

# Safety and Professional Services

(LFB Budget Summary Document: Page 520)

## **LFB Summary Items for Which Issue Papers Have Been Prepared**

<u>Item #</u>	<u>Title</u>
2	Professional Licensing and Regulation Staff (Paper #550)
3	Private On-Site Wastewater Treatment System Grants (Paper #551)
4 & 5	Electronic Safety and Licensing Application and Information Technology Enhancements (Paper #552)
-	Inspection Contract Accounting (Paper #553)
-	Fire Department Dues Distribution Reestimate (Paper #554)

## **LFB Summary Items Removed From Budget Consideration**

<u>Item #</u>	<u>Title</u>
10	Equity Officer Position
12	Construction Contractor Registration
13	Prohibit Use of Vapor Products in Indoor Locations
15	Create an Appropriation to Receive Inter-Agency Transfers
16	Dental Therapists
17	Pharmacist Training in Naloxone Use
18	Pharmacist Continuing Education

## **LFB Summary Item Addressed in Standard Budget Adjustments (Paper #101)**

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments





## Legislative Fiscal Bureau

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June, 2021

Joint Committee on Finance

Paper #550

### Professional Licensing and Regulation Staff (Safety and Professional Services)

[LFB 2021-23 Budget Summary: Page 520, #2]

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#### CURRENT LAW

The Department of Safety and Professional Services (DSPS) and its boards, councils and affiliated credentialing boards and examining boards are responsible for ensuring the safe and competent practice of a wide range of health, business, and building trades professions. Base funding for DSPS is \$57.9 million, almost all of which is funded from program revenues DSPS collects as fees for credentials, examinations, building plan reviews, and safety inspections. The agency is currently authorized 239.44 PR positions and 1.70 FED positions.

DSPS is divided into two programs: (a) professional regulation and administrative services, which includes staff that assist in the regulation of the health and business professions; and (b) regulation of industry, safety, and buildings. The two programs are supported by separate program revenue sources. Fees collected from health and business professions support regulatory functions related to those professions, while fees involved in buildings and safety support DSPS activities related to the regulation of the building trades. A portion of departmental program revenue supports certain agency-wide services, including legal, fiscal, and management services.

Staff are organized into five divisions and the Office of the Secretary, which has 7.00 positions. The largest division, the Division of Industry Services (DIS), has 97.89 positions, most of which provide either technical expertise related to specific building and safety regulations or field services such as inspections and plan reviews. DIS also includes 13.89 positions providing administrative services, such as records management. The next largest division, Professional Credential Processing (DPCP), has 51.00 positions responsible for all licensure, renewal, and verification for the health, business, and trades credentials issued by the Department. These duties include operating a customer service center with 4.00 dedicated positions. The remaining three divisions provide legal services and compliance (40.00 positions), policy development (26.00

positions, including 3.00 dedicated to operating the prescription drug monitoring program (PDMP)), and management services such as budget, finance, and information technology (19.25 positions).

## **DISCUSSION POINTS**

### **Division of Professional Credential Processing**

1. Assembly Bill 68 and Senate Bill 111 would provide \$907,900 PR in 2021-22 and \$1,178,100 PR in 2022-23, and 14.0 PR permanent positions, beginning in 2021-22, and 2.0 PR two-year project positions beginning October 1, 2021, to increase staffing for DSPPS. The attachment shows the division, position title, and associated funding for each. The 2.0 project positions and 8.0 of the permanent positions would be provided to support DPCP, with corresponding funding of \$537,100 PR in 2021-22 and \$689,200 PR in 2022-23 (Alternative A1).

2. Four of these positions -- the 2.0 license and permit program associates (LPPAs) provided on a project basis and 2.0 of the paralegals -- would work to process health credentials, such as physicians and registered nurses. The Department indicates that it receives an annual surge in applications for these credentials in May through August, corresponding with college graduations. During this time, DSPPS estimates that workload exceeds the health team's normal staff capacity by 45%, or approximately the equivalent of 5.5 full-time positions. DSPPS indicates that the additional paralegals would improve capacity to handle the more complex credential types, such as physicians. The LPPAs would increase the agency's capacity to receive and process applications and other required documents, process national and state examination scores, review applications, and respond to questions and concerns from applicants. DSPPS also indicates that improving processing time would increase efficiency for the team as a whole by reducing the number of calls from applicants inquiring as to the status of their application.

3. The third recommended paralegal would prepare and summarize case files for attorney review, respond to customer and staff questions, and provide support to the legal team. Currently 1.0 position fulfills this role, but DSPPS indicates that this capacity does not meet the workload. The legal team currently has an approximately two-week backlog of case files that need preparation. DSPPS indicates that an additional staff member to meet this demand would aid in their goal of reducing case turnaround time from the current 10 weeks to under six weeks.

4. In addition, 4.0 new positions would work in the DSPPS customer service call center, which receives an average of 3,600 calls per week. Depending on call volume and other factors, DSPPS indicates that the current percentage of calls answered -- a measure of the staff's capacity to meet demand -- ranges from 48% to 80%. DSPPS also indicates that, when funding is available, the agency has used limited-term employees to improve this percentage to 80% to 92%, suggesting that additional permanent positions could improve the quality of customer service.

5. AB 68/SB 111 would provide 1.0 LPPA to work on private security credentials. Currently, a two-person team processes applications and renewals for the workforce of approximately 5,400 private security persons in the state, as well as several smaller professions. One of these positions is a project position that will terminate on June 30, 2022; the new permanent position in the

bill would maintain the two-person team. DSPS indicates that the current team is able to provide efficient review, with typical turnaround in one to three days for typical applications and seven days when additional documentation is required.

6. Rather than providing all 10.0 of the positions that would be provided for DPCP in AB 68/SB 111, the Committee could provide funding for specific positions to perform the activities described above, which are listed in the attachment, or provide a reduced level of funding, which would enable DSPS to determine the highest-priority positions to create; Alternative A2 would provide funding and position authority for half of the positions that would be provided in AB 68/SB 111.

7. All of the positions that would be provided in AB 68/SB 111 would be funded by program revenue, meaning that, under Wis. Stats. 16.505 and 16.515, the administration could request, and the Committee could approve, more positions than are initially provided in the budget. This applies to all positions described in this paper.

### **Division of Industry Services**

8. AB 68/SB 111 would provide 2.0 positions in DIS to improve building plan review functions, with corresponding funding of \$136,300 in 2021-22 and \$181,600 in 2022-23. One of these positions is an operations program associate (OPA), who would work to improve efficiency in building plan review. This role includes working with customers to help them submit clear and complete plans, entering plans, identifying missing information before plans are sent to reviewers, and responding to customer inquiries. Recently, upgrades to the new Electronic Safety and Licensing Application have created an increase in customer questions regarding accessing and using the new system. DSPS indicates that providing assistance with these concerns has occupied a large portion of current OPA staff time.

9. The other position would conduct plan reviews of fire alarm and fire suppression systems. DSPS indicates that recent changes in insurance company practices and state building codes have led the number of buildings built with fire alarm and suppression systems to more than double, exceeding the capacity of the current 4.0 reviewers by approximately the equivalent of 1.0 full-time reviewer. The seasonal surge of building plans submitted from April through September creates additional difficulty in performing timely reviews of all submitted plans.

10. DSPS indicates that maintaining the staff capacity to conduct plan reviews in a timely and reliable manner provides significant benefits for the construction industry, whereas delays in a project can slow developments and incur additional expenses for the subsequent stages of the project. The Committee could consider one or both of the operations program associate (Alternative B1) and the fire suppression systems specialist (Alternative B2).

### **Division of Legal Services and Compliance**

11. AB 68/SB 111 would provide 2.0 additional staff to serve as Consumer Protection Investigators (CPIs) in the Division of Legal Services and Compliance (DLSC), with corresponding funding of \$97,900 in 2021-22 and \$125,200 in 2022-23 (Alternative C1).

12. DLSC monitors compliance with professional and business standards, receives complaints filed by the public, and provides legal expertise to DSPS and the affiliated boards for the investigation and discipline of credential holders. CPIs specifically fulfill the investigative role, gathering evidence to determine whether a credentialed professional or organization has violated professional standards. This evidence is then passed to other staff in DLSC to prosecute disciplinary cases as needed.

13. DSPS indicates that, over the past several years, resolution of cases has been delayed by a lack of investigation resources. Each CPI currently investigates an average of 200 cases per year, but the Department indicates that reducing this caseload to 140–150 per year would allow CPIs to complete their work in a more timely manner, concluding investigations within nine months and allowing prosecutors to resolve cases within 18 months total. Currently, approximately 85% to 90% of cases are resolved within 18 months.

14. The proposed new CPIs would focus on medical professionals and health boards, where the volume of complaints and cases requiring investigation have been increasing in recent years, including in connection with the opioid epidemic.

15. Alternative C2 provides 1.0 new CPI position, and associated funding.

#### **Division of Policy Development -- PDMP**

16. Finally, AB 68/SB 111 would provide \$136,600 in 2021-22 and \$182,100 in 2022-23, and 2.0 positions for the team that administers the prescription drug monitoring program (Alternative D1).

17. The PDMP, designed to reduce prescription drug abuse, tracks prescriptions for opioids and other monitored drugs. It allows prescribers to use their patient's prescription history to make informed prescribing decisions, requires pharmacists to check for unusual records before dispensing monitored drugs, and provides data to law enforcement. The system serves 60,000 professionals, and receives approximately 1.8 million record requests per month.

18. The additional staff would increase capacity for quality assurance, outreach to other organizations, system improvements and maintenance, and training in system use.

19. Alternative D2 provides 1.0 new position for the PDMP program, and associated funding.

20. Each of the positions discussed above offers potential benefits, but require funding supported by credential fees. As required by statute, the fees DSPS collects are intended to match the estimated costs incurred by DSPS to administer, verify, and enforce each type of credential or safety regulation. Most fees for health and business professions also account for a 10% statutory transfer to the general fund as GPR-REV. Despite these requirements, a considerable surplus has accumulated in the PR appropriations as revenues have exceeded authorized expenditures during the past several years. At the beginning of fiscal year 2017-18 the combined opening balance of the health and business and the building trades appropriations was \$25.5 million, approximately equivalent to a full year of expenditures. The combined balance grew to \$38.8 million at the end of FY 2017-18, \$44.6

million at the end of FY 2018-19, and \$44.8 million at the end of FY 2019-20. In order to reduce this balance of uncommitted revenue, the Department proposed, and the Joint Committee on Finance approved, reductions to many credential fees in January, 2019, and again in January, 2021. Notwithstanding these recent fee reductions, there are adequate program revenue balances to support all of costs of the positions included in AB 68/SB 111.

**ALTERNATIVES**

**A. Division of Professional Credential Processing**

1. Provide \$537,100 in 2021-22 and \$689,200 in 2022-23, and 8.0 permanent positions beginning in 2021-22 and 2.0 two-year project positions beginning October 1, 2021, and ending September 30, 2023, to improve professional credential processing functions.

<b>ALT A1</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$1,226,300	10.00

2. Provide \$284,000 in 2021-22 and \$365,200 in 2022-23, and 4.0 permanent positions beginning in 2021-22 and 1.0 two-year project positions beginning October 1, 2021, and ending September 30, 2023, to improve professional credential processing functions.

<b>ALT A2</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$649,200	5.00

3. Take no action.

**B. Division of Industry Services**

1. Provide \$42,600 in 2021-22 and \$56,700 in 2022-23 for a 1.0 operations program associate position.

<b>ALT B1</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$99,300	1.00

2. Provide \$93,700 in 2021-22 and \$124,900 in 2022-23 for a 1.0 fire suppression systems specialist.

<b>ALT B2</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$218,600	1.00

3. Take no action.

**C. Division of Legal Services and Compliance**

1. Provide \$97,900 in 2021-22 and \$125,200 in 2022-23 and 2.0 PR positions, beginning in 2021-22, for Consumer Protection Investigators in DLSC.

<b>ALT C1</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$223,100	2.00

2. Provide \$49,000 in 2021-22 and \$62,600 in 2022-23 and 1.0 PR position, beginning in 2021-22, for Consumer Protection Investigators in DLSC.

<b>ALT C2</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$111,600	1.00

3. Take no action.

**D. Division of Policy Development -- PDMP**

1. Provide \$136,600 in 2021-22 and \$182,100 in 2022-23, and 2.0 positions, beginning in 2021-22, to improve and maintain the prescription drug monitoring program.

<b>ALT D1</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$318,700	2.00

2. Provide \$68,300 in 2021-22 and \$91,100 in 2022-23, and 1.0 position, beginning in 2021-22, to improve and maintain the prescription drug monitoring program.

<b>ALT D2</b>	<b>Change to Base</b>	
	<b>Funding</b>	<b>Positions</b>
PR	\$159,400	1.00

3. Take no action.

Prepared by: Carl Plant and Moriah Hayes  
Attachment



## ATTACHMENT

### Licensing and Regulation Staff Assembly Bill 68/Senate Bill 111

<u>Division and Subunit</u>	<u>Positions</u>	<u>FTE Positions</u>	<u>Funding</u>	
			<u>2021-22</u>	<u>2022-23</u>
<b>Professional Credential Processing</b>				
Call Center	Program Operation Associates	4.00	\$178,000	\$226,600
Health	Paralegals	2.00	150,600	195,400
Health	License and Permit Program Associates -- Project Positions	2.00	88,900	113,200
Legal	Paralegal	1.00	75,300	97,600
Business, Trades and Manufactured Homes	License and Permit Program Associate	<u>1.00</u>	<u>44,300</u>	<u>56,400</u>
Subtotal		10.00	\$537,100	\$689,200
<b>Industry Services</b>				
Administrative Services	Operations Program Associate	1.00	\$42,600	\$56,700
Technical Services	Fire Suppression Systems Consultant	<u>1.00</u>	<u>93,700</u>	<u>124,900</u>
Subtotal		2.00	\$136,300	\$181,600
<b>Legal Services and Compliance</b>				
Health	Consumer Protection Investigators	2.00	\$97,900	\$125,200
<b>Division of Policy Development</b>				
Prescription Drug Monitoring Program	Program Managers	<u>2.00</u>	<u>\$136,600</u>	<u>\$182,100</u>
Total		16.00	\$907,900	\$1,178,100





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June, 2021

Joint Committee on Finance

Paper #551

### **Private Onsite Wastewater Treatment System Grant Program (Safety and Professional Services)**

[LFB 2021-23 Budget Summary: Page 521, #3]

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#### **CURRENT LAW**

The Department of Safety and Professional Services (DSPS) administers the private onsite wastewater treatment system (POWTS) replacement or rehabilitation grant program, also referred to as the Wisconsin Fund. Created in Chapter 418, Laws of 1977, the program provides financial assistance to low- to moderate-income owners of a principal residence occupied at least 51% of the year by the owner, and to small commercial establishments who meet certain income and wastewater flow eligibility criteria, to cover a portion of the cost of repairing or replacing a failing POWTS. A POWTS 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. Systems are eligible if they were installed before July 1, 1978, which is 43 or more years ago.

Wisconsin counties and tribal governments may voluntarily apply to DSPS to participate in the grant program. Participation generally is at the discretion of counties, as they are responsible for the regulation of POWTS installations. Persons seeking grant funding typically apply through their participating county. A determination that the POWTS is failing, and thus potentially eligible for replacement under the grant program, happens when: (a) a state or local government employee who is certified to inspect POWTS by DSPS inspects the system and makes the determination; or (b) the owner has been issued a written enforcement order by the appropriate local government, DSPS, or the Department of Natural Resources (DNR), to correct a violation of the POWTS statutes and rules.

Highest priority for grants is provided to category one systems, which fail by discharging sewage to surface water, groundwater, drain tiles, bedrock, or zones of saturated soils. Second funding priority is provided to category two systems, which fail by discharging sewage to the surface of the ground. If there are insufficient funds to pay all category one grants, then these grants are prorated,

and no funds are provided for category two grants. If funding in a fiscal year is sufficient to fund 100% of the eligible grant amount for category one systems, category two systems are fully or partially funded, depending on the amount of remaining funds.

The annual family income of a residential property owner may not exceed \$45,000. The maximum grant is \$7,000, or approximately 60% of the cost of replacement or rehabilitation, as determined by DSPS grant funding tables in administrative code, whichever is less. The grant for homeowners with income between \$32,000 and \$45,000 is reduced by 30% of the amount by which the homeowner's income exceeds \$32,000. The annual gross revenue of the business that owns the small commercial establishment may not exceed \$362,500, and the commercial establishment must have no more than a daily wastewater flow rate of 5,000 gallons per day. Grants for small commercial establishments are prorated so that they do not exceed 10% of the total funds available.

From 1978 to 2020 (2020-21 grant cycle), the state has awarded \$110.4 million in grants to assist 43,700 residences and businesses to replace or rehabilitate private onsite wastewater treatment systems. The grant program is appropriated \$1,025,000 in 2019-20 and \$840,000 in 2020-21 as a transfer from the Division of Industry Services operations program revenue (PR) appropriation. The Industry Services operations appropriation receives fees from sanitary permits and private onsite wastewater treatment system plan review fees, along with fees from several other building permit, plan review, inspection and credentialing activities.

Under 2017 Wisconsin Act 59, the grant program is repealed on June 30, 2021, and final awards were made in the fall of 2020. Administrative code for the grant program (Chapter SPS 387) would also be repealed on June 30, 2021.

## **DISCUSSION POINTS**

1. Assembly Bill 68/Senate Bill 111 would extend the POWTS grant program indefinitely by recreating the program's statutory authorizing language mostly consistent with the authorizations under current law. Differences would include: (a) expanding program eligibility to POWTS installed at least 33 years before a person submitted a grant application; and (b) indexing maximum participant income for the change in the Consumer Price Index for all urban wage earners and clerical workers (CPI-W). The following sections discuss the extension of the program and the changes to current law in AB 68/SB 111 as introduced.

### **POWTS Grant Program Extension**

2. One rationale for maintaining the program instead of ending it in 2021 is that there remain an undetermined number of POWTS and lower-income households that qualify for grant funding. DSPS estimates that there are 756,000 POWTS in the state. Approximately 10,900 permits were issued statewide for POWTS during calendar year 2019 and 11,700 in 2018. DSPS indicates that about 45% of these permits were for new systems and 55% were for replacement systems. However, DSPS does not have comprehensive statewide data regarding the number of POWTS of a certain age, those still in active use, or the number that might be failing or at risk of failing based on

age or other factors. Counties typically determine the installation date based on local records that they maintain. (Limited county-level data is noted in a subsequent discussion point.) A properly designed, installed, and maintained POWTS can be expected to operate for approximately 25 years before failing.

3. In February of 2019, the Speaker's Water Quality Task Force was created to study ongoing risks to clean surface and drinking water and recommend actions to address those issues. Among the bills introduced as a result of the task force's findings was 2019 Assembly Bill 791/Senate Bill 710, which would have extended the POWTS grant program two years, through June 30, 2023, among other provisions. The bill had bipartisan co-sponsorship and passed the Assembly on February 18, 2020, but failed to pass pursuant to SJR 1. In the 2021-22 session, Assembly Bill 123/Senate Bill 84 would also extend the program through June 30, 2023.

4. Maintaining the program would provide additional time to determine who may still benefit from assistance. In the absence of a program for grant funding, some low- to moderate-income households with a failing POWTS may find it difficult to pay for replacement or repair of the POWTS. Some may suggest that continuing to provide state assistance to low- and moderate-income homeowners to replace failing POWTS is appropriate in a similar way that the state provides assistance to municipalities for public wastewater treatment system repair and construction.

5. The two most recent POWTS grant cycles exhibited continuing demand for financial assistance for POWTS replacement. In 2019-20, 190 category one and seven category two grants received awards. Principal residences and small commercial establishments received nearly 100% of the eligible grant amount. In 2020-21, 290 category one grants received awards. Principal residences received 48%, and small commercial establishments received 38%. Four category two applications were not awarded grants due to the amount of funding available, but were eligible for \$23,800.

6. Geology and topography in certain parts of the state may mean that groundwater and surface waters in certain areas remain susceptible to POWTS failures that go unaddressed. A water quality study in Kewaunee County from 2015 to 2017 sampled private wells and concluded that of the wells with detected signs of fecal contamination, human sources were likely partially contributing. Additionally, the ongoing Southwest Wisconsin Groundwater and Geology Study (SWIGG) aims to better understand the quality of groundwater accessed by private wells in Grant, Iowa, and Lafayette Counties, specifically as related to potential contamination from nitrate and microbiological contaminants. While final results are still pending, the most recent sampling from 2020 indicated that 46% of sampled wells had viruses or bacteria associated with human waste.

7. 2017 Wisconsin Act 69 authorizes municipalities to offer loans, including interest-free loans, for repairing failing POWTS. Municipalities may collect payments as a special charge against the property, and may collect payments in installments. Local governments that choose to use this authority could do so regardless of the age of the POWTS or the income of the owner of the system. Further, if any local governments would establish programs under the provisions of Act 69, they would have discretion regarding the structure of the programs, including: (a) how to prioritize the local government upfront costs of rehabilitating or replacing a POWTS in comparison with other local government costs; (b) which systems would be funded; (c) how to determine eligibility of households; (d) how to recover their costs from the POWTS owner; and (e) what loan interest rate to charge to the

POWTS owner.

8. In April and May of 2021, survey data was gathered from 29 Wisconsin counties that have been active participants in the POWTS grant program. Responses indicate that these counties have a combined total of approximately 358,800 POWTS and approximately 13,800 that are currently failing. Two counties indicated they had initiated loan programs. One county (Taylor) indicated it has established a loan program with \$300,000 in funding. Another county (Marathon) indicates its loan program is operated in conjunction with a local nonprofit organization. Fourteen counties indicated that they had not created any municipal aid programs for failing POWTS, under 2017 Act 69, due to funding insufficiencies. Thirteen other counties indicated that they were not sure or had no answer as to why no municipal aid programs had been created in their county. Two counties indicated that their municipalities did not wish to administer local programs. Several counties expressed strong desires to maintain funding for the POWTS grant program.

9. The POWTS grant program is funded from a transfer from the DSPS Division of Industry Services safety and buildings general operations appropriation. The appropriation had a July 1, 2020, balance of \$16.6 million, and is anticipated to have a June 30, 2023, balance of approximately \$20 million under current law and Committee action to date.

10. There is no direct state financial grant assistance other than the current POWTS grant program for households with a failing POWTS. There also are few or minimal regular federal grant assistance programs specifically targeted to these households or POWTS. Under the American Rescue Plan Act (ARPA) of 2021, Wisconsin is expecting to receive \$2.5 billion in direct payments from the State Fiscal Recovery Fund. Local governments also are expecting to receive direct payments under the Local Fiscal Recovery Fund. ARPA provides eligible uses of funds are, among other purposes, necessary investments in water infrastructure. An interim final rule from the U.S. Treasury Department establishes eligible water infrastructure projects as those eligible under the federal clean water (CWSRF) and safe drinking water state revolving funds. CWSRF-eligible projects include financial assistance "for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage," could be interpreted to include POWTS.

11. Given the continued prevalence of POWTS in the state and the continuing need for replacing failing POWTS to avoid environmental harms, the Committee could consider reinstating the POWTS grant program at current funding of \$840,000. The Committee could consider a permanent restoration, as under AB 68/SB 111 [Alternative A1], or a two-year extension, as under 2021 AB 123/SB 84 [Alternative A2].

12. Given that the Legislature has created a means for local units of government to fund low-interest loans, but considering many local governments have not initiated such programs due to insufficient funding, the Committee could also consider providing funding for locally administered POWTS loan programs under 2017 Act 69. The Committee could consider amending the POWTS grant program continuing appropriation under current law to allow for the issuance of grants to counties for the purpose of administering local revolving loan funds for replacing or rehabilitating failing POWTS. DSPS could be provided emergency rule promulgation authority to determine the basis on which awards would be granted to counties. Given the current and anticipated balances in

the DSPS safety and buildings operations appropriation, amounts of \$1,000,000 [Alternative A3a] or \$500,000 [Alternative A3b] could be considered.

13. The Committee could also take no action [Alternative A4]. Certain local governments have taken action to address financial assistance to replace failing POWTS in their jurisdictions, as was intended by 2017 Act 69. Further, some might argue that the repeal of the program should be maintained because POWTS should be replaced by the owner if the system fails, as a normal part of the responsibility of owning a property.

### **Installation Deadline**

14. AB 68/SB 111 would expand POWTS grant program eligibility to POWTS installed at least 33 years before a person submitted a grant application. Therefore, eligibility would continue to extend to failing POWTS over time on a rolling basis; under current law, eligibility based on a specific date has the effect of lowering the number of eligible systems over time as they fail or are replaced.

15. Since the creation of the POWTS grant program, the eligible date of installation has never been updated. County survey responses indicate that approximately 27,500 failing POWTS would become eligible under the AB 68/SB 111 provision, if their owners met income requirements, as these systems are at least 33 years old.

16. It is likely that the state of Wisconsin will have POWTS for many years in areas not suitable for centralized sewage systems, and continual failures as POWTS reach the end of their operational lives will present ongoing risks to the waters of the state. Therefore, the Committee could consider changing the installation deadline for eligible POWTS to 33 years from the date of installation [Alternative B1]. On the other hand, given that households with POWTS installed after July 1, 1978, were never eligible, it is assumed that those owners have planned for replacement of a failing POWTS accordingly, and perhaps in certain instances have already done so. The Committee could take no action [Alternative B2].

### **Program Income Limit**

17. The program income limit of \$45,000 was enacted in 1989. However, the relative value of the program income limit of \$45,000 has decreased over time as household incomes have increased. Therefore, the Committee could require DSPS to adjust applicant income limits based on the change in the CPI [Alternative C1].

18. Alternatively, it could be argued that as the relative value of an income of \$45,000 has decreased with inflation over time, the income limit serves to target program funding to those least able to afford the cost of repairing or replacing a POWTS. The Committee could take no action [Alternative C2].

## ALTERNATIVES

### A. Reinstating the Program or Creating a Municipal Grant Program

1. Reinstating the private onsite wastewater treatment system grant program under provisions of current law. Provide \$840,000 each year in a continuing appropriation.

ALT A1	Change to Base
PR	\$1,680,000

2. Reinstating the private onsite wastewater treatment system grant program and provide \$840,000 each year in a continuing appropriation. Specify a June 30, 2023, repeal of the program provisions.

ALT A2	Change to Base
PR	\$1,680,000

3. Create a pilot grant program to provide one-time funding in 2021-22 to aid to municipalities in establishing revolving loan funds in the 2021-23 biennium to replace failing POWTS. Modify the POWTS grant appropriation to authorize the issuance of grants to counties for the administration of local revolving loan funds for replacement or rehabilitation of failing POWTS. Authorize DSPS to promulgate emergency rules, without the finding of an emergency, for administration of the program. Specify one of the following funding amounts:

a. \$1,000,000; or

ALT A3a	Change to Base
PR	\$1,000,000

b. \$500,000.

ALT A3b	Change to Base
PR	\$500,000

(This alternative could be selected independent of, or in addition to, one of Alternatives A1 or A2.)

4. Take no action.



**B. Installation Deadline**

1. Change the installation deadline for POWTS grant eligibility to include systems installed at least 33 years before a person submitted a grant application.
2. Take no action.

**C. Program Income Limit**

1. Require DSPS on July 1, 2022, and each July 1 thereafter, to adjust the income limit by the percentage change in the U.S. Consumer Price Index for urban wage earners and clerical workers, U.S. city average, for the prior year, rounded to the nearest dollar. Require DSPS to publish the income limit on the Department website. Exempt the annual income limit change from being promulgated through the administrative rule process.
2. Take no action.

Prepared by: Moriah Hayes





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June, 2021

Joint Committee on Finance

Paper #552

### **Information Technology Projects (Safety and Professional Services)**

[LFB 2021-23 Budget Summary: Page 522, #4 and #5]

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#### **CURRENT LAW**

The Department of Safety and Professional Services (DPS) regulates health, business, building, and trades professions. DPS is funded almost entirely from program revenues (PR), primarily collected from fees for credentials, examinations, building plan reviews, and inspections of construction activity. For state budgetary purposes, program revenues received from the regulation of health and non-building professions are tracked separately from the fees collected from the building trades professions, credentialing, building inspection, and plan review activities.

Over the last two biennia, the Department has initiated a modernization project for its licensing and credentialing systems. Phase One of the Electronic Safety and Licensing Application (eSLA) project, for which \$4.4 million PR was approved by the Joint Committee on Finance in April, 2018, included development of a replacement for the "regulated objects" system, a 20-year old software application used for commercial building inspection permits, plan reviews, and credentialing by the Division of Industry Services. 2019 Wisconsin Act 9 (the 2021-23 biennial budget act) provided \$2,995,000 PR in 2019-20 and \$2,030,000 PR in 2020-21 in one-time funding to support costs of implementing Phase Two of the project, which replaced trades credentialing capabilities that were not completed in Phase One, including such functions as issuing new licenses and renewing existing licenses.

#### **DISCUSSION POINTS**

##### **Electronic Safety and Licensing Application**

1. Assembly Bill 68/Senate Bill 111 would provide \$3,000,000 PR in 2021-22 and

\$2,000,000 PR in 2022-23 to fund costs of the third phase of the eSLA project. DSPS anticipates that Phase Three of the project will include the migration of all business and medical profession credentials from the Integrated Credentialing and Enforcement (ICE) platform, the agency’s final legacy system, into the eSLA system. Funding would include: (a) \$1,300,000 in 2021-22 and \$300,000 in 2022-23 in one-time funding; and (b) \$1,700,000 in both 2021-22 and 2022-23 in ongoing funding for the costs associated with the licenses and customer portal of the completed applications.

2. The bill as introduced would budget all costs to the DSPS safety and buildings general operations appropriation [s. 20.165 (2)(j) of the statutes]. In an April 23, 2021, errata letter, the administration indicated that the costs under the bill should be allocated to the PR appropriations shown in Table 1 to reflect the system upgrades being made to credentialing and regulation for business and health professions. DSPS reports funding is allocated to appropriations based on the percentage of credentials to be integrated into eSLA. Under this change, no funding would be appropriated from the safety and buildings operations appropriation.

**TABLE 1**

**eSLA Phase Three Funding Reallocation**

<u>Appropriation</u>	<u>2021-22</u>	<u>2022-23</u>	<u>Biennium</u>
Medical Examining Board Operations [s. 20.165 (1)(hg)]	\$1,740,000	\$1,160,000	\$2,900,000
Professional Regulation Operations [s. 20.165 (1)(g)]	<u>1,260,000</u>	<u>840,000</u>	<u>2,100,000</u>
Total	\$3,000,000	\$2,000,000	\$5,000,000

3. DSPS indicates that Phase Three of the eSLA project will include: (a) determining divisional programs to be incorporated into the system; (b) assessing divisions' application, review, and credentialing processes associated with these programs; (c) determining functions to be created for the eSLA; (d) determining the scope of work; (e) creating a timeline for completion; (f) determining fees and expenses; and (g) completing the transfer of functions from the existing ICE system. The Department indicates that the funding in AB 68/SB 111 would support the migration of credentials, renewals and purchases of required licenses for eSLA, and maintenance of the customer portal. Phase Three will begin at the conclusion of Phase Two, which is expected to be completed in late 2022.

4. Phases One and Two of the eSLA project were intended to improve user experiences and revenue collection. Prior to deployment, applicants interacted with several different means of submitting materials or payments. The eSLA system is designed to provide a single customer portal for credentialing, building plan submissions, inspections, and online payments. Also prior to deployment of Phases One and Two, certain application processes required customers to send paper checks, which increased processing time and potential for errors. DSPS reports having processed more online electronic credit card and debit payments from the updated eSLA system.

5. The \$5,000,000 in one-time funding for the 2021-23 biennium reflects the Department's

current estimate of the costs of implementing Phase Three of the project and purchasing product licenses, based on discussions with developers and staff. However, the Department at this time does not have detailed cost estimates for various components of Phase Three. DSPS staff indicate that the final cost estimate would depend on a statement of work, which is expected to be available just prior to the start of Phase III, in late 2022. DSPS reports that in 2019-20, it spent \$2,122,900 on licenses and customer portal maintenance. DSPS estimates needing \$1,700,000 in ongoing funds for these functions in future years. This amount is reflected in the ongoing funding under AB 68/SB 111.

6. DSPS indicates that if less than \$5 million were budgeted for the project for the 2021-23 biennium, DSPS would not proceed with entering into contracts with vendors to complete Phase Three, and the Department would continue to use its ICE system for health and business professions. The Department indicates that ICE is an outmoded platform that does not meet its current business needs. DSPS also indicates that efficiency would not improve due to the use of disjointed systems.

7. In general, continued improvements in capabilities of state information technology (IT) systems benefit agency operations. Further, although large IT projects may occur in phases, it is typically viewed as undesirable to partially complete IT upgrades in a manner that would leave older systems in place alongside newer systems. This is particularly the case if older systems would have limited compatibility with newer systems. Older software may eventually be unsupported by its original vendor, and the use of outdated systems can also be difficult to maintain as state agency staff who are adept at running older systems leave state service. The Committee could, therefore, consider approving \$5,000,000 as allocated in Table 1 for the eSLA Phase Three [Alternative A1].

8. The previous two authorizations for eSLA Phases One and Two provided all funding on a one-time basis in each biennium. The Committee could consider providing funding for the 2021-23 biennium on a one-time basis [Alternative A2]. DSPS could seek additional funding in future biennia for ongoing licensing and customer portal costs as the amount of those costs is clearer.

9. The Committee also could take no action [Alternative A3]. Funding for Phase One of the eSLA project was approved by the Committee in April, 2018, by a passive review under s. 16.515 of the statutes. The Department could again request funding by a passive review in the 2021-23 biennium as the statement of work is completed and additional costs are known in more detail.

### **Other One-time and Ongoing IT Projects**

10. AB 68/SB 111 would provide \$309,000 PR annually to fund several other ongoing and one-time information technology (IT) projects. In its April 23, 2021, errata letter, the administration requested that funding for these purposes be increased by \$194,000 PR in 2021-22 and \$144,000 PR in 2022-23 in addition to the funding increases in the bill so that \$503,900 PR in 2021-22 and \$453,900 PR in 2022-23 would be provided in total to fund these projects. Table 2 shows the administration's current estimates of the cost of each proposed project.

**TABLE 2**

**IT Enhancement Project Costs**

<u>Project</u>	<u>2021-22</u>	<u>2022-23</u>	<u>Ongoing</u>
Document Management System	\$180,000	\$180,000	\$180,000
Computer Replacement and Upgrade	40,800	40,800	40,800
State Email addresses for Board Members	40,600	40,600	40,600
Services from Gartner Consulting	32,000	32,000	32,000
Call Center Software Replacement	<u>210,500</u>	<u>160,500</u>	<u>144,000</u>
Total	\$503,900	\$453,900	\$437,400

11. The document management system project would improve and maintain systems for receiving, storing, and handling primary documents needed for DSPS to verify information contained in applications, including documents received directly from schools, medical facilities, and government agencies. DSPS indicates that the proposed improvements would increase efficiency of sorting and processing these documents, tasks which currently account for 15% to 20% of the time it takes to process a license application.

12. The computer replacement and upgrade project would provide funding for DSPS to replace 50 laptop and desktop computers each year. DSPS indicates that 45% of staff use computers running the Windows 7 operating system, for which Microsoft discontinued support in January, 2020.

13. The project to provide state email addresses for board members involves systems changes and maintenance to provide state email addresses to the members of the 27 independent examining and professional boards affiliated with DSPS. Separate email accounts would facilitate board members' compliance with public records laws and other state requirements, without subjecting board members' private communications to these requirements.

14. The funding for services from Gartner Consulting would provide DSPS guidance in developing and implementing information technology projects, to improve project efficiency and resolve challenges that arise. These services would be procured under an existing contract between Gartner Consulting and the Department of Administration's Division of Enterprise Technology (DET).

15. The call center software replacement project would provide one-time funding reflecting DSPS's share of a project overseen by DET to replace the current call center software used by several state agencies, Contact Center Anywhere. DSPS indicates that the Contact Center Anywhere system is no longer able to handle the large call volumes received during the peak license renewal and application times, and that the vendor and DET will no longer support it.

16. In fiscal year 2019-20, DSPS expended approximately \$1,390,000 for information technology maintenance and improvements from the general operations appropriations for the health and business professions. DSPS expects most of these costs to continue at the same level in the 2021-23 biennium. The largest expenses include costs for shared services overseen by DET, software licensing, equipment purchasing, and maintenance and support costs for the Department's websites and online portals administered by NIC Wisconsin.

17. Alternative B1 would provide full funding for all of the projects listed in the table. Alternatively, the Committee could provide funding for one or more of these projects, or provide a reduced amount of funding, which would require DSPTS to fund only the highest-priority projects. Alternative B2 would provide approximately half of the ongoing funding requested, while maintaining the one-time funding requested for the call center software replacement.

**ALTERNATIVES**

**A. eSLA Modernization Phase Three**

1. Provide \$3,000,000 in 2021-22 and \$2,000,000 in 2022-23 to fund phase three of DSPTS' ongoing modernization of the Electronic Safety and Licensing Application (eSLA) in the 2021-23 biennium. (Funding would consist of: (a) in 2021-22, \$1,740,000 in 2021-22 from the Medical Examining Board operations appropriation and \$1,260,000 PR from professional regulation operations; and (b) in 2022-23, \$1,160,000 from Medical Examining Board operations and \$840,000 from professional regulation operations.)

ALT A1	Change to Base
PR	\$5,000,000

2. Provide amounts as described in Alternative 1, but specify funding is on a one-time basis in the 2021-23 biennium.

3. Take no action.

**B. Other IT Projects**

1. Provide \$503,900 PR in 2021-22 and \$453,900 PR in 2022-23 (including \$437,400 in ongoing funding), for other information technology projects.

ALT B1	Change to Base
PR	\$957,800

2. Provide \$266,500 in 2021-22 and \$216,500 in 2022-23 (including \$200,000 in ongoing funding), for information technology projects.

ALT B2	Change to Base
PR	\$483,000

3. Take no action.

Prepared by: Moriah Hayes and Carl Plant







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June, 2021

Joint Committee on Finance

Paper #553

### Inspection Contract Accounting (Safety and Professional Services)

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#### CURRENT LAW

The Department of Safety and Professional Services (DSPS) Division of Industry Services (DIS) is responsible for enforcing building codes and ensuring proper operation of various building components, including elevators, boilers, plumbing, heating and ventilation systems, and electrical systems.

#### DISCUSSION POINTS

1. State agencies regularly enter into contracts with private entities to reduce costs of certain services, rather than the agency itself conducting the activity. In some instances, these contracted functions may include regulatory responsibilities assigned to the agency, such as inspections of facilities or implements. Additionally, contractors conducting regulatory activities under the auspices of a state agency may in some instances collect fees for services and not remit any revenues to the state, but retain fee revenues as a cost of their service.

2. Section 20.903 (1) of the statutes requires that for instances in which agencies enter these arrangements with private providers, agencies must record the indirect fees and costs attributable to agency functions into the proper agency appropriations. However, since at least 1995-96, multiple agencies have used separate accounting notes in the Wisconsin Annual Fiscal Report (AFR) to disclose revenues and expenditures from contracts with private vendors. It is unknown what guidance or directive agencies were given at the time that initiated the practice.

3. In recent years, the Department of Safety and Professional Services (DSPS) has typically not included indirect fees and costs of certain contractor activities in its appropriation for safety and buildings operations under s. 20.165(2)(j) of the statutes. DSPS indicates this includes inspections performed on behalf of the Division of Industry Services for such things as boilers, electrical systems,

uniform dwelling code inspections, and elevators. In recent years, DSPS has been the only agency using a non-budgetary denotation in the AFR to report these contractual amounts.

4. The following table shows the amounts DSPS has recorded in the AFR notes since 2011-12. In each year, equal revenues and expenditures are listed in the AFR for the amounts shown. Amounts not recorded in the safety and buildings appropriation were as much as \$1,183,400 in 2013-14, but have generally declined in recent years.

#### **DSPS Non-Budgeted Contract Revenues and Expenditures**

<u>Fiscal Year</u>	<u>Amount</u>
2011-12	\$1,008,400
2012-13	757,100
2013-14	1,183,400
2014-15	896,500
2015-16	943,400
2016-17	960,000
2017-18	531,300
2018-19	795,100
2019-20	442,400

5. In an April 23, 2021, errata item, the administration requested increasing the safety and buildings appropriation by \$1,400,000 in each year of the 2021-23 biennium, based on DSPS estimates of contract arrangements to be recorded in the safety and buildings general operations appropriation under s. 20.165 (2)(j) of the statutes. The administration indicated if DSPS were to begin recording the previously unrecorded transactions in the appropriation, there may be insufficient funding for currently budgeted programs.

6. The Committee could consider providing \$1,400,000 each year of the 2021-23 biennium to the safety and building operations appropriation to allow for previously non-budgeted agency contractual transactions [Alternative 1]. The Committee could also consider a lower amount. State accounting records indicate DSPS has underspent its expenditure authority in the appropriation by an average of approximately \$835,000 from the 2015-16 through the 2019-20 fiscal years, including amounts encumbered in those years that has carried into subsequent years. The Committee could consider providing \$565,000 each year of the biennium to account for contractual arrangements requiring recording in the state accounting system [Alternative 2].

7. The Committee could take no action [Alternative 3]. By statute and state accounting rules, DSPS would be required to account for contract services provided by vendors in its appropriations. Any such amounts would have to be accommodated with existing agency budget authority. DSPS could also seek additional expenditure authority under s. 16.515 of the statutes if existing budget authority were anticipated to be insufficient.

## ALTERNATIVES

1. Provide \$1,400,000 PR in each of 2021-22 and 2022-23 for contractual services done on behalf of the Department of Safety and Professional Services that are to be recorded in the state accounting system.

<b>ALT 1</b>	<b>Change to Base</b>
PR	\$2,800,000

2. Provide \$565,000 PR in each of 2021-22 and 2022-23 for contractual services done on behalf of DSPS.

<b>ALT 2</b>	<b>Change to Base</b>
PR	\$1,130,000

3. Take no action.

Prepared by: Paul Ferguson





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June, 2021

Joint Committee on Finance

Paper #554

### **Fire Department Dues Distribution Reestimate (Safety and Professional Services)**

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#### **CURRENT LAW**

Any insurer doing fire insurance business in the state must pay fire department dues equal to 2% of the amount of all Wisconsin-based premiums paid to the company for insurance against loss by fire, including insurance on property exempt from taxation. After deductions for certain fire prevention programs at the Department of Safety and Professional Services (DPS) and the Wisconsin Technical College System (WTCS), DPS distributes the program revenues (PR) to each city, village or town maintaining a local fire department that complies with state law. Fire dues payments may only be used for eligible activities related to operation of a fire department.

Insurers pay the fire dues to the Office of the Commissioner of Insurance (OCI). OCI is statutorily required to notify DPS of the fire dues revenue amount by May 1 of each year. DPS is statutorily required to calculate, by May 1 of each year, the proper amount of fire dues to be paid to each qualifying city, village or town. After DPS subtracts the appropriated amounts for a DPS fire safety administrative appropriation and WTCS fire fighter training appropriations, and makes specified adjustments, the resulting amount is distributed to municipalities. DPS distributes a proportionate share of the fire dues revenues based on the equalized valuation of real property improvements on land within the qualifying towns, villages and cities. In 2019-20, DPS distributed \$22.4 million to 1,830 local governments that maintain a fire department. In 2020-21, OCI certified that the total gross fire dues revenue is \$25.5 million and that DPS will distribute an estimated \$23.8 million to local governments that maintain a fire department.

#### **MODIFICATION**

Provide \$1,670,000 in 2021-22 and \$2,160,000 in 2022-23 to reestimate the fire dues distribution as \$24,230,000 in 2021-22 and \$24,720,000 in 2022-23 to local governments that maintain eligible fire departments.

**Explanation:** The appropriation for fire dues distribution to local fire departments is a continuing appropriation estimated to include the available revenues. The Legislature has included a re-estimate in the last several biennial budgets to include the amount expected to be available. Under 2019 Wisconsin Act 9, the Legislature re-estimated the fire dues distribution appropriation to \$22,560,000 in both 2019-20 and 2020-21. The actual amount of fire dues distributed to local fire departments in 2020-21 will be approximately \$23.8 million. Based on current estimates of available fire dues revenue, approximately \$24,230,000 would be available in 2021-22 for distribution to local governments with eligible fire departments, and \$24,720,000 in 2022-23. The estimates assume growth of about 2% per year in gross fire dues collections, which is approximately half of the average annual revenue growth over the last 10 years.

Change to Base	
PR	\$3,830,000

Prepared by: Moriah Hayes

## **Safety and Professional Services**

### **LFB Summary Items for Which No Issue Papers Have Been Prepared**

<u>Item #</u>	<u>Title</u>
6	Prescription Drug Monitoring Program
7	Limited-Term Employee Staff
8	Youth Volunteer Firefighting Training Grants
9	Military Training for Civilian Careers
11	Unclassified Position Reallocations
14	Email Communication With Credential Holders and Applicants

