

JES:jal

11/8/2004

- 1 **AN ACT** *to create* 281.48 (4s) (c) of the statutes; **relating to:** fees for licenses to
2 service private sewage systems and granting rule-making authority.

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

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

Current law, relating to the servicing of private sewage systems, s. 281.48 (4s), directs the department of natural resources (DNR) to collect the specified amounts of fees for licenses to service private sewage systems, including specified groundwater fees, and for site licenses (changed to approvals in this bill draft) for the storage or disposal of septage on the land on sites 20 acres or larger. In addition, this law authorizes the DNR to establish by rule a fee for a licensed site which is less than 20 acres in size.

This draft authorizes the DNR to increase one or more of these fees by rule only if the increase is necessary to meet the costs incurred by the department in administering and enforcing these licenses.

COMMENT: This bill draft was prepared at the direction of chair Ainsworth, pursuant to a request by the DNR.

The DNR is authorized to expend the funds received from the license fees and site license fees, identified above, for wastewater management activities under s. 20.370 (4) (bL). The DNR deposits the specified groundwater fee in the segregated environmental fund and is authorized under s. 20.370 (4) (mq) to, in general, expend funds from the environmental fund for the administration of its groundwater, water and sewage, and pollution discharge elimination programs. [Another bill draft before the special committee, WLC: 0042/1, conforms this appropriation with legislative intent and current practice.] The environmental fund receives moneys from a number of fees and other sources and funds a number of programs in addition to these programs. Staff at the DNR report that the department allocates a total of 2.0 full-time equivalent (FTE) and 0.5 limited-term employee (LTE) staff positions for its septage disposal management program.

The fee increases authorized under this bill draft could be used to provide additional staff to the DNR for its septage disposal management program. In particular, if this draft is recommended by the special committee and subsequently introduced and enacted, and if the DNR subsequently exercises its authority provided by the draft to raise one or more of the affected fees by rule and the legislature does not object to the rule with the fee increase, then the DNR could seek authorization for additional positions in its septage disposal management program funded by these fee increases. This authorization could be provided under the applicable process involving review of the position request by the joint committee on finance under ss. 13.10 and 13.101 or s. 16.505.

Similar flexibility for a state agency to adjust a statutorily specified license or permit fee is provided in the statute governing fees for sanitary permits in s. 145.19 (5). Under s. 145.19 (2), no fee for a sanitary permit may be less than \$61, or the amount determined under department of commerce rules. Under s. 145.19 (3), a governmental unit responsible for the regulation of private sewage systems must forward to the department of commerce \$20 of the sanitary permit fee, or an amount determined by department of commerce rules. The department of commerce has set in s. Comm 2.67 (1) (a) the minimum fee for a sanitary permit issued by a governmental unit to be \$116 and in s. Comm 2.67 (2), the portion of the sanitary permit fee to be forwarded to the department to be \$75.

SECTION 1. 281.48 (4s) (c) of the statutes is created to read:

281.48 **(4s)** (c) The department, by rule, may increase any fee specified in par. (a), (b), or (d) only if the increase is necessary to meet the costs incurred by the department in administering and enforcing licenses, approvals, and other program requirements under this section.

(END)