

1999 DRAFTING REQUEST

Bill

Received: **11/18/98**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

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

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - water quality
Buildings/Safety - priv swg sys**

Extra Copies: **MJL**

Topic:

DOA:.....Wong - Authority of DNR and Commerce over septic systems

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>
/?	traderc 11/21/98	wjackson 11/25/98		_____			
/P1			martykr 11/30/98	_____	lrb_docadmin 11/30/98		
/1	traderc 01/23/99	ygeller 01/23/99	hhagen 01/24/99	_____	lrb_docadmin 01/25/99		
/2	traderc 02/2/99	wjackson 02/3/99	lpaasch 02/3/99	_____	lrb_docadmin 02/3/99		
/3	traderc 02/4/99	ygeller 02/4/99	jfrantze 02/4/99	_____	gretskl 02/4/99		

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FE Sent For:

3 2/4 jg 7/2/4 *J/PLH*
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FE Sent For: *1/2 Wlj 2/2*
1/2 jlg 3/2
2-3LP.
~~*2-3LP.*~~
Wlj
 <ENDS>

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1/?	traderc	P1-11-25-98 UG	<i>km 11/22</i>	<i>ch 11/22</i>	<i>km 11/30</i>		

FE Sent For:

<END>

CORRESPONDENCE MEMORANDUM

**STATE OF WISCONSIN
Department of Administration**

Date: November 13, 1998

To: Steve Miller, Chief
Legislative Reference Bureau

From: Manyee Wong *MW*
State Budget Analyst

Subject: Drafting Instructions for 1999-01 budget

Please draft the following for the Governor's 1999-01 budget.

DNR Waste Management - Septage Management Fee

- Modify statute to clarify that the Department of Commerce will regulate small scale onsite soil absorption systems and the Department of Natural Resources will regulate large scale soil absorption systems.
- Repeal the definition of "private sewage system" and create a new definition for "small onsite sewage system"
- Current exception from required compliance with the nitrate groundwater standard for small sewage system as well as existing private sewage systems would be retained in Chapter 160.

Statutory Language Proposals

Water

Programs: Watershed Management

Issue/Topic: Overlapping Agency Jurisdiction for Onsite Soil Absorption Systems

Proposed Change: Modify state statutes to clarify that the Department of Commerce will regulate small scale onsite soil absorption systems (septic systems), and the Department of Natural Resources will regulate large scale soil absorption systems. The existing definition of "private sewage system" in Chapter 145 would be repealed and a new definition of "small onsite sewage system" would be created. This definition would clarify that "small sewage systems" include only systems that discharge below the surface of the ground. All existing statutory reference to "private sewage system" would be revised accordingly, including chapters 20, 59, 60, 66, 145, 160, and 281. The revision to Chapter 160 would retain the current exception from required compliance with the nitrate groundwater standard for "small sewage system", and would also provide a continued nitrate exception for all existing private sewage systems.

Explanatory Note: The Departments of Commerce and Natural Resources have had overlapping responsibility for onsite soil absorption systems, and have recently reached a new agreement which defines responsibilities according to size and type of discharge. To avoid dual regulations over certain systems and to provide clarity for the regulated community, the two agencies have agreed to seek legislative and rule changes which will implement the new agreement.

Desired Effective Date: Effective date of budget bill

Contact Person: Robin Nyffeler, 266-0024 or Eric Ebersberger, 266-0818

1999

Date (time) needed SOON

LRB - 0935 1P1

DOA BUDGET DRAFT

DNote

RET : Wlj : + Jlg

Use the appropriate components and routines developed for bills.

~~X~~ WPO: Please proof all amended stats. w/ stats.

>>FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT ... [DO NOT generate catalog]; relating to: the budget. ✓

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.....
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.....

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

- For the main heading [old =M], execute: create → anal: → title: → head
- For the subheading [old =S], execute: create → anal: → title: → sub
- For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub

This is a preliminary draft. An analysis will be provided on a later version.

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

SECTION #.



**ASSEMBLY AMENDMENT,
TO 1997 ASSEMBLY BILL 768**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 7, line 25: after "employment;" insert "regulation of certain
3 wastewater treatment systems;"

4 **2.** Page 50, line 16: after that line insert:

5 ~~SECTION 27e.~~ ^x 20.143 (3) (de) of the statutes is amended to read:

6 20.143 (3) (de) ~~(title)~~ *Private Small* [✓] *sewage system replacement and*
7 *rehabilitation.* As a continuing appropriation, the amounts in the schedule for
8 financial assistance under the private small [✓] sewage system replacement and
9 rehabilitation program under s. 145.245. ~~||\~~

10 *Note: Bud*
3. Page 140, line 5: after that line insert:

11 ~~SECTION 27e.~~ [↓] 59.70 (1) of the statutes is amended to read:

12 59.70 (1) BUILDING AND SANITARY CODES. The board may enact building and
13 sanitary codes, make necessary rules and regulations in relation thereto and provide

1 for enforcement of the codes, rules and regulations by forfeiture or otherwise. The
2 codes, rules and regulations do not apply within municipalities which have enacted
3 ordinances or codes concerning the same subject matter. "Sanitary code" does not
4 include a ~~private~~ small sewage system ordinance enacted under sub. (5). "Building
5 and sanitary codes" does not include well code ordinances enacted under sub. (6).

6 SECTION ~~276g~~ 59.70 (5) of the statutes is amended to read:

7 59.70 (5) ~~(A)~~ PRIVATE SMALL SEWAGE SYSTEM ORDINANCE. (a) Every
8 governmental unit responsible for the regulation of ~~private~~ small sewage systems,
9 as defined under s. 145.01 (5), shall enact an ordinance governing ~~private~~ small
10 sewage systems, as defined in s. 145.01 ~~(12)~~ (14m), which conforms with the state
11 plumbing code. The ordinance shall apply to the entire area of the governmental unit
12 responsible for the regulation of ~~private~~ small sewage systems, as defined under s.
13 145.01 (5). After July 1, 1980, no municipality may enact or enforce a ~~private~~ small
14 sewage system ordinance unless it is a governmental unit responsible for the
15 regulation of ~~private~~ small sewage systems, as defined under s. 145.01 (5).

16 (b) The governmental unit responsible for the regulation of ~~private~~ small
17 sewage systems, as defined under s. 145.01 (5), shall administer the ~~private~~ small
18 sewage system ordinance under s. 145.20 and the rules promulgated under s. 145.20.

19 SECTION ~~276n~~ 60.70 (5) of the statutes is amended to read:

20 60.70 (5) "Private sewage system" ~~has the meaning given under s. 145.01 (12)~~
21 means a sewage treatment and disposal system serving a single structure with a
22 septic tank and soil absorption field located on the same parcel as the structure. This
23 term also means an alternative sewage system approved by the department of
24 commerce including a substitute for the septic tank or soil absorption field, a holding
25 tank, a system serving more than one structure or a system located on a different

1 parcel than the structure. A private sewage system may be owned by the property
2 owner or by a special purpose district.

3 SECTION ~~276p~~. 60.70 (6m) of the statutes is created to read:

60.70 (6m) "Small sewage system" has the meaning given in s. 145.01 (14m).

Inset
3-4

5 SECTION ~~276t~~. 60.77 (5) (b) of the statutes is amended to read:

6 60.77 (5) (b) Require the installation of private small sewage systems.

7 SECTION ~~276u~~. 60.77 (5) (bm) of the statutes is amended to read:

8 60.77 (5) (bm) Require the inspection of private small sewage systems that
9 have been already installed to determine compliance with the state plumbing code
10 and may report violations of the state plumbing code to the governmental unit
11 responsible for the regulation of private small sewage systems for enforcement under
12 s. 145.20.

13 SECTION ~~276v~~. 60.77 (5) (bs) of the statutes is amended to read:

14 60.77 (5) (bs) Provide direct financial assistance for costs related to the
15 replacement of private small sewage systems, as defined in s. 145.01 (12) (14m), that
16 are failing.

17 SECTION ~~276w~~. 60.77 (5) (j) of the statutes is amended to read:

18 60.77 (5) (j) Administer the private small sewage system program if authorized
19 under s. 145.20 (1) (am).

4. Page 141, line 8: after that line insert.

21 *SECTION ~~278e~~. 66.88 (11) of the statutes is amended to read:

22 66.88 (11) "Sewerage system" means all facilities of the district for collection,
23 transportation, storage, pumping, treatment and final disposition of sewage.

1 “Sewerage system” does not include any private small sewage system, as defined in
2 s. 145.01 (12) (14m), or any local sewer.

3 SECTION ~~278g~~ 66.888 (1) (c) 3. a. of the statutes is amended to read:

4 66.888 (1) (c) 3. a. The weight to be given to the need for private small sewage
5 systems, as defined in s. 145.01 (12) (14m), to maintain the public health and welfare
6 in any area located within the district prior to a redefinition of the boundary but
7 located outside the district after any redefinition of the boundary.

8 5. Page 199, line 20: after that line insert:

9 SECTION ~~388e~~ 145.01 (4m) of the statutes is amended to read:

10 145.01 (4m) (title) FAILING PRIVATE SMALL SEWAGE SYSTEM. “Failing private small
11 sewage system” has the meaning specified under s. 145.245 (4).

12 SECTION ~~388fe~~ 145.01 (5) of the statutes is amended to read:

13 145.01 (5) (title) GOVERNMENTAL UNIT RESPONSIBLE FOR REGULATION OF PRIVATE
14 SMALL SEWAGE SYSTEMS. “Governmental unit responsible for the regulation of private
15 small sewage systems” or “governmental unit”, unless otherwise qualified, means
16 the county except that in a county with a population of 500,000 or more these terms
17 mean the city, village or town where the private small sewage system is located.

18 SECTION ~~388fg~~ 145.01 (10) (b) of the statutes is amended to read:

19 145.01 (10) (b) The construction, connection or installation of any drain or
20 waste piping system from the outside or proposed outside foundation walls of any
21 building to the mains or other sewage system terminal within bounds of, or beneath
22 an area subject to easement for highway purposes, including private small sewage
23 systems, and the alteration of any such systems, drains or waste piping.

24 SECTION ~~388fh~~ 145.01 (12) of the statutes is repealed.

1 ~~SECTION 388fj.~~ 145.01 (14m) of the statutes is created to read:

2 145.01 (14m) SMALL SEWAGE SYSTEM. "Small sewage system" means one of the
3 following:

4 (a) Any holding tank that is connected to a building, drain or waste piping
5 system.

6 (b) Any wastewater treatment and disposal system with a final point of
7 discharge that is below the surface of the ground and with an estimated design flow
8 that does not exceed the maximum design flow ^{specified} under s. 145.02 (4) (c).

9 ~~SECTION 388gg.~~ 145.02 (4) (c) of the statutes is created to read:

10 145.02 (4) (c) The department, in cooperation with the department of natural
11 resources, shall promulgate rules specifying the maximum design flow for small
12 sewage systems with a final point of discharge that is below the surface of the ground.

13 ~~SECTION 388i.~~ 145.045 (3) of the statutes is amended to read:

14 145.045 (3) PLUMBERS AND SEPTIC TANK INSTALLERS. A plumber or septic tank
15 installer may also be a soil tester and install any system after approval of the site or
16 project by the department or the governmental unit responsible for the regulation
17 of private small sewage systems.

18 ~~SECTION 388ke.~~ 145.135 (1) of the statutes is amended to read:

19 145.135 (1) VALIDITY. In this section, "sanitary permit" means a permit issued
20 by the department or any governmental unit responsible for the regulation of private
21 small sewage systems for the installation of a private small sewage system. No
22 person may install a private small sewage system unless the owner of the property
23 on which the private small sewage system is to be installed holds a valid sanitary
24 permit. A sanitary permit is valid for 2 years from the date of issue and renewable
25 for similar periods thereafter. A governmental unit responsible for the regulation of

1 private small sewage systems may not charge more than one fee for a sanitary permit
2 or the renewal of a sanitary permit in any 12-month period. A sanitary permit shall
3 remain valid to the end of the established period, notwithstanding any change in the
4 state plumbing code or in any private small sewage system ordinance during that
5 period. A sanitary permit may be transferred from the holder to a subsequent owner
6 of the land, except that the subsequent owner must obtain a new copy of the sanitary
7 permit from the issuing agent. The results of any percolation test or other test
8 relating to the disposal of liquid domestic wastes into the soil shall be retained by the
9 governmental unit responsible for the regulation of private small sewage systems
10 where the property is located. The governmental unit responsible for the regulation
11 of private small sewage systems shall make the test results available to an applicant
12 for a sanitary permit and shall accept the test results as the basis for a sanitary
13 permit application unless the soil at the test site is altered to the extent that a new
14 soil test is necessary.

15 SECTION ~~388~~kg. 145.135 (2) (a) [✓] of the statutes is amended to read:

16 145.135 (2) (a) The purpose of the sanitary permit is to allow installation of the
17 private small sewage system described in the permit.

18 SECTION ~~389~~Le. 145.19 [✓] (1) to [✓] (4) of the statutes are amended to read:

19 145.19 (1) REQUIREMENT; INFORMATION; FORMS. No septic tank may be purchased
20 and no private small sewage system may be installed unless the owner of the
21 property on which the private small sewage system is to be installed holds a valid
22 sanitary permit from the governmental unit responsible for the regulation of private
23 small sewage systems in which the property is located. The department shall
24 prescribe the information to be included in the sanitary permit and furnish sanitary
25 permit forms to the governmental unit. The applicant shall submit the completed

1 sanitary permit to the governmental unit. The governmental unit shall approve or
 2 disapprove the sanitary permit according to the rules promulgated by the
 3 department under this chapter. No person may sell at retail, as defined under s.
 4 100.201 (1) (d), a septic tank for installation in this state unless the purchaser holds
 5 a valid sanitary permit issued under this section.

6 (2) FEE. No fee for a sanitary permit may be less than \$61, or the amount
 7 determined under department rule. The governing body for the governmental unit
 8 responsible for the regulation of ~~private~~ small sewage systems may establish a fee
 9 for a sanitary permit which is more than \$61, or the amount determined under
 10 department rule.

11 (3) COPY OF PERMIT FORWARDED TO THE DEPARTMENT. The governmental unit
 12 responsible for the regulation of ~~private~~ small sewage systems shall forward a copy
 13 of each valid sanitary permit and \$20, or the amount determined under department
 14 rule, of the fee to the department within 90 days after the permit is issued.

15 (4) USE OF FEE. The portion of this fee retained by the governmental unit
 16 responsible for the regulation of ~~private~~ small sewage systems shall be used for the
 17 administration of ~~private~~ small sewage system programs.

18 SECTION ~~382~~³⁸³ Lg. 145.19 (6)^X of the statutes, as affected by 1997 Wisconsin Act
 19 ^{plain space} 27, is amended to read:

20 145.19 (6) GROUNDWATER FEE. In addition to the fee under sub. (2), the
 21 governmental unit responsible for the regulation of ~~private~~ small sewage systems
 22 shall collect a groundwater fee of \$25 for each sanitary permit. The governmental
 23 unit shall forward this fee to the department together with the copy of the sanitary
 24 permit and the fee under sub. (3). The moneys collected under this subsection shall
 25 be credited to the environmental fund for environmental management.

Insert # - 1/1
- insert ->

1 ~~SECTION 388nc.~~ 145.20 (2) (intro.) of the statutes is amended to read:

2 145.20 (2) ~~GOVERNMENTAL UNIT RESPONSIBILITIES.~~ (intro.) The governmental
3 unit responsible for the regulation of private small sewage systems shall:

4 ~~SECTION 388ng.~~ 145.20 (2) (a) of the statutes is amended to read:

5 145.20 (2) (a) Review certified soil tester reports for proposed private small
6 sewage systems and verify the report at the proposed site, if necessary.

7 ~~SECTION 388nn.~~ 145.20 (2) (d) to (h) of the statutes are amended to read:

8 145.20 (2) (d) Inspect all private small sewage systems after construction but
9 before backfilling no later than the end of the next workday, excluding Saturdays,
10 Sundays and holidays, after receiving notice from the plumber in charge.

11 (e) File reports and conduct surveys and inspections as required by the
12 governmental unit responsible for the regulation of private small sewage systems or
13 the department.

14 (f) Investigate violations of the private small sewage system ordinance and s.
15 254.59 (2), issue orders to abate the violations and submit orders to the district
16 attorney, corporation counsel or attorney general for enforcement.

17 (g) Perform other duties regarding private small sewage systems as considered
18 appropriate by the governmental unit responsible for the regulation of private small
19 sewage systems or as required by the rules of the department.

20 (h) Inspect existing private small sewage systems to determine compliance
21 with s. 66.036 if a building or structure is being constructed which requires
22 connection to an existing private small sewage system. The county is not required
23 to conduct an on-site inspection if a building or structure is being constructed which
24 does not require connection to an existing private small sewage system.

25 ~~SECTION 388nr.~~ 145.20 (3) of the statutes is amended to read:

1 145.20 (3) DEPARTMENT RESPONSIBILITIES. (a) 1. The department may specify
2 categories of private small sewage systems for which approval by the department is
3 required prior to issuance of sanitary permits by the governmental unit responsible
4 for the regulation of private small sewage systems.

5 2. The department may exempt a governmental unit from any category of
6 private small sewage systems for which departmental approval is required prior to
7 sanitary permit issuance under subd. 1., upon a determination, in accordance with
8 rules promulgated by the department, that past performance of the governmental
9 unit on reviews and audits under par. (b) has been satisfactory and that the
10 governmental unit has the capacity to give the same level of application and plan
11 review as that provided by the department. The department may revoke an
12 exemption upon a finding that performance of the governmental unit on a review or
13 audit conducted subsequent to the granting of the exemption is unsatisfactory or
14 that the governmental unit is not giving the same level of application and plan
15 review as that provided by the department. Findings in a revocation action may be
16 made only after a public hearing upon 30 days' advance notice to the clerk of the
17 governmental unit. The department shall submit a report under s. 13.172 (2) to the
18 chief clerk of each house of the legislature, at the beginning of each legislative
19 session, describing the exemptions under this subdivision.

20 (b) The department shall review the private small sewage system program in
21 each governmental unit responsible for the regulation of private small sewage
22 systems to ascertain compliance with sub. (2) and with regulations issued by the
23 department. This review shall include a random audit of sanitary permits, including
24 verification by on-site inspection.

1 (c) If the governing body for a governmental unit responsible for the regulation
2 of ~~private~~ small sewage systems does not adopt a ~~private~~ small sewage system
3 ordinance meeting the requirements of s. 59.70 (5) or if the governmental unit does
4 not appoint personnel meeting the requirements of sub. (1) or if the governmental
5 unit does not comply with the requirements of sub. (2) or s. 145.19 (3), the department
6 may conduct hearings in the county seat upon 30 days' notice to the county clerk.
7 As soon as practicable after the public hearing, the department shall issue a written
8 decision regarding compliance with s. 59.70 (5) or 145.19 (3) or sub. (1) or (2). If the
9 department determines that there is a violation of these provisions, the
10 governmental unit may not issue a sanitary permit for the installation of a ~~private~~
11 small sewage system until the violation is corrected.

12 (d) The department shall conduct training and informational programs for
13 officials of the governmental unit responsible for the regulation of ~~private~~ small
14 sewage systems and employes and persons licensed under this chapter and s. 281.48
15 and certified as operators of septage servicing vehicles under s. 281.17 (3) to improve
16 the delivery of service under the ~~private~~ small sewage system program. The
17 department shall obtain the assistance of the Wisconsin counties association in
18 planning and conducting the training and informational programs.

19 SECTION ~~388~~[✓] 145.20 (4) of the statutes is amended to read:

20 145.20 (4) SPECIAL ASSESSMENT FOR HOLDING AND SEPTIC TANK PUMPING. A
21 governmental unit may assess the owner of a ~~private~~ small sewage system for costs
22 related to the pumping of a septic or holding tank. The governmental unit shall make
23 any assessment in the same manner that a city, village or town makes an assessment
24 under s. 66.60.

25 SECTION ~~388~~[✓] 145.24 of the statutes is amended to read:

1 **145.24 Variances.** (1) If an existing ~~private~~ small sewage system either is not
2 located in soil meeting the siting standards or is not constructed in accordance with
3 design standards promulgated under s. 145.02 or 145.13, the owner of the ~~private~~
4 small sewage system may petition the department for a variance to the siting or
5 design standards.

6 (2) The department shall establish procedures for the review and evaluation
7 of existing ~~private~~ small sewage systems which do not comply with siting or design
8 standards.

9 (3) Upon receipt of a petition for a variance, the department shall require the
10 owner of the ~~private~~ small sewage system to submit information necessary to
11 evaluate the request for a variance. If the department determines that the existing
12 ~~private~~ small sewage system is not a failing ~~private~~ small sewage system, and
13 continued use of the existing ~~private~~ small sewage system will not pose a threat of
14 contamination of waters of the state, then the department may issue a variance to
15 allow continued use of the existing ~~private~~ small sewage system. The department
16 shall rescind the variance if the existing ~~private~~ small sewage system becomes a
17 failing ~~private~~ small sewage system or contaminates waters of the state.

18 ~~SECTION 388~~^{b.} 145.245 (title) of the statutes is amended to read:

19 **145.245 (title) Private Small sewage system replacement or**
20 **rehabilitation.**

21 ~~SECTION 388~~^{c.} 145.245 (1) (a) 1. of the statutes is amended to read:

22 145.245 (1) (a) 1. A determination that a ~~private~~ small sewage system is failing,
23 according to the criteria under sub. (4), based on an inspection of the ~~private~~ small
24 sewage system by an employe of the state or a governmental unit who is certified to
25 inspect ~~private~~ small sewage systems by the department.

1 SECTION ~~388~~³⁸⁹cf. 145.245 (1) (ae) of the statutes is amended to read:

2 145.245 (1) (ae) “Governmental unit” means a governmental unit responsible
3 for the regulation of private small sewage systems. “Governmental unit” also
4 includes a federally recognized American Indian tribe or band.

5 SECTION ~~388~~³⁸⁹ge. 145.245 (3) of the statutes is amended to read:

6 145.245 (3) MAINTENANCE. The department shall establish a maintenance
7 program to be administered by governmental units. The maintenance program is
8 applicable to all new or replacement private small sewage systems constructed in a
9 governmental unit after the date on which the governmental unit adopts this
10 program. The maintenance program shall include a requirement of inspection or
11 pumping of the private small sewage system at least once every 3 years. Inspections
12 may be conducted by a master plumber, journeyman plumber or restricted plumber
13 licensed under this chapter, a person licensed under s. 281.48 or by an employe of the
14 state or governmental unit designated by the department. The department of
15 natural resources may suspend or revoke a license issued under s. 281.48 or a
16 certificate issued under s. 281.17 (3) to the operator of a septage servicing vehicle if
17 the department of natural resources finds that the licensee or operator falsified
18 information on inspection forms. The department of commerce may suspend or
19 revoke the license of a plumber licensed under this chapter if the department finds
20 that the plumber falsified information on inspection forms.

21 SECTION ~~388~~³⁸⁹hf. 145.245 (4) (intro.) of the statutes is amended to read:

22 145.245 (4) ~~(title)~~ FAILING PRIVATE SMALL SEWAGE SYSTEMS. (intro.) The
23 department shall establish criteria for determining if a private small sewage system
24 is a failing private small sewage system. A failing private small sewage system is
25 one which causes or results in any of the following conditions:

1 SECTION ~~388qg~~[✓]. 145.245 (4) (b) of the statutes is amended to read:

2 145.245 (4) (b) The introduction of sewage into zones of saturation which
3 adversely affects the operation of a private small sewage system.

4 SECTION ~~388qh~~[✓]. 145.245 (4) (e) of the statutes is amended to read:

5 145.245 (4) (e) The failure to accept sewage discharges and back up of sewage
6 into the structure served by the private small sewage system.

7 SECTION ~~388qi~~[✓]. 145.245 (4m) of the statutes is amended to read:

8 145.245 (4m) ~~(4m)~~[✓] CATEGORIES OF FAILING PRIVATE SMALL SEWAGE SYSTEMS. For
9 the purposes of this section, the department shall establish the category of each
10 failing private small sewage system for which a grant application is submitted, as
11 follows:

12 (a) Category 1: failing private small sewage systems described in sub. (4) (a)
13 to (c).

14 (b) Category 2: failing private small sewage systems described in sub. (4) (d).

15 (c) Category 3: failing private small sewage systems described in sub. (4) (e).

16 SECTION ~~388qj~~[✓]. 145.245 (5) (a) ~~1 to 3~~[✓] of the statutes ~~are~~^{is} amended to read:

17 145.245 (5) (a) 1. A person is eligible for grant funds under this section if he or
18 she owns a principal residence which is served by a category 1 or 2 failing private
19 small sewage system, if the residence was constructed prior to and inhabited on July
20 1, 1978, if the family income of the person does not exceed the income limitations
21 under par. (c), if the amount of the grant determined under sub. (7) is at least \$100,
22 if the residence is not located in an area served by a sewer and if determination of
23 failure is made prior to the rehabilitation or replacement of the failing private small
24 sewage system.

1 2. A business is eligible for grant funds under this section if it owns a small
2 commercial establishment which is served by a category 1 or 2 failing ~~private~~ small
3 sewage system, if the small commercial establishment was constructed prior to July
4 1, 1978, if the gross revenue of the business does not exceed the limitation under par.
5 (d), if the small commercial establishment is not located in an area served by a sewer
6 and if a determination of failure is made prior to the rehabilitation or replacement
7 of the ~~private~~ small sewage system.

8 3. A person who owns a principal residence or small commercial establishment
9 which is served by a category 1 or 2 failing ~~private~~ small sewage system may submit
10 an application for grant funds during the 3-year period after the determination of
11 failure is made. Grant funds may be awarded after work is completed if
12 rehabilitation or replacement of the system meets all requirements of this section
13 and rules promulgated under this section.

14 ~~SECTION 388qk.~~ 145.245 (5m) [✓](a) of the statutes is amended to read:

15 145.245 (5m) (a) The department or a governmental unit shall deny a grant
16 application under this section if the applicant or a person who would be directly
17 benefited by the grant intentionally caused the conditions which resulted in a
18 category 1 or 2 failing ~~private~~ small sewage system. The department or
19 governmental unit shall notify the applicant in writing of a denial, including the
20 reason for the denial.

21 ~~SECTION 388qL.~~ 145.245 [✓](6) of the statutes is amended to read:

22 145.245 (6) USE OF FUNDS. (a) Except for grants under par. (b), funds available
23 under a grant under this section shall be applied to the rehabilitation or replacement
24 of the ~~private~~ small sewage system. An existing ~~private~~ small sewage system may

1 be replaced by an alternative ~~private~~ small sewage system or by a system serving
2 more than one principal residence.

3 (b) Funds available under a grant under this section for experimental ~~private~~
4 small sewage systems shall be applied to the installation and monitoring of the
5 experimental ~~private~~ small sewage systems.

6 **SECTION 369qm.** 145.245 (7) of the statutes is amended to read:

7 145.245 (7) ALLOWABLE COSTS; STATE SHARE. (a) Except as provided in par. (e),
8 costs allowable in determining grant funding under this section may not exceed the
9 costs of rehabilitating or replacing a ~~private~~ small sewage system which would be
10 necessary to allow the rehabilitated system or new system to meet the minimum
11 requirements of the state plumbing code promulgated under s. 145.13.

12 (b) Except as provided in par. (e), costs allowable in determining grant funding
13 under this section may not exceed the costs of rehabilitating or replacing a ~~private~~
14 small sewage system by the least costly methods.

15 (c) Except as provided in pars. (d) and (e), the state grant share under this
16 section is limited to \$7,000 for each principal residence or small commercial
17 establishment to be served by the ~~private~~ small sewage system or to the amount
18 determined by the department based upon ~~private~~ small sewage system grant
19 funding tables, whichever is less. The department shall prepare and publish ~~private~~
20 small sewage system grant funding tables which specify the maximum state share
21 limitation for various components and costs involved in the rehabilitation or
22 replacement of a ~~private~~ small sewage system based upon minimum size and other
23 requirements specified in the state plumbing code promulgated under s. 145.02. The
24 maximum state share limitations shall be designed to pay approximately 60% of the
25 average allowable cost of ~~private~~ small sewage system rehabilitation or replacement

1 based upon estimated or actual costs of that rehabilitation or replacement. The
2 department shall revise the grant funding tables when it determines that 60% of
3 current costs of private small sewage system rehabilitation or replacement exceed
4 the amounts in the grant funding tables by more than 10%, except that the
5 department may not revise the grant funding tables more often than once every 2
6 years.

7 (d) Except as provided in par. (e), if the income of a person who owns a principal
8 residence that is served by a category 1 or 2 failing private small sewage system is
9 greater than \$32,000, the amount of the grant under this section is limited to the
10 amount determined under par. (c) less 30% of the amount by which the person's
11 income exceeds \$32,000.

12 (e) Costs allowable for experimental private small sewage systems shall
13 include the costs of installing and monitoring experimental private small sewage
14 systems installed under s. 145.02 (3) (b) and this section. The department shall
15 promulgate rules that specify how the department will select, monitor and allocate
16 the state share for experimental private small sewage systems that the department
17 funds under this section.

18 SECTION ~~389~~³⁸⁹ 145.245 (8) (a) of the statutes is amended to read:

19 145.245 (8) (a) In order to be eligible for a grant under this section, a
20 governmental unit shall make an application for replacement or rehabilitation of
21 private small sewage systems of principal residences or small commercial
22 establishments and shall submit an application for participation to the department.
23 The application shall be in the form and include the information the department
24 prescribes. In order to be eligible for funds available in a fiscal year, an application

1 is required to be received by the department prior to February 1 of the previous fiscal
2 year.

3 ~~SECTION 388p.~~ 145.245 (9) (b) of the statutes is amended to read:

4 145.245 (9) (b) Certify that grants will be used for private small sewage system
5 replacement or rehabilitation for a principal residence or small commercial
6 establishment owned by a person who meets the eligibility requirements under sub.
7 (5), that the funds will be used as provided under sub. (6) and that allowable costs
8 will not exceed the amount permitted under sub. (7);

9 ~~SECTION 388q.~~ 145.245 (9) (c) of the statutes is amended to read:

10 145.245 (9) (c) Certify that grants will be used for private small sewage systems
11 which will be properly installed and maintained;

12 ~~SECTION 388q.~~ 145.245 (9) (e) of the statutes is amended to read:

13 145.245 (9) (e) Establish a process for regulation and inspection of private
14 small sewage systems;

15 ~~SECTION 388qt.~~ 145.245 (11) (e) of the statutes is amended to read:

16 145.245 (11) (e) ~~(title)~~ *Limitation; experimental private small sewage systems.*

17 The department may not allocate more than 10% of the funds available under this
18 subsection each fiscal year for grants for the installation and monitoring of
19 experimental private small sewage systems.

20 ~~SECTION 388qu.~~ 145.245 (11m) (b) to (d) of the statutes are amended to read:

21 145.245 (11m) (b) Except as provided in par. (d), if funds are sufficient to fully
22 fund all category 1 but not all category 2 failing private small sewage systems, the
23 department shall fully fund all category 1 systems and prorate the funds for category
24 2 systems on a proportional basis.

1 (c) Except as provided in par. (d), if funds are not sufficient to fully fund all
 2 category 1 failing private small sewage systems, the department shall fund the
 3 category 1 systems on a proportional basis and deny the grant applications for all
 4 category 2 systems.

5 (d) The department is not required to prorate available funds for grants for the
 6 installation and monitoring of experimental private small sewage systems.

7 ~~SECTION 388q~~[#]w. 145.245 (13) of the statutes is amended to read:

8 145.245 (13) INSPECTION. Agents of the department or the governmental unit
 9 may enter premises where private small sewage systems are located pursuant to a
 10 special inspection warrant as required under s. 66.122, to collect samples, records
 11 and information and to ascertain compliance with the rules and orders of the
 12 department or the governmental unit.

13 ~~SECTION 388q~~[#]x. 145.245 (14) (d) of the statutes is amended to read:

14 145.245 (14) (d) Additional grants under this section to a governmental unit
 15 previously awarded a grant under this section may be suspended or terminated if the
 16 department finds that a private small sewage system previously funded in the
 17 governmental unit is not being or has not been properly rehabilitated, constructed,
 18 installed or maintained. ~~11~~

19 ~~6. Page 202, line 19: after that line insert~~

20 ~~SECTION 398m~~[#]. 160.255 of the statutes is amended to read:

21 160.255 ~~(14)~~[#] Exceptions for private certain sewage systems. (1) In this
 22 section, "private exempt sewage system" has the meaning given means a small
 23 sewage system, as defined in s. 145.01 (12) (14m)² or a sewage system that is in

1 existence on January 1, 1999, and that would be a small sewage system except that
2 its design flow exceeds the maximum design flow/under s. 145.02 (4) (c).

3 (2) Notwithstanding s. 160.19 (1), (2) and (4) (b), a regulatory agency is not
4 required to promulgate or amend rules that define design or management criteria
5 for private exempt sewage systems to minimize the amount of nitrate in
6 groundwater or to maintain compliance with the preventive action limit for nitrate.

7 (3) Notwithstanding s. 160.19 (3), a regulatory agency may promulgate rules
8 that define design or management criteria for private exempt sewage systems that
9 permit the enforcement standard for nitrate to be attained or exceeded at the point
10 of standards application.

11 (4) Notwithstanding s. 160.21, a regulatory agency is not required to
12 promulgate rules that set forth responses that the agency may take, or require to be
13 taken, when the preventive action limit or enforcement standard for nitrate is
14 attained or exceeded at the point of standards application if the source of the nitrate
15 is a private an exempt sewage system.

16 (5) Notwithstanding ss. 160.23 and 160.25, a regulatory agency is not required
17 to take any responses for a specific site at which the preventive action limit or
18 enforcement standard for nitrate is attained or exceeded at the point of standards
19 application if the source of the nitrate is a private an exempt sewage system. M

20 7. Page 229, line 15: after that line insert:

21 ~~SECTION 482m.~~ [#] 283.31 (1) of the statutes is amended to read:

22 283.31 (1) The discharge of any pollutant into any waters of the state or the
23 disposal of sludge from a treatment work by any person is unlawful unless such
24 discharge or disposal is done under a permit issued by the department under this

1 section or s. 283.33. The department may by rule exempt certain classes or categories
 2 of vessels and small sewage systems, as defined in s. 145.01 (14m), from this section.
 3 Except as provided in s. 283.33, the department may require only one permit for a
 4 publicly owned treatment or collection facility or system, regardless of the number
 5 of point sources from such facility or system.

Insert 20-6 ~~8. Page 370, line 18: after that line insert:~~

7 ~~(14)~~ **SMALL SEWAGE SYSTEMS.** The treatment of sections 20.143 (3) (de), 59.70
 8 (1) and (5), 60.70 (5) and (6m), ^{60.726(2)} 60.77 (5) (b), (bm), (bs) and (j), 66.88 (11), 66.888 (1)
 9 (c) 3. a., 145.01 (4m), (5), (10) (b), (12) and (14m), 145.02 (4) (c), 145.045 (3), 145.135
 10 (1) and (2) (a), 145.19 (1) to (4) and (6), 145.20 (2) (intro.), (a) and (d) to (h), (3) and
 11 (4), 145.24, 145.245 (title), (1) (a) 1. and (ae), (3), (4) (intro.), (b) and (e), (4m), (5) (a)
 12 ~~(14m)~~, (5m) (a), (6), (7), (8) (a), (9) (b), (c) and (e), (11) (e), (11m) (b) to (d), (13) and
 13 (14) (d), 160.255 and 283.31 (1) of the statutes takes effect on January 1, ²⁰⁰⁰ ~~1999~~.

(END) ✓

ONote

Insert 3-4

Section #. 60.726 (2) of the statutes is amended to read:

* 60.726 (2) If a property owner installed on his or her property a private sewage system, ~~as defined~~
* ~~in s. 145.01 (12)~~, that conforms with the state plumbing code, before a town sanitary district that
encompasses that property came into existence, that property shall be included in the town sanitary
district. If the private sewage system was installed on or after 10 years before May 14, 1992, and
if the property owner provides the town sanitary district with any information about the cost of the
private sewage system required by the district, the town sanitary district, when the district issues any
assessment or charges or imposes property taxes to construct a sewage service system, shall pay or
credit the property owner an amount equal to 10% of the cost of the private sewage system, less any
grants or aids received by the property owner for construction of the private sewage system, multi-
plied by the number of years of remaining life of the private sewage system. The number of years
of remaining life of the private sewage system is equal to 10 minus the number of years that the pri-
vate sewage system has been in operation.

History: 1991 a. 270; 1993 a. 213; 1997 a. 252.

(end ins)

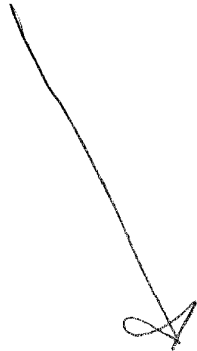
Insert 8-1, p. 1

Section #. 145.20 (title) of the statutes is amended to read:

Small ^(B)

145.20 (title) ~~Private~~ sewage systems.

History: 1979 c. 34, 221; 1981 c. 120; 1983 a. 192 s. 303 (7); 1983 a. 410; 1987 a. 27, 160; 1989 a. 31; 1993 a. 16, 27; 1995 a. 201, 227.



Insert 8-1, p. 2

Section #. 145.20 (1) of the statutes is amended to read:

145.20 (1) ORGANIZATION AND PERSONNEL. (a) The governing body of the governmental unit responsible for the regulation of ~~private~~^{small} sewage systems may assign the duties of administering the ~~private~~^{small} sewage system program to any office, department, committee, board, commission, position or employe of that governmental unit.

(am) The governing body of the governmental unit responsible for the regulation of ~~private~~^{small} sewage systems may delegate the duties of administering the ~~private~~^{small} sewage system program to a town sanitary district or public inland lake protection and rehabilitation district with the powers of a town sanitary district within the town sanitary district or public inland lake protection and rehabilitation district if the town sanitary district or public inland lake protection and rehabilitation district agrees to assume those duties.

(b) The governmental unit responsible for the regulation of ~~private~~^{small} sewage systems shall obtain the services of a certified soil tester, either as an employe or under contract, to review and verify certified soil tester reports under sub. (2).

History: 1979 c. 34, 221; 1981 c. 120; 1983 a. 192 s. 303 (7); 1983 a. 410; 1987 a. 27, 160; 1989 a. 31; 1993 a. 16, 27; 1995 a. 201, 227.

end of insert

1999

Insert 20-6 p.2

Nonstat File Sequence: **FFF**

LRB _____ / _____

_____ : _____ : _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9400** department code; and fill in "()" only if a "frozen" number is needed.

SECTION 94 1 0 . Effective dates; Commerce.....

(#1) () The treatment of sections of the statutes takes effect on

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

LRB-0935/Pldn
RCT: /:....
wlj
+
jlg
↑
I fixed
online,
I think

Manye Wong:

This is a preliminary draft of the request related to the authority of DNR and Commerce over septic systems. It is based on a draft that I did last session, ~~09~~ 2855/1, working with Jacky Jugenheimer and the two departments. I could not tell from the instructions whether the departments want changes from last session's draft. I think that it will be important to have both departments carefully review this draft. I have not provided it to them, so if you agree that they may review the draft, please provide it to them.

I have included a provision that delays the effective date of this draft to January 1, 2000 because the draft requires Commerce to promulgate a rule establishing the maximum design flow for small sewage systems (see proposed ss. 145.01 (14m) (b) and 145.02 (4) (c)). The draft gives Commerce emergency rule-making authority to enable the department to get a rule in place before the effective date.

If you have any questions, please give me a call.

Rebecca C. Tradewell
Assistant Chief Counsel
266-7290

1997 LRS

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

LRB-0935/P1dn
RCT:wlj&jlg:km

November 30, 1998

Manyee Wong:

This is a preliminary draft of the request related to the authority of DNR and Commerce over septic systems. It is based on a draft that I did last session, 1997 LRBb2855/1, working with Jacky Jugenheimer and the two departments. I could not tell from the instructions whether the departments want changes from last session's draft. I think that it will be important to have both departments carefully review this draft. I have not provided it to them, so if you agree that they may review the draft, please provide it to them.

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If you have any questions, please give me a call.

Rebecca C. Tradewell
Assistant Chief Counsel
266-7290

Tradewell, Becky

From: Wong, Manyee [Manyee.Wong@doa.state.wi.us]
Sent: Thursday, January 21, 1999 2:09 PM
To: Tradewell, Becky
Subject: FW: LRB 0935/p1

Hi Becky,

Please revised draft 0935 based on the following comments from Commerce.
Thanks.

> -----Original Message-----

> From: Cornelius, Louie

> Sent: Wednesday, January 20, 1999 5:44 PM

> To: Wong, Manyee

> Cc: DuPont, Robert

> Subject: LRB 0935/p1

>

> We spoke with the DNR about this bill draft. The Department of Commerce
> supports it; however, we agree with DNR that there ought to be one change:

> On p. 19, line 23, Section 52, the effective date should be "January 1,
> 2000", rather than January 1, 1999.

> Otherwise, we have worked out the concerns with the DNR. We support the
> draft with that change.

>

>