

1       **AN ACT** *to renumber and amend* 145.245 (3); and *to amend* 145.10 (1) (c), 145.245  
2           (9) (a), 281.17 (3) and 281.48 (5) (a) 4. of the statutes; **relating to:** maintenance of  
3           private sewage systems.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the joint legislative council's special committee on septage disposal.

Under current law, the department of commerce has promulgated rules that establish a maintenance program for new private sewage systems. The authority for these rules is in the Wisconsin fund grant program for private sewage system maintenance. Under its general authority to regulate private sewage systems, the department of commerce has promulgated rules that set forth maintenance requirements for all private sewage systems. One of the conditions for a county to participate in the Wisconsin fund grant program is that the county must adopt the maintenance program. This bill draft moves the maintenance program out of the Wisconsin fund program and into the general department of commerce duties, and makes all counties responsible for local administration of the maintenance program.

**COMMENT:** This bill draft relates to the issues in memo no. 1., *suggestions of issues for committee discussion* (October 4, 2004) (part C, septic systems, section 2, maintenance and servicing).

4       **SECTION 1.** 145.10 (1) (c) of the statutes is amended to read:

5           145.10 (1) (c) Falsified information on an inspection form under s. ~~145.245 (3)~~ 145.20  
6           (5).

7       **SECTION 2.** 145.245 (3) of the statutes is renumbered 145.20 (5) and amended to read:

8           145.20 (5) MAINTENANCE. The department shall establish a maintenance program to be  
9           administered by governmental units responsible for the regulation of private sewage systems.

10          The maintenance program is applicable to all new or replacement private sewage systems

1 constructed in a governmental unit after the date on which the governmental unit adopts this  
2 the program under s. 145.245. ~~The maintenance program shall include a requirement of~~  
3 ~~inspection or pumping of the private sewage system at least once every 3 years. Inspections~~  
4 ~~may be conducted by a master plumber, journeyman plumber or restricted plumber licensed~~  
5 ~~under this chapter, a person licensed under s. 281.48 or by an employee of the state or~~  
6 ~~governmental unit designated by the department.~~ The department may apply the maintenance  
7 program by rule to private sewage systems constructed in a governmental unit responsible for  
8 the regulation of private sewage systems on or before the date on which the governmental unit  
9 adopts the program under s. 145. 245. The department shall specify the methods to establish  
10 the required frequency of inspection, maintenance, and pumping for each type of private  
11 sewage system and shall periodically update the methods. The department may determine  
12 which individuals are qualified to undertake the required inspection, maintenance, or repairs.  
13 The department of natural resources may suspend or revoke a license issued under s. 281.48  
14 or a certificate issued under s. 281.17 (3) to the operator of a septage servicing vehicle if the  
15 department of natural resources finds that the licensee or operator falsified information on  
16 inspection forms. The department of commerce may suspend or revoke the license of a  
17 plumber licensed under this chapter if the department finds that the plumber falsified  
18 information on inspection forms.

**NOTE:** The department of commerce administers the private sewage system replacement or rehabilitation grant program under s. 145.245, stats. The program is referred to as the Wisconsin fund. This program pays for part of the cost of replacing or rehabilitating failing private sewage systems for eligible individuals and small business owners.

A county must adopt a resolution in which the county agrees to administer the program in accordance with state law. One eligibility requirement is that the county where the property is located must adopt and administer a maintenance program for private sewage systems that are newly installed or replaced after the date that the county adopts the

resolution. The department of commerce has established the maintenance requirements by administrative rule in ss. Comm. 83.50 to 83.55. The maintenance program imposes requirements for the inspection, maintenance, and pumping of private sewage systems. The maintenance program applies to all private sewage systems, not just to those in counties that participate in the Wisconsin fund.

This bill draft moves the maintenance program statute out of the Wisconsin fund program and into the general department of commerce duties. The draft deletes an obsolete requirement in the current statute that requires inspection or pumping out the contents of a private sewage system at least once every 3 years. The bill draft directs the department of commerce to specify by rule methods to establish requirements for periodic maintenance, which will continue to allow counties to adopt more frequent maintenance requirements. The bill draft authorizes the department to designate which credentialed professionals may undertake the required inspection, maintenance, or repairs.

The current statute requires that the county maintenance program must apply to private sewage systems that are newly installed or replaced after the date that the county adopts the Wisconsin fund grant program. In the administrative rules, the department of commerce applies maintenance requirements to preexisting private sewage systems, as well as new or replacement systems. Maintenance requirements for preexisting private sewage systems differ in some respects from those applicable to new systems. This bill draft directs the department of commerce to apply maintenance requirements to all private sewage systems in all counties.

1       **SECTION 3.** 145.245 (9) (a) of the statutes is amended to read:

2       145.245 (9) (a) Adopt and administer the maintenance program established under sub.

3       ~~(3)~~ s. 145.20 (5);

4       **SECTION 4.** 281.17 (3) of the statutes is amended to read:

5       281.17 (3) The department shall promulgate rules establishing an examining program

6       for the certification of operators of water systems, wastewater treatment plants and septage

7       servicing vehicles operated under a license issued under s. 281.48 (3), setting such standards

8       as the department finds necessary to accomplish the purposes of this chapter and chs. 285 and

9       289 to 299, including requirements for continuing education. The department may charge

1 applicants a fee for certification. All moneys collected under this subsection for the  
2 certification of operators of water systems, wastewater treatment plants and septage servicing  
3 vehicles shall be credited to the appropriation under s. 20.370 (4) (bL). No person may operate  
4 a water systems, wastewater treatment plant or septage servicing vehicle without a valid  
5 certificate issued under this subsection. The department may suspend or revoke a certificate  
6 issued under this subsection for a violation of any statute or rule relating to the operation of  
7 a water system or wastewater treatment plant or to septage servicing, for failure to fulfill the  
8 continuing education requirements or as provided under s. ~~145.245 (3)~~ 145.20 (5). The owner  
9 of any wastewater treatment plant shall be, or shall employ, an operator certified under this  
10 subsection who shall be responsible for plant operations, unless the department by rule  
11 provides otherwise. In this subsection, “wastewater treatment plant” means a system or plant  
12 used to treat industrial wastewater, domestic wastewater or any combination of industrial  
13 wastewater and domestic wastewater.

14 **SECTION 5.** 281.48 (5) (a) 4. of the statutes is amended to read:

15 281.48 **(5)** (a) 4. Violated any provisions of this section or any rule prescribed by the  
16 department or falsified information on inspection forms under s. ~~145.245 (3)~~ 145.20 (5).

17 (END)