

2007 DRAFTING REQUEST

Bill

Received: 03/01/2007

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Scott Gunderson (608) 266-3363

By/Representing: Mike

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact: Ann Gryphan, Pat Essie

Addl. Drafters:

Subject: Buildings/Safety - misc.
Environment - water quality

Extra Copies:

Submit via email: YES

Requester's email: Rep.Gunderson@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Limits on outside work by soil inspectors and septic system inspectors working for local governments

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>
/?							
/P1	btradewe 03/28/2007	kfollett 03/30/2007	pgreensl 03/30/2007	_____	cduerst 03/30/2007		
/1	btradewe 05/04/2007	kfollett 05/04/2007	pgreensl 05/07/2007	_____	sbasford 05/07/2007		
/2	btradewe 07/10/2007	kfollett 07/10/2007	nmatzke 07/10/2007	_____	lparisi 07/10/2007		

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/3	btradewe 07/16/2007	kfollett 07/17/2007	nmatzke 07/17/2007	_____	lparisi 07/17/2007	cduerst 08/28/2007	

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		13/gf 7/17	nwn 7/17	nwn 7/17			

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FE Sent For:

12/5F
7/10

nwn
7/10

nwn/jf
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FE Sent For:

11/6/F
5/4

5
1/4
PS

<END>

PK/MW

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1/?	btradewe	1 P1/gf 3/30	30 pe	3/30 self			

FE Sent For: <END>

3/1 Meeting with Mike, Pat Esser + Ann Gryphon (lobbyists)

1. Want to have Comm 5.33(6) expanded - may not provide soil evaluations anywhere within the state

2. Also apply to septic system installers (master plumber restricted service)

Installers find that their work is sometimes inspected by a competitor.

Idea is that inspectors should not compete with those they regulate → conflict of interest

3. County employees should not sell product to homeowners and installers - some sell things like nontraditional systems.

Enforcement - administrative forfeitures as was done for plumbing last session (2005 Act 182 - 145.12(5))

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Comm 5.327 Manufactured home installer. (1) GENERAL. (a) Except as provided in par. (b), beginning on January 1, 2007, pursuant to s. 101.96, Stats., no person may install a manufactured home onto a foundation or other support system unless the person complies with one of the following conditions:

1. The person holds a license issued by the department as a licensed manufactured home installer.
2. The person is under the general supervision of another person who holds a license issued by the department as a licensed manufactured home installer.

(b) 1. The owner of a manufactured home who will reside in the home may install his or her own manufactured home without holding a license as a licensed manufactured home installer. This exemption does not apply to the owner who contracts for or otherwise arranges for the installation.

2. A person is not required to hold a license as a licensed manufactured home installer for electrical, plumbing or HVAC work associated with the installation of a manufactured home.

Note: There may be other state or local licensing requirements involved in the installation of manufactured homes.

(2) QUALIFICATIONS FOR LICENSE. A person applying for a manufactured home installer license shall comply with all of the following conditions:

- (a) The person is at least 18 years old.
- (b) The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the 2 years before the date on which the person's license application is submitted.

Note: See appendix for a reprint of section 101.96, Stats.

(c) The person has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the person's license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

(3) APPLICATION FOR LICENSE. (a) A person may apply for a license as a licensed manufactured home installer by submitting an application, an application fee and the license fee in accordance with ss. Comm 5.01 and 5.02 and one of the following:

1. Evidence that the person holds a manufactured home installer license issued by the federal department of housing and urban development.
2. Evidence that the person holds a manufactured home installer license issued by a state administrative agency (SAA) that has an installer licensing program that is equivalent to the rules under this section.
3. Evidence that the person has completed at least 12 hours in an approved course or courses in the installation of manufactured homes within one year prior to the date of application. The course or courses shall include instruction in at least the following subject matter and one or more tests on the subject matter:

- a. Soil mechanics.
- b. Site preparation.
- c. Structural support, stabilization and anchorage.
- d. Setting.
- e. Ventilation of crawl spaces.
- f. Connections, plumbing, electrical, HVAC.
- g. Joining of home sections.

(b) 1. A person may apply for a license as a licensed manufactured home installer by submitting an application, an application fee and the license fee in accordance with ss. Comm 5.01 and 5.02 and evidence that the person has actively participated in the installation of at least 10 manufactured homes.

2. This paragraph does not apply after June 1, 2007.

(4) RESPONSIBILITIES. A person who installs or supervises the installation of manufactured homes as a licensed manufactured

home installer shall be responsible for compliance with the installation requirements in chs. Comm 21 and 27.

(5) RENEWAL. (a) 1. A person may renew his or her license as a manufactured home installer.

2. A manufactured home installer license shall be renewed in accordance with s. Comm 5.07.

(b) 1. The renewal of a license as a manufactured home installer shall be contingent upon the manufactured home installer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

2. A person who holds a license as a manufactured home installer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(c) The renewal of a license as a manufactured home installer shall be contingent upon all of the following conditions:

1. The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the previous 2 years.

2. The person has not been found responsible in any judicial or administrative forum during the previous 2 years for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

History: CR 06-071: cr. Register November 2006 No. 611, eff. 12-1-06.

Comm 5.33 Soil testers. (1) GENERAL. Pursuant to s. 145.045, Stats., no person may conduct soil evaluations relative to the discharge or disposal of liquid domestic wastes into the soil unless the person holds a certification issued by the department as a certified soil tester.

(2) APPLICATION FOR EXAMINATION. A person applying to take a soil tester certification examination shall submit all of the following:

- (a) An application in accordance with s. Comm 5.01.
- (b) An application fee and examination fee specified in s. Comm 5.02, Table 5.02.

(3) QUALIFICATIONS FOR EXAMINATION. A person applying to take a soil tester certification examination shall be at least 18 years old.

(4) EXAMINATION. A person seeking to obtain a soil tester certification shall take and pass an examination in accordance with s. Comm 5.09.

(5) APPLICATION FOR CERTIFICATION. Upon notification of the successful passage of the examination for soil tester certification, a person may obtain the certification by submitting an application and a certification fee in accordance with ss. Comm 5.01 and 5.09

(7) (c).

(6) RESPONSIBILITIES. A certified soil tester who, as either an employee of a local governmental unit or under contract to a local governmental unit, is responsible for administering regulations governing privately owned wastewater treatment systems may not provide soil evaluations relative to the design, installation or maintenance of private sewage systems within the boundaries of the local governmental unit.

(7) RENEWAL. (a) 1. A person may renew his or her certification as a soil tester.

2. A soil tester certification shall be renewed in accordance with s. Comm 5.07.

(b) 1. a. The renewal of a certification as a certified soil tester which has an expiration date on or before June 30, 2006 shall be contingent upon the soil tester obtaining at least 6 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DNate

Gen

1 AN ACT ...; relating to: restrictions relating to soil testing and the installation
2 and sale of private sewage systems.

Analysis by the Legislative Reference Bureau

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

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

3 SECTION 1. 145.12 (5) (a) of the statutes is amended to read:

4 145.12 (5) (a) In lieu of any other penalty under this section, the department
5 may directly assess a forfeiture by issuing an order against any person who violates
6 s. 145.06 or 145.20 (6). The department may not assess a forfeiture exceeding \$2,000
7 for each violation.

8 History: 1971 c. 255; 1981 c. 20, 60; 1983 a. 410; 1993 a. 482; 1995 a. 225; 2005 a. 182.

SECTION 2. 145.20 (6) of the statutes is created to read:

9 145.20 (6) RESTRICTIONS ON REVIEWERS AND INSPECTORS. (a) A person who
10 reviews soil tester reports under sub. (2) (a) for a governmental unit may not conduct

1 any activities for which certification is required under s. 145.045 (1) for private
2 persons.

3 (b) A person who inspects private sewage systems under sub. (2) (d) for a
4 governmental unit may not install private sewage systems in this state.

5 (c) An employee of a governmental unit with responsibilities related to private
6 sewage systems may not sell private sewage systems or components of private
7 sewage systems in this state.

8 **SECTION 3. Effective date.**

9 (1) This act takes effect on the first day of the 7th month beginning after
10 publication.

11 (END)

ONote

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

LRB-2124/P1dn
RCT. kjf

Date

Mike Bruhn:

This is a preliminary draft of the proposal concerning outside work by septic system inspectors and soil testers who work for counties.

I included "for private persons" at the end of proposed s. 145.20 (6) (a) because I thought that a soil tester employed by a county might sometimes conduct soil tests as part of his or her work for the county.

I included a delayed effective date to allow those who would be affected by the proposal to learn about it and adjust to it. Please let me know if you would prefer a different effective date.

Please review the draft carefully and let me know if you have any questions or redraft instructions.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2124/P1dn
RCT:kjf:pg

March 30, 2007

Mike Bruhn:

This is a preliminary draft of the proposal concerning outside work by septic system inspectors and soil testers who work for counties.

I included "for private persons" at the end of proposed s. 145.20 (6) (a) because I thought that a soil tester employed by a county might sometimes conduct soil tests as part of his or her work for the county.

I included a delayed effective date to allow those who would be affected by the proposal to learn about it and adjust to it. Please let me know if you would prefer a different effective date.

Please review the draft carefully and let me know if you have any questions or redraft instructions.

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

5/3/07 Mtg with Ann Gryphon and Pat Essie

They want all 3 prohibitions to apply to any govt. unit employee who has has responsibility or authority over any of the matters under S. 145.20 (2). Also prohibit them from designing private sewage systems.

Pat



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2124/1

RCT:kjf:pg

SOON (in 5/4)

VMV

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to amend* 145.12 (5) (a); and *to create* 145.20 (6) of the statutes;
2 **relating to:** restrictions relating to soil testing and the installation, ^{design,} and sale of
3 private sewage systems, ^{and providing a penalty}

Analysis by the Legislative Reference Bureau

^{Insert analysis} This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 145.12 (5) (a) of the statutes is amended to read:
5 145.12 (5) (a) In lieu of any other penalty under this section, the department
6 may directly assess a forfeiture by issuing an order against any person who violates
7 s. 145.06 or 145.20 (6). The department may not assess a forfeiture exceeding \$2,000
8 for each violation.

9 SECTION 2. 145.20 (6) of the statutes is created to read:

10 145.20 (6) RESTRICTIONS ON REVIEWERS AND INSPECTORS. (a) A person who
11 reviews soil tester reports under sub. (2) (a) for a governmental unit may not conduct

Insert 1-10

1 any activities for which certification is required under s. 145.045 (1) for private
2 persons.

3 (b) A person who inspects private sewage systems under sub. (2) (d) for a
4 governmental unit may not install private sewage systems in this state.

5 (c) An employee of a governmental unit with responsibilities related to private
6 sewage systems may not sell private sewage systems or components of private
7 sewage systems in this state.

INSO
2-78

8 **SECTION 3. Effective date.**

9 (1) This act takes effect on the first day of the 7th month beginning after
10 publication.

11 (END)

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2124/lins
RCT:.....

Analysis Insert

Current law makes certain local governmental units, generally counties, responsible for the regulation of septic systems and other private sewage systems. For example, the law requires the local governmental units to review soil test reports and to inspect private sewage systems after construction but before backfilling.

This bill prohibits a local governmental unit employee who has responsibilities related to the regulation of private sewage systems from doing any of the following:

1. Performing soil testing.
2. Installing private sewage systems in this state.
3. Selling private sewage systems.
4. Designing private sewage systems for installation in this state.

The bill authorizes the Department of Commerce to directly assess a forfeiture of no more than \$2,000 against a person who violates the prohibitions created in the bill.

Insert 1-10

X not An governmental unit employee who has responsibilities related to any of the activities under sub. (2) (a) to (i) may not do any of the following:

Insert 2-7

- (d) Design private sewage systems for installation in this state.

Tradewell, Becky

From: Ann Gryphan [agryphan@ekgmail.com]
Sent: Monday, July 09, 2007 2:29 PM
To: Tradewell, Becky
Subject: RE: WOWRA conflict-of-interest bill draft

Ms. Tradewell,

I have consulted with others and I believe the language you have proposed below will work well for the bill draft. Thank you for your assistance.

Ann Gryphan
Essie Kammer Group
16 N. Carroll St., Suite 900
Madison WI 53703
(608) 256-7701

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Tuesday, July 03, 2007 4:13 PM
To: Ann Gryphan
Subject: RE: WOWRA conflict-of-interest bill draft

Ms. Gryphan,

I would propose the following language for paragraphs (a) and (b):

- (a) Conduct any activities for which certification is required under s. 145.045 (1), except that the employee may review and verify soil tester reports as provided in sub. (2) (a).
 - (b) Install, design, maintain, repair, or sell a private sewage system, component of a private sewage system, drainfield designed to serve a private sewage system, or pipe from a private sewage system to the immediate inside of the existing or proposed foundation wall of the building served by the private sewage system.
- Please note that the term "private sewage system" is defined in s. 145.01 (12). "Private onsite wastewater treatment system" is not used in the statutes.

If you feel that the proposed language would allow the local governmental employees to engage in activities that WOWRA wishes to prohibit, please let me know what those activities are. Also, please let me know if you have questions about the language.

Rebecca Tradewell
Managing Attorney
Legislative Reference Bureau
(608) 266-7290

From: Ann Gryphan [mailto:agryphan@ekgmail.com]
Sent: Monday, June 18, 2007 10:13 AM
To: Tradewell, Becky
Cc: Essie, Patrick - EKG
Subject: WOWRA conflict-of-interest bill draft

Ms. Tradewell,

07/09/2007

Thank you for taking the time to meet with us last week to discuss WOWRA's conflict-of-interest bill draft. Upon your suggestion of last Monday, the board has agreed to not list prohibitions based on license categories. The board did, however, have a suggestion for revising Section 2 that they believe will capture all intended parties. I would appreciate if you could take a look at the suggested Section 2 language below and let me know if you feel this language would be appropriate, legally speaking. Please note: 145.20(6)(b) is a reference to existing statute 145.14(2)(a)

SECTION 2. 145.20 (6) of the statutes is created to read:

145.20 **(6)** RESTRICTIONS ON REVIEWERS AND INSPECTORS. A governmental unit employee who has responsibilities related to any of the activities under sub. (2) (a) to (i) may not do any of the following:

(a) Conduct any activities for which certification is required under s. 145.045 (1), except as allowed in s. 145.20 (1)(b) or s. 145.20 (2)(a);

(b) Conduct any of the activities listed below as they apply to private onsite wastewater treatment systems or system components, drainfields designed to serve such treatment systems or components, and the sewer service from the POWTS or POWTS treatment components or sewer extensions to the immediate inside or proposed inside foundation wall of the building:

1. Installation
2. Design
3. Maintenance and repair
4. Sales

Ann Gryphan
Essie Kammer Group
Wisconsin Onsite Wastewater Recycling Association
16 N. Carroll St., Suite 900
Madison WI 53703
(608) 256-7701



SOON (m7/10)

1/MT

2007 BILL

Ragen

1 AN ACT *to amend* 145.12 (5) (a); and *to create* 145.20 (6) of the statutes;
 2 **relating to:** restrictions relating to soil testing and the installation, design,
 3 and sale of private sewage systems and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law makes certain local governmental units, generally counties, responsible for the regulation of septic systems and other private sewage systems. For example, the law requires the local governmental units to review soil test reports and to inspect private sewage systems after construction but before backfilling.

This bill prohibits a local governmental unit employee who has responsibilities related to the regulation of private sewage systems from doing any of the following:

1. Performing soil testing.
2. Installing private sewage systems ~~in this state.~~ *maintaining or repairing*
3. Selling private sewage systems.
4. Designing private sewage systems for ~~installation in this state.~~

The bill authorizes the Department of Commerce to directly assess a forfeiture of no more than \$2,000 against a person who violates the prohibitions created in the bill.

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

Tradewell, Becky

From: Ann Gryphan [agryphan@ekgmail.com]
Sent: Wednesday, July 11, 2007 1:21 PM
To: Bruhn, Mike
Cc: Tradewell, Becky
Subject: FW: WOWRA draft
Attachments: 07-21242.pdf

Mike,

Thank you for the email with the bill draft. One minor thing, there seems to be a comma missing in paragraph (b) so there isn't any confusion as to the meaning:

(b) Install, design, maintain, repair, or sell a private sewage system (insert comma here) component of a private sewage system ...

It should read " private sewage system, component of a private sewage system" ...

Thank you.

Ann Gryphan
Essie Kammer Group
16 N. Carroll St., Suite 900
Madison WI 53703
(608) 256-7701

From: Patrick Essie
Sent: Wednesday, July 11, 2007 1:06 PM
To: Ann Gryphan
Subject: FW: drat

Patrick Essie
Essie Kammer Group
16 N. Carroll St., Suite 900
Madison, WI 53703
ph: 608-256-7701
fx: 608-251-8192
e-mail: pessie@ekgmail.com
website: www.essiekammergroup.com

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07/11/2007

communication in error, please immediately notify the sender and destroy this e-mail and any attachments.
Thank you for your cooperation.

From: Bruhn, Mike [mailto:Mike.Bruhn@legis.wisconsin.gov]
Sent: Wednesday, July 11, 2007 12:00 PM
To: Patrick Essie
Subject: drat



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2124/3

RCT:kjf:nwn

SOON (m 7/16)

CMF

2007 BILL

Regen

- 1 AN ACT *to amend* 145.12 (5) (a); and *to create* 145.20 (6) of the statutes;
- 2 **relating to:** restrictions relating to soil testing and the installation, design,
- 3 *maintenance, repair,* and sale of private sewage systems and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law makes certain local governmental units, generally counties, responsible for the regulation of septic systems and other private sewage systems. For example, the law requires the local governmental units to review soil test reports and to inspect private sewage systems after construction but before backfilling.

This bill prohibits a local governmental unit employee who has responsibilities related to the regulation of private sewage systems from doing any of the following:

1. Performing soil testing.
2. Installing, maintaining, or repairing private sewage systems.
3. Selling private sewage systems.
4. Designing private sewage systems.

The bill authorizes the Department of Commerce to directly assess a forfeiture of no more than \$2,000 against a person who violates the prohibitions created in the bill.

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

Due st, Christina

From: Bruhn, Mike
Sent: Tuesday, August 28, 2007 9:13 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-2124/3 Topic: Limits on outside work by soil inspectors and septic system inspectors working for local governments

Please Jacket LRB 07-2124/3 for the ASSEMBLY.