

Safety and Professional Services

Safety and Buildings Programs

(LFB Budget Summary Document: Page 565)

LFB Summary Items for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Building Plan Review (Paper #695)
2 & 3	Industry Services Field Inspection Staff and Municipal Oversight (Paper #696)
4 & 5	Private On-Site Wastewater Treatment System (POWTS) Grant Program and Plan Reviewers (Paper #697)
7	Trade Examination Providers (Paper #698)
9	Youth Volunteer Firefighter Training Program (Paper #699)
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LFB Summary Items Removed From Budget Consideration

<u>Item #</u>	<u>Title</u>
6	Private On-Site Wastewater Treatment System Research
8	Sum Sufficient Appropriation for Inspection Contract Accounting
11	Stretch Energy Code Working Group
12	Prohibit Use of Vapor Products in Indoor Locations



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June 6, 2023

Joint Committee on Finance

Paper #695

Building Plan Review (Safety and Professional Services -- Safety and Buildings Programs)

[LFB 2023-25 Budget Summary: Page 565, #1]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) administers Chapters SPS 361 to 366 of administrative code under the Department's statutory responsibility to protect the health, safety, and welfare of the public and employees by establishing minimum standards for the design, construction, maintenance, and inspection of public buildings, including multifamily dwellings and places of employment. Chapter SPS 302 details fees for plans subject to review. Fees from these activities are deposited as program revenue (PR) into the DSPS building trades general operations appropriation.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide 25.0 positions, allocated to three different review methods, to increase commercial building plan review staff in the Division of Industry Services. The three review methods described in the following paragraphs would be intended to increase plan review staff to facilitate reviews in ways suggested by construction industry participants:

(a) *Schedule-in-Advance Plan Review.* DSPS would be allocated ongoing funding of \$470,300 in 2023-24 and \$610,200 in 2024-25 with 7.0 permanent plan review positions to conduct plan reviews that are scheduled in advance of plan paperwork submission, but not submitted until 48 hours prior to review appointments with DSPS. The positions would be intended to respond to certain construction firms that utilize a plan creation process whereby the final plan is not complete until shortly before construction. DSPS and the Administration intend for the provision to accommodate plan reviews in a timely manner commensurate with actual building

timelines. All 7.0 positions would be supported by the DSPS appropriation for safety and buildings general operations. Position titles and funding are shown in Table 1.

TABLE 1

Schedule-in-Advance Plan Review -- Assembly Bill 43/Senate Bill 70

<u>Position Title/Category</u>	<u>Positions</u>	<u>Funding</u>	
		<u>2023-24</u>	<u>2024-25</u>
Senior Commercial Building Plan Reviewer	2.00	\$110,400	\$147,200
Fire Systems Plan Reviewer	2.00	110,400	147,200
Plumbing Plan Reviewer	2.00	94,300	125,700
Senior Elevator Plan Reviewer	<u>1.00</u>	<u>55,200</u>	<u>73,600</u>
Subtotal	7.00	\$370,300	\$493,700
Supplies and Services		\$100,000	\$116,500
Total	7.00	\$470,300	\$610,200

(b) *Four-Week Plan Review*. DSPS would be provided ongoing funding of \$972,500 in 2023-24 and \$1,263,000 in 2024-25 with 14.0 permanent positions to provide building and plumbing plan review in four weeks or less. DSPS has reported that discussions with industry stakeholders suggested that plan reviews should occur in 20 business days or less to align with construction industry practices. All 14.0 positions would be allocated to the DSPS appropriation for safety and buildings general operations. Position titles and funding are shown in Table 2.

TABLE 2

Four-Week Plan Review -- Assembly Bill 43/Senate Bill 70

<u>Position Title/Category</u>	<u>Positions</u>	<u>Funding</u>	
		<u>2023-24</u>	<u>2024-25</u>
Senior Commercial Building Plan Reviewer	6.00	\$331,000	\$441,400
Fire Systems Plan Reviewer	4.00	220,700	294,300
Plumbing Plan Reviewer	3.00	141,400	188,600
Senior Elevator Plan Reviewer	1.00	55,200	73,600
Miscellaneous Salary and Fringe Benefits		<u>24,200</u>	<u>32,100</u>
Subtotal	14.00	\$772,500	\$1,030,000
Supplies and Services		\$200,000	\$233,000
Total	14.00	\$972,500	\$1,263,000

(c) *Accelerated Review of Small Projects*. DSPS would be provided ongoing funding of \$270,000 in 2023-24 and \$350,200 in 2024-25 with 4.0 permanent positions to provide building and plumbing plan reviews in one week for small and simple plans. The 4.0 positions would include: (a) 1.0 commercial building plan reviewer; (b) 1.0 plumbing plan reviewer; (c) 1.0 fire systems plan reviewer; and (d) 1.0 elevator plan reviewer.

2. The DSPS Division of Industry Services (DIS) provides required plan review services and/or inspections of commercial buildings, boiler and pressure vessels, electrical, elevators, gas systems, mechanical refrigeration, plumbing, private on-site wastewater treatment systems (POWTS), public swimming pools, amusement parks, and ski lifts. The separate disciplines listed require separate plan application and review. Plan reviews are performed by DIS or municipalities that have been delegated authority to review certain plans under current law.

3. All plan review must be submitted electronically through the Department's Electronic Safety and Licensing Application (eSLA). Applicants create user profiles, submit relevant application materials, and await DSPS or delegated agent contact for subsequent action. If additional documentation is needed, the process of approval may take longer than instances where all materials and information have been submitted.

4. As of May 1, 2023, DSPS is authorized 46.0 positions in the Division of Industry Services Bureau of Technical Services (BTS). BTS staff are primarily responsible for plan review of commercial buildings, plumbing, and fire suppression systems. BTS is authorized 17.0 building systems consultants of varying classifications, 12.0 plumbing plan reviewers, 6.0 fire suppression consultants, 3.0 electrical systems consultants, and 1.0 heating/ventilation/air conditioning consultant. Additional positions are associated with bureau management, the uniform (single-family) dwelling code, and plumbing product review.

5. DSPS reports that in 2019 and 2020, the Department met with stakeholders and legislators during which it was suggested that plan review should occur in 30 business days to align with construction industry practices. The Department indicates that changes to permitting processing begun in 2020 included: (a) ceasing a scheduling calendar by which plan submitters would book favorable review appointments with the Department, and potentially for several times such that appointments that never would occur were nonetheless reserved; and (b) reviewing plans in the order in which they are received in final form.

6. The Department reports that it currently meets or exceeds the 30-day goal and that the three proposals under the bill would respond to industry feedback and enable DSPS to further exceed the 30-day goal. As of May 31, 2023, DSPS's published estimated review response time for commercial building plans was 18 business days. Plumbing reviews were estimated at 16 days, while elevator plan reviews were estimated at 13 days.

7. In 2022, the Legislative Council Study Committee on the Commercial Building Permitting Process was formed to address the commercial building permitting protocols and discuss improvements. Industry leaders and stakeholders emphasized the desire for accelerated plan review. Individuals discussed the variability of construction timelines and the need for expeditiousness in certain types of projects.

8. Table 3 shows the structural condition of the safety and buildings general operations appropriation, which would support the positions under the provision. (The condition is shown in greater detail in Paper #680.) Anticipated ongoing revenues under current law would exceed authorized expenditures under the account by \$1.3 million on an annual basis under Committee action to date. However, this does not include likely transfers for administrative costs, which are expected at \$3 million annually, and could leave revenues and total expenditures imbalanced under current law if not otherwise reduced.

9. Under the proposal, \$2.2 million in base expenditure authority would be provided each year beginning in 2024-25. This level of expenditures would require additional revenues of \$0.9 million each year. While the account has seen revenues above \$17.8 million in certain years recently, revenues may vary with construction starts and other building activity throughout the state, which can be influenced by broader economic and population trends. Under the provision, the account would be projected to begin depleting available balances if revenues were below those shown in Table 3. These figures do not account for action the Committee may take on other provisions remaining under consideration, such as for information technology costs or other DSPS staffing. These figures also do not include the aforementioned transfers for administrative costs, which are expected at \$3 million annually, and would further increase the difference in revenues and total expenditures.

TABLE 3

Safety and Buildings PR Account Structural Condition

	Amount (Millions \$)	
	<u>Base (2024-25)</u>	<u>Provision (2024-25)</u>
Revenues	\$17.8	\$17.8
Expenditures (Positions)		
Committee Action to Date (113.7)	- \$16.5	- \$16.5
Four-Week Plan Review (14.0)	0.0	- 1.3
Schedule-in-Advance Plan Review (7.0)	0.0	- 0.6
Accelerated Review of Small Projects (4.0)	<u>0.0</u>	<u>- 0.3</u>
Subtotal	- \$16.5	- \$18.7
Structural (Revenues less Expenditures)	\$1.3	- \$0.9

10. Two bills recommended by the Commercial Building Permitting Process Study Committee that are now pending before the Legislature could further affect DSPS plan review revenues. 2023 Senate Bill 186/Assembly Bill 197 would create options for scheduling plan review appointments and plan submittal, with full payment of plan review fees upon scheduling an appointment, and refunds available under different scenarios in the event of a cancellation. The bill would also increase the number of plumbing fixtures at which plan reviews must be completed, provided the plans are prepared by certain credentialed or experienced professionals. 2023 Senate Bill 187/Assembly Bill 198 would increase building sizes or project types that could be reviewed by delegated local governments, and repeal certain fees forwarded by delegated municipalities to DSPS. In both cases, revenues to the DSPS safety and buildings regulation appropriation could be affected by the pending legislation.

11. DSPS indicated in its September, 2022, agency budget request that the provisions represented a range of options for expediting plan review services. Additionally, because the provisions are collectively estimated to result in safety and buildings budgeted expenditures exceeding revenues, the Committee could provide positions and funding associated with one or more of the three building plan review options [Alternatives 1 through 3].

12. The Committee could also consider providing any authorized positions on a project basis [Alternative 4]. A comparison of DSPS-published figures on commercial building plan reviews in the first four months of the last two calendar years shows generally fewer submitted building plans in 2023 (2,756) than in 2022 (2,832). Further, larger economic trends, including increased costs of supplies and financing for commercial developments, may continue to moderate construction activity in the 2023-25 biennium, and keep plan review activity at levels manageable by current staff within desired timeframes. The authorization of project positions would allow for an evaluation of changes in program processing timelines during the 2023-25 biennium for the service areas to which the staffing would be assigned.

13. The Committee could also take no action [Alternative 5]. As DSPS reports commercial building plan reviews are occurring within 18 days, a goal of reducing plan reviews to 20 days or fewer would appear to have been met at present staffing and activity levels. The Legislature could consider additional action in the future, pending the resolution of proposed legislative changes to DSPS program administration.

ALTERNATIVES

1. Provide 7.0 positions with \$470,300 in 2023-24 and \$610,200 in 2024-25. (This would adopt staffing and funding associated with the option for scheduling plan reviews in advance and submitting plans within 48 hours of an appointment.)

ALT 1	Change to Base Funding	Positions
PR	\$1,080,500	7.00

2. Provide 14.0 positions with \$972,500 in 2023-24 and \$1,263,000 in 2024-25. (This would adopt staffing and funding associated with the option for conducting all plan reviews within 20 days of submittal.)

ALT 2	Change to Base Funding	Positions
PR	\$2,235,500	14.00

3. Provide 4.0 positions with \$270,000 in 2023-24 and \$350,200 in 2024-25. (This would

adopt staffing and funding associated with the option for accelerated review of small projects.)

ALT 3	Change to Base Funding	Positions
PR	\$620,200	4.00

4. Provide positions under Alternatives 1, 2, or 3 as project positions.
5. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #696

Industry Services Field Inspection Staff and Municipal Oversight (Safety and Professional Services -- Safety and Buildings Programs)

[LFB 2023-25 Budget Summary: Page 567, #2 & 3]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) is charged under ss. 101.02 and 101.12 of the statutes with administering programs to protect the health, safety, and welfare of the public and employees by establishing minimum standards for the design, construction, maintenance, and inspection of public buildings, including multifamily dwellings and places of employment. Chapters SPS 361 to 366 of the administrative code detail the types of plans subject to review, the types of construction projects that are subject to inspection, and Chapter SPS 302 of the code specifies a list of applicable fees. Trained DSPS review and inspection staff in the Division of Industry Services (DIS) work alongside industry professionals to provide plumbing, commercial building, electrical system, boiler, and other inspections. DSPS is authorized to assign plan review and inspections to delegated municipalities that meet certain requirements. Fees received by DSPS from these activities are deposited as program revenue into the DSPS building trades general operations appropriation.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide ongoing funding of \$315,300 in 2023-24 and \$408,300 in 2024-25 with 5.0 permanent positions to increase departmental oversight of certain plan review activities and building inspections. The 5.0 positions would include: (a) 2.0 commercial building plan inspectors; (b) 1.0 elevator inspector; (c) 1.0 boiler inspector; and (d) 1.0 electrical inspector. All 5.0 positions would be allocated to the appropriation for DSPS safety and buildings general operations. The bill would also provide \$70,800 in 2023-24 and \$90,400 in 2024-25 with 1.0 position for coordinating municipal building inspection programs. The statutes allow

DSPS to delegate certain building plan review and inspection functions to municipalities. The position to be created would provide increased oversight and training to ensure that delegated municipalities are informed of, and implementing, consistent building code standards in the state.

2. By statute and administrative rule, public buildings and places of employment must have plans reviewed and construction activities inspected. The DIS Bureau of Field Services is currently authorized 36.0 positions for various inspection and supervision or consultation activities, including 10.0 universal building inspectors, 2.0 elevator inspectors, 1.0 boiler inspector, and 3.0 electrical inspectors. The DIS Bureau of Technical Services is authorized 46.0 positions for primarily building and building component plan reviews.

3. DIS also has the authority to delegate certain plan review, permitting, and inspection responsibilities to municipalities (termed "delegated agents"). If approved, the delegated agents perform regulatory responsibilities on behalf of the state and share in the associated fee revenue. Municipalities may seek delegation for commercial building and heating/ventilation/air conditioning systems, as well as other individual building components, such as electrical systems or fire suppression systems. A substantial number of municipalities currently carry some type of delegation. For example, as of May 3, 2023, the most recent publication of updated delegation lists, DSPS reported 343 municipalities had been delegated plan review authority for commercial buildings, and 430 municipalities had been delegated commercial building inspection authority. Commercial building electric system delegations had been made to 574 municipalities.

4. In addition to DSPS and local entities, various private firms provide inspection services for such systems as boilers, gas systems, mechanical refrigeration, elevators or other conveyances, and electrical systems in non-delegated municipalities. Private firms conduct this work at the direction of both DSPS and municipalities, depending on the system involved and the delegation status of a municipality in which a building site is located.

5. DSPS contends local delegation is generally preferable for municipalities and for the construction and trades industry, and the Department indicates it has been working to increase the number of delegated municipalities. However, DSPS states that levels of service and expertise may vary based on program area, staffing capacity, and turnover within each municipality and with third-party providers. The Department must ensure that delegated authorities have staff members who are properly licensed and qualified to handle the delegated work. DSPS states that this work is an essential component of delegation and helps ensure that delegated municipalities are adequately protecting the public.

6. To fulfill the need for oversight of municipal and third-party contractor delegates, DSPS reports it is developing an audit program. The program would assign the 5.0 inspectors under the bill to review the application of statutes and codes by delegated and contracted agents. DSPS aims to audit 100% of contracted agents every five years, or 20% of contracted agents per year. The Department reports an audit staff need of 5.0 positions to account for at least one inspector in each of the electrical, boiler, and elevator service areas, and 2.0 for commercial buildings. DSPS expects that the 5.0 inspectors would achieve the suggested audit cycle of 20% per year.

7. In addition to the audit inspectors, AB 43/SB 70 would include 1.0 position for outreach

and coordinating with delegated municipalities. The Department reports that existing delegated municipal partners have sought additional training to ensure that the municipalities are aware of, and enforcing, current standards. Additionally, DSPS indicates that the position would assist in accommodating complex projects, which municipalities occasionally forward to the Department for review if local authorities have insufficient capacity or expertise. Currently, DSPS indicates state staff cannot reasonably absorb such work from municipalities without affecting other DSPS services.

8. Given the Department's desire to improve inspections and increase efficiency, the Committee could approve 5.0 inspector positions as outlined under the provision [Alternative 1]. These positions would be intended to oversee plan review and inspections that are done by delegated agents across the state.

9. Considering that DSPS reports a demonstrated need for a municipal building inspection oversight coordinator, the Committee could approve 1.0 permanent position and funding [Alternative 2]. The Committee could take no action [Alternative 3].

ALTERNATIVES

1. Provide ongoing funding of \$315,300 in 2023-24 and \$408,300 in 2024-25 with 5.0 permanent positions to implement an audit program for certain plan review activities and inspections oversight. The 5.0 positions would include: (a) 2.0 commercial building plan inspectors; (b) 1.0 elevator inspector; (c) 1.0 boiler inspector; and (d) 1.0 electrical inspector. All 5.0 positions would be allocated to the appropriation for DSPS safety and buildings general operations.

ALT 1	Change to Base Funding	Positions
PR	\$723,600	5.00

2. Provide \$70,800 in 2023-24 and \$90,400 in 2024-25 with 1.0 permanent position for coordinating municipal building inspection programs. (This alternative could be selected in addition to Alternative 1.)

ALT 2	Change to Base Funding	Positions
PR	\$161,200	1.00

3. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #697

Private On-Site Wastewater Treatment System (POWTS) Grant Program and Plan Reviewers (Safety and Professional Services -- Safety and Buildings Programs)

[LFB 2023-25 Budget Summary: Page 567, #4]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) administers the private on-site 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 45 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 2022 (2022-23 grant cycle), the state has awarded \$111.4 million in grants to assist 43,900 residences and businesses to replace or rehabilitate private onsite wastewater treatment systems. The grant program is appropriated \$1,680,000 in 2021-22 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 was to be repealed on June 30, 2021. Administrative code for the grant program (Chapter SPS 387) would have also been repealed on June 30, 2021. However, 2021 Wisconsin Act 67 amended 2017 Act 59 and extended the POWTS grant program by two years. Funding of \$1,680,000 for the 2021-23 biennium was subsequently provided for the program by the Joint Committee on Finance in October of 2021. Currently, the POWTS program is scheduled to sunset on June 30, 2023.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would extend the POWTS grant program indefinitely by recreating the program's statutory authorizing language mostly consistent with the authorizations under current law. (The recreation of language is due to the bill's general effective date of July 1, 2023, occurring after the program's sunset 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) beginning July 1, 2024, indexing maximum participant income for the annual 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 43/SB 70. The bill would also provide \$123,000 in 2023-24 and \$159,000 in 2024-25 with 2.0 permanent positions for private septic system plan review. DSPS is authorized 6.0 permanent private septic system plan reviewers and 2.0 project reviewers that expire on June 30, 2023. The provision would make these positions permanent.

POWTS Grant Program Extension

2. One rationale for maintaining the program instead of ending it in 2023 is that there remain an undetermined number of POWTS and lower-income households that qualify for grant funding. DSPS estimates that there are 774,000 POWTS in the state. Approximately 13,900 permits were issued statewide for POWTS during calendar year 2020 and 14,800 in 2021. DSPS indicates that about 48% of these permits were for new systems and 52% 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 may 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. 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.

4. The two most recent POWTS grant cycles exhibited continuing demand for financial assistance for POWTS replacement. In 2022-23, 165 category one grants received awards. Of these 165 awards, principal residences received 87%, and small commercial establishments received 13%. All 20 category two grants were for principal residences.

5. 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.

6. Throughout April and May of 2021, survey data was gathered from 29 Wisconsin counties that had been active participants in the POWTS grant program. Responses indicate that these counties had a combined total of approximately 358,800 POWTS and approximately 13,800 that were failing. Two counties indicated they had initiated loan programs. One county (Taylor) indicated it had established a loan program with \$300,000 in funding. Another county (Marathon) indicates its loan program was operated in conjunction with a local nonprofit organization. A county in at least one instance (Calumet) has since offered grants funded from local assistance under the federal American Rescue Plan Act; by federal law all such funds must be obligated by December 31, 2024. In the 2021 survey, a majority of counties indicated that they had not created any municipal aid programs for

failing POWTS, under 2017 Act 69, due to funding insufficiencies or other unspecified reasons. 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. It is likely that these trends have continued into the current year.

7. The POWTS grant program is funded from a transfer from the DSPS Division of Industry Services safety and buildings general operations appropriation. The appropriation is anticipated to have a June 30, 2023, balance of approximately \$9.4 million under current law.

8. There is no direct state financial grant assistance other than the current POWTS grant program for households with a failing POWTS. There are certain regular federal grant and loan assistance programs specifically targeted to low-income households through the U.S. Department of Agriculture (USDA) Rural Development program under which POWTS repair may be an eligible expense. Certain counties use federal Community Development Block Grant (CDBG) housing funds for low-income homeowners to repair or replace POWTS. While ARPA provided that eligible uses of funds were, among other purposes, necessary investments in water infrastructure, those funds must be obligated to projects by December 31, 2024. Additional community action agencies throughout Wisconsin offer housing rehabilitation funds that may be used to remedy failing POWTS.

9. 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 funding of \$840,000 each year. The Committee could consider a permanent restoration, as under AB 43/SB 70 [Alternative A1], or a two-year extension [Alternative A2].

10. 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.

11. The Committee could also consider providing any program funding from general purpose revenues (GPR) [Alternative A4]. Prior to 2015 Wisconsin Act 55, the POWTS grant program had base funding of \$2,338,600 GPR each year; the program has been PR-funded at \$840,000 in most years since. Funding the program from GPR would allow existing program revenues for DSPS safety and buildings programs to fund operations or staffing proposals discussed in separate budget papers.

12. The Committee could also take no action [Alternative A5]. Certain local governments or other organizations 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

13. AB 43/SB 70 would expand POWTS grant program eligibility to POWTS installed at least 33 years before a person submitted a grant application. Current program eligibility extends only to systems installed before July 1, 1978, or approximately 45 years ago. 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.

14. Since the creation of the POWTS grant program, the eligible date of installation has never been updated. County survey responses from 2021 indicate that approximately 27,500 failing POWTS would become eligible under the AB 43/SB 70 provision, if their owners met income requirements, as these systems are at least 33 years old.

15. It is likely that the state 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

16. 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].

17. 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 current \$45,000 limit is also generally consistent with the income limits under USDA Rural Development single-family housing repair programs in most Wisconsin counties. The Committee could take no action [Alternative C2].

Private Septic System Plan Reviewer Positions

18. 2021 Act 67 authorized 2.0 project positions through June 30, 2023, for private septic

system plan reviews. The Department reports the additional position authority has been beneficial in providing for dedicated POWTS plan reviewers, rather than the Department occasionally reassigning Division of Industry Services field staff to POWTS plan reviews during seasons with a high volume of reviews. The Department estimates that the time for completing POWTS reviews has been roughly halved during peak seasons, and DSPS staff contend that because the POWTS review and septic system permitting precedes other steps in the home construction process, the 2.0 positions are able to reduce risks of POWTS reviews holding up subsequent construction work. DSPS reports averaging approximately 3,800 POWTS plan reviews yearly from November 1, 2019, through October 31, 2022.

19. The Department also reports that counties have sought additional training and consultation with regard to POWTS permitting and administration. DSPS anticipates that having additional permanent staff with POWTS review expertise would increase outreach and support of county permitting and review activities.

20. The Committee could make the 2.0 private septic system plan review positions permanent [Alternative D1], or take no action [Alternative D2]. If no action is taken, the project positions will expire on June 30, 2023.

ALTERNATIVES

A. Reinstating the Program or Creating a Municipal Grant Program

1. Reinstatement of 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. Reinstatement of the private onsite wastewater treatment system grant program and provide \$840,000 each year in a continuing appropriation. Specify a June 30, 2025, 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 2023-24 to aid to municipalities in establishing revolving loan funds in the 2023-25 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. In addition to any action under Alternatives A1, A2, or A3, specify the program funding source is GPR.

5. 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, 2024, 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.

D. Private Septic System Plan Reviewer Positions

1. Provide \$123,000 in 2023-24 and \$159,000 in 2024-25 with 2.0 permanent positions for private septic system plan review. (The provision would make 2.0 project positions permanent.)

ALT D1	Change to Base Funding	Positions
PR	\$282,000	2.00

2. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #698

Trade Examination Providers (Safety and Professional Services -- Safety and Buildings Programs)

[LFB 2023-25 Budget Summary: Page 568, #7]

CURRENT LAW

The statutes and administrative rules establish requirements and procedures for examinations to be taken by applicants for licensure in numerous credentialed occupations. Under current law, examinations for health and business professions may be conducted by third-party test service providers outside of the Department of Safety and Professional Services (DSPS).

Section 440.05 (1)(b) of the statutes (DSPS standard fees) provides that if an examination is required, the applicant shall pay an examination fee to DSPS. If the Department prepares, administers, or grades the examination, the fee is to be an amount equal to the estimated actual cost of preparing, administering, or grading the examination. If DSPS approves an examination prepared, administered, and graded by a test service provider, the fee is to be an amount equal to the estimated actual cost of approving the examination, including selecting, evaluating, and reviewing the examination.

DISCUSSION POINTS

1. Assembly Bill 43/Senate Bill 70 would provide \$500,000 each year in program revenues (PR) from DSPS examination fees as one-time funding for procurement of third-party trade examination services. Under current law, examinations for health and business professions may be conducted by a test service provider outside the Department. The bill would extend the authorization to examinations for building trades occupations. The provision would authorize DSPS to contract with a third-party vendor to administer trade exams, which DSPS indicates would occur through an online platform. The Administration indicates that individuals taking the exams would pay the selected vendor directly for the examination.

2. The Department currently uses similar third-party examination providers for real estate agents. Under the current contract for these exams, a third party provides exam locations, computer-based delivery, proctors, and exam scoring. DSPS reports that the third-party provider charges those who sit for the exam a fixed amount. Of that amount, DSPS states that a portion is passed through to DSPS for administering the entire examination process. The provision is intended to improve and expedite certain examination processes, as well as expand access to and frequency of exams for credential and license seekers.

3. DSPS states that the \$1 million in the provision would allow the Department to pursue electronic integration with testing organizations. Further, DSPS indicates that there are many license types that could be integrated into a third-party testing system, but too few resources to accomplish this. Funding under the provision would be spent to further utilize third-party providers for more license and credential exams.

4. Chapter SPS 305 of the administrative code establishes fees and terms for trades credentials, and currently requires any fees for credential application and examination to be received prior to DSPS administering an examination. However, SPS 305 fees would not be affected by the provision.

5. AB 43/SB 70 would accomplish the extension of testing authority by updating a cross-reference under s. 101.022 of the statutes. This section applies to trades occupational regulation multiple authorities under Chapter 440 of the statutes regarding DSPS health and business professional credentialing. The provision would extend the authority of DSPS to "approve, in whole or in part, an examination prepared, administered and graded by a test service provider." The provision would also specify DSPS could approve examinations provided by the testing service to master and journeyman plumbers.

6. The provision would not specifically extend for trades occupational examinations the authority under s. 440.05 (1)(b) of the statutes, under which DSPS may receive as an examination fee an amount equal to the estimated cost of approving the examination. Inclusion of this provision may clarify the ability of DSPS to utilize the model previously described, under which the test provider would remit to DSPS an amount associated with exam administration or approval.

7. As the provision is intended to expand offerings of examinations for trades occupations, the Committee could approve the one-time funds for the Department to contract with third-party trade examination providers [Alternative 1]. Amounts could also be budgeted under the Committee's PR supplemental appropriation [Alternative 2]. This would demonstrate a commitment of funding being available for the project, which can aid an agency in securing a range of bids from interested vendors. Funding could then be released to DSPS upon the agency's request as the project proceeds.

8. The Committee could include the authorization for DSPS to receive exam fees from a third-party provider in an amount equal to the estimated cost of approving the exam, including selecting, evaluating and reviewing the exam [Alternative 3]. Additional authorizations could provide DSPS flexibility in developing and contracting for a system for examination administration by third-party providers.

9. The Committee could also take no action [Alternative 4]. DSPS could request the funds through a passive review request under s. 16.515 request at a later date.

ALTERNATIVES

1. Provide \$500,000 each year in one-time funding for procurement of third-party trade examination services. Authorize DSPS to provide examinations for building trades occupations under contract with a third-party vendor.

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

2. In addition to Alternative 1, provide funding in the Committee's PR supplemental appropriation.

3. In addition to Alternative 1 or 2, specify that the provisions under s. 440.05(1)(b) of the statutes apply to DSPS administration of trades occupational licensing under s. 101.022. (DSPS would be authorized to receive exam fees from a third-party provider in an amount equal to the estimated cost of approving the exam, including selecting, evaluating and reviewing the exam.)

4. Take no action.

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June 6, 2023

Joint Committee on Finance

Paper #699

Youth Volunteer Firefighter Training Grant Program (Safety and Professional Services -- Safety and Buildings Programs)

[LFB 2023-25 Budget Summary: Page 569, #9]

CURRENT LAW

2021 Act 58, the 2021-23 biennial budget act, created the Youth Volunteer Firefighter Training Grant Program under the Department of Safety and Professional Services, funded with one-time \$50,000 PR each year. The program issues grants for youth firefighter training pilot programs in volunteer fire departments, technical colleges, and high schools with the intent to increase recruitment and improve retention of volunteer firefighters. Eligible fire departments, technical colleges, and high schools were required to be in good standing based on DSPS evaluation of compliance. The program is funded by the agency's safety and buildings general operations appropriation, which collects revenue from fees paid by individuals seeking licensure in industry and trades professions, as well as plan review for plumbing and buildings.

DISCUSSION POINTS

1. In the 2021-23 biennium, DSPS awarded six grants, totaling the full \$100,000 over the biennium. Recipient organizations included: Oconto Fire Rescue Department, Western Technical College, Winneconne High School, Edgerton Fire Protection District, Howard-Suamico School District, and Nicolet College.

2. Assembly Bill 43/Senate Bill 70 would provide \$100,000 PR each year in ongoing funding to make the Youth Volunteer Firefighter Training Grant Program permanent. DSPS reports having received 15 applications requesting \$185,000 in grant funds over the biennium, and the Department included in its September, 2022, agency budget request the provision to seek ongoing grant funds of \$200,000 over the 2023-25 biennium.

3. Using data from the National Fire Department Registry, the Wisconsin State Firefighters Association indicates that Wisconsin had 762 registered fire departments in calendar year 2022. Of those, approximately 78.8% were exclusively volunteer-based, and another 13.7% were mostly volunteer-based. About 5.9% of departments were exclusively career firefighters, and 1.6% were mostly career firefighters.

4. Information from the National Volunteer Fire Council and National Fire Protection Association further indicates the number of volunteer firefighters, while varying by year, has declined to 676,900 as of 2020, from levels exceeding 800,000 nationally as recently as 2015. Information specific to Wisconsin is not immediately available.

5. Considering that a large portion of Wisconsin fire departments are mostly volunteer-based, and considering the demonstrated interest in the grant program, the Committee could provide ongoing funding of \$100,000 PR each year [Alternative 1]. Given that DSPS reported grant demand at \$185,000 over the 2021-23 biennium, the Committee could also consider providing \$92,500 each year to match grant funding to recent demand [Alternative 2]. Considering that the program was originally provided \$50,000 PR each year under 2021 Act 58, the Committee could approve the same amount in the upcoming biennium on an ongoing basis [Alternative 3], or specify any amount of funding is on a one-time basis [Alternative 4]. The Committee could also take no action, and the grant program would end on June 30, 2023 [Alternative 5].

ALTERNATIVES

1. Provide \$100,000 PR each year in ongoing funding to continue the Youth Volunteer Firefighter Training Grant Program.

ALT 1	Change to Base
PR	\$200,000

2. Provide \$92,500 PR each year in ongoing funding to continue the Youth Volunteer Firefighter Training Grant Program. (This would equal total grant requests in the 2021-23 biennium.)

ALT 2	Change to Base
PR	\$185,000

3. Provide \$50,000 PR each year in ongoing funding. (This matches the amount provided under 2021 Act 58, which created the program.)

ALT 3	Change to Base
PR	\$100,000

4. Specify that the funding is one-time. (This alternative could be moved in addition to Alternative 1, 2, or 3.)
5. Take no action.

Prepared by: Moriah Rapp



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June 6, 2023

Joint Committee on Finance

Paper #700

Fire Department Dues Distribution Reestimate (Safety and Professional Services -- Safety and Buildings Programs)

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 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 2021-22, DPS distributed \$24.8 million to 1,841 local governments that maintain a fire department. In 2022-23, OCI certified that the total gross fire dues revenue is \$29.9 million and that DPS will distribute an estimated \$28.5 million to local governments that maintain a fire department.

MODIFICATION

Reestimate the fire dues distribution \$4,302,500 in 2023-24 and \$4,883,000 in 2024-25 to \$29,022,500 in 2023-24 and \$29,603,000 in 2024-25 for 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. Under adjusted base funding, fire dues distribution is estimated at \$24,720,000 each year. The actual amount of fire dues distributed to local fire departments in 2022-23 will be approximately \$28.5 million. Therefore, based on current estimates of available fire dues revenue, approximately \$29,022,500 would be available in 2023-24 for distribution to local governments with eligible fire departments, and \$29,603,000 in 2024-25. The estimates assume growth of 2% per year in gross fire dues collections.

Change to Base	
PR	\$9,185,500

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SAFETY AND PROFESSIONAL SERVICES

Safety and Buildings Programs

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
10	Manufactured Housing Rehabilitation and Recycling Program

