

AMENDMENT ,
TO WLC: 0062/1

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This amendment makes the following changes to the provisions in WLC: 0062/1 relating to septage disposal fees charged by municipal sewage systems:

- Clarifies the process for a licensed disposer to obtain a review of a disputed septage disposal fee by specifying:

- * A 3–stage process involving review by the municipal sewage system, staff at the public service commission (PSC), and then the PSC.

- * The allocation of the PSC’s expenses under the formal review by the PSC in the 3rd stage of the process.

- Requires a municipal sewage system, in establishing its reasonable septage disposal fees, to base the fees on the actual specified costs related to the disposal of the septage, as determined in accordance with a uniform cost accounting system applicable to all services provided by the system.

- Requires each municipal sewage system to notify each licensed disposer disposing septage in the system of any increase in a disposal fee applicable to the licensed disposer at least 60 days prior to imposing the increased disposal fee. The notice must include a description of how the system calculates the new disposal fee.

1 At the locations indicated, amend the draft as follows:

2 **1.** Page 7, line 11: delete “of the statute is” and insert “, (d) and (e) of the statutes are”.

3 **2.** Page 8, line 3: after “s. 281.49 (5)” insert “and initiates under s. 281.49 (11) (d) a
4 review under par. (a) of a disputed septage disposal fee by the public service commission.

5 (d) If the public service commission determines in a proceeding under par. (a) that a
6 septage disposal fee is unreasonable, the commission shall determine and fix under par. (a) a
7 reasonable fee that conforms with s. 281.49 (5) (c) 4.

1 (e) Notwithstanding par. (a), the public service commission shall bill under s. 196.85
2 (1) any expense of the commission attributable to a proceeding under par. (a) that is initiated
3 under s. 281.49 (11) (d) as follows:

4 1. If the commission determines in the proceeding that one or more septage disposal
5 fees are unreasonable and determines and fixes by order reasonable septage disposal fees that,
6 when combined with any other applicable septage disposal fees, total an amount that is at least
7 15% lower than the total amount of septage disposal fees established by the municipal sewage
8 system for the quantity and type of septage specified in s. 281.49 (11) (b), the municipal
9 sewage system that is a party to the dispute shall pay the entire amount of the assessment.

10 2. If the commission determines in the proceeding that one or more of the septage
11 disposal fees are unreasonable and determines and fixes by order reasonable fees that, when
12 combined with any other applicable septage disposal fees, total an amount that is not at least
13 15% lower than the total amount of septage disposal fees established by the municipal sewage
14 system for the quantity and type of septage specified in s. 281.49 (11) (b), the licensed disposer
15 that is a party to the dispute shall pay the entire amount of the assessment.

16 3. If the commission determines in the proceeding that the septage disposal fees are
17 reasonable, the licensed disposer that is a party to the dispute shall pay the entire amount of
18 the assessment.

19 4. If the commission terminates the proceeding before making a final determination on
20 the reasonableness of the septage disposal fees, the municipal sewage system and the licensed
21 disposer that are parties to the dispute shall each pay 50% of the assessment, unless the
22 municipal sewage system and the licensed disposer agree to a different allocation of the
23 assessment.

NOTE: Under existing s. 66.0821 (5), a “user of a service” of a municipal sewer system may file a complaint with the PSC that the rates, rules, and practices of the system are unreasonable or unjustly discriminatory. This statute applies to municipal sewer systems that are a municipal utility or a metropolitan sewerage district other than the Milwaukee metropolitan sewerage district (MMSD).

This provision establishes that the complaint process in s. 66.0821 (5) also applies to the rates for the disposal of septage by a licensed disposer at a municipal sewage system subject to sub. (5) if the licensed disposer has first sought review of the disputed rate by the municipal sewage system and by the PSC staff under the process specified in the bill draft.

This provision specifies the allocation of the PSC’s expenses under the formal complaint process. This allocation policy is intended to encourage settlement of a dispute over a septage disposal fee prior to the dispute reaching the PSC.”.

1 **3.** Page 8, line 4: delete the NOTE before that line.

2 **4.** Page 14, line 1: before that line insert:

3 **“SECTION 17m.** 196.85 (1m) (c) of the statutes is created to read:

4 196.85 **(1m)** (c) For the purpose of direct assessment under sub. (1) of expenses
5 incurred by the commission in connection with its activities under s. 66.0821 (5) (a) or 200.59
6 (a) that are initiated under s. 281.49 (11) (d), the term “sewerage system” includes a licensed
7 disposer as defined in s. 281.49 (1) (b).”.

8 **5.** Page 14, line 1: delete lines 1 to 5.

9 **6.** Page 14, line 7: delete “of the statutes is” and insert “, (c) and (d) of the statutes are”.

10 **7.** Page 14, line 10: after “s. 281.49 (5)” insert: “and initiates under s. 281.49 (11) (d)
11 a review under par. (a) of a disputed septage disposal fee by the public service commission.

12 (c) If the public service commission determines in a proceeding under par. (a) that a
13 septage disposal fee is unreasonable, the commission shall determine and fix under par. (a) a
14 reasonable fee that conforms with s. 281.49 (5) (c) 4.

(d) Notwithstanding the statutes referenced in par. (a) governing a proceeding under par. (a), the public service commission shall allocate its assessment under s. 196.85 (1) for any expense of the commission for a proceeding under par. (a) that is initiated under s. 281.49 (11) (d) as specified in s. 66.0821 (5) (e).

NOTE: Under existing s. 200.59 (5), a “user” of a service provided by the MMSD may file a complaint with the PSC that the rates, rules, and practices of the district are unreasonable or unjustly discriminatory.

The above 2 SECTIONS establish that this complaint process also applies to the district’s rates for the disposal of septage by a licensed disposer if the licensed disposer has first sought review of the disputed rate by the municipal sewage system and by the PSC staff under the process specified in the draft.”.

8. Page 15, line 1: delete the NOTE before that line.

9. Page 23, line 7: delete that line and substitute:

“**SECTION 42.** 281.49 (1) (a) of the statutes is renumbered 281.49 (1) (m) and, as renumbered, is amended to read:”.

10. Page 23, line 8: delete “(a)” and substitute “(m)”.

11. Page 23, line 10: after that line insert:

“**SECTION 42m.** 281.49 (1) (a) of the statutes is created to read:

281.49 (1) (a) “Cost” means the cost of capital, debt service, operation, and maintenance, and any other type of cost used by a municipal sewage system in establishing fees for the treatment and disposal of sewage by its customers connected to the system.”.

12. Page 23, line 12: substitute “~~based on the~~” for “based on the”.

13. Page 23, line 16: delete the material beginning with “factors in par. (e).” and ending with the NOTE after page 24, line 7 and insert:

“that meet the requirements in sub. (10).”

1 **SECTION 44.** 281.49 (10), (11) and (12) of the statutes are created to read:

2 281.49 **(10)** Disposal fees established by a municipal sewage system under sub. (5) (c)
3 4. for the disposal of septage introduced into the system by a licensed disposer shall be based
4 on only the following actual costs related to the disposal of the septage, as determined in
5 accordance with a uniform cost accounting system applicable to all services provided by the
6 system:

7 (a) The cost of facilities at the system that receive and hold septage.

8 (b) The cost of any testing of septage conducted by the system.

9 (c) The cost of treating septage by the system. This cost may vary based on the volume
10 and strength of the septage.

11 (d) The portion of the system's additional administrative and personnel costs for
12 accepting the septage not reflected in the costs identified in subds. 2. and 3.

13 **(11) REVIEW OF SEPTAGE DISPOSAL FEES.** (a) Each municipal sewage system shall
14 establish a procedure to review a septage disposal fee charged by the system that is disputed
15 by a licensed disposer.

16 (b) Upon the request of a licensed disposer, a municipal sewage system shall use the
17 procedure established by the system under par. (a) to review whether a septage disposal fee
18 charged by the system for the quantity and type of septage specified by the licensed disposer
19 conforms with sub. (5) (c) 4.

20 (c) After pursuing the review of a septage disposal fee under par. (b), a licensed disposer
21 may request the staff of the public service commission to informally review the disputed
22 septage disposal fee. If the staff determine that there is sufficient basis for a dispute regarding
23 the fee and that use of the procedure under par. (b) is not likely to resolve the dispute, the staff

1 may agree to review the disputed septage disposal fee. Based on its review, the staff may
2 recommend a reasonable septage disposal fee that conforms with sub. (5) (c) 4.

3 (d) If the use of the procedure under par. (c) does not lead to resolution of the dispute,
4 the licensed disposer requesting the review under par. (c) may make a written request to the
5 public service commission for review of the disputed septage disposal fee under s. 66.0821
6 (5) or 200.59 (5).

7 (e) Upon the request of a licensed disposer, or the public service commission or its staff,
8 a municipal sewage system shall provide information to the requester concerning the basis of
9 its septage disposal fees and to the commission or its staff any other information that the
10 commission or its staff requests related to a review under par. (c) or (d).

11 **(12)** NOTICE OF SEPTAGE DISPOSAL INCREASES. Each municipal sewage system shall
12 notify each licensed disposer currently approved under sub. (5) (b) to dispose of septage in
13 the system of any increase in a disposal fee applicable to the licensed disposer at least 60 days
14 prior to imposing the increased disposal fee. The notice shall include a description of how the
15 system calculated the new disposal fee.”.

16 **14.** Page 29, line 1: before that line insert:

17 “**SECTION 52m.** 348.15 (3) (bv) of the statutes is amended to read:

18 348.15 (3) (bv) In the case of a vehicle or combination of vehicles used primarily for
19 the transportation of septage, as defined in s. 281.49 (1) ~~(a)~~ (m), the gross weight imposed on
20 the highway by the wheels of any one axle may not exceed 21,500 pounds or, for 2 axles 8 or
21 less feet apart, 37,000 pounds or, for groups of 3 or more consecutive axles more than 9 feet
22 apart, a weight of 4,000 pounds more than is shown in par. (c) or, for groups of 4 or more
23 consecutive axles more than 10 feet apart, a weight of 6,000 pounds more than is shown in par.
24 (c) or, for groups of 5 or more consecutive axles more than 14 feet apart, a weight of 7,000

1 pounds more than is shown in par. (c), but not to exceed 80,000 pounds. This paragraph does
2 not apply to the national system of interstate and defense highways, except for that portion of
3 USH 51 between Wausau and STH 78 and that portion of STH 78 between USH 51 and the
4 I 90/94 interchange near Portage upon their federal designation as I 39.”.

5 **15.** Page 29, line 5: before that line insert:

6 “**SECTION 54** INITIAL APPLICABILITY. The treatment of section 281.49 (12) of the statutes
7 first applies to increases in disposal fees on the first day of the third month beginning after
8 publication.”.

9 (END)