant to a location other than that for which it was originally issued. The bill requires that a person operating a bed and breakfast establishment for more than ten nights in a calendar year obtain an annual, rather than a biennial, permit from DHFS. Lastly, the bill prohibits DHFS or a local health department acting as a DHFS agent from providing, without a preinspection, a permit for operation for a new, or newly operated, public swimming pool, campground, or recreational or educational camp.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 254.47 (1m) of the statutes is created to read:

2 **254.47 (1m)** The department or a local health department granted agent status
3 under s. 254.69 (2) may not, without a preinspection, grant a permit to a person
4 intending to operate a new public swimming pool, campground, or recreational or
5 educational camp or to a person intending to be the new operator of an existing public
6 swimming pool, campground, or recreational or educational camp.

7 **SECTION 2.** 254.47 (2) of the statutes is amended to read:

8 **254.47 (2)** A separate permit is required for each campground, camping resort,
9 recreational ~~and~~ or educational camp and public swimming pool. No permit issued
10 under this section is transferable from one premises to another or from one person,
11 state or local government to another, except that the permit may be transferred from
12 an individual to an immediate family member, as defined in s. 254.64 (4) (a), if the

1 individual is transferring operation of the campground, camping resort, recreational
2 ~~and or~~ educational camp or public swimming pool to the immediate family member.

3 **SECTION 3.** 254.47 (4) of the statutes is amended to read:

4 254.47 (4) Permits issued under this section expire on June 30, except that
5 permits initially issued during the period beginning on April 1 and ending on June
6 30 expire on June 30 of the following year. Except as provided in s. 254.69 (2) (d) and
7 (e), the department shall promulgate rules that establish, for permits issued under
8 this section, amounts of permit fees, preinspection fees, and late fees for untimely
9 permit renewal. reinspection fees, fees for operating without
a license,

10 **SECTION 4.** 254.64 (1) (b) of the statutes is amended to read:

11 254.64 (1) (b) No person may maintain, manage or operate a bed and breakfast
12 establishment for more than 10 nights in a year without having first obtained a
13 ~~biennial~~ an annual permit from the department.

14 **SECTION 5.** 254.64 (4) (b) of the statutes is amended to read:

15 254.64 (4) (b) Except as provided in ~~pars. (e) and~~ par. (d), no permit is
16 transferable from one premises to another or from one person to another.

17 **SECTION 6.** 254.64 (4) (c) of the statutes is repealed.

18 **SECTION 7.** 254.68 of the statutes is amended to read:

19 **254.68 Fees.** Except as provided in s. 254.69 (2) (d) and (e), the department
20 shall promulgate rules that establish, for permits issued under s. 254.64, permit fees,
21 preinspection fees ~~and~~, reinspection fees, fees for operating without a permit, late
22 fees for untimely permit renewal, fees for comparable compliance or variance
23 requests, and fees for pre-permit review of restaurant plans.

24 **SECTION 8.** 254.69 (2) (am) of the statutes is amended to read:

1 254.69 (2) (am) In the administration of this subchapter or s. 254.47, the
2 department may enter into a written agreement with a local health department with
3 a jurisdictional area that has a population greater than 5,000, which designates the
4 local health department as the department's agent in issuing permits to and making
5 investigations or inspections of hotels, restaurants, temporary restaurants, tourist
6 rooming houses, bed and breakfast establishments, campgrounds and camping
7 resorts, recreational and educational camps and public swimming pools. In a
8 jurisdictional area of a local health department without agent status, the
9 department of health and family services may issue permits, collect permit fees
10 established by rule under s. 254.68 and make investigations or inspections of hotels,
11 restaurants, temporary restaurants, tourist rooming houses, bed and breakfast
12 establishments, campgrounds and camping resorts, recreational and educational
13 camps and public swimming pools. If the department designates a local health
14 department as its agent, the department or local health department may require no
15 permit for the same operations other than the permit issued by the local health
16 department under this subsection. The department shall coordinate the designation
17 of agents under this subsection with the department of agriculture, trade and
18 consumer protection to ensure that, to the extent feasible, the same local health
19 department is granted agent status under this subsection and under s. 97.41. Except
20 as otherwise provided by the department, a local health department granted agent
21 status shall regulate all types of establishments for which this subchapter permits
22 the department of health and family services to delegate regulatory authority.

23 ~~SECTION 9. 254.69 (2) (e) of the statutes is amended to read:~~

24 ~~254.69 (2) (e) The department shall establish state fees for its costs related to~~
25 ~~setting standards under this subchapter and s. 254.47 and monitoring and~~

1 evaluating the activities of, and providing education and training to, agent local
2 health departments. State fees chargeable include permit fees, preinspection fees,
3 reinspection fees, fees for operating without a permit, late fees for untimely permit
4 renewal, fees for comparable compliance or variance requests, and fees for
5 pre-permit review of restaurant plans. Agent local health departments shall include
6 the state fees in the permit fees established under par. (d), collect the state fees and
7 reimburse the department for the state fees collected. For each type of
8 establishment, the state fee may not exceed 20% of the permit fees charged
9 chargeable under ss. 254.47 and 254.68.

10

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0421/2
DAK:jld:pg

DOA:.....Jablonsky - Environmental sanitation licensing fees

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS, or a local health department that acts as an agent of DHFS, issues permits for operation of hotels, restaurants, temporary restaurants, tourist rooming houses, bed and breakfast establishments, vending machine commissaries, vending machines, campgrounds, camping resorts, recreational and educational camps, and public swimming pools. DHFS must promulgate rules establishing permit fees, preinspection fees, and late fees for untimely permit renewal for those establishments that DHFS directly regulates. For establishments that are directly regulated by a local health department that is granted agency status by DHFS, however, the local health department must establish its own fees and must impose both its own fees and fees (entitled "state fees"), which may be no more than 20% of the DHFS fees and which must be reimbursed to DHFS. This bill requires that DHFS promulgate rules establishing reinspection fees, fees for operating without a permit, fees for comparable compliance or variance requests, and fees for pre-permit review of restaurant plans.

Currently, a permit to operate a restaurant that operates at a fixed location in conjunction with an event such as a fair (temporary restaurant) may be applied to a premises other than that for which it was issued if DHFS or a local health department so approves. A person who operates a bed and breakfast establishment

for more than ten nights in a calendar year must obtain a biennial permit from DHFS. DHFS or a local health department that acts as an agent of DHFS may not without a preinspection provide a permit for operation of a new, or newly operated, hotel, tourist rooming house, bed and breakfast establishment, restaurant, or vending machine commissary.

This bill eliminates the authority for DHFS or a local health department to approve applying the permit for a temporary restaurant to a location other than that for which it was originally issued. The bill requires that a person operating a bed and breakfast establishment for more than ten nights in a calendar year obtain an annual, rather than a biennial, permit from DHFS. Lastly, the bill prohibits DHFS or a local health department acting as a DHFS agent from providing, without a preinspection, a permit for operation for a new, or newly operated, public swimming pool, campground, or recreational or educational camp.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 254.47 (1m) of the statutes is created to read:

2 254.47 (1m) The department or a local health department granted agent status
3 under s. 254.69 (2) may not, without a preinspection, grant a permit to a person
4 intending to operate a new public swimming pool, campground, or recreational or
5 educational camp or to a person intending to be the new operator of an existing public
6 swimming pool, campground, or recreational or educational camp.

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8 254.47 (2) A separate permit is required for each campground, camping resort,
9 recreational ~~and~~ or educational camp and public swimming pool. No permit issued
10 under this section is transferable from one premises to another or from one person,
11 state or local government to another, except that the permit may be transferred from
12 an individual to an immediate family member, as defined in s. 254.64 (4) (a), if the
13 individual is transferring operation of the campground, camping resort, recreational
14 ~~and~~ or educational camp or public swimming pool to the immediate family member.

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2 254.47 (4) Permits issued under this section expire on June 30, except that
3 permits initially issued during the period beginning on April 1 and ending on June
4 30 expire on June 30 of the following year. Except as provided in s. 254.69 (2) (d) and
5 (e), the department shall promulgate rules that establish, for permits issued under
6 this section, amounts of permit fees, preinspection fees, reinspection fees, fees for
7 operating without a license, and late fees for untimely permit renewal.

8 **SECTION 4.** 254.64 (1) (b) of the statutes is amended to read:

9 254.64 (1) (b) No person may maintain, manage or operate a bed and breakfast
10 establishment for more than 10 nights in a year without having first obtained a
11 biennial an annual permit from the department.

12 **SECTION 5.** 254.64 (4) (b) of the statutes is amended to read:

13 254.64 (4) (b) Except as provided in ~~pars. (c) and~~ par. (d), no permit is
14 transferable from one premises to another or from one person to another.

15 **SECTION 6.** 254.64 (4) (c) of the statutes is repealed.

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21 requests, and fees for pre-permit review of restaurant plans.

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4 resorts, recreational and educational camps and public swimming pools. In a
5 jurisdictional area of a local health department without agent status, the
6 department of health and family services may issue permits, collect permit fees
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9 establishments, campgrounds and camping resorts, recreational and educational
10 camps and public swimming pools. If the department designates a local health
11 department as its agent, the department or local health department may require no
12 permit for the same operations other than the permit issued by the local health
13 department under this subsection. The department shall coordinate the designation
14 of agents under this subsection with the department of agriculture, trade and
15 consumer protection to ensure that, to the extent feasible, the same local health
16 department is granted agent status under this subsection and under s. 97.41. Except
17 as otherwise provided by the department, a local health department granted agent
18 status shall regulate all types of establishments for which this subchapter permits
19 the department of health and family services to delegate regulatory authority.

20

(END)