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Joint Committee on Finance

Paper #485

Repeal Private Onsite Wastewater Treatment System Grant Program (Safety and Professional Services -- Agencywide Provisions)

[LFB 2015-17 Budget Summary: Page 391, #7]

CURRENT LAW

The Department of Safety and Professional Services (DSPS) administers the private onsite wastewater treatment system (POWTS) replacement and rehabilitation grant program, also referred to as the Wisconsin Fund. The program provides financial assistance to owners of a principal residence (residence which is occupied at least 51% of the year by the owner) and small commercial establishments who meet certain income and eligibility criteria, to cover a portion of the cost of repairing or replacing failing POWTS. A determination that the POWTS is failing, and thus 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. If funding in a fiscal year is sufficient to fund 100% of the eligible grant amount for category one systems, category two systems are funded. Category two systems fail by discharging sewage to the surface of the ground. Systems are eligible if they are 37 or more years old (installed before July 1, 1978).

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 rules, whichever is less. 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 they

do not exceed 10% of the total funds available.

The program is appropriated \$2,338,600 GPR in 2014-15 for financial assistance and \$74,900 GPR with 1.0 position for administration.

GOVERNOR

Repeal the private onsite wastewater treatment system replacement or rehabilitation grant program, and delete \$2,409,000 GPR annually, including: (a) \$2,338,600 for financial assistance; and (b) \$70,400 with 1.0 position for administration of the program.

DISCUSSION POINTS

1. The Governor's rationale for eliminating the program is that it has existed since 1978 and has seen a decline in funding over the past decade. The administration indicates that while there would be no state funding for financial assistance for lower-income households to receive help in replacing or rehabilitating their failing POWTS, there may be assistance available from local units of government. However, no such assistance from local governments was identified.

2. Under current law, grant funds are allocated on an annual cycle. To receive funding, the owner of a failing POWTS must submit an application to the county within three years after the county notifies the owner that the septic tank or other eligible system has failed. The county reviews the application and makes an initial determination as to whether the system and owner are eligible. Counties then submit an application to DSPS by February 1 for funding in the following fiscal year. The county application includes a list of property owners approved by the county as eligible and the maximum state grant share for each property owner. After DSPS receives the applications from counties, the applicants have 18 months to install the POWTS and submit payment information to the county in order to receive the grant funding. DSPS is required to verify eligibility, conduct a desk audit to ensure that systems and work meet state requirements, prorate grant funds to counties based on the total available funding, notify counties of award amounts, and make actual grant payments to counties after the POWTS replacement or repair work is completed. Each participating county is responsible for disbursing all grant awards to property owners. DSPS would normally begin issuing payments or partial payments to counties in August, after applicants provide verification of installation and payment.

3. For the 2014-15 funding cycle, counties were required to submit applications to DSPS by February 1, 2014. DSPS awarded 2014-15 grants in August, 2014. All work done with 2014-15 grant funds must be completed by December 31, 2015. In 2014-15, DSPS awarded 502 grants totaling \$2,233,153, the average grant was \$4,449, and all grantees received 100% of the eligible grant amount. However, grants for small commercial establishments were reduced by 13% because the statutes limit grants for these systems to 10% of the total funds available in any fiscal year. In 2014-15, 78% of grant recipients (391 of 502) had household income of \$32,000 or less, and received an average grant of \$4,702.

4. For the 2015-16 funding cycle, current law required counties to submit applications to DSPS by February 1, 2015. Counties submitted a total of 448 applications for \$1,934,228, including: (a) 434 category one applications totaling \$1,894,763 (including 55 applications totaling \$263,125 for small commercial establishments, which would be reduced to be within the 10% of available funding limit); and (b) 14 category two applications totaling \$48,465. Under the bill, none of the applications would be funded.

5. DSPS officials indicate that some of the applicants for 2015-16 grants may have installed their POWTS before they applied for the grant, and others may not. However, the number of applicants for funding in 2015-16 who may have already installed their system is unknown because counties are not required to provide that information at the time they submit applications to DSPS. DSPS indicates that most applications for 2015-16 had a county order date of failure during calendar year 2014, but a small number were from 2012 or 2013. Currently, grant recipients that receive 2015-16 grant awards would have to complete the work by December 31, 2016.

6. The reduction in funding under the bill may make it more difficult for low- to moderate-income households to pay for replacement or repair of an old and failing private onsite wastewater treatment system. In addition, some may suggest that continuing to provide state assistance to owners with private onsite wastewater treatment systems is appropriate as similar to the state providing assistance to municipalities for public wastewater treatment system repair and construction.

7. The bill does not change the requirement that owners of failing systems must repair or replace them. In addition, current law and the bill do not provide financial assistance for POWTS that fail and were installed on or after July 1, 1978. It is probable that some systems that were installed since that date 37 years ago have failed or will fail, and that low- and moderate-income homeowners will find it difficult to find funds to replace the system.

8. The program is currently funded from a GPR continuing appropriation which is appropriated a specified amount annually (\$2,338,600 in 2014-15) and may spend carryover or unexpended funds from the prior year. DSPS has paid most grant payments for 2014-15 grants. The appropriation currently has an unencumbered balance of \$321,365, of which \$88,213 will be needed for remaining costs associated with 2014-15 grant awards.

9. Some have argued that the program should be restored for at least 2015-16, in order to provide assistance to households, owners of small commercial establishments, and counties that applied under the current law deadline of February 1, 2015. Under this view, applicants and counties applied in anticipation of continuance of the program.

10. Approximately \$1,645,000 would be needed in 2015-16 to fund all 2015-16 applications under existing program requirements. This would utilize anticipated funds carried forward from 2014-15 and would fund a total of approximately \$1,874,800 for the 448 applications received before February 1, 2015. This would include: (a) \$1,826,300 to fully fund 434 category one applications, except that 55 applications for small commercial establishments would be reduced by approximately 26% to remain within the 10% of available funding limit; and (b) \$48,500 to fully fund 14 category two applications. It should be noted that the actual grant amounts

could change for individual homeowners or owners of small commercial establishments, depending on state review of eligibility, household income, and costs of actual work to be performed.

11. As the date of July 1, 1978, before which systems must have been installed to be eligible for a grant, recedes further into the past, it is likely there will be fewer old systems in need of replacement. Currently, this eligibility date means that systems must have been installed 37 or more years ago to be eligible. DSPS does not have information about how many POWTS in active use were installed before that date. Counties would determine the installation date based on whatever local records they maintain. It should be noted that, while DSPS received 448 applications for funding in 2015-16, it received 863 applications in 2012-13 and 879 in 2011-12. There continues to be substantial numbers of old systems that are still in active use, are failing, and likely meet current system and household income eligibility requirements.

12. If the Committee wishes to restore the POWTS grant program in some form, it may want to consider: (a) which state agency should administer the program; (b) whether the program should be funded for one year to fund applications already received for the 2015-16 funding cycle or on an ongoing basis; (c) what funding source should be provided; and (d) what amount of funding should be provided.

13. A separate budget paper discusses the bill's transfer of private onsite wastewater treatment system regulation from DSPS to DNR. Currently, state staff who are responsible for regulating POWTs are also responsible for the POWTS grant program. If the Committee chooses to restore the POWTS grant program for one year or on an ongoing basis, it would be appropriate to attach it to the same state agency that it decides will administer the POWTS program during 2015-17.

14. Funding for the program has been provided from GPR since it was created in 1978. One historical rationale for use of GPR may have been that GPR was and is also used to provide assistance for municipal wastewater treatment projects.

15. If the Committee transfers POWTS regulation to DNR, and chooses to restore the POWTS grant program for one or more years, the program could be funded with GPR, as it is currently. Alternatively, it could be funded from the segregated environmental management account, which is where the POWTS regulatory staff would be funded from when transferred to DNR, and where sanitary permit fees and private sewage system plan review fees would be deposited under the bill. Under the bill, the \$1,629,000 annual amount of POWTS revenue exceeds the \$790,100 amount of POWTS regulatory expenditure authority by almost \$840,000 annually.

16. A separate budget paper provides a general overview of the environmental management account, the estimated condition of the account, and expenditure changes made under the bill in appropriations funded from the account.

17. If the Committee chooses to restore POWTS regulation to DSPS or its successor Department of Financial Institutions and Professional Standards (DFIPS), and chooses to restore the POWTS grant program for one or more years, the program could be funded with GPR, as it is currently. Alternatively, it could be funded from the program revenues received by the safety and

buildings appropriation (Division of Industry Services) from sanitary permit fees and private sewage system plan reviews, which is the funding source for DSPS POWTS staff under current law. Under this funding option, a PR appropriation could be created and funded with a specified amount to be transferred from the main safety and buildings appropriation.

18. As described earlier, provision of \$1,645,000 in 2015-16 is anticipated to be sufficient to fully fund 2015-16 applications. If the Committee wishes to restore funding for one year in 2015-16 in DNR, it could provide the funding as GPR [Alternative B1a] or environmental management SEG [Alternative B1b]. If the Committee wishes to restore funding for 2015-16 in DSPS, it could provide the funding as GPR [Alternative C1a] or PR in an appropriation funded by a transfer from the safety and buildings program revenue appropriation [Alternative C1b].

19. If the Committee wishes to restore funding for the POWTS grant program on an ongoing basis, it could provide \$1,645,000 in 2015-16, include the carry forward of the remaining 2014-15 balance, and decide on an amount of funding for 2016-17, which would provide a base level of funding for subsequent years. For example, provision of \$1,900,000 in 2016-17 would fund approximately the same level of applications as received under current law for 2015-16. This funding level could be provided for the program in DNR with GPR [Alternative B2a] or environmental management SEG [Alternative B2b]. If this level of ongoing funding would be provided for the program in DSPS/DFIPS, it could be provided as GPR [Alternative C2a] or PR in an appropriation funded by a transfer from the safety and buildings program revenue appropriation [Alternative C2b]. However, it is probable that provision of SEG in DNR or PR in DSPS/DFIPS would result in a structural imbalance of the accounts, where ongoing expenditures would exceed annual revenues.

20. If provided through SEG or PR, \$1.9 million would be more than double the available revenues from related fees. The Committee could consider providing \$840,000 in 2016-17, equaling the approximate funding difference between the amount of sanitary permit and private sewage system plan review fees received and the amount of expenditure authority for the POWTS regulatory staff. This level of funding could be provided in DNR as SEG [Alternative B2c] or in DSPS/DFIPS as PR [Alternative C2c].

21. Any of the program restoration alternatives that fund the program in DNR with environmental management SEG will need to be take into consideration other funding decisions made related to expenditures from the account. It is anticipated that, if POWTS regulation and the POWTS grant program are restored to DSPS/DFIPS, the safety and buildings PR appropriation would have a sufficient balance to fund the alternatives described in this paper during the 2015-17 biennium. However, under Alternative C2b (\$1.9 million PR ongoing grants) revenues from other building and plan review fees would also be utilized to fund POWTS grants.

22. If the Committee approves the Governor's recommendation to repeal the grant program, it would be appropriate to also approve the deletion of the grants administration position [Alternative A1]. The DSPS incumbent has left the Department. If the Committee restores the program, it should also consider whether to restore a position to administer the program. A position could be provided with the same funding source as the grant program, for example, GPR [Alternative B3a in DNR or Alternative C3a in DSPS/DFIPS] or, if restored to DNR, as SEG

[Alternative B3b] or restored to DSPS/DFIPS, as PR [Alternative C3b]. If no position is provided, the agency could reallocate one or part of one of the POWTS positions for administration of the grants (one position is vacant).

ALTERNATIVES

A. Repeal of Program

1. Approve the Governor's recommendation to repeal the private onsite wastewater treatment system replacement or rehabilitation grant program, and delete \$2,409,000 GPR annually, including: (a) \$2,338,600 GPR annually for financial assistance; and (b) \$70,400 with 1.0 position.

B. Restore Program in DNR. [If the Committee transfers POWTS regulation from DSPS to DNR (under a separate budget paper)].

1. Restore the POWTS grant program, and transfer it to DNR for one year. Provide \$1,645,000 for grants in 2015-16. Transfer the 2014-15 ending balance of the existing POWTS grant appropriation to the DNR appropriation to be used for grants. Repeal the program effective June 30, 2016. Provide one of the following funding sources:

a. GPR

ALT B1a	Change to Bill
GPR	\$1,645,000

b. Environmental management SEG

ALT B1b	Change to Bill
SEG	\$1,645,000

2. Restore the POWTS grant program under DNR on an ongoing basis. Transfer the 2014-15 ending balance of the existing POWTS grant appropriation to the DNR appropriation. Provide funding for grants in one of the following ways:

a. \$1,645,000 GPR in 2015-16 and \$1,900,000 GPR beginning in 2016-17.

ALT B2a	Change to Bill
GPR	\$3,545,000

b. \$1,645,000 Environmental management SEG in 2015-16 and \$1,900,000 SEG beginning in 2016-17.

ALT B2b Change to Bill	
SEG	\$3,545,000

c. \$1,645,000 environmental management SEG in 2015-16 and \$840,000 SEG beginning in 2016-17.

ALT B2c Change to Bill	
SEG	\$2,485,000

3. Approve an alternative under B2. In addition provide \$72,300 annually with 1.0 position from one of the following funding sources:

a. GPR

ALT B3a	Change to Bill	
	Funding	Positions
GPR	\$144,600	1.00

b. Environmental management SEG.

ALT B3b	Change to Bill	
	Funding	Positions
SEG	\$144,600	1.00

C. Restore Program in DSPS/DFIPS. [If the Committee restores POWTS regulation to DSPS/DFIPS (under a separate budget paper).]

1. Restore the POWTS grant program under DSPS/DFIPS for one year. Provide \$1,645,000 for grants in 2015-16. Transfer the 2014-15 ending balance of the existing POWTS grant appropriation to the DSPS appropriation to be used for grants. Repeal the program effective June 30, 2016. Provide one of the following funding sources:

a. GPR

ALT C1a Change to Bill	
GPR	\$1,645,000

b. Industry services (safety and buildings) PR.

ALT C1b	Change to Bill
PR	\$1,645,000

2. Restore the POWTS grant program under DSPS/DFIPS on an ongoing basis. Transfer the 2014-15 ending balance of the existing POWTS grant appropriation to the DSPS/DFIPS appropriation. Provide funding for grants in one of the following ways:

- a. \$1,645,000 GPR in 2015-16 and \$1,900,000 GPR beginning in 2016-17.

ALT C2a	Change to Bill
GPR	\$3,545,000

- b. \$1,645,000 PR in 2015-16 and \$1,900,000 PR beginning in 2016-17.

ALT C2b	Change to Bill
PR	\$3,545,000

- c. \$1,645,000 PR in 2015-16 and \$840,000 PR beginning in 2016-17.

ALT C2c	Change to Bill
PR	\$2,485,000

3. Approve an alternative under C2. In addition provide \$70,400 annually with 1.0 position from one of the following funding sources:

- a. GPR

ALT C3a	Change to Bill	
	Funding	Positions
GPR	\$140,800	1.00

- b. Industry services (safety and buildings) PR.

ALT C3b	Change to Bill	
	Funding	Positions
PR	\$140,800	1.00

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