

👉 **05hr\_SC-NRT\_ab0449\_pt01**



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Natural Resources and Transportation...

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

## Senate

### Record of Committee Proceedings

#### **Committee on Natural Resources and Transportation**

##### **Assembly Bill 449**

Relating to: the management and disposal of septage and municipal sewage sludge, granting rule-making authority, and making an appropriation.

By Joint Legislative Council.

February 03, 2006      Referred to Committee on Natural Resources and Transportation.

February 22, 2006      **PUBLIC HEARING HELD**

Present:    (3)      Senators Kedzie, Wirch and Breske.  
Absent:    (2)      Senators Stepp and Kapanke.

##### Appearances For

- John Ainsworth — State Representative
- Greg Kester — WI Department of Natural Resources
- Pat Essie — WI Liquid Waste Carriers Association
- Daniel Hoppa — Septage Pumpers and WI Liquid Waste Carriers Assoc.
- Al Morrison, Wabeno
- Matt Alft, Wisconsin Rapids — Garrison Septic Service
- Larry Konopacki — Municipal Environmental Group - Wastewater Division

##### Appearances Against

- None.

##### Appearances for Information Only

- Matt Stohr — Wisconsin Counties Association

##### Registrations For

- George Meyer — WI Wildlife Federation

##### Registrations Against

- None.

March 1, 2006      **EXECUTIVE SESSION HELD**

Present:    (5)      Senators Kedzie, Stepp, Kapanke, Wirch and Breske.  
Absent:    (0)      None.

Moved by Senator Breske, seconded by Senator Kapanke that **Assembly Bill 449** be recommended for concurrence.

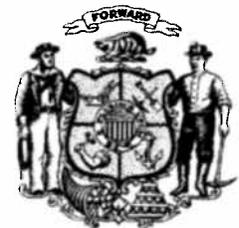
Ayes: (5) Senators Kedzie, Stepp, Kapanke, Wirch and Breske.  
Noes: (0) None.

CONCURRENCE RECOMMENDED, Ayes 5, Noes 0

Dan Johnson  
Committee Clerk



# WISCONSIN STATE LEGISLATURE



**REMARKS OF REPRESENTATIVE JOHN AINSWORTH, CHAIR, SPECIAL COMMITTEE ON SEPTAGE DISPOSAL, TO THE SENATE COMMITTEE ON NATURAL RESOURCES AND TRANSPORTATION**

***2005 Assembly Bill 449, Relating to Management and Disposal of Septage and Municipal Sewage Sludge***

***February 22, 2006, in Room 330 Southwest, State Capitol, 12:00 p.m.***

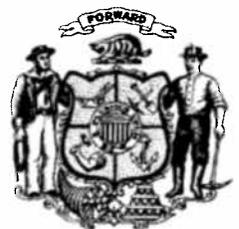
- Assembly Bill 449 was recommended by the Special Committee on Septage Disposal and introduced by the Joint Legislative Council.
- Septage is the waste that comes out of a septic tank or a holding tank.
- About 1/3 of the residences in the state dispose of their household wastewater in a septic tank or holding tank; the rest goes to municipal sewage treatment plants via sewers.
- The issue before the Study Committee was “how do we improve the methods for disposing of septage.”
- There are only two ways to dispose of septage: spreading it on agricultural land or placing it in a sewage treatment plant.
- In the current statutes, sewage treatment plants are required to treat septage between November 15 and April 15, when the ground is frozen. However, a sewage treatment plant may refuse to take septage in winter if it would make the sewage system exceed its capacity.
- Representative Musser introduced a bill in 2003 that required the Department of Natural Resources (DNR) to confirm that the sewage treatment plant would exceed its design capacity by taking septage.
- Representative Musser’s bill did not pass, but he requested a Legislative Council study on the issue of septage disposal. The Joint Legislative Council approved the study and gave the

committee a broad charge so it could look at all issues related to both land disposal and disposal in sewage treatment plants.

- The Special Committee held three meetings and heard testimony from all parties interested in septage disposal, including towns, counties, county sanitarians, and sewage treatment plants.
- The most important part of Assembly Bill 449, and the part that took the most work by the committee, is the restrictions on fees that can be charged by a sewage treatment plant for septage disposal. Under the bill, those fees must be based on actual costs. The bill also establishes a procedure for reviewing disputed fees. The review procedure will allow septage haulers, who are all small businesses, a simple and inexpensive way to make sure that the fees are fair.
- Assembly Bill 449 proposes a 0% loan under the Clean Water Fund for a sewage system that builds septage treatment facilities. This will reduce some of the potential risk for a sewage system if the expected amount of septage is not received.
- Most counties have a program to assure that property owners maintain their septic systems and dispose of their septage properly. The bill makes all counties responsible for this.
- Assembly Bill 449 provides that local units of government may not prohibit land disposal of either septage or treatment plant sludge. The bill allows a local unit of government to regulate land disposal of septage or sludge if the local unit of government adopts an ordinance that conforms to DNR regulations.
- There are several other minor provisions in the bill but I have described the key provisions.



# WISCONSIN STATE LEGISLATURE



**Senate Committee on Natural Resources and Transportation  
February 22, 2005**

**Comments of the  
Municipal Environmental Group – Wastewater Division  
AB 449**

*Paul G. Kent  
Larry A. Konopacki  
Anderson & Kent, S.C.  
1 North Pinckney Street, Suite 200  
Madison, WI 53703  
608-246-8500  
608-246-8511 (facsimile)  
[pkent@andersonkent.com](mailto:pkent@andersonkent.com)  
[lkonopacki@andersonkent.com](mailto:lkonopacki@andersonkent.com)*

Chairman Kedzie and Committee Members:

**Introduction**

- My name is Larry Konopacki. I appreciate the opportunity to be here today on behalf of the Municipal Environmental Group-Wastewater Division.
- MEG is an organization of approximately 90 Wisconsin municipalities that own and operate wastewater treatment facilities in this state. Members range in size from some of the largest metropolitan operations to some of the smallest communities in rural areas in the state. MEG works to ensure that laws, rules and policies affecting wastewater treatment are scientifically sound and as cost-effective as possible. We view ourselves as partners with the state and private sector in ensuring that water quality is protected.
- Our thanks to Chairman Kedzie for speaking to the Municipal Utilities group this morning, of which MEG is a part.
- We appreciated the opportunity to have one of our members serve on the Legislative Council Committee on Septage and appreciated the work of that Committee and its staff. As a result of that process we are here today in support of AB 449. The bill reflects a number of compromises.
- While the bill imposes a number of new burdens on municipalities, it addresses our key issues in an acceptable fashion. We would be concerned if significant changes are made to this bill as the process moves forward. For that reason I would like to briefly highlight the areas that have been of particular concern to MEG.

## **1. Security of the Treatment System**

Communities that run treatment plants have an obligation to run their plants in accordance with the terms of their discharge permits from the DNR. If they do not do so, they are subject to enforcement by the state, EPA and environmental organizations. They must be able to protect their facilities from pollutants that could create non-compliance situations. This bill preserves existing authority to do so.

## **2. Planning and Long-Term Capacity**

Current law is challenging because it involves the interface between a highly regulated public utility service – municipal sewage treatment facilities, and a private sector service – septage hauling. It is important that communities plan to address septage needs, but it is also important that the planning process recognize that private sector economics are also at play.

Communities cannot be required to incur the costs for infrastructure and additional plant capacity related to accepting septage and then have no guarantees they will be able to recoup those costs through septage charges. This bill requires that when a municipality engages in facilities planning it must consider septage needs within the area. The bill is also clear however that municipalities are not required to build septage facilities. One recent example highlights the critical nature of this issue. One of our members was building a new wastewater plant in northwest Wisconsin. We asked whether they were including capacity for septage. He said no, because the septage haulers in his area found it cheaper to haul waste to nearby regional wastewater facilities, and indicated that they would not use a local wastewater facility.

## **3. Economics and Cost Recovery**

The simple fact is that treatment of septage, just like the treatment of sewage, is not free. Septage receiving stations, monitoring and sampling, and treatment capacity come with a cost. Municipalities need the ability to recover those costs from the persons who generate such costs. This bill imposes new obligations on municipalities with respect to septage fees, but it does so in a way that allows charges to be based on actual costs. This is critical because artificial limits on cost recovery are unworkable. The dispute resolution provisions in this bill should also encourage resolution of fee issues.

## **4. Septage and Biosolids Disposal**

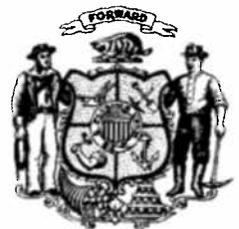
Wisconsin is a leader in allowing beneficial use of municipal sewage sludge (also known as biosolids) and septage. Land application of these products benefits the agricultural community and the environment. The alternative for biosolids is to landfill or incinerate these materials. This bill facilitates landspreading by ensuring control over that land application by the DNR. We are in favor of those provisions.

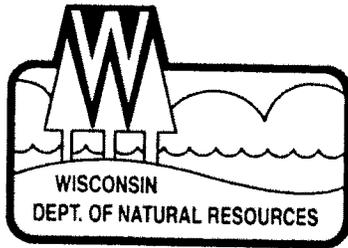
## **Conclusion**

Thank you for the opportunity to present this information today, and please feel free to contact Paul Kent or myself if you have any questions.



# WISCONSIN STATE LEGISLATURE





## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

Testimony of Greg Kester of the  
Department of Natural Resources  
At the Committee Hearing of the Senate Natural Resources and Transportation Committee  
on the Joint Legislative Council Recommended Assembly Bill 449  
February 22, 2006

Thank you very much for providing the opportunity to comment on this extremely important bill regarding the septage industry. My name is Greg Kester and I coordinate the municipal biosolids, septage, and industrial land application programs for the Department of Natural Resources. I worked closely with the Joint Legislative Council Committee on the development of this bill. More than a third of the states population utilizes septic or on-site systems for their wastewater treatment or handling. The proper disposition of this waste is a critical public health and environmental need. That disposition is provided either by hauling it for treatment to a public wastewater treatment plant or via land application in accordance with state regulations found in Chapter NR 113.

This bill does much to increase the treatment capacity for septage at public wastewater treatment plants as well as establish many other provisions to ensure responsible handling of this waste stream. It provides a foundation on which treatment plants base their pricing scheme for receipt of this waste and a process for dispute resolution. It provides an incentive for public treatment plants to provide capacity for septage treatment. It strengthens department regulatory control and requires consideration of the non-sewered population when treatment plants upgrade their facility. These are but a few of the many other excellent features of this bill. The department fully supports every provision of this bill with one exception.

There was an amendment introduced on the Assembly floor that eliminated a provision which would have allowed the department to modify business licensing fees by rule. Such fees have been set in statute since the comprehensive groundwater protection bill enacted as Wisconsin Act 410 was passed in 1983. The fees have not changed since their creation and remain set at \$25 per vehicle per year. Due to continued budget shortfalls, the joint legislative council committee recognized the need to provide a funding source to support the oversight of this critical program and ensure a level playing field among competitors statewide. The consensus agreement of that committee was to provide the department the ability to engage in the very public process of rulemaking. It was agreed that any fee increase would be stipulated so that its expenditure would only be allowed for the purpose of implementing department rules which deal with septage management. The department strongly supports an amendment to this amendment which would restore that provision granting the department rulemaking authority for this purpose as adopted originally by the joint legislative council committee. Any rulemaking effort would require the department to develop a consensus recommendation with input from an advisory committee which would include the hauling industry and their Association. Any proposal would then still need hearing authorization by the department's Natural Resources Board (NRB), to go through the public hearing process, then back to the NRB for adoption, and then to the Legislature for final approval.

For your information and the sake of comparison, I would like to note that while Wisconsin assesses a fee of \$25 per vehicle per year and a \$50 groundwater fee per business, our neighbor Michigan recently enacted very different statutory fees. They assess each business a \$200 annual fee, a \$480 per vehicle annual fee (if the business does any land application, or \$350 per vehicle if no land application), plus a \$500 one time fee for all land application sites used. I am not in any way suggesting these fees in

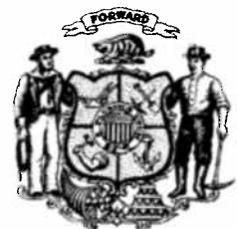
Wisconsin but merely wanted to illustrate how inadequate the current fee of \$25 is. Also as part of the bill before you, the department willingly relinquished its ability to charge a fee for approving land application sites, because we believe it is better environmental policy to allow more sites than needed.

Thank you very much for your consideration of this request and I would be more than happy to answer any questions you may have.

[Greg.Kester@dnr.state.wi.us](mailto:Greg.Kester@dnr.state.wi.us)  
608-267-7611



# WISCONSIN STATE LEGISLATURE



ISSUE WILL BE RAISED BY  
DNR REGARDING STATUTORY  
FEE VS. FEES BY RULE.

DNR WILL ARGUE FOR FEES  
BY RULE. MOST OTHER WANT  
IT BY STATUTE.

ALSO, I GOT A CALL FROM  
GROTHMANN'S OFFICE THIS  
MORNING THAT GLEN HAS SOME  
"PROBLEMS" WITH AB 449.

\* GLEN DOES NOT WANT  
THIS BILL EXEC'D TODAY