



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #283

### **Clean Water Fund Eligibility for Unsewered Areas (Environmental Improvement Fund)**

[LFB 2015-17 Budget Summary: Page 153, #5]

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#### **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 75% of the market interest rate. Projects for unsewered communities that do not meet this criteria are eligible only for loan at the market rate interest.

#### **GOVERNOR**

Require that two-thirds of the initial wastewater flow for new wastewater collection systems be from residences that were in existence 20 years prior to the date of submission of the application to DNR for financial assistance 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. The 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 in the late 1990s. DNR believes that Wisconsin is the only state that still uses the requirement. Federal regulations do not require Wisconsin to keep or eliminate the requirement.

3. The bill would immediately provide eligibility for low interest loans for projects to provide sewers for areas of unsewered residences where two-thirds or more of the initial wastewater flow is from residences constructed between 1972 and 1995. In the future, the date would continue to move forward so that unsewered area projects would be eligible for low-interest loans if two-thirds or more of the initial wastewater flow is from residences constructed more than 20 years ago. If the project does not meet the two-thirds rule, it could receive a state loan at the market interest rate.

4. Under current law, the long-term demand for clean water fund low-interest loans has likely decreased over time because of the two-thirds rule. The further the October 17, 1972, date moves into the past, the more likely it is that growing municipalities and subdivisions that seek funding for providing sewers in currently unsewered areas will not meet the two-thirds rule. DNR indicates that the program has not received applications for entirely new sewer systems for unsewered areas for several years due to the restrictions of the date in the current two-thirds rule.

5. 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.

6. DNR anticipates the amount of financial assistance provided under the provision for unsewered areas in the 2015-17 biennium would be minimal. Further, they anticipate that the provision in the bill might generate a few applications per year from municipalities with older areas previously using septic systems. Often costs for unsewered areas are a small portion of larger project costs. There are some small rural communities scattered throughout the state that are completely unsewered and might become eligible for low-interest loans under the bill. Projects to provide sewers to unsewered areas tend to be expensive on a per-household basis.

7. The provision could be approved so that unsewered "older development" built in the 1970s through mid-1990s would become eligible for low-interest loans but unsewered "newer development" would not. The provision would 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 [Alternative 1]. The 20-year date in the bill could be viewed as appropriate because it is similar to the length of time a private onsite wastewater treatment system (septic system) could be expected to last, and could encourage providing public sewers after the end of the anticipated lifespan of a septic system.

8. The provision could be denied 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 current law, communities with substantial unsewered development in the last forty years would not receive state low-interest loans for the provision of

wastewater service (but could receive market interest rate loans) [Alternative 4].

9. It could be argued that the provision should be expanded to apply to 10 years before submission of the application instead of 20 years prior, so that major unsewered development that occurred more recently (in the late-1990s and early 2000s) would receive an incentive to provide municipal wastewater service to residents who currently reside in unsewered areas [Alternative 2]. However, this could be viewed as unnecessarily providing low-interest loans to unsewered areas where septic systems may be 10 to 20 years old, should still be within their expected lifespan, and should not need to be replaced yet.

10. To be consistent with current federal regulations, the two-thirds requirement could be eliminated [Alternative 3]. However, this could be viewed as encouraging low-interest rate loans for future growth in new areas or in formerly unsewered areas.

## **ALTERNATIVES**

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 20 years prior to the date of submission of the application to DNR for financial assistance 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 10 years prior to the date of submission of the application to DNR for financial assistance in order for a municipality to be eligible for a reduced interest rate loan under the clean water fund program.

3. Delete the two-thirds rule.

4. Maintain current law.

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