

2001 DRAFTING REQUEST

Bill

Received: **09/13/2000**

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**

Extra Copies:

Pre Topic:

DOA:.....Wong -

Topic:

Clean water fund, requirement that two-thirds of homes be in existence on October 17, 1972

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>
/1	traderc 09/15/2000	wjackson 09/18/2000	martykr 09/19/2000	_____	lrb_docadmin 09/19/2000		S&L
/2	traderc 10/12/2000	jdyer 10/12/2000	martykr 10/12/2000	_____	lrb_docadmin 10/12/2000		S&L
/3	traderc 01/06/2001	wjackson 01/06/2001	martykr 01/06/2001	_____	lrb_docadmin 01/07/2001		S&L

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13 wlj 1/6
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1?	traderc	MWJ 9/18	dmm ⁹ /19	Set ⁹ /19			

FE Sent For:

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RCT

2001-2003 Statutory Language Proposals

Division: CUSTOMER ASSISTANCE AND EXTERNAL RELATIONS

Bureau: COMMUNITY FINANCIAL ASSISTANCE

Issue/Topic: TWO-THIRDS REVIEW

Proposed Change: Currently at least two-thirds of the flow for new wastewater collection systems must be from homes built prior to October 17, 1972 in order for the collection system to be eligible for financial assistance for design, planning and construction. Change the October date to date the facility plan was approved.

(e)
Change s. 281.58(8) to read as follows:

Except as provided in par. (k), financial assistance may be provided for the design, planning and construction of a collection system, interceptor or individual system project in an unsewered municipality or an unsewered area of a municipality, only if the department finds that at least two-thirds of the initial flow will be for wastewater originating from residences in existence ~~on October 17, 1972~~ at the date of the facility plan approval.

Explanatory Note: The current statute specifies that at least 2/3rds of the flow for new collections systems must be from homes built prior to October 17, 1972 in order for the costs to be eligible for below market rate funding. The 1972 date was carried over from the construction grants program and represents the date the Public Law 92-500 (the Federal Water Pollution Control Act Amendments of 1972) became effective. Intent of the original federal law was apparently to fund only existing development. When the State Revolving Fund replaced the federal construction grants program in 1987, the federal 2/3rds requirement ended. However, the state statute retained the requirement.

The 1972 date is becoming increasingly difficult to meet. Without a change in the statute, there will eventually be no new collection systems eligible for subsidized funding. It seems clear that this is not the state's policy intention. Therefore, the 1972 date needs to be eliminated.

Desired Effective Date: Upon passage of the budget

Contact Person: Joy Stewart, 266-2159
Robert Ramharter, 266-3915



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0286/1

RCT./:....
Wlj

SOON

DNote

DOA:.....Wong – Clean water fund, requirement that two-thirds of homes
be in existence on October 17, 1972

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1

DON'T
GEN

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT ✓

WATER QUALITY ✓

~~Under~~ Under the clean water fund program, this state provides financial assistance
~~for projects~~ for projects ~~controlling~~ controlling water pollution, including sewage treatment plants.
Under current law, clean water fund financial assistance for a collection system or
interceptor in an unsewered local governmental unit or an unsewered area of a local
governmental unit is only eligible for subsidized financial assistance under the clean
water fund program if at least two-thirds of the initial flow will be for wastewater
originating from residences in existence on October 17, 1972. This bill eliminates the
reference to October 17, 1972, and provides that clean water fund financial
assistance for a collection system or interceptor in an unsewered local governmental
unit or an unsewered area of a local governmental unit is only eligible for subsidized
financial assistance under the clean water fund program if at least two-thirds of the
initial flow will be for wastewater originating from residences in existence on the
date that DNR approves the facility plan for the project.

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.** 281.58 (8) (c) of the statutes is amended to read:

2 281.58 (8) (c) Except as provided in par. (k), financial assistance may be
3 provided for the design, planning and construction of a collection system, interceptor
4 or individual system project in an unsewered municipality or an unsewered area of
5 a municipality, only if the department finds that at least two-thirds of the initial flow
6 will be for wastewater originating from residences in existence on ~~October 17, 1972~~
7 the date on which the department approves the municipality's facility plan submitted
8 under sub. (8s).

History: 1987 a. 399; 1989 a. 31, 336, 366; 1991 a. 32, 39, 189; 1993 a. 16; 1995 a. 27; 1995 a. 227 s. 425; Stats. 1995 s. 281.58; 1997 a. 27, 237; 1999 a. 9; 1999 a. 150 s. 672.

9

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0286/1dn

RCT.....

Wlj

The drafting request for this item states that it seems clear that it is not the state's policy intention to get to the point where there will be no collection systems eligible for subsidized funding. I do not think that it is clear that the originators of this program intended for the state to continue subsidizing collection systems indefinitely.

Please review s. 281.58 (8) (b) 2., which provides that "the department may not determine that a municipality is eligible for [subsidized] financial assistance through a method specified under sub. (6) (b) for reserve capacity for a collection system, interceptors or an individual system project in an unsewered municipality." Would this also need to be changed to accomplish your intent?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0286/1dn
RCT:wlj:km

September 19, 2000

The drafting request for this item states that it seems clear that it is not the state's policy intention to get to the point where there will be no collection systems eligible for subsidized funding. I do not think that it is clear that the originators of this program intended for the state to continue subsidizing collection systems indefinitely.

Please review s. 281.58 (8) (b) 2., which provides that "the department may not determine that a municipality is eligible for [subsidized] financial assistance through a method specified under sub. (6) (b) for reserve capacity for a collection system, interceptors or an individual system project in an unsewered municipality." Would this also need to be changed to accomplish your intent?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Stewart, Joy L
Sent: Wednesday, October 11, 2000 1:03 PM
To: Tradewell, Becky
Cc: Grinde, Kirsten; Ramharter, Robert H; Czeshinski, Alan L; Nyffeler, Robin T; Felker-Donsing, Susan; Stewart, Joy L
Subject: LRB-0286/1dn: Clean Water 2/3 Requirement

We have reviewed your draft and the two questions which you raised in your cover note.

A. Response to Questions

1. Was original intent to get to a point where no additional collection systems were funded? It is not clear what the original state intent was since this language was mirrored from federal language. However, we have discussed this issue with the water program, and it is our intent that subsidized funding for new wastewater collection systems continue. We are basically trying to make the language more contemporary. Therefore, we want to continue with the language as proposed.

2. Need to review s. 281.58 (8) (b) 2 regarding eligibility for subsidized financial assistance for reserve capacity; does this need to be changed to accomplish our intent? Both program and legal staff reviewed this question. We have determined that no change is needed.

B. Other Changes

As a result of the above discussions, we do have a minor change that we would like to make. We would like to change the starting date from "the date that DNR approved the facility plan" to "the date the facility plan is submitted for approval."

Otherwise, the draft is fine. Thank you for your assistance.



State of Wisconsin
2001 - 2002 LEGISLATURE

5000

LRB-02867 Z

RCT:wlj:km

Jia RMR

DOA:.....Wong - Clean water fund, requirement that two-thirds of homes be in existence on October 17, 1972

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

do not gen

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

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under the clean water fund program, this state provides financial assistance for projects for controlling water pollution, including sewage treatment plants. Under current law, clean water fund financial assistance for a collection system or interceptor in an unsewered local governmental unit or an unsewered area of a local governmental unit is only eligible for subsidized financial assistance under the clean water fund program if at least two-thirds of the initial flow will be for wastewater originating from residences in existence on October 17, 1972. This bill eliminates the reference to October 17, 1972, and provides that clean water fund financial assistance for a collection system or interceptor in an unsewered local governmental unit or an unsewered area of a local governmental unit is only eligible for subsidized financial assistance under the clean water fund program if at least two-thirds of the initial flow will be for wastewater originating from residences in existence on the date that DNR approves the facility plan for the project.

the local governmental unit submits

Tradewell, Becky

From: Wong, Manyee
Sent: Friday, January 05, 2001 5:15 PM
To: Tradewell, Becky
Subject: LRB 0286 Two thirds Review

Hi Becky,

Please change the date on this draft from the date on which the municipality submits its facility plan to 10 years prior to the facility plan approval date.

Thanks. Let me know if you have questions.
Manyee

-----Original Message-----

From: Wolff, Michael
Sent: Friday, January 05, 2001 8:22 AM
To: Schmiedicke, David; Wong, Manyee
Cc: Brinson, Ed
Subject: RE: Briefing document questions

The financial impact, as I understand it, is minor in the short run. The problem with a fixed date like 1972 is that each year there are and will be more and more affected communities. The original intent was to head off the situation where the CWF became the urban sprawl fund.

There is a logical conundrum, though. The way it works now is that 2/3 must date to before '72. The change would make that date the facility plan approval (typically 1-5 years prior to the loan). At the loan closing, the subsidized loan may be sized (with a certain allowance for future growth) for all existing housing (i.e., the 2/3 and the 1/3 new). So only when there is explosive construction would there ever be application of the 2/3 rule.

I might suggest creating a rolling date for the 2/3 rule, maybe 5 or 10 years prior to the facility plan approval date.

I think DNR may have failed to think this one through. I will mull it over, but for now that's my conclusion

Note: 10/17/1972 is the date of the original Clean Water Act (as well as my 19th birthday). That was 18 years prior to the start of the CWF program. But economic growth and new housing since then probably makes 18 years an unreasonably long time frame.

Hope this helps.

-----Original Message-----

From: Schmiedicke, David
Sent: Friday, January 05, 2001 7:20 AM
To: Wong, Manyee
Cc: Wolff, Michael
Subject: RE: Briefing document questions

Regarding #1, there must be a future financial impact associated with moving the 1972 date to 2001. Without the change, some communities that would be unable to qualify under the 2/3rds prior to 1972 would be eligible under the 2/3rds prior to 2001 (e.g., those communities with a predominance of new development). Is there any way to calculate that figure?

Thanks.

-----Original Message-----

From: Wong, Manyee
Sent: Thursday, January 04, 2001 4:42 PM
To: Schmiedicke, David
Subject: Briefing document questions

Dave,

1. EIF - You asked whether or not there is any fiscal impact if we change the date that requires any new wastewater collection systems to receive subsidy, to have 2/3rds of the wastewater flow be from homes built prior to approval of facility plan to *June 30, 2001*. Answer: No. The contention with the language that "approval of facility plan" implies that the subsidies are provided indefinitely. There is disagreement from LRB regarding this issue. So we decided to put in an actual date - June 30, 2001. I ran this by Michael Wolff and he agrees.
2. Segregated settlement funds - whether the language is in lieu of JCF approval. Answer: No. This just give DNR a separate appropriation to account for the money. DNR will still have to obtain approval from JCF for expenditures of money received from civil court action.



State of Wisconsin
2001 - 2002 LEGISLATURE

SO ON

LRB-0286/3
RCT:wlj&jld:km
rmt

DOA:.....Wong - Clean water fund, requirement that two-thirds of homes be in existence on October 17, 1972

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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is ^{ten} 10 years before the day that DNR approves

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

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5 a municipality, only if the department finds that at least two-thirds of the initial flow

6 will be for wastewater originating from residences in existence on October 17, 1972

that is 10 years before the day

7 ~~the date on which the municipality submits its facility plan under sub. (8s)~~ *For the project*

8 (END)

the department approves the



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0286/3
RCT:wlj&jld:km

DOA:.....Wong – Clean water fund, requirement that two-thirds of homes be
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