




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**


Date Transfer Requested: 01/06/2015 (Per: CMH & MPG)


Compile Draft – Appendix G


Appendix A  The 2015 drafting file for LRB-0797


Appendix B  The 2015 drafting file for LRB-0799

Appendix C  The 2015 drafting file for LRB-0800

Appendix D  The 2015 drafting file for LRB-0852

Appendix E  The 2015 drafting file for LRB-0872

Appendix F  The 2015 drafting file for LRB-0906

Appendix G  The 2015 drafting file for LRB-0941

has been copied/added to the drafting file for

2015 LRB-0807

2015 DRAFTING REQUEST

Bill

Received: **12/16/2014** Received By: **rkite**
Wanted: **As time permits** Same as LRB:
For: **Legislative Reference Bureau** By/Representing:
May Contact: Drafter: **rkite**
Subject: **Buildings/Safety - misc.** Addl. Drafters: **rkite**
Extra Copies: **MPG**

Submit via email: **NO**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation of private on-site wastewater treatment systems

Instructions:

Transfer DSPS responsibilities for regulation of private on-site wastewater systems to DFIIPS;
underlying draft for compile for budget BB0259

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>
/?	rkite 12/16/2014			_____			
/P1	rkite 12/18/2014	csicilia 12/17/2014	rschluet 12/17/2014	_____	srose 12/17/2014		State S&L
/P2		csicilia		_____	mbarman		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		12/19/2014			12/19/2014		S&L

FE Sent For:

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/?	rkite 12/16/2014			_____			
/P1		csicilia 12/17/2014	rschluet 12/17/2014	_____	srose 12/17/2014		State S&L

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<i>P2 cjs</i> $\frac{12/19}{14}$	$\frac{12/19}{14}$ <END>	<i>P2 cjs</i> $\frac{12/19}{14}$
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Instructions:

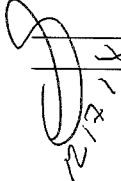
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Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? rkite
12/16/2014

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csicilia
P1 cjs 12/17/14
P1 cjs 12/17/14


State
S&L

FE Sent For:

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY



Under current law, DSPS administers the laws regulating private on-site wastewater treatment systems. Generally, a private on-site wastewater treatment system is a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. Current law also requires certain local governmental units to enact ordinances regulating private on-site wastewater treatment systems.

This bill transfers DSPS's responsibilities with respect to administration of the laws regulating private on-site wastewater treatment systems to DNR.

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:

X

2 **SECTION 1.** 145.01 (12) of the statutes is amended to read:

3 145.01 (12) PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM. "Private on-site
4 wastewater treatment system" means a sewage treatment and disposal system

1 serving a single structure with a septic tank and soil absorption field located on the
 2 same parcel as the structure. This term also means an alternative sewage system
 3 approved by the department of natural resources including a substitute for the septic
 4 tank or soil absorption field, a holding tank, a system serving more than one
 5 structure or a system located on a different parcel than the structure. A private
 6 on-site wastewater treatment system may be owned by the property owner or by a
 7 special purpose district.

History: 1971 c. 255; 1977 c. 314; 1979 c. 34, 221; 1981 c. 20; 1983 a. 189, 410, 538; 1991 a. 39; 1993 a. 213, 322; 1995 a. 27 ss. 4355 and 9116 (5); 1995 a. 227; 2009 a. 200, 291; 2011 a. 32, 146; 2013 a. 124; 2013 a. 173 s. 33.

8 **SECTION 2.** 145.02 (title) of the statutes is amended to read:

9 **145.02 (title) Powers of the department of financial institutions,**
 10 **insurance, and professional standards and the department of natural**
 11 **resources.**

X 12 History: 1971 c. 194; 1973 c. 90; 1975 c. 39; 1977 c. 275, 314; 1979 c. 34, 221; 1981 c. 341; 1983 a. 410; 1993 a. 27, 213, 322; 1995 a. 27; 2011 a. 32.

12 **SECTION 3.** 145.02 (2) of the statutes is amended to read:

13 145.02 (2) The Except as provided in sub. (2m), the department shall have
 14 general supervision of all such plumbing and shall after public hearing prescribe and
 15 publish and enforce reasonable standards therefor which shall be uniform and of
 16 statewide concern so far as practicable. Any employee designated by the department
 17 may act for the department in holding such public hearing. To the extent that the
 18 historic building code applies to the subject matter of these standards, the standards
 19 do not apply to a qualified historic building if the owner elects to be subject to s.
 20 101.121.

21 History: 1971 c. 194; 1973 c. 90; 1975 c. 39; 1977 c. 275, 314; 1979 c. 34, 221; 1981 c. 341; 1983 a. 410; 1993 a. 27, 213, 322; 1995 a. 27; 2011 a. 32.

21 **SECTION 4.** 145.02 (2m) of the statutes is created to read:

1 145.02 (2m) The department of natural resources shall have general
2 supervision of private on-site wastewater treatment systems and shall promulgate ✓
3 rules establishing standards for those systems.

 ****NOTE: Do you want to give DNR any other powers with regard to these systems?
See DSPTS powers in current law under s. 145.02, stats. RNK

4 **SECTION 5.** 145.045 (1) of the statutes is amended to read:

5 145.045 (1) POWERS AND DUTIES. The department shall by rule establish an
6 examining program for the certification of soil testers, setting such standards as the
7 department finds necessary to accomplish the purposes of this chapter. Such
8 standards shall include formal written examinations for all applicants. The
9 department shall charge applicants for the cost of examination and certification.
10 After July 1, 1974, no person may construct soil bore holes or conduct soil percolation
11 tests or other similar tests specified by the department of natural resources that
12 relate to private on-site wastewater treatment systems unless the person holds a
13 valid certificate issued under this section. ✓

History: 1973 c. 287; 1975 c. 41; 1979 c. 34, 221; 1993 a. 482; 2007 a. 147; 2011 a. 146.

 ****NOTE: Are these changes consistent with the intent of the request? That is, will
the mentioned tests be "specified" by DNR? Also, I have assumed that DFIIPS will retain
authority to certify all soil testers. Is this correct? RNK

14 **SECTION 6.** 145.045 (2) of the statutes is amended to read:

15 145.045 (2) REVOCATION OF CERTIFICATE. The department may revoke or
16 suspend the certification of any soil tester but only after a formal hearing for the
17 practice of any fraud or deceit in obtaining the certificate or any gross negligence,
18 incompetence or misconduct in the practice of soil testing.

History: 1973 c. 287; 1975 c. 41; 1979 c. 34, 221; 1993 a. 482; 2007 a. 147; 2011 a. 146.

 ****NOTE: If you give DNR the authority to certify soil testers, this provision must
be amended. See the previous note. RNK ✓

19 **SECTION 7.** 145.045 (3) of the statutes is amended to read:

1 145.045 (3) PLUMBERS AND SEPTIC TANK INSTALLERS. A plumber or septic tank
 2 installer may also be a soil tester and install any system after approval of the site or
 3 project by the department of financial institutions, insurance, and professional
 4 standards, the department of natural resources, or the governmental unit
 5 responsible for the regulation of private on-site wastewater treatment systems.

History: 1973 c. 287; 1975 c. 41; 1979 c. 34, 221; 1993 a. 482; 2007 a. 147; 2011 a. 146.

****NOTE: Are these changes consistent with the intent of the request? RNK

6 **SECTION 8.** 145.14 (2) (a) of the statutes is amended to read:

7 145.14 (2) (a) *Systems or services.* Persons classified under this paragraph may
 8 install septic tanks for private on-site wastewater treatment systems, may install
 9 drain fields designed to serve such septic tanks, and may install sewer service from
 10 the septic tank or sewer extensions from mains to the immediate inside or proposed
 11 inside foundation wall of the building. Such persons may also install water services,
 12 stormwater use systems, and reclaimed water systems if the services or systems are
 13 to be located outside the foundation wall of the building.

History: 2007 a. 147; 2009 a. 200; 2011 a. 146.

****NOTE: Do you want to give DNR any authority to classify plumbers for the purpose of this paragraph? If so, this paragraph will need amending. RNK

14 **SECTION 9.** 145.19 (1b) of the statutes is amended to read:

15 145.19 (1b) **DEFINITION.** In this section, "sanitary permit" means a permit
 16 authorizing the installation of a private on-site wastewater treatment system that
 17 is issued by the department of natural resources or any governmental unit
 18 responsible for the regulation of private on-site wastewater treatment systems.

History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

19 **SECTION 10.** 145.19 (1m) of the statutes is amended to read:

20 145.19 (1m) **APPLICATION PROCESS.** The department of natural resources shall
 21 prescribe the information to be included in an application for a sanitary permit. The
 22 applicant shall submit the completed application for a sanitary permit to the

1 governmental unit. The governmental unit shall approve or disapprove the sanitary
2 permit according to the rules promulgated by the department of natural resources
3 under this chapter.

History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

4 **SECTION 11.** 145.19 (2) of the statutes is amended to read:

5 145.19 (2) FEE. No fee for a sanitary permit may be less than the amount
6 determined ~~under~~ by the department of natural resources by rule. The governing
7 body for the governmental unit responsible for the regulation of private on-site
8 wastewater treatment systems may establish a fee for a sanitary permit which is
9 more than the amount determined ~~under~~ by the department of natural resources by
10 rule. A governmental unit may not charge more than one fee for a sanitary permit
11 or the renewal of a sanitary permit in any 12-month period.

History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

12 **SECTION 12.** 145.19 (3) of the statutes is amended to read:

13 **145.19 (3) FEES AND RECORDS OF PERMITS FORWARDED TO THE DEPARTMENT** The
14 governmental unit responsible for the regulation of private on-site wastewater
15 treatment systems shall forward to the department of natural resources within 90
16 days after each valid permit is issued a portion of the fee, as determined ~~under~~ by the
17 department of natural resources by rule. The governmental unit shall also compile
18 a periodic summary of the permits that it has issued. The summary shall contain the
19 information required by the department of natural resources by rule, and shall be
20 submitted by the governmental unit to the department of natural resources at
21 intervals to be determined by the department of natural resources by rule.

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History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

22 **SECTION 13.** 145.19 (6) of the statutes is amended to read:

23 145.19 (6) GROUNDWATER FEE. In addition to the fee under sub. (2), the
24 governmental unit responsible for the regulation of private on-site wastewater

1 treatment systems shall collect a groundwater fee of \$25 for each sanitary permit.
 2 The governmental unit shall forward this fee to the department of natural resources
 3 together with the fee under sub. (3). The moneys collected under this subsection
 4 shall be credited to the environmental fund for environmental management.

History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

5 **SECTION 14.** 145.19 (7) of the statutes is amended to read:

6 145.19 (7) PERIOD OF VALIDITY. A sanitary permit is valid for 2 years from the
 7 date of issue and renewable for similar periods thereafter. A sanitary permit shall
 8 remain valid to the end of the established period, notwithstanding any change in the
 9 state plumbing code or in any private on-site wastewater treatment system
 10 ordinance during that period.

History: 1979 c. 34, 221; 1983 a. 27; 1983 a. 189 s. 329 (20); 1983 a. 410; 1987 a. 27; 1989 a. 31; 1997 a. 27; 2011 a. 146 ss. 63 to 65, 68 to 74.

****NOTE: Given that DNR will be issuing sanitary permits, I'm not sure whether
 the reference to the plumbing code in this provision should be deleted. Please advise.
 RNK

11 **SECTION 15.** 145.20 (2) (e) of the statutes is amended to read:

12 145.20 (2) (e) File reports and conduct surveys and inspections as required by
 13 the governmental unit responsible for the regulation of private on-site wastewater
 14 treatment systems or the department of natural resources.

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; 1999 a. 150 s. 672; 2005 a. 347
 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

15 **SECTION 16.** 145.20 (2) (g) of the statutes is amended to read:

16 145.20 (2) (g) Perform other duties regarding private on-site wastewater
 17 treatment systems as considered appropriate by the governmental unit responsible
 18 for the regulation of private on-site wastewater treatment systems or as required by
 19 the rules of the department of natural resources.

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; 1999 a. 150 s. 672; 2005 a. 347
 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

20 **SECTION 17.** 145.20 (3) (title) of the statutes is amended to read:

1 145.20 (3) (title) DEPARTMENT OF NATURAL RESOURCES RESPONSIBILITIES.

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; 1999 a. 150 s. 672; 2005 a. 347 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

2 **SECTION 18.** 145.20 (3) (a) 1. of the statutes is amended to read:

3 145.20 (3) (a) 1. The department of natural resources may specify categories
4 of private on-site wastewater treatment systems for which approval by the
5 department of natural resources is required prior to issuance of sanitary permits by
6 the governmental unit responsible for the regulation of private on-site wastewater
7 treatment 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; 1999 a. 150 s. 672; 2005 a. 347 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

8 **SECTION 19.** 145.20 (3) (a) 2. of the statutes is amended to read:

9 145.20 (3) (a) 2. The department of natural resources may exempt a
10 governmental unit from any category of private on-site wastewater treatment
11 systems for which ~~departmental~~ approval by the department of natural resources is
12 required prior to sanitary permit issuance under subd. 1., upon a determination, in
13 accordance with rules promulgated by the department of natural resources, that past
14 performance of the governmental unit on reviews and audits under par. (b) has been
15 satisfactory and that the governmental unit has the capacity to give the same level
16 of application and plan review as that provided by the department of natural
17 resources. The department of natural resources may revoke an exemption upon a
18 finding that performance of the governmental unit on a review or audit conducted
19 subsequent to the granting of the exemption is unsatisfactory or that the
20 governmental unit is not giving the same level of application and plan review as that
21 provided by the department of natural resources. Findings in a revocation action
22 may be made only after a public hearing upon 30 days' advance notice to the clerk
23 of the governmental unit. The department of natural resources shall submit a report

1 under s.13.172 (2) to the chief clerk of each house of the legislature, at the beginning
2 of each legislative session, describing the exemptions under this subdivision.

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; 1999 a. 150 s. 672; 2005 a. 347 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

3 **SECTION 20.** 145.20 (3) (b) of the statutes is amended to read:

4 145.20 (3) (b) The department of natural resources shall review the private
5 on-site wastewater treatment system program in each governmental unit
6 responsible for the regulation of private on-site wastewater treatment systems to
7 ascertain compliance with sub. (2) and with regulations issued by the department of
8 natural resources. This review shall include a random audit of sanitary permits,
9 including verification by on-site inspection.

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; 1999 a. 150 s. 672; 2005 a. 347 ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

10 **SECTION 21.** 145.20 (3) (c) of the statutes is amended to read:

11 145.20 (3) (c) If the governing body for a governmental unit responsible for the
12 regulation of private on-site wastewater treatment systems does not adopt a private
13 on-site wastewater treatment system ordinance meeting the requirements of s.
14 59.70 (5) or if the governmental unit does not appoint personnel meeting the
15 requirements of sub. (1) or if the governmental unit does not comply with the
16 requirements of sub. (2) or s. 145.19 (3), the department of natural resources may
17 conduct hearings in the county seat upon 30 days' notice to the county clerk. As soon
18 as practicable after the public hearing, the department of natural resources shall
19 issue a written decision regarding compliance with s. 59.70 (5) or 145.19 (3) or sub.
20 (1) or (2). If the department of natural resources determines that there is a violation
21 of these provisions, the governmental unit may not issue a sanitary permit for the

1 installation of a private on-site wastewater treatment system until the violation is
2 corrected.

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; 1999 a. 150 s. 672; 2005 a. 347
ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

3 **SECTION 22.** 145.20 (3) (d) of the statutes is amended to read:

4 145.20 (3) (d) The department of natural resources shall conduct training and
5 informational programs for officials of the governmental unit responsible for the
6 regulation of private on-site wastewater treatment systems and employees and
7 persons licensed under this chapter and s. 281.48 and certified as operators of
8 septage servicing vehicles under s. 281.17 (3) to improve the delivery of service under
9 the private on-site wastewater treatment system program. The department of
10 natural resources shall obtain the assistance of the Wisconsin counties association
11 in planning and conducting the training and informational programs.

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; 1999 a. 150 s. 672; 2005 a. 347
ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

****NOTE: Is this provision consistent with the intent of the request? That is, do
you want DNR to do all of the training described in this paragraph? RNK

12 **SECTION 23.** 145.20 (5) (a) of the statutes is amended to read:

13 145.20 (5) (a) The department of natural resources shall establish a
14 maintenance program to be administered by governmental units responsible for the
15 regulation of private on-site wastewater treatment systems. The department of
16 natural resources shall determine the private on-site wastewater treatment
17 systems to which the maintenance program applies. At a minimum the maintenance
18 program is applicable to all new or replacement private on-site wastewater
19 treatment systems constructed in a governmental unit after the date on which the
20 governmental unit adopts this program. The department of natural resources may
21 apply the maintenance program by rule to private on-site wastewater treatment
22 systems constructed in a governmental unit responsible for the regulation of private

SECTION 23

1 on-site wastewater treatment systems on or before the date on which the
2 governmental unit adopts the program. The department of natural resources shall
3 determine the private on-site wastewater treatment systems to which the
4 maintenance program applies in governmental units that do not meet the conditions
5 for eligibility under s. 145.245 (9).

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; 1999 a. 150 s. 672; 2005 a. 347
ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

6 **SECTION 24.** 145.20 (5) (b) of the statutes is amended to read:

7 145.20 (5) (b) The maintenance program shall include a requirement of
8 inspection or pumping of the private on-site wastewater treatment system at least
9 once every 3 years if the private on-site wastewater treatment system does not have
10 a maintenance plan as prescribed by rule by the department of natural resources.
11 Inspections may be conducted by a master plumber, journeyman plumber or
12 restricted plumber licensed under this chapter, a person licensed under s. 281.48 or
13 by an employee of the state or governmental unit designated by the department of
14 natural resources, and the department of natural resources may determine by rule
15 other persons who are qualified to undertake required inspection, maintenance, or
16 repairs. The department of natural resources shall specify the methods to establish
17 the required frequency of inspection, maintenance, and pumping for each type of
18 private on-site wastewater treatment system that does not have a maintenance plan
19 and shall periodically update the methods.

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; 1999 a. 150 s. 672; 2005 a. 347
ss. 12, 14; 2007 a. 197; 2009 a. 392; 2011 a. 32, 134, 146; 2013 a. 165.

20 **SECTION 25.** 145.23 of the statutes is amended to read:

21 **145.23 Rules.** The department of natural resources may make and enforce
22 rules relating to lot size and lot elevation necessary for proper sanitary conditions

1 in the development and maintenance of subdivisions not served by a public sewer,
2 where provision for such service has not been made.

History: 1979 c. 221 ss. 607, 649.

***NOTE: Is this change consistent with the intent of this draft? Should DFHPS
retain any rule-making authority on this issue? RNK

3 **SECTION 26.** 145.24 (1) of the statutes is amended to read:

4 145.24 (1) If an existing private on-site wastewater treatment system either
5 is not located in soil meeting the siting standards or is not constructed in accordance
6 with design standards promulgated under s. 145.02 or 145.13, the owner of the
7 private on-site wastewater treatment system may petition the department of
8 natural resources for a variance to the siting or design standards.

History: 1983 a. 410; 2011 a. 146.

9 **SECTION 27.** 145.24 (2) of the statutes is amended to read:

10 145.24 (2) The department of natural resources shall establish procedures for
11 the review and evaluation of existing private on-site wastewater treatment systems
12 which do not comply with siting or design standards.

History: 1983 a. 410; 2011 a. 146.

13 **SECTION 28.** 145.24 (3) of the statutes is amended to read:

14 145.24 (3) Upon receipt of a petition for a variance, the department of natural
15 resources shall require the owner of the private on-site wastewater treatment
16 system to submit information necessary to evaluate the request for a variance. If the
17 department of natural resources determines that the existing private on-site
18 wastewater treatment system is not a failing private on-site wastewater treatment
19 system, and continued use of the existing private on-site wastewater treatment
20 system will not pose a threat of contamination of waters of the state, then the
21 department of natural resources may issue a variance to allow continued use of the
22 existing private on-site wastewater treatment system. The department of natural
23 resources shall rescind the variance if the existing private on-site wastewater

1 treatment system becomes a failing private on-site wastewater treatment system or
2 contaminates waters of the state.

History: 1983 a. 410; 2011 a. 146.

3 **SECTION 29.** 236.13 (2m) of the statutes is amended to read:

4 **236.13 (2m)** As a further condition of approval when lands included in the plat
5 lie within 500 feet of the ordinary high-water mark of any lake, any navigable
6 stream, or any other body of navigable water or if land in the proposed plat involves
7 lake or navigable stream shorelands referred to in s. 236.16, the department of
8 natural resources, to prevent pollution of navigable waters, ~~or the department of~~
9 ~~safety and professional services,~~ and to protect the public health and safety, may
10 require assurance of adequate drainage areas for private on-site wastewater
11 treatment systems and building setback restrictions, or provisions by the owner for
12 public sewage disposal facilities for waters of the state, as defined in s. 281.01 (18),
13 industrial wastes, as defined in s. 281.01 (5), and other wastes, as defined in s. 281.01
14 (7). The public sewage disposal facilities may consist of one or more systems as the
15 department of natural resources ~~or the department of safety and professional~~
16 ~~services~~ determines on the basis of need for prevention of pollution of the waters of
17 the state or protection of public health and safety.

History: 1977 c. 29 ss. 1384, 1654 (8) (c); 1977 c. 162; 1979 c. 221, 248; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30; 2007 a. 44; 2009 a. 372, 376; 2011 a. 32, 146; 2013 a. 280, 358; s. 13.92 (2) (i).

****NOTE: Are these changes consistent with the intent of this drafting request?

RNK

18 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
19 **Services.**

20 (1) ELIMINATION OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES.

21 (a) *Assets and liabilities.* Except as provided in subsection (2), on the effective
22 date of this paragraph, the assets and liabilities of the department of safety and

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1 professional services become the assets and liabilities of the department of financial
2 institutions, insurance, and professional standards.

3 (b) *Positions and employees.* Except as provided in subsection (2), on the
4 effective date of this paragraph, all positions and all incumbent employees in the
5 classified service of the state civil service holding those positions in the department
6 of safety and professional services are transferred to the department of financial
7 institutions, insurance, and professional standards.

8 (c) *Employee status.* Employees transferred under paragraph (b) have all the
9 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
10 statutes in the department of financial institutions, insurance, and professional
11 standards that they enjoyed in the department of safety and professional services
12 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
13 no employee so transferred who has attained permanent status in class is required
14 to serve a probationary period.

15 (d) *Tangible personal property.* Except as provided in subsection (2), on the
16 effective date of this paragraph, all tangible personal property, including records, of
17 the department of safety and professional services is transferred to the department
18 of financial institutions, insurance, and professional standards.

19 (e) *Pending matters.* Except as provided in subsection (2), any matter pending
20 with the department of safety and professional services on the effective date of this
21 paragraph is transferred to the department of financial institutions, insurance, and
22 professional standards. Except as provided in subsection (2), all materials submitted
23 to or actions taken by the department of safety and professional services are
24 considered as having been submitted to or taken by the department of financial
25 institutions, insurance, and professional standards.

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SECTION 9138

1 (f) *Contracts*. Except as provided in subsection (2), all contracts entered into
 2 by the department of safety and professional services in effect on the effective date
 3 of this paragraph remain in effect and are transferred to the department of financial
 4 institutions, insurance, and professional standards. The department of financial
 5 institutions, insurance, and professional standards shall carry out any obligations
 6 under those contracts unless modified or rescinded by that department to the extent
 7 allowed under the contract.

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8 (g) *Rules and orders*. Except as provided in subsection (2), all rules
 9 promulgated by the department of safety and professional services in effect on the
 10 effective date of this paragraph remain in effect until their specified expiration dates
 11 or until amended or repealed by the department of financial institutions, insurance,
 12 and professional standards. Except as provided in subsection (2), all orders issued
 13 by the department of safety and professional services in effect on the effective date
 14 of this paragraph remain in effect until their specified expiration dates or until
 15 modified or rescinded by the department of financial institutions, insurance, and
 16 professional standards.

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use
a.r. [X]

17 (2) REGULATION OF PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS.

18 (a) *Assets and liabilities*. On the effective date of this paragraph, the assets and
 19 liabilities of the department of safety and professional services that are primarily
 20 related to the regulation of private on-site wastewater treatment systems, as
 21 determined by the secretary of administration, become the assets and liabilities of
 22 the department of natural resources.

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23 (b) *Positions and employees*. On the effective date of this paragraph, all
 24 positions and all incumbent employees in the classified service of the state civil
 25 service holding those positions in the department of safety and professional services

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a.r. [X]

1 with duties that are primarily related to the regulation of private on-site wastewater
2 treatment systems, as determined by the secretary of administration, are
3 transferred to the department of natural resources.

4 (c) *Employee status.* Employees transferred under paragraph (b) have all the
5 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
6 statutes in the department of natural resources that they enjoyed in the department
7 of safety and professional services immediately before the transfer.
8 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
9 has attained permanent status in class is required to serve a probationary period.

10 (d) *Tangible personal property.* On the effective date of this paragraph, all
11 tangible personal property, including records, of the department of safety and
12 professional services that are primarily related to the regulation of private on-site
13 wastewater treatment systems, as determined by the secretary of administration, is
14 transferred to the department of natural resources.

15 (e) *Pending matters.* Any matter pending with the department of safety and
16 professional services on the effective date of this paragraph that is primarily related
17 to the regulation of private on-site wastewater treatment systems, as determined by
18 the secretary of administration, is transferred to the department of natural
19 resources. All materials submitted to or actions taken by the department of safety
20 and professional services that are primarily related to the regulation of private
21 on-site wastewater treatment systems, as determined by the secretary of
22 administration, are considered as having been submitted to or taken by the
23 department of natural resources.

24 (f) *Contracts.* All contracts entered into by the department of safety and
25 professional services in effect on the effective date of this paragraph that are

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1 primarily related to the regulation of private on-site wastewater treatment systems,
2 as determined by the secretary of administration, remain in effect and are
3 transferred to the department of natural resources. The department of natural
4 resources shall carry out any obligations under those contracts unless modified or
5 rescinded by that department to the extent allowed under the contract.

6 (g) *Rules and orders.* All rules promulgated by the department of safety and
7 professional services in effect on the effective date of this paragraph that relate to
8 the regulation of private on-site wastewater treatment systems, as determined by
9 the secretary of administration, remain in effect until their specified expiration dates
10 or until amended or repealed by the department of natural resources. All orders
11 issued by the department of safety and professional services in effect on the effective
12 date of this paragraph that relate to the regulation of private on-site wastewater
13 treatment systems, as determined by the secretary of administration, remain in
14 effect until their specified expiration dates or until modified or rescinded by the
15 department of natural resources.

16 (END)

Kite, Robin

From: Kite, Robin
Sent: Thursday, December 18, 2014 1:53 PM
To: 'Potts, Andrew R - DOA'
Subject: RE: POWTS regulation appropriation

I already drafted a nonstatutory provision transferring employees whose positions are primarily related to the regulation of POWTS to DNR. I don't think that any drafting is necessary to transfer funding because presumably this function is currently funded from DSPS's general program operations appropriation which is an annual appropriation. So I think all you need to do is adjust the schedule accordingly. I will simply amend the appropriation language under s. 20.370 (4) (mq) to provide that this appropriation will fund the POWTS regulation.

Robin

From: Potts, Andrew R - DOA [mailto:Andrew.Potts@wisconsin.gov]
Sent: Thursday, December 18, 2014 1:32 PM
To: Kite, Robin
Subject: FW: POWTS regulation appropriation

From: Byrnes, Tyler - DOA
Sent: Thursday, December 18, 2014 1:31 PM
To: Potts, Andrew R - DOA
Subject: POWTS regulation appropriation

Andy – the FTE and funding for POWTS regulation should be transferred to s.20.370(4)(mq) - General program operations - environmental fund.

Tyler



State of Wisconsin
2015 - 2016 LEGISLATURE

Due 1/7/19



LRB-0941/P1
RNK:cjs:rs

p2

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In
1/7/18

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

Analysis by the Legislative Reference Bureau
SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS administers the laws regulating private on-site wastewater treatment systems. Generally, a private on-site wastewater treatment system is a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. Current law also requires certain local governmental units to enact ordinances regulating private on-site wastewater treatment systems.

This bill transfers DSPS's responsibilities with respect to administration of the laws regulating private on-site wastewater treatment systems to DNR.

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:

INS.
1-1

2 SECTION 1. 145.01 (12) of the statutes is amended to read:

3 145.01 (12) PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM. "Private on-site
4 wastewater treatment system" means a sewage treatment and disposal system

1 serving a single structure with a septic tank and soil absorption field located on the
2 same parcel as the structure. This term also means an alternative sewage system
3 approved by the department of natural resources including a substitute for the septic
4 tank or soil absorption field, a holding tank, a system serving more than one
5 structure or a system located on a different parcel than the structure. A private
6 on-site wastewater treatment system may be owned by the property owner or by a
7 special purpose district.

8 SECTION 2. 145.02 (title) of the statutes is amended to read:

9 145.02 (title) **Powers of the department of financial institutions,**
10 **insurance, and professional standards and the department of natural**
11 **resources.**

12 SECTION 3. 145.02 (2) of the statutes is amended to read:

13 145.02 (2) The Except as provided in sub. (2m), the department shall have
14 general supervision of all such plumbing and shall after public hearing prescribe and
15 publish and enforce reasonable standards therefor which shall be uniform and of
16 statewide concern so far as practicable. Any employee designated by the department
17 may act for the department in holding such public hearing. To the extent that the
18 historic building code applies to the subject matter of these standards, the standards
19 do not apply to a qualified historic building if the owner elects to be subject to s.
20 101.121.

21 SECTION 4. 145.02 (2m) of the statutes is created to read:

22 145.02 (2m) The department of natural resources shall have general
23 supervision of private on-site wastewater treatment systems and shall promulgate
24 rules establishing standards for those systems.

****NOTE: Do you want to give DNR any other powers with regard to these systems?
See DSPS powers in current law under s. 145.02, stats. RNK

1 **SECTION 5.** 145.045 (1) of the statutes is amended to read:

2 145.045 (1) POWERS AND DUTIES. The department shall by rule establish an
3 examining program for the certification of soil testers, setting such standards as the
4 department finds necessary to accomplish the purposes of this chapter. Such
5 standards shall include formal written examinations for all applicants. The
6 department shall charge applicants for the cost of examination and certification.
7 After July 1, 1974, no person may construct soil bore holes or conduct soil percolation
8 tests or other similar tests specified by the department of natural resources that
9 relate to private on-site wastewater treatment systems unless the person holds a
10 valid certificate issued under this section.

****NOTE: Are these changes consistent with the intent of the request? That is, will
the mentioned tests be "specified" by DNR? Also, I have assumed that DFIIPS will retain
authority to certify all soil testers. Is this correct? RNK

11 **SECTION 6.** 145.045 (2) of the statutes is amended to read:

12 145.045 (2) REVOCATION OF CERTIFICATE. The department may revoke or
13 suspend the certification of any soil tester but only after a formal hearing for the
14 practice of any fraud or deceit in obtaining the certificate or any gross negligence,
15 incompetence or misconduct in the practice of soil testing.

****NOTE: If you give DNR the authority to certify soil testers, this provision must
be amended. See the previous note. RNK

16 **SECTION 7.** 145.045 (3) of the statutes is amended to read:

17 145.045 (3) PLUMBERS AND SEPTIC TANK INSTALLERS. A plumber or septic tank
18 installer may also be a soil tester and install any system after approval of the site or
19 project by the department of financial institutions, insurance, and professional
20 standards, the department of natural resources, or the governmental unit
21 responsible for the regulation of private on-site wastewater treatment systems.

****NOTE: Are these changes consistent with the intent of the request? RNK

1 SECTION 8. 145.14 (2) (a) of the statutes is amended to read:

2 145.14 (2) (a) *Systems or services*. Persons classified under this paragraph may
3 install septic tanks for private on-site wastewater treatment systems, may install
4 drain fields designed to serve such septic tanks, and may install sewer service from
5 the septic tank or sewer extensions from mains to the immediate inside or proposed
6 inside foundation wall of the building. Such persons may also install water services,
7 stormwater use systems, and reclaimed water systems if the services or systems are
8 to be located outside the foundation wall of the building.

****NOTE: Do you want to give DNR any authority to classify plumbers for the
purpose of this paragraph? If so, this paragraph will need amending. RNK

9 SECTION 9. 145.19 (1b) of the statutes is amended to read:

10 145.19 (1b) DEFINITION. In this section, "sanitary permit" means a permit
11 authorizing the installation of a private on-site wastewater treatment system that
12 is issued by the department of natural resources or any governmental unit
13 responsible for the regulation of private on-site wastewater treatment systems.

14 SECTION 10. 145.19 (1m) of the statutes is amended to read:

15 145.19 (1m) APPLICATION PROCESS. The department of natural resources shall
16 prescribe the information to be included in an application for a sanitary permit. The
17 applicant shall submit the completed application for a sanitary permit to the
18 governmental unit. The governmental unit shall approve or disapprove the sanitary
19 permit according to the rules promulgated by the department of natural resources
20 under this chapter.

21 SECTION 11. 145.19 (2) of the statutes is amended to read:

22 145.19 (2) FEE. No fee for a sanitary permit may be less than the amount
23 determined ~~under~~ by the department of natural resources by rule. The governing

1 body for the governmental unit responsible for the regulation of private on-site
2 wastewater treatment systems may establish a fee for a sanitary permit which is
3 more than the amount determined under by the department of natural resources by
4 rule. A governmental unit may not charge more than one fee for a sanitary permit
5 or the renewal of a sanitary permit in any 12-month period.

6 **SECTION 12.** 145.19 (3) of the statutes is amended to read:

7 145.19 (3) FEES AND RECORDS OF PERMITS FORWARDED TO THE DEPARTMENT OF
8 NATURAL RESOURCES. The governmental unit responsible for the regulation of private
9 on-site wastewater treatment systems shall forward to the department of natural
10 resources within 90 days after each valid permit is issued a portion of the fee, as
11 determined under by the department of natural resources by rule. The
12 governmental unit shall also compile a periodic summary of the permits that it has
13 issued. The summary shall contain the information required by the department of
14 natural resources by rule, and shall be submitted by the governmental unit to the
15 department of natural resources at intervals to be determined by the department of
16 natural resources by rule.

17 **SECTION 13.** 145.19 (6) of the statutes is amended to read:

18 145.19 (6) GROUNDWATER FEE. In addition to the fee under sub. (2), the
19 governmental unit responsible for the regulation of private on-site wastewater
20 treatment systems shall collect a groundwater fee of \$25 for each sanitary permit.
21 The governmental unit shall forward this fee to the department of natural resources
22 together with the fee under sub. (3). The moneys collected under this subsection
23 shall be credited to the environmental fund for environmental management.

24 **SECTION 14.** 145.19 (7) of the statutes is amended to read:

1 145.19 (7) PERIOD OF VALIDITY. A sanitary permit is valid for 2 years from the
2 date of issue and renewable for similar periods thereafter. 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 on-site wastewater treatment system
5 ordinance during that period.

 ****NOTE: Given that DNR will be issuing sanitary permits, I'm not sure whether
 the reference to the plumbing code in this provision should be deleted. Please advise.
 RNK

6 **SECTION 15.** 145.20 (2) (e) of the statutes is amended to read:

7 145.20 (2) (e) File reports and conduct surveys and inspections as required by
8 the governmental unit responsible for the regulation of private on-site wastewater
9 treatment systems or the department of natural resources.

10 **SECTION 16.** 145.20 (2) (g) of the statutes is amended to read:

11 145.20 (2) (g) Perform other duties regarding private on-site wastewater
12 treatment systems as considered appropriate by the governmental unit responsible
13 for the regulation of private on-site wastewater treatment systems or as required by
14 the rules of the department of natural resources.

15 **SECTION 17.** 145.20 (3) (title) of the statutes is amended to read:

16 145.20 (3) (title) DEPARTMENT OF NATURAL RESOURCES RESPONSIBILITIES.

17 **SECTION 18.** 145.20 (3) (a) 1. of the statutes is amended to read:

18 145.20 (3) (a) 1. The department of natural resources may specify categories
19 of private on-site wastewater treatment systems for which approval by the
20 department of natural resources is required prior to issuance of sanitary permits by
21 the governmental unit responsible for the regulation of private on-site wastewater
22 treatment systems.

23 **SECTION 19.** 145.20 (3) (a) 2. of the statutes is amended to read:

1 145.20 (3) (a) 2. The department of natural resources may exempt a
2 governmental unit from any category of private on-site wastewater treatment
3 systems for which ~~departmental approval by the department of natural resources~~ is
4 required prior to sanitary permit issuance under subd. 1., upon a determination, in
5 accordance with rules promulgated by the department of natural resources, that past
6 performance of the governmental unit on reviews and audits under par. (b) has been
7 satisfactory and that the governmental unit has the capacity to give the same level
8 of application and plan review as that provided by the department of natural
9 resources. The department of natural resources may revoke an exemption upon a
10 finding that performance of the governmental unit on a review or audit conducted
11 subsequent to the granting of the exemption is unsatisfactory or that the
12 governmental unit is not giving the same level of application and plan review as that
13 provided by the department of natural resources. Findings in a revocation action
14 may be made only after a public hearing upon 30 days' advance notice to the clerk
15 of the governmental unit. The department of natural resources shall submit a report
16 under s.13.172 (2) to the chief clerk of each house of the legislature, at the beginning
17 of each legislative session, describing the exemptions under this subdivision.

18 **SECTION 20.** 145.20 (3) (b) of the statutes is amended to read:

19 145.20 (3) (b) The department of natural resources shall review the private
20 on-site wastewater treatment system program in each governmental unit
21 responsible for the regulation of private on-site wastewater treatment systems to
22 ascertain compliance with sub. (2) and with regulations issued by the department of
23 natural resources. This review shall include a random audit of sanitary permits,
24 including verification by on-site inspection.

25 **SECTION 21.** 145.20 (3) (c) of the statutes is amended to read:

1 145.20 (3) (c) If the governing body for a governmental unit responsible for the
2 regulation of private on-site wastewater treatment systems does not adopt a private
3 on-site wastewater treatment system ordinance meeting the requirements of s.
4 59.70 (5) or if the governmental unit does not appoint personnel meeting the
5 requirements of sub. (1) or if the governmental unit does not comply with the
6 requirements of sub. (2) or s. 145.19 (3), the department of natural resources may
7 conduct hearings in the county seat upon 30 days' notice to the county clerk. As soon
8 as practicable after the public hearing, the department of natural resources shall
9 issue a written decision regarding compliance with s. 59.70 (5) or 145.19 (3) or sub.
10 (1) or (2). If the department of natural resources determines that there is a violation
11 of these provisions, the governmental unit may not issue a sanitary permit for the
12 installation of a private on-site wastewater treatment system until the violation is
13 corrected.

14 **SECTION 22.** 145.20 (3) (d) of the statutes is amended to read:

15 145.20 (3) (d) The department of natural resources shall conduct training and
16 informational programs for officials of the governmental unit responsible for the
17 regulation of private on-site wastewater treatment systems and employees and
18 persons licensed under this chapter and s. 281.48 and certified as operators of
19 septage servicing vehicles under s. 281.17 (3) to improve the delivery of service under
20 the private on-site wastewater treatment system program. The department of
21 natural resources shall obtain the assistance of the Wisconsin counties association
22 in planning and conducting the training and informational programs.

 ****NOTE: Is this provision consistent with the intent of the request? That is, do
you want DNR to do all of the training described in this paragraph? RNK

23 **SECTION 23.** 145.20 (5) (a) of the statutes is amended to read:

1 145.20 (5) (a) The department of natural resources shall establish a
2 maintenance program to be administered by governmental units responsible for the
3 regulation of private on-site wastewater treatment systems. The department of
4 natural resources shall determine the private on-site wastewater treatment
5 systems to which the maintenance program applies. At a minimum the maintenance
6 program is applicable to all new or replacement private on-site wastewater
7 treatment systems constructed in a governmental unit after the date on which the
8 governmental unit adopts this program. The department of natural resources may
9 apply the maintenance program by rule to private on-site wastewater treatment
10 systems constructed in a governmental unit responsible for the regulation of private
11 on-site wastewater treatment systems on or before the date on which the
12 governmental unit adopts the program. The department of natural resources shall
13 determine the private on-site wastewater treatment systems to which the
14 maintenance program applies in governmental units that do not meet the conditions
15 for eligibility under s. 145.245 (9).

16 SECTION 24. 145.20 (5) (b) of the statutes is amended to read:

17 145.20 (5) (b) The maintenance program shall include a requirement of
18 inspection or pumping of the private on-site wastewater treatment system at least
19 once every 3 years if the private on-site wastewater treatment system does not have
20 a maintenance plan as prescribed by rule by the department of natural resources.
21 Inspections may be conducted by a master plumber, journeyman plumber or
22 restricted plumber licensed under this chapter, a person licensed under s. 281.48 or
23 by an employee of the state or governmental unit designated by the department of
24 natural resources, and the department of natural resources may determine by rule
25 other persons who are qualified to undertake required inspection, maintenance, or

1 repairs. The department of natural resources shall specify the methods to establish
2 the required frequency of inspection, maintenance, and pumping for each type of
3 private on-site wastewater treatment system that does not have a maintenance plan
4 and shall periodically update the methods.

5 **SECTION 25.** 145.23 of the statutes is amended to read:

6 **145.23 Rules.** The department of natural resources may make and enforce
7 rules relating to lot size and lot elevation necessary for proper sanitary conditions
8 in the development and maintenance of subdivisions not served by a public sewer,
9 where provision for such service has not been made.

***NOTE: Is this change consistent with the intent of this draft? Should DFIIPS
retain any rule-making authority on this issue? RNK

10 **SECTION 26.** 145.24 (1) of the statutes is amended to read:

11 145.24 (1) If an existing private on-site wastewater treatment system either
12 is not located in soil meeting the siting standards or is not constructed in accordance
13 with design standards promulgated under s. 145.02 or 145.13, the owner of the
14 private on-site wastewater treatment system may petition the department of
15 natural resources for a variance to the siting or design standards.

16 **SECTION 27.** 145.24 (2) of the statutes is amended to read:

17 145.24 (2) The department of natural resources shall establish procedures for
18 the review and evaluation of existing private on-site wastewater treatment systems
19 which do not comply with siting or design standards.

20 **SECTION 28.** 145.24 (3) of the statutes is amended to read:

21 145.24 (3) Upon receipt of a petition for a variance, the department of natural
22 resources shall require the owner of the private on-site wastewater treatment
23 system to submit information necessary to evaluate the request for a variance. If the

1 department of natural resources determines that the existing private on-site
2 wastewater treatment system is not a failing private on-site wastewater treatment
3 system, and continued use of the existing private on-site wastewater treatment
4 system will not pose a threat of contamination of waters of the state, then the
5 department of natural resources may issue a variance to allow continued use of the
6 existing private on-site wastewater treatment system. The department of natural
7 resources shall rescind the variance if the existing private on-site wastewater
8 treatment system becomes a failing private on-site wastewater treatment system or
9 contaminates waters of the state.

10 SECTION 29. 236.13 (2m) of the statutes is amended to read:

11 236.13 (2m) As a further condition of approval when lands included in the plat
12 lie within 500 feet of the ordinary high-water mark of any lake, any navigable
13 stream, or any other body of navigable water or if land in the proposed plat involves
14 lake or navigable stream shorelands referred to in s. 236.16, the department of
15 natural resources, to prevent pollution of navigable waters, ~~or the department of~~
16 ~~safety and professional services,~~ and to protect the public health and safety, may
17 require assurance of adequate drainage areas for private on-site wastewater
18 treatment systems and building setback restrictions, or provisions by the owner for
19 public sewage disposal facilities for waters of the state, as defined in s. 281.01 (18),
20 industrial wastes, as defined in s. 281.01 (5), and other wastes, as defined in s. 281.01
21 (7). The public sewage disposal facilities may consist of one or more systems as the
22 department of natural resources ~~or the department of safety and professional~~
23 ~~services~~ determines on the basis of need for prevention of pollution of the waters of
24 the state or protection of public health and safety.

****NOTE: Are these changes consistent with the intent of this drafting request?

RNK

1 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
2 **Services.**

3 (1) ELIMINATION OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES.

4 (a) *Assets and liabilities.* Except as provided in subsection (2), on the effective
5 date of this paragraph, the assets and liabilities of the department of safety and
6 professional services become the assets and liabilities of the department of financial
7 institutions, insurance, and professional standards.

8 (b) *Positions and employees.* Except as provided in subsection (2), on the
9 effective date of this paragraph, all positions and all incumbent employees in the
10 classified service of the state civil service holding those positions in the department
11 of safety and professional services are transferred to the department of financial
12 institutions, insurance, and professional standards.

13 (c) *Employee status.* Employees transferred under paragraph (b) have all the
14 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
15 statutes in the department of financial institutions, insurance, and professional
16 standards that they enjoyed in the department of safety and professional services
17 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
18 no employee so transferred who has attained permanent status in class is required
19 to serve a probationary period.

20 (d) *Tangible personal property.* Except as provided in subsection (2), on the
21 effective date of this paragraph, all tangible personal property, including records, of
22 the department of safety and professional services is transferred to the department
23 of financial institutions, insurance, and professional standards.

1 (e) *Pending matters.* Except as provided in subsection (2), any matter pending
2 with the department of safety and professional services on the effective date of this
3 paragraph is transferred to the department of financial institutions, insurance, and
4 professional standards. Except as provided in subsection (2), all materials submitted
5 to or actions taken by the department of safety and professional services are
6 considered as having been submitted to or taken by the department of financial
7 institutions, insurance, and professional standards.

8 (f) *Contracts.* Except as provided in subsection (2), all contracts entered into
9 by the department of safety and professional services in effect on the effective date
10 of this paragraph remain in effect and are transferred to the department of financial
11 institutions, insurance, and professional standards. The department of financial
12 institutions, insurance, and professional standards shall carry out any obligations
13 under those contracts unless modified or rescinded by that department to the extent
14 allowed under the contract.

15 (g) *Rules and orders.* Except as provided in subsection (2), all rules
16 promulgated by the department of safety and professional services in effect on the
17 effective date of this paragraph remain in effect until their specified expiration dates
18 or until amended or repealed by the department of financial institutions, insurance,
19 and professional standards. Except as provided in subsection (2), all orders issued
20 by the department of safety and professional services in effect on the effective date
21 of this paragraph remain in effect until their specified expiration dates or until
22 modified or rescinded by the department of financial institutions, insurance, and
23 professional standards.

24 (2) REGULATION OF PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS.

1 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
2 liabilities of the department of safety and professional services that are primarily
3 related to the regulation of private on-site wastewater treatment systems, as
4 determined by the secretary of administration, become the assets and liabilities of
5 the department of natural resources.

6 (b) *Positions and employees.* On the effective date of this paragraph, all
7 positions and all incumbent employees in the classified service of the state civil
8 service holding those positions in the department of safety and professional services
9 with duties that are primarily related to the regulation of private on-site wastewater
10 treatment systems, as determined by the secretary of administration, are
11 transferred to the department of natural resources.

12 (c) *Employee status.* Employees transferred under paragraph (b) have all the
13 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
14 statutes in the department of natural resources that they enjoyed in the department
15 of safety and professional services immediately before the transfer.
16 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
17 has attained permanent status in class is required to serve a probationary period.

18 (d) *Tangible personal property.* On the effective date of this paragraph, all
19 tangible personal property, including records, of the department of safety and
20 professional services that are primarily related to the regulation of private on-site
21 wastewater treatment systems, as determined by the secretary of administration, is
22 transferred to the department of natural resources.

23 (e) *Pending matters.* Any matter pending with the department of safety and
24 professional services on the effective date of this paragraph that is primarily related
25 to the regulation of private on-site wastewater treatment systems, as determined by

1 the secretary of administration, is transferred to the department of natural
2 resources. All materials submitted to or actions taken by the department of safety
3 and professional services that are primarily related to the regulation of private
4 on-site wastewater treatment systems, as determined by the secretary of
5 administration, are considered as having been submitted to or taken by the
6 department of natural resources.

7 (f) *Contracts.* All contracts entered into by the department of safety and
8 professional services in effect on the effective date of this paragraph that are
9 primarily related to the regulation of private on-site wastewater treatment systems,
10 as determined by the secretary of administration, remain in effect and are
11 transferred to the department of natural resources. The department of natural
12 resources shall carry out any obligations under those contracts unless modified or
13 rescinded by that department to the extent allowed under the contract.

14 (g) *Rules and orders.* All rules promulgated by the department of safety and
15 professional services in effect on the effective date of this paragraph that relate to
16 the regulation of private on-site wastewater treatment systems, as determined by
17 the secretary of administration, remain in effect until their specified expiration dates
18 or until amended or repealed by the department of natural resources. All orders
19 issued by the department of safety and professional services in effect on the effective
20 date of this paragraph that relate to the regulation of private on-site wastewater
21 treatment systems, as determined by the secretary of administration, remain in
22 effect until their specified expiration dates or until modified or rescinded by the
23 department of natural resources.

24

(END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0941/P2ins.
RNK:.....

INSERT 1-1

1 SECTION 1. 20.370 (4) (mq) of the statutes is amended to read:
2 20.370 (4) (mq) *General program operations — environmental fund.* From the
3 environmental fund, the amounts in the schedule for administration of
4 environmental activities under chs. 160, 281, and 283 and for administration of
5 activities related to the regulation of private on-site wastewater treatment systems
6 under ch. 145.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; 2013 a. 1; 2013 a. 20 ss. 214, 217, 218, 219, 220, 221, 276 to 289; 2013 a. 72, 80; 2013 a. 165 s. 114; s. 35.17 correction in (2) (g).



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0941/P2
RNK:cjs:cs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau
SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS administers the laws regulating private on-site wastewater treatment systems. Generally, a private on-site wastewater treatment system is a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. Current law also requires certain local governmental units to enact ordinances regulating private on-site wastewater treatment systems.

This bill transfers DSPS's responsibilities with respect to administration of the laws regulating private on-site wastewater treatment systems to DNR.

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:

2 **SECTION 1.** 20.370 (4) (mq) of the statutes is amended to read:

3 20.370 (4) (mq) *General program operations — environmental fund.* From the
4 environmental fund, the amounts in the schedule for administration of

1 environmental activities under chs. 160, 281, and 283 and for administration of
2 activities related to the regulation of private on-site wastewater treatment systems
3 under ch. 145.

4 SECTION 2. 145.01 (12) of the statutes is amended to read:

5 145.01 (12) PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM. “Private on-site
6 wastewater treatment system” means a sewage treatment and disposal system
7 serving a single structure with a septic tank and soil absorption field located on the
8 same parcel as the structure. This term also means an alternative sewage system
9 approved by the department of natural resources including a substitute for the septic
10 tank or soil absorption field, a holding tank, a system serving more than one
11 structure or a system located on a different parcel than the structure. A private
12 on-site wastewater treatment system may be owned by the property owner or by a
13 special purpose district.

14 SECTION 3. 145.02 (title) of the statutes is amended to read:

15 145.02 (title) **Powers of the department of financial institutions,**
16 **insurance, and professional standards and the department of natural**
17 **resources.**

18 SECTION 4. 145.02 (2) of the statutes is amended to read:

19 145.02 (2) The Except as provided in sub. (2m), the department shall have
20 general supervision of all such plumbing and shall after public hearing prescribe and
21 publish and enforce reasonable standards therefor which shall be uniform and of
22 statewide concern so far as practicable. Any employee designated by the department
23 may act for the department in holding such public hearing. To the extent that the
24 historic building code applies to the subject matter of these standards, the standards

1 do not apply to a qualified historic building if the owner elects to be subject to s.
2 101.121.

3 **SECTION 5.** 145.02 (2m) of the statutes is created to read:

4 145.02 (2m) The department of natural resources shall have general
5 supervision of private on-site wastewater treatment systems and shall promulgate
6 rules establishing standards for those systems.

****NOTE: Do you want to give DNR any other powers with regard to these systems?
See DSFS powers in current law under s. 145.02, stats. RNK

7 **SECTION 6.** 145.045 (1) of the statutes is amended to read:

8 145.045 (1) POWERS AND DUTIES. The department shall by rule establish an
9 examining program for the certification of soil testers, setting such standards as the
10 department finds necessary to accomplish the purposes of this chapter. Such
11 standards shall include formal written examinations for all applicants. The
12 department shall charge applicants for the cost of examination and certification.
13 After July 1, 1974, no person may construct soil bore holes or conduct soil percolation
14 tests or other similar tests specified by the department of natural resources that
15 relate to private on-site wastewater treatment systems unless the person holds a
16 valid certificate issued under this section.

****NOTE: Are these changes consistent with the intent of the request? That is, will
the mentioned tests be "specified" by DNR? Also, I have assumed that DFIIPS will retain
authority to certify all soil testers. Is this correct? RNK

17 **SECTION 7.** 145.045 (2) of the statutes is amended to read:

18 145.045 (2) REVOCATION OF CERTIFICATE. The department may revoke or
19 suspend the certification of any soil tester but only after a formal hearing for the
20 practice of any fraud or deceit in obtaining the certificate or any gross negligence,
21 incompetence or misconduct in the practice of soil testing.

****NOTE: If you give DNR the authority to certify soil testers, this provision must be amended. See the previous note. RNK

1 **SECTION 8.** 145.045 (3) of the statutes is amended to read:

2 145.045 (3) PLUMBERS AND SEPTIC TANK INSTALLERS. A plumber or septic tank
3 installer may also be a soil tester and install any system after approval of the site or
4 project by the department of financial institutions, insurance, and professional
5 standards, the department of natural resources, or the governmental unit
6 responsible for the regulation of private on-site wastewater treatment systems.

****NOTE: Are these changes consistent with the intent of the request? RNK

7 **SECTION 9.** 145.14 (2) (a) of the statutes is amended to read:

8 145.14 (2) (a) *Systems or services.* Persons classified under this paragraph may
9 install septic tanks for private on-site wastewater treatment systems, may install
10 drain fields designed to serve such septic tanks, and may install sewer service from
11 the septic tank or sewer extensions from mains to the immediate inside or proposed
12 inside foundation wall of the building. Such persons may also install water services,
13 stormwater use systems, and reclaimed water systems if the services or systems are
14 to be located outside the foundation wall of the building.

****NOTE: Do you want to give DNR any authority to classify plumbers for the purpose of this paragraph? If so, this paragraph will need amending. RNK

15 **SECTION 10.** 145.19 (1b) of the statutes is amended to read:

16 145.19 (1b) DEFINITION. In this section, “sanitary permit” means a permit
17 authorizing the installation of a private on-site wastewater treatment system that
18 is issued by the department of natural resources or any governmental unit
19 responsible for the regulation of private on-site wastewater treatment systems.

20 **SECTION 11.** 145.19 (1m) of the statutes is amended to read:

1 145.19 (1m) APPLICATION PROCESS. The department of natural resources shall
2 prescribe the information to be included in an application for a sanitary permit. The
3 applicant shall submit the completed application for a sanitary permit to the
4 governmental unit. The governmental unit shall approve or disapprove the sanitary
5 permit according to the rules promulgated by the department of natural resources
6 under this chapter.

7 **SECTION 12.** 145.19 (2) of the statutes is amended to read:

8 145.19 (2) FEE. No fee for a sanitary permit may be less than the amount
9 determined ~~under~~ by the department of natural resources by rule. The governing
10 body for the governmental unit responsible for the regulation of private on-site
11 wastewater treatment systems may establish a fee for a sanitary permit which is
12 more than the amount determined ~~under~~ by the department of natural resources by
13 rule. A governmental unit may not charge more than one fee for a sanitary permit
14 or the renewal of a sanitary permit in any 12-month period.

15 **SECTION 13.** 145.19 (3) of the statutes is amended to read:

16 145.19 (3) FEES AND RECORDS OF PERMITS FORWARDED TO THE DEPARTMENT OF
17 NATURAL RESOURCES. The governmental unit responsible for the regulation of private
18 on-site wastewater treatment systems shall forward to the department of natural
19 resources within 90 days after each valid permit is issued a portion of the fee, as
20 determined ~~under~~ by the department of natural resources by rule. The
21 governmental unit shall also compile a periodic summary of the permits that it has
22 issued. The summary shall contain the information required by the department of
23 natural resources by rule, and shall be submitted by the governmental unit to the
24 department of natural resources at intervals to be determined by the department of
25 natural resources by rule.

1 **SECTION 14.** 145.19 (6) of the statutes is amended to read:

2 145.19 (6) GROUNDWATER FEE. In addition to the fee under sub. (2), the
3 governmental unit responsible for the regulation of private on-site wastewater
4 treatment systems shall collect a groundwater fee of \$25 for each sanitary permit.
5 The governmental unit shall forward this fee to the department of natural resources
6 together with the fee under sub. (3). The moneys collected under this subsection
7 shall be credited to the environmental fund for environmental management.

8 **SECTION 15.** 145.19 (7) of the statutes is amended to read:

9 145.19 (7) PERIOD OF VALIDITY. A sanitary permit is valid for 2 years from the
10 date of issue and renewable for similar periods thereafter. A sanitary permit shall
11 remain valid to the end of the established period, notwithstanding any change in the
12 state plumbing code or in any private on-site wastewater treatment system
13 ordinance during that period.

 ****NOTE: Given that DNR will be issuing sanitary permits, I'm not sure whether
the reference to the plumbing code in this provision should be deleted. Please advise.
RNK

14 **SECTION 16.** 145.20 (2) (e) of the statutes is amended to read:

15 145.20 (2) (e) File reports and conduct surveys and inspections as required by
16 the governmental unit responsible for the regulation of private on-site wastewater
17 treatment systems or the department of natural resources.

18 **SECTION 17.** 145.20 (2) (g) of the statutes is amended to read:

19 145.20 (2) (g) Perform other duties regarding private on-site wastewater
20 treatment systems as considered appropriate by the governmental unit responsible
21 for the regulation of private on-site wastewater treatment systems or as required by
22 the rules of the department of natural resources.

23 **SECTION 18.** 145.20 (3) (title) of the statutes is amended to read:

1 145.20 (3) (title) DEPARTMENT OF NATURAL RESOURCES RESPONSIBILITIES.

2 **SECTION 19.** 145.20 (3) (a) 1. of the statutes is amended to read:

3 145.20 (3) (a) 1. The department of natural resources may specify categories
4 of private on-site wastewater treatment systems for which approval by the
5 department of natural resources is required prior to issuance of sanitary permits by
6 the governmental unit responsible for the regulation of private on-site wastewater
7 treatment systems.

8 **SECTION 20.** 145.20 (3) (a) 2. of the statutes is amended to read:

9 145.20 (3) (a) 2. The department of natural resources may exempt a
10 governmental unit from any category of private on-site wastewater treatment
11 systems for which departmental approval by the department of natural resources is
12 required prior to sanitary permit issuance under subd. 1., upon a determination, in
13 accordance with rules promulgated by the department of natural resources, that past
14 performance of the governmental unit on reviews and audits under par. (b) has been
15 satisfactory and that the governmental unit has the capacity to give the same level
16 of application and plan review as that provided by the department of natural
17 resources. The department of natural resources may revoke an exemption upon a
18 finding that performance of the governmental unit on a review or audit conducted
19 subsequent to the granting of the exemption is unsatisfactory or that the
20 governmental unit is not giving the same level of application and plan review as that
21 provided by the department of natural resources. Findings in a revocation action
22 may be made only after a public hearing upon 30 days' advance notice to the clerk
23 of the governmental unit. The department of natural resources shall submit a report
24 under s.13.172 (2) to the chief clerk of each house of the legislature, at the beginning
25 of each legislative session, describing the exemptions under this subdivision.

1 **SECTION 21.** 145.20 (3) (b) of the statutes is amended to read:

2 145.20 (3) (b) The department of natural resources shall review the private
3 on-site wastewater treatment system program in each governmental unit
4 responsible for the regulation of private on-site wastewater treatment systems to
5 ascertain compliance with sub. (2) and with regulations issued by the department of
6 natural resources. This review shall include a random audit of sanitary permits,
7 including verification by on-site inspection.

8 **SECTION 22.** 145.20 (3) (c) of the statutes is amended to read:

9 145.20 (3) (c) If the governing body for a governmental unit responsible for the
10 regulation of private on-site wastewater treatment systems does not adopt a private
11 on-site wastewater treatment system ordinance meeting the requirements of s.
12 59.70 (5) or if the governmental unit does not appoint personnel meeting the
13 requirements of sub. (1) or if the governmental unit does not comply with the
14 requirements of sub. (2) or s. 145.19 (3), the department of natural resources may
15 conduct hearings in the county seat upon 30 days' notice to the county clerk. As soon
16 as practicable after the public hearing, the department of natural resources shall
17 issue a written decision regarding compliance with s. 59.70 (5) or 145.19 (3) or sub.
18 (1) or (2). If the department of natural resources determines that there is a violation
19 of these provisions, the governmental unit may not issue a sanitary permit for the
20 installation of a private on-site wastewater treatment system until the violation is
21 corrected.

22 **SECTION 23.** 145.20 (3) (d) of the statutes is amended to read:

23 145.20 (3) (d) The department of natural resources shall conduct training and
24 informational programs for officials of the governmental unit responsible for the
25 regulation of private on-site wastewater treatment systems and employees and

1 persons licensed under this chapter and s. 281.48 and certified as operators of
2 septage servicing vehicles under s. 281.17 (3) to improve the delivery of service under
3 the private on-site wastewater treatment system program. The department of
4 natural resources shall obtain the assistance of the Wisconsin counties association
5 in planning and conducting the training and informational programs.

****NOTE: Is this provision consistent with the intent of the request? That is, do
you want DNR to do all of the training described in this paragraph? RNK

6 **SECTION 24.** 145.20 (5) (a) of the statutes is amended to read:

7 145.20 (5) (a) The department of natural resources shall establish a
8 maintenance program to be administered by governmental units responsible for the
9 regulation of private on-site wastewater treatment systems. The department of
10 natural resources shall determine the private on-site wastewater treatment
11 systems to which the maintenance program applies. At a minimum the maintenance
12 program is applicable to all new or replacement private on-site wastewater
13 treatment systems constructed in a governmental unit after the date on which the
14 governmental unit adopts this program. The department of natural resources may
15 apply the maintenance program by rule to private on-site wastewater treatment
16 systems constructed in a governmental unit responsible for the regulation of private
17 on-site wastewater treatment systems on or before the date on which the
18 governmental unit adopts the program. The department of natural resources shall
19 determine the private on-site wastewater treatment systems to which the
20 maintenance program applies in governmental units that do not meet the conditions
21 for eligibility under s. 145.245 (9).

22 **SECTION 25.** 145.20 (5) (b) of the statutes is amended to read:

1 145.20 (5) (b) The maintenance program shall include a requirement of
2 inspection or pumping of the private on-site wastewater treatment system at least
3 once every 3 years if the private on-site wastewater treatment system does not have
4 a maintenance plan as prescribed by rule by the department of natural resources.
5 Inspections may be conducted by a master plumber, journeyman plumber or
6 restricted plumber licensed under this chapter, a person licensed under s. 281.48 or
7 by an employee of the state or governmental unit designated by the department of
8 natural resources, and the department of natural resources may determine by rule
9 other persons who are qualified to undertake required inspection, maintenance, or
10 repairs. The department of natural resources shall specify the methods to establish
11 the required frequency of inspection, maintenance, and pumping for each type of
12 private on-site wastewater treatment system that does not have a maintenance plan
13 and shall periodically update the methods.

14 **SECTION 26.** 145.23 of the statutes is amended to read:

15 **145.23 Rules.** The department of natural resources may make and enforce
16 rules relating to lot size and lot elevation necessary for proper sanitary conditions
17 in the development and maintenance of subdivisions not served by a public sewer,
18 where provision for such service has not been made.

 ***NOTE: Is this change consistent with the intent of this draft? Should DFIPS
retain any rule-making authority on this issue? RNK

19 **SECTION 27.** 145.24 (1) of the statutes is amended to read:

20 145.24 (1) If an existing private on-site wastewater treatment system either
21 is not located in soil meeting the siting standards or is not constructed in accordance
22 with design standards promulgated under s. 145.02 or 145.13, the owner of the

1 private on-site wastewater treatment system may petition the department of
2 natural resources for a variance to the siting or design standards.

3 **SECTION 28.** 145.24 (2) of the statutes is amended to read:

4 145.24 (2) The department of natural resources shall establish procedures for
5 the review and evaluation of existing private on-site wastewater treatment systems
6 which do not comply with siting or design standards.

7 **SECTION 29.** 145.24 (3) of the statutes is amended to read:

8 145.24 (3) Upon receipt of a petition for a variance, the department of natural
9 resources shall require the owner of the private on-site wastewater treatment
10 system to submit information necessary to evaluate the request for a variance. If the
11 department of natural resources determines that the existing private on-site
12 wastewater treatment system is not a failing private on-site wastewater treatment
13 system, and continued use of the existing private on-site wastewater treatment
14 system will not pose a threat of contamination of waters of the state, then the
15 department of natural resources may issue a variance to allow continued use of the
16 existing private on-site wastewater treatment system. The department of natural
17 resources shall rescind the variance if the existing private on-site wastewater
18 treatment system becomes a failing private on-site wastewater treatment system or
19 contaminates waters of the state.

20 **SECTION 30.** 236.13 (2m) of the statutes is amended to read:

21 236.13 (2m) As a further condition of approval when lands included in the plat
22 lie within 500 feet of the ordinary high-water mark of any lake, any navigable
23 stream, or any other body of navigable water or if land in the proposed plat involves
24 lake or navigable stream shorelands referred to in s. 236.16, the department of
25 natural resources, to prevent pollution of navigable waters, ~~or the department of~~

1 ~~safety and professional services, and~~ to protect the public health and safety, may
2 require assurance of adequate drainage areas for private on-site wastewater
3 treatment systems and building setback restrictions, or provisions by the owner for
4 public sewage disposal facilities for waters of the state, as defined in s. 281.01 (18),
5 industrial wastes, as defined in s. 281.01 (5), and other wastes, as defined in s. 281.01
6 (7). The public sewage disposal facilities may consist of one or more systems as the
7 department of natural resources ~~or the department of safety and professional~~
8 ~~services~~ determines on the basis of need for prevention of pollution of the waters of
9 the state or protection of public health and safety.

***NOTE: Are these changes consistent with the intent of this drafting request?

RNK

10 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
11 **Services.**

12 (1) ELIMINATION OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES.

13 (a) *Assets and liabilities.* Except as provided in subsection (2), on the effective
14 date of this paragraph, the assets and liabilities of the department of safety and
15 professional services become the assets and liabilities of the department of financial
16 institutions, insurance, and professional standards.

17 (b) *Positions and employees.* Except as provided in subsection (2), on the
18 effective date of this paragraph, all positions and all incumbent employees in the
19 classified service of the state civil service holding those positions in the department
20 of safety and professional services are transferred to the department of financial
21 institutions, insurance, and professional standards.

22 (c) *Employee status.* Employees transferred under paragraph (b) have all the
23 rights and the same status under subchapter V of chapter 111 and chapter 230 of the

1 statutes in the department of financial institutions, insurance, and professional
2 standards that they enjoyed in the department of safety and professional services
3 immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes,
4 no employee so transferred who has attained permanent status in class is required
5 to serve a probationary period.

6 (d) *Tangible personal property.* Except as provided in subsection (2), on the
7 effective date of this paragraph, all tangible personal property, including records, of
8 the department of safety and professional services is transferred to the department
9 of financial institutions, insurance, and professional standards.

10 (e) *Pending matters.* Except as provided in subsection (2), any matter pending
11 with the department of safety and professional services on the effective date of this
12 paragraph is transferred to the department of financial institutions, insurance, and
13 professional standards. Except as provided in subsection (2), all materials submitted
14 to or actions taken by the department of safety and professional services are
15 considered as having been submitted to or taken by the department of financial
16 institutions, insurance, and professional standards.

17 (f) *Contracts.* Except as provided in subsection (2), all contracts entered into
18 by the department of safety and professional services in effect on the effective date
19 of this paragraph remain in effect and are transferred to the department of financial
20 institutions, insurance, and professional standards. The department of financial
21 institutions, insurance, and professional standards shall carry out any obligations
22 under those contracts unless modified or rescinded by that department to the extent
23 allowed under the contract.

24 (g) *Rules and orders.* Except as provided in subsection (2), all rules
25 promulgated by the department of safety and professional services in effect on the

1 effective date of this paragraph remain in effect until their specified expiration dates
2 or until amended or repealed by the department of financial institutions, insurance,
3 and professional standards. Except as provided in subsection (2), all orders issued
4 by the department of safety and professional services in effect on the effective date
5 of this paragraph remain in effect until their specified expiration dates or until
6 modified or rescinded by the department of financial institutions, insurance, and
7 professional standards.

8 (2) REGULATION OF PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS.

9 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
10 liabilities of the department of safety and professional services that are primarily
11 related to the regulation of private on-site wastewater treatment systems, as
12 determined by the secretary of administration, become the assets and liabilities of
13 the department of natural resources.

14 (b) *Positions and employees.* On the effective date of this paragraph, all
15 positions and all incumbent employees in the classified service of the state civil
16 service holding those positions in the department of safety and professional services
17 with duties that are primarily related to the regulation of private on-site wastewater
18 treatment systems, as determined by the secretary of administration, are
19 transferred to the department of natural resources.

20 (c) *Employee status.* Employees transferred under paragraph (b) have all the
21 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
22 statutes in the department of natural resources that they enjoyed in the department
23 of safety and professional services immediately before the transfer.
24 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
25 has attained permanent status in class is required to serve a probationary period.

1 (d) *Tangible personal property.* On the effective date of this paragraph, all
2 tangible personal property, including records, of the department of safety and
3 professional services that are primarily related to the regulation of private on-site
4 wastewater treatment systems, as determined by the secretary of administration, is
5 transferred to the department of natural resources.

6 (e) *Pending matters.* Any matter pending with the department of safety and
7 professional services on the effective date of this paragraph that is primarily related
8 to the regulation of private on-site wastewater treatment systems, as determined by
9 the secretary of administration, is transferred to the department of natural
10 resources. All materials submitted to or actions taken by the department of safety
11 and professional services that are primarily related to the regulation of private
12 on-site wastewater treatment systems, as determined by the secretary of
13 administration, are considered as having been submitted to or taken by the
14 department of natural resources.

15 (f) *Contracts.* All contracts entered into by the department of safety and
16 professional services in effect on the effective date of this paragraph that are
17 primarily related to the regulation of private on-site wastewater treatment systems,
18 as determined by the secretary of administration, remain in effect and are
19 transferred to the department of natural resources. The department of natural
20 resources shall carry out any obligations under those contracts unless modified or
21 rescinded by that department to the extent allowed under the contract.

22 (g) *Rules and orders.* All rules promulgated by the department of safety and
23 professional services in effect on the effective date of this paragraph that relate to
24 the regulation of private on-site wastewater treatment systems, as determined by
25 the secretary of administration, remain in effect until their specified expiration dates

1 or until amended or repealed by the department of natural resources. All orders
2 issued by the department of safety and professional services in effect on the effective
3 date of this paragraph that relate to the regulation of private on-site wastewater
4 treatment systems, as determined by the secretary of administration, remain in
5 effect until their specified expiration dates or until modified or rescinded by the
6 department of natural resources.

7

(END)