

1989 Assembly Bill 767

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1989 WISCONSIN ACT 326

AN ACT *to renumber* 144.245 (1) (a); *to amend* 20.370 (4) (cf), 144.245 (1) (e), 144.245 (5) (a) 1, 144.245 (5) (a) 2, 144.245 (5) (a) 3, 144.245 (5) (c) 2 to 4, 144.245 (7) (c) and 144.245 (10); *to repeal and recreate* 144.245 (5) (d); and *to create* 144.245 (1) (a) and 144.245 (11) (d) of the statutes, **relating to:** the private sewage system replacement and rehabilitation program, granting rule-making authority and making an appropriation.

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

SECTION 1. 20.370 (4) (cf) of the statutes is amended to read:

20.370 **(4)** (cf) *Environmental aids — private sewage system replacement and rehabilitation.* From the general fund, as a continuing appropriation, the amounts in the schedule for financial assistance under the private sewage system replacement and rehabilitation program. Payments may be made from this appropriation for expenditures and for payment of encumbrances authorized under s. 144.24 (10), 1979 stats., and s. 144.245, regardless of when the encumbrances were incurred.

SECTION 1e. 144.245 (1) (a) of the statutes is renumbered 144.245 (1) (ae).

SECTION 1m. 144.245 (1) (a) of the statutes is created to read:

144.245 **(1)** (a) “Determination of failure” means any of the following:

1. A determination that a private sewage system is failing, according to the criteria under sub. (4), based on an inspection of the private sewage system by an employee of the state or a governmental unit who is certified to inspect private sewerage systems by the department of industry, labor and human relations.

2. A written enforcement order issued under s. 144.025 (2) (d), 145.02 (3) (f) or 145.20 (2) (f).

3. A written enforcement order issued under s. 146.13 by a governmental unit.

SECTION 1p. 144.245 (1) (e) of the statutes is amended to read:

144.245 **(1)** (e) “Small commercial establishment” means a commercial establishment or business place with a maximum daily waste water flow rate of less than 2,100 5,000 gallons per day.

SECTION 1s. 144.245 (5) (a) 1. of the statutes is amended to read:

144.245 **(5)** (a) 1. A person is eligible for grant funds under this section if he or she owns a principal residence which is served by a category 1 or 2 failing private sewerage system, if the residence was constructed prior to and inhabited on July 1, 1978, if the family income of the person does not exceed the income limitations under par. (c), if the residence is not located in an area served by a sewer and if ~~a written enforcement order was issued under s. 144.025 (2) (d), 145.02 (3) (f) or 145.20 (2) (f) or a written enforcement order under s. 146.13 was issued by a governmental unit~~ determination of failure is made prior to the rehabilitation or replacement of the failing private sewerage system.

SECTION 2. 144.245 (5) (a) 2. of the statutes is amended to read:

144.245 **(5)** (a) 2. A business is eligible for grant funds under this section if it owns a small commercial establishment which is served by a category 1 or 2 failing private sewage system, if the small commercial establishment was constructed prior to July 1, 1978, if the ~~income~~ gross revenue of the business does not exceed the ~~income limitations~~ limitation under par. (d), if the small

– 2 –

1989 Assembly Bill 767

commercial establishment is not located in an area served by a sewer and if a ~~written enforcement order was issued under s. 144.025 (2) (d), 145.02 (3) (f) or 145.20 (2) (f) or a written enforcement order was issued under s. 146.13 by a governmental unit~~ determination of failure is made prior to the rehabilitation or replacement of the private sewage system.

SECTION 2g. 144.245 (5) (a) 3. of the statutes is amended to read:

144.245 (5) (a) 3. A person who owns a principal residence or small commercial establishment which is served by a category 1 or 2 failing private sewage system ~~subject to a written enforcement order~~ may submit an application for grant funds during the 3-year period after the ~~order is issued~~ determination of failure is made. Grant funds may be awarded after work is completed if rehabilitation or replacement of the system meets all requirements of this section and rules promulgated under this section.

SECTION 2r. 144.245 (5) (c) 2. to 4. of the statutes are amended to read:

144.245 (5) (c) 2. Except as provided under subd. 4, annual family income shall be based upon the adjusted gross income of the owner and the owner's spouse, if any, as computed for Wisconsin income tax purposes for the taxable year prior to the year ~~of the enforcement order in which the determination of failure is made.~~ The county median income shall be determined based upon the most recent statistics published by the federal department of housing and urban development for the year prior to the year ~~of the enforcement order in which the determination of failure is made.~~

3. In order to be eligible for grant funds under this section, a person shall submit a copy of the designated income tax returns for the taxable year prior to the year ~~of the enforcement order in which the determination of failure is made~~ together with any application required by the governmental unit. For taxable year 1985 and earlier, the person shall submit a copy of his or her individual or combined Wisconsin income tax return. For taxable year 1986 and thereafter, the person shall submit a copy of his or her joint Wisconsin income tax return or, if filing separately, his or her separate Wisconsin income tax return and the separate Wisconsin income tax return of his or her spouse, if any.

4. A governmental unit may disregard the Wisconsin income tax return for the taxable year prior to the year ~~of the enforcement order in which the determination of failure is made~~ and may determine annual family income based upon satisfactory evidence of adjusted gross income or projected taxable income of the owner and the owner's spouse in the current year. The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of adjusted gross income or projected adjusted gross income in a current year.

SECTION 3. 144.245 (5) (d) of the statutes is repealed and recreated to read:

144.245 (5) (d) 1. In order to be eligible for grant funds under this section, the annual gross revenue of the business that owns the small commercial establishment may not exceed \$362,500.

2. Except as provided in subd. 4, annual gross revenue shall be based upon the gross revenue of the business for the taxable year prior to the year in which the determination of failure is made. The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of gross revenue in a prior taxable year.

3. In order to be eligible for grant funds under this section, a business shall submit documentation required by the department under subd. 2 together with any application required by the governmental unit.

4. A governmental unit may disregard the documentation of gross revenue for the taxable year prior to the year in which the determination of failure is made and may determine annual gross revenue based upon satisfactory evidence of gross revenue of the business in the current year. The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of gross revenue in a current year.

SECTION 4. 144.245 (7) (c) of the statutes, as affected by 1989 Wisconsin Act 31, is amended to read:

144.245 (7) (c) The state grant share under this section is limited to \$7,000 for each principal residence or small commercial establishment to be served by the private sewage system or to the amount determined by the department based upon private sewage system grant funding tables, whichever is less. The department shall prepare and publish private sewage system grant funding tables which specify the maximum state share limitation for various components and costs involved in the rehabilitation or replacement of a private sewage system based upon minimum size and other requirements specified in the state plumbing code promulgated under s. 145.02. The maximum state share limitations shall be designed to pay approximately 60% of the average allowable cost of private sewage system rehabilitation or replacement based upon the level of state funding provided in grants under this section from July 1, 1979, to December 31, 1982 estimated or actual costs of that rehabilitation or replacement. The department shall revise the grant funding tables when it determines that 60% of current costs of private sewage system rehabilitation or replacement exceed the amounts in the grant funding tables by more than 10%, except that the department may not revise the grant funding tables more often than once every 2 years.

SECTION 5. 144.245 (10) of the statutes is amended to read:

144.245 (10) ASSISTANCE. The department shall make its staff available to provide technical assistance to each governmental unit. The department shall prepare

1989 Assembly Bill 767

– 3 –

and distribute to each participating governmental unit a manual of procedures for the grant program under this section.

SECTION 5m. 144.245 (11) (d) of the statutes is created to read:

144.245 **(11)** (d) *Limitation; commercial establishments.* The department may not allocate more than 10% of the funds available under this subsection each fiscal

year for grants for small commercial establishments.

SECTION 6. Initial applicability. The treatment of section 144.245 (5) (a) 2. and (d) and (7) (c) of the statutes first applies to applications for financial assistance under the private sewage system replacement and rehabilitation program received by the department of natural resources on June 1, 1990.