



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

---

May 5, 2015

Joint Committee on Finance

Paper #484

### **Transfer Private Onsite Wastewater Treatment System Regulation from DSPS to DNR (DSPS – Program Transfers; and DNR – Environmental Quality)**

[LFB 2015-17 Budget Summary: Page 394, #2 and Page 327, #12]

---

#### **CURRENT LAW**

The Department of Safety and Professional Services (DSPS) is currently responsible for the regulation of private onsite wastewater treatment systems (POWTS) under Chapter 145 of the statutes and administrative rules included in Chapter SPS 383, and sections SPS 302.65 and SPS 302.67. POWTS means 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. DSPS responsibilities include to: (a) issue sanitary permits authorizing the installation of a POWTS; (b) promulgate and administer rules for sanitary permits and private sewage system plan review; (c) review the POWTS programs administered by counties responsible for regulation, to determine compliance with state statutes and rules; (d) conduct training for local government officials responsible for POWTS regulation; (e) establish a maintenance program to be administered by local governments responsible for POWTS regulation; (f) promulgate and administer rules relating to lot size and lot elevation necessary for proper sanitary conditions in the development and maintenance of subdivisions not served by a public sewer, where provision for such service has not been made; and (g) review and evaluate existing POWTS that do not comply with siting or design standards, including to act on petitions for a variance from the standards.

In 2013-14, DSPS collected \$1,687,600 PR in sanitary permit fees (\$803,800) and private sewage system plan review (\$883,800). The fees are deposited in a program revenue appropriation for regulation of safety and buildings, along with many plan review, inspection and credentialing fees related to commercial buildings, multifamily and one- and two-family dwellings, elevators, plumbing, electrical, and boilers.

The Department of Natural Resources (DNR) is currently responsible for the regulation of

wastewater and stormwater discharges by industrial facilities and municipalities. DNR regulates private onsite wastewater treatment systems for industries and businesses. The Department also regulates persons who pump and haul septage, septage treatment and storage facilities, and land application of septage from private residences, municipal wastewater treatment sludge, and industrial wastewater solids. DNR also regulates groundwater and surface water quality standards.

## **GOVERNOR**

Transfer regulation of private onsite wastewater treatment systems (POWTS) from DSPS to DNR effective January 1, 2016. In DSPS, delete \$386,100 PR in 2015-16 and \$772,100 PR in 2016-17 with 9.0 PR positions. In DNR, provide \$395,100 environmental management account SEG in 2015-16 and \$790,100 SEG in 2016-17 with 9.0 SEG positions. Expenditures would be \$18,000 higher in DNR because the agency has a higher fringe benefit rate than DSPS. The transferred positions would include 1.0 section chief, 7.0 private sewage system plan reviewers, and 1.0 engineering consultant for plumbing product review.

The administration indicates it intended to transfer program revenue currently received by DSPS for sanitary permits and private sewage system plan reviews to DNR to be deposited in the segregated environmental management account of the environmental fund. The bill would need to be amended to accomplish the transfer of revenue. Revenue from the two fee types are expected to total an estimated \$1,629,000 in each of 2015-16 and 2016-17, including \$786,000 for sanitary permits and \$843,000 for plan review. This would result in a decrease of PR revenue in DSPS of \$2,443,000, including \$814,000 in 2015-16 and \$1,629,000 in 2016-17, and a corresponding environmental management SEG revenue increase in DNR.

Provide that the DSPS assets, liabilities, tangible personal property, records, pending matters, contracts, administrative rules, and orders related to the regulation of POWTS under Chapter 145 of the statutes, as determined by the Secretary of DOA, would become the responsibility of DNR on January 1, 2016. Any transferred rules would remain in effect until their specified expiration dates or until amended or repealed by DNR.

Provide that all positions and all incumbent employees holding those positions in DSPS that relate to the regulation of POWTS under Chapter 145 of the statutes, as determined by the Secretary of DOA, would be transferred to DNR on January 1, 2016. Employees transferred under the provision would have the same rights and status related to state employment relations under Chapters 111 and 230 of the statutes. Transferred employees who have attained permanent status would not be required to serve a probationary period.

## **DISCUSSION POINTS**

1. The administration indicates that the reason for the recommended transfer is that DNR has expertise in, and responsibility for, the regulation of wastewater and wastewater treatment systems, and currently regulates septage storage facilities of governments and industries. Further, moving the POWTS program to DNR would put all the regulation of wastewater and septage in one

agency.

2. DSPS POWTS regulation is a part of the plumbing code. People who install POWTS must hold a plumbing credential issued by DSPS. DSPS plumbing staff work with DSPS POWTS plan reviewers on issues related to POWTS products and approvals, and training to installers.

3. DNR regulates wastewater discharge, septage haulers, and disposal of septage. Currently, a memorandum of understanding between DNR and DSPS addresses issues related to wastewater discharge and disposal, and facilities regulated by the two agencies.

4. It could be argued that it is appropriate to transfer the POWTS function so that all regulation of wastewater treatment and discharge is in the state's environmental regulatory agency [Alternative 1]. Alternatively, it could be argued that the current organization of managing POWTS regulation with plumbing codes and building functions is appropriate and should be maintained [Alternative 2]. Under the bill, the plumbing and building code functions are transferred from DSPS to the newly named Department of Financial Institutions and Professional Standards (DFIPS) under a separate budget item.

5. If the Committee chooses to transfer POWTS regulation from DSPS to DNR, it would be appropriate to amend the statutes to correct the transfer of revenues, as recommended by the administration, from sanitary permits and private sewage system plan reviews so that the revenues are deposited in the segregated environmental management account [Alternative 1].

6. If the Committee chooses to maintain POWTS regulation in DSPS/DFIPS, it would be appropriate to maintain the expenditure authority and deposit of POWTS fees in the current program revenue appropriation [Alternative 2].

7. Under the bill, the \$1,629,000 annual amount of POWTS revenue exceeds the amount of POWTS expenditure authority by almost \$840,000 on an annual basis. This provides a benefit to the balance of the environmental management account of \$1.3 million. If the Committee chooses to restore POWTS regulation to DSPS/DFIPS [Alternative 2], the estimated balance of the environmental management account would decrease by \$1.3 million, and the estimated balance of the program revenue appropriation for regulation of industry (such as buildings, plumbing, electrical, and elevators) would increase by \$1.3 million.

## **ALTERNATIVES**

1. Approve the Governor's recommendation to transfer POWTS regulation from DSPS to DNR on January 1, 2016, as corrected to specify that POWTS revenues collected under Chapter 145 of the statutes are deposited in the segregated environmental management account of the environmental fund.

2. Maintain the program in DSPS/DFIPS.

<b>ALT 2</b>	<b>Change to Bill</b>	
	Funding	Positions
<b>DNR</b>		
SEG	-\$1,185,200	- 9.00
SEG-REV	- 2,443,000	
<b>DSPS/DFIPS</b>		
PR	\$1,158,200	9.00
PR-REV	2,443,000	

Prepared by: Kendra Bonderud