



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #433

Clean Water Fund -- Unsewered Communities (Environmental Improvement Fund)

[LFB 2001-03 Budget Summary: Page 291, #5.b.]

CURRENT LAW

Under the clean water fund program within the environmental improvement fund, wastewater treatment facility construction projects in unsewered communities receive a reduced interest rate loan only if two-thirds of the initial wastewater flow is from residences that were in existence prior to October 17, 1972. These projects are eligible for a loan at an interest rate of 70% of the market interest rate. Projects for unsewered communities that do not meet this criteria are eligible only for assistance at market rate interest or its equivalent.

GOVERNOR

Require that two-thirds of the initial wastewater flow for new wastewater collection systems be from residences that were in existence 10 years prior to the date DNR approved the facility plan in order for a municipality to be eligible for a reduced interest rate loan under the clean water fund program.

DISCUSSION POINTS

1. The October 17, 1972, date in the current two-thirds requirement is the date the original federal Water Quality Act was signed. DNR indicates that use of the date originally distinguished existing development from future development. Since the October 17, 1972, date has not changed, it now distinguishes older development from major development that has taken place since the early 1970s, or is projected to take place in the future.

2. The U.S. Environmental Protection Agency deleted the two-thirds requirement from federal regulations several years ago. DNR officials believe that Wisconsin is the only state that still uses the requirement. To be consistent with current federal regulations, the two-thirds requirement could be eliminated. However, federal regulations do not require Wisconsin to eliminate the requirement.

3. The current requirement means that if one-third or more of the initial wastewater flow for an unsewered project comes from houses built after October 17, 1972, the project does not receive a reduced interest rate loan. To date, all unsewered projects have met the two-thirds requirement. DNR officials indicate that five projects narrowly met the requirement. The approximately \$53.2 million in unsewered projects in the planning stages for financing in the 2001-03 biennium have large areas of pre-1972 development and would meet the current two-thirds requirement.

4. DNR estimates that unsewered projects would begin to fail the current two-thirds requirement in the 2003-05 biennium. The Department projects that in 2003-04, there will be \$22.8 million in costs for unsewered projects and that under current law, up to 50% of those costs would have to be financed at the market rate instead of 70% of the market rate. Eventually no unsewered project would pass the current requirement and all unsewered projects would be funded with market interest rate loans. Some of the communities seeking financing of unsewered projects would otherwise be eligible for hardship financial assistance under the clean water fund.

5. Under current law, the long-term demand for clean water fund low-interest loans would decrease because unsewered communities would become ineligible for low-interest financing.

6. Currently, public sanitary sewer mains, interceptors and systems which exclusively serve future development are ineligible under the program. To be eligible for low-interest rate financing, the reserve capacity included in a project is limited to the future capacity which will be needed to serve the region 10 years after the project becomes operational. Reserve capacity is extra wastewater system capacity not currently needed, but constructed to take future growth into consideration.

7. Under the bill, if one-third of the initial wastewater flow for an unsewered project comes from houses built during the 10 years before DNR approved the facility plan, (which means the community grew by over 50% during the 10 years), the project would not receive a reduced interest rate loan.

8. DNR officials indicate that the facility plan for a project is generally approved within five years before applying for clean water fund financial assistance. Under the bill, there may be unsewered projects with a facility plan approved in the mid- to late-1990s, and two-thirds of the homes in such communities would have to have been constructed before the mid- to late-1980s in order to meet the proposed two-thirds requirement. Thus, the change would allow development during the 1970s through later-1980s to be eligible for reduced interest rate wastewater financing, but would not generally extend eligibility to communities with rapid 1990s development.

9. The 2001-03 DNR and DOA environmental improvement fund biennial finance plan submitted in September, 2000, proposed requiring two-thirds of the initial flow to be from residences constructed before DNR approved the facility plan, instead of 10 years before under the bill. This change would have extended eligibility for reduced interest rate loans to development in the 1990s.

10. The administration indicates that the Governor's reason for requiring two-thirds of the initial flow to be from residences constructed 10 years before DNR approved the facility plan instead of forwarding the biennial finance plan recommendation is to allow "older development" to continue to be eligible for low-interest financing but not communities that have grown significantly in the last 10 years.

11. It could be argued that the provision should be approved so that unsewered "older development" would continue to be eligible for low-interest loans. The provision would continue to provide the incentive of a subsidized loan to encourage development of municipal wastewater service in unsewered communities and could improve water quality in those communities.

12. It could be argued that the provision should not be approved so that state funds would not be used to provide subsidized loans to provide municipal wastewater service to unsewered areas that were largely constructed after the early 1970s. Under this argument, communities with substantial development in the last thirty years would not receive state subsidy for the provision of wastewater service.

13. Alternatively, it could be argued that the provision should be expanded to apply to the period of time before DNR approved the facility plan instead of 10 years prior, so that major unsewered development that occurred more recently (the late-1980s and 1990s development) would receive an incentive to provide municipal wastewater service to residents.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to require that two-thirds of the initial wastewater flow for new wastewater collection systems be from residences that were in existence 10 years prior to the date DNR approved the facility plan in order for a municipality to be eligible for a reduced interest rate loan under the clean water fund program.

2. Modify the Governor's recommendation to require that two-thirds of the initial wastewater flow for new wastewater collection systems be from residences that were in existence prior to the date DNR approved the facility plan (instead of 10 years prior) in order for a municipality to be eligible for a reduced interest rate loan under the clean water fund program.

3. Maintain current law.

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