

# 07hr\_SC-ENR\_sb0274\_pt01



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Environment and Natural Resources (SC-ENR)

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (~~August~~ 2012)

June-2014

## Senate

### Record of Committee Proceedings

#### **Committee on Environment and Natural Resources**

##### **Senate Bill 274**

Relating to: restrictions relating to soil testing and the installation, design, maintenance, repair, and sale of private sewage systems and providing a penalty.

By Senators Miller, Cowles, Lassa, Lazich, Lehman, Olsen and Schultz; cosponsored by Representatives Gunderson, Musser, Berceau, Hahn, LeMahieu, Mursau, A. Ott and Turner.

September 27, 2007 Referred to Committee on Environment and Natural Resources.

October 9, 2007 **PUBLIC HEARING HELD**

Present: (4) Senators Miller, Wirch, Kedzie and Schultz.  
Absent: (1) Senator Jauch.

##### Appearances For

- Pat Essie, Madison — Wisconsin Onsite Wastewater Recycling Association
- Tom Guyse, Lyndon Station — T6 Soil & Water Inc
- David LaBott, Sturgeon Bay — WOWRA
- Todd Stair, Waukesha — WOWRA
- Duane Greuel, Stevens Point — himself
- Stephen Brazzale, Stevens Point — himself
- Brian McQuestion, Wauwatosa — WOWRA
- Thomas Birrittiera, Fredon — Peterson Supply
- Mark Finger, Fitchburg — himself
- Mark Miller, Monona — Senator, 16th Senate District

##### Appearances Against

- Perry Dahl, Pardeeville — Soil testers that are employed by counties

##### Appearances for Information Only

- Bob DuPont, Madison — Department of Commerce

##### Registrations For

- Scott Gunderson, Waterford — Representative, 83rd Assembly District
- Jerry Patrowski, Marathon — Representative, 86th Assembly District
- Steven Crosby, Waunakee — WOWRA

- Patti Charnitz, West Bend — R. Charnitz Inc
- Robert Charnitz, West Bend — R. Charnitz Inc

Registrations Against

- None.

Registrations for Information Only

- None.

December 4, 2007

**EXECUTIVE SESSION HELD**

Present: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Schultz that **Senate Amendment 1** be recommended for adoption.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Noes: (0) None.

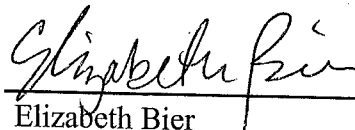
ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED,  
Ayes 5, Noes 0

Moved by Senator Kedzie, seconded by Senator Wirch that **Senate Bill 274** be recommended for passage as amended.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 0



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Elizabeth Bier  
Committee Clerk

**Vote Record**  
**Committee on Environment and Natural Resources**

Date: 12/4/07

Moved by: Wirch      Seconded by: Schultz

AB \_\_\_\_\_ SB 274      Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_      Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_      Other \_\_\_\_\_

A/S Amdt 2 (a0769)  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Mark Miller, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Jauch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Wirch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Neal Kedzie</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Dale Schultz</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>5</u>	<u>0</u>	_____	_____

Motion Carried       Motion Failed

## Vote Record

# Committee on Environment and Natural Resources

Date: 12/4/07

Moved by: Kedzie

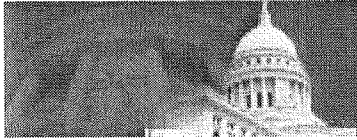
Seconded by: Wirch

AB \_\_\_\_\_ SB 274 Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

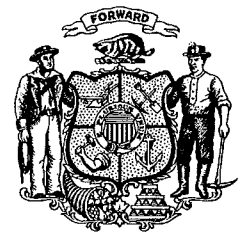
A/S Amdt 1  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:
- Passage       Adoption       Confirmation       Concurrence       Indefinite Postponement
  - Introduction       Rejection       Tabling       Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
<b>Senator Mark Miller, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Jauch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Wirch</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Neal Kedzie</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Dale Schultz</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>5</u>	<u>0</u>	_____	_____



# WISCONSIN STATE LEGISLATURE





## Wisconsin Onsite Wastewater Recycling Association, Inc.

16 N. Carroll St., Suite 900 | Madison, WI 53703

Ph: 608.256.7757 | 800.377.6672 | Fx: 608.251.8192

SB 274  
file

TO: Senator Mark Miller  
FROM: Patrick Essie, Ann Gryphan  
DATE: August 8, 2007  
RE: County regulator conflict-of-interest

The Wisconsin Onsite Wastewater Recycling Association, a statewide trade association comprised of septic system installers, designers and soil testers, is working to have legislation introduced regarding conflict-of-interest of county regulators.

Under current code, county regulators who as part of their job inspect septic systems cannot also operate a soil testing business on the side within their county. (See Comm 5.33(6). Although WOWRA is in support of this code provision, it is often disregarded and soil testing by county regulators is often allowed to continue. It also does not address other similar problems associated with county inspectors who do septic system installations and inspections on the side. We have a concern with this practice for the following reasons:

- 1) Consumers may be more likely to use the services of the county regulator, assuming he or she is the "person of authority."
- 2) County regulators cannot be fair or impartial when inspecting work performed by their competitors or, as in several cases, regulating installers that they are soil testing and designing septic systems for (their customers).
- 3) In some cases, there have been instances of retribution by county regulators who lost bids for work to private industry.

The following is a list we have developed over time from many people, of instances where county septic system regulators are doing related work as a side business, either within their county or neighboring counties. It is unknown whether the following people are still employed by the county mentioned, but it is assumed.

**Ozaukee County:** Mark Kirchner. Designs, installs, soil tests and is now a representative selling an aerobic treatment process.

**Jefferson County:** Jeff Simes. See the attached phone book advertisement. This is from a phone book within the county he works for. It is obvious that he is competing directly against those he regulates.

**Brown County:** Matthew Heyroth. Performs soil testing and design work for plumbers that do work in the county he is employed by.

**Dane County:** Richard Herro. Soil tests in several counties, including Jefferson and Waukesha.

**Dane County:** Jim Meyerhoffer. A soil tester in Jefferson County has run up against Meyerhoffer on several occasions. In one case, Meyerhoffer did 16 soil tests in a subdivision where the developer had promised the soil testing to a local soil tester.

**Dane County:** Perry Dahl. Performs soil tests in neighboring counties.

**Jefferson County:** Jeff Simes. See the attached phone book advertisement. This is from a phone book within the county he works for. It is obvious that he is competing directly against those he regulates.

**Juneau County:** David Donnelly. Performs soil testing and design work for plumbers that do work in the county he is employed by.

**Kenosha County:** Alex Priesgen. Performs soil tests in neighboring counties.

**Manitowoc County:** Matthew Payette. Performs soil tests in neighboring counties.

**Manitowoc County:** Adam Backus. Performs soil tests in neighboring counties.

**Marathon County:** Bill Kolodziej. Performs soil tests and design work for plumbers that do work in the county he is employed by.

**Oneida County:** Karl Jenrich. Performs soil tests in neighboring counties.

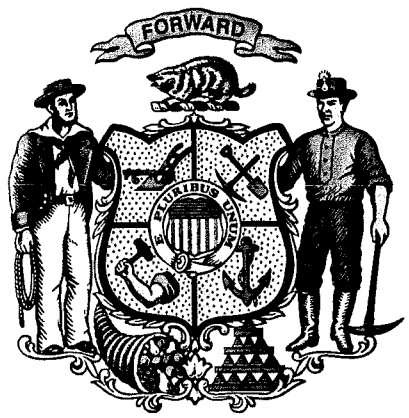
**Outagamie County:** Lesley Roll. Performs soil testing and design work for plumbers that do work in the county she is employed in.

**Outagamie County:** Doug Depies. Performs soil tests in neighboring counties. Also does design work.

**Ozaukee County:** Mark Kirchner. Designs, installs, soil tests and is now a representative selling an aerobic treatment process.

This is just a partial list. As you can see, this is a chronic problem around our state – one that is not good for the consumer, taxpayer or private industry. Our goal is to have legislation introduced that would add other services, such as septic system installation and designing, to the list of prohibited practices by county regulators governing septic systems, expand the prohibition area to statewide and increase enforcement provisions. Please let us know if you have any questions about this important initiative by calling WOWRA at (608) 256-7757.





**DATE:** September 11, 2007  
**TO:** All Legislators  
**FROM:** Representative Scott Gunderson and Senator Mark Miller  
**RE:** Co-sponsorship of LRB 2124/3 and LRB 3123/1 re: restrictions relating to soil testing and the installation, design, maintenance, repair, and sale of private sewage systems and providing a penalty.

SB 274  
file

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In Wisconsin, local governmental units, usually counties, are responsible for the regulation of septic systems and other private sewage systems. Currently, an employee of a county whose job duties include the regulation of private sewage systems may still “moonlight” within the same professional field. As the law is currently written, there are inherent risks for abuse and conflicts of interest. In order to provide clarity to business owners and ensure there are no conflicts of interest, we are introducing legislation that will prohibit an employee of a governmental unit whose job responsibilities include the regulation of private sewage systems from: performing soil testing, installing, maintaining, or repairing private sewage systems, selling private sewage systems, and designing private sewage systems.

The legislative Analysis is below. If you are interested in co-sponsoring this legislation, please contact Rep. Gunderson’s office at 6-3363 or Senator Miller’s office at 6-9170 by Friday, September 21, 2007.

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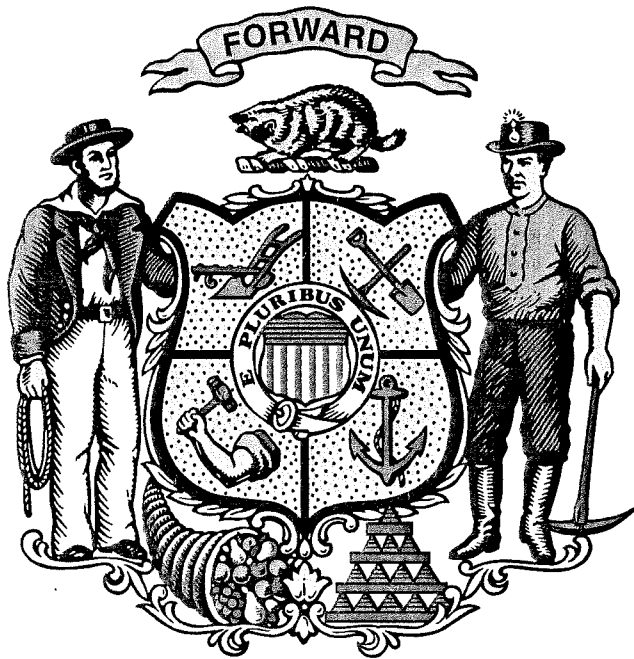
*Analysis by the Legislative Reference Bureau*

Current law makes certain local governmental units, generally counties, responsible for the regulation of septic systems and other private sewage systems. For example, the law requires the local governmental units to review soil test reports and to inspect private sewage systems after construction but before backfilling.

This bill prohibits a local governmental unit employee who has responsibilities related to the regulation of private sewage systems from doing any of the following:

1. Performing soil testing.
2. Installing, maintaining, or repairing private sewage systems.
3. Selling private sewage systems.
4. Designing private sewage systems.

The bill authorizes the Department of Commerce to directly assess a forfeiture of no more than \$2,000 against a person who violates the prohibitions created in the bill.





## Wisconsin Onsite Wastewater Recycling Association, Inc.

16 N. Carroll St., Suite 900 | Madison, WI 53703

Ph: 608.256.7757 | 800.377.6672 | Fx: 608.251.8192

TO: All state legislators

FROM: Patrick Essie, Ann Gryphan

DATE: Sept. 14, 2007

RE: Conflict-of-interest legislation

SB 274  
file

The Wisconsin Onsite Wastewater Recycling Association (WOWRA) asks that you consider co-sponsoring legislation being circulated by Rep. Scott Gunderson and Sen. Mark Miller - LRB 2124/3 in the Assembly and LRB 3123/1 in the Senate - regarding conflict-of-interest of county regulators.

There is a growing problem in Wisconsin of county employees who regulate the design and installation of septic systems competing in the private sector against the people they regulate. This practice is unethical, and this bill makes it illegal.

We have a concern with the practice of county regulators who do septic system installations, design and sales as a "side business" for the following reasons:

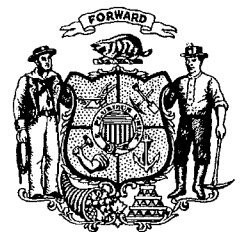
- 1) Consumers may be more likely to use the services of the county regulator, assuming he or she is the "person of authority."
- 2) In some cases, there have been instances of retribution by county regulators who lost bids for work to private industry.
- 3) County regulators cannot be fair or impartial when inspecting work performed by their competitors or, as in several cases, regulating installers that they are soil testing and designing septic systems for (their customers).

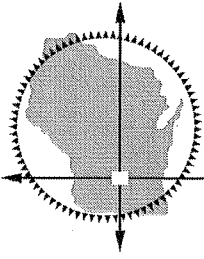
This is a chronic problem around our state – one that is not good for the consumer, taxpayer or private industry. WOWRA supports a positive working relationship with government personnel regulating septic systems, however the relationship becomes murky when the regulators also are allowed to act as business competitors.

Please consider co-sponsoring this conflict-of-interest legislation – it would help create a level playing field for private industry in this state as well as eliminate potentially unethical practices of our governmental employees.



# WISCONSIN STATE LEGISLATURE





# COLUMBIA COUNTY

Planning & Zoning Department

608-742-9660  
FAX: 608-742-9817  
E-MAIL: [planning.zoning@co.columbia.wi.us](mailto:planning.zoning@co.columbia.wi.us)  
WEBSITE: [www.co.columbia.wi.us](http://www.co.columbia.wi.us)

400 DeWitt Street  
Portage, WI 53901

Committee on Environmental Resources  
Senator Mark Miller, Chair  
Room 409 South  
P.O. Box 7882  
Madison, WI 53707-7882

Oct. 8, 2007

Re: SB274

Dear Committee Members;

I am writing to express my concern regarding SB274, which would make it unlawful for persons employed by county governmental agencies as inspectors of private sewage disposal systems to perform soil testing, septic system design work, or the installation of septic systems on their own time.

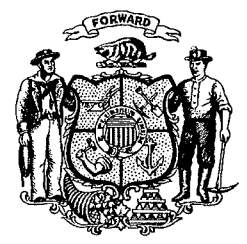
I am a licensed professional and have been involved in private sewage disposal for over 37 years. My experience ranges from the private sector, where I have been a certified soil tester, plumbing designer and master plumber, involved in the design and installation of private sewage systems, to my current position as a POWTS inspector. As an inspector I am responsible for the oversight of the installation of private sewage disposal systems.

In my years as an inspector I have not, and do not intend to be involved in the performance of the services addressed by this bill outside of my duties as a county employee. Throughout my years of experience on "both sides of the fence", I have never witnessed a situation of impropriety due to a conflict of interest on the part of a private sewage inspector who also performed related services in the private sector. Let there be no doubt, the opportunity exists for such a conflict. But, as licensed professionals, assigned the duties of seeing to the health and welfare of the public, we are held to a very high standard of moral responsibility.

It is my feeling that the statewide ban on licensed inspectors performing related private sector services is far too broad ranging, and would be punishing an entire profession for the actions of a possible few in the field who may have crossed over that line of professionalism and moral responsibility. I therefore wish to go on record in opposition of this bill, feeling confident that local governmental agencies are best suited to deal with possible improprieties on a one-to-one basis.

Thank you for your consideration in this matter,

Thomas K. Robson, Zoning & Sanitary Specialist  
Columbia County Planning & Zoning Dept.



**Bier, Beth**

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**From:** Kuhn, Jamie  
**Sent:** Tuesday, October 09, 2007 5:25 PM  
**To:** Bier, Beth  
**Subject:** FW: SB 274

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**From:** Lara Pagel [mailto:Lpagel@co.waupaca.wi.us]  
**Sent:** Tuesday, October 09, 2007 12:03 PM  
**To:** Sen.Miller  
**Subject:** SB 274

Dear Chairman Miller,

I would like to voice my support for SB-274. {**Sewage Systems** (Miller) Restrictions on certain local government employees related to soil testing and installation, design, maintenance, repair and sale of private sewage systems. } As an employee of Waupaca County I am a licensed Soil Tester and Inspector for the County. It is unclear to me how anyone can have similar employment as a private entity on the side without competing with the local contractors or being tainted as a county employee. It is my understanding that the Counties that allow such outside employment do not allow them to conduct their business within the county of employ, but the contractors have no such restrictions. Even in neighboring counties you are competing with the very people you are regulating as a county employee. You would then have the unfair advantage of knowing what products they use and their habits, so you can compete accordingly. We also have had homeowners be more impressed by the County title figuring they have a "leg in" and would get a permit approved easier.

We have several county employees from other counties that do work in our county as soil testers or designers. It is a clear conflict in our eyes. In fact, our county has gone so far as to put it in our ordinance that such outside employment is not acceptable.

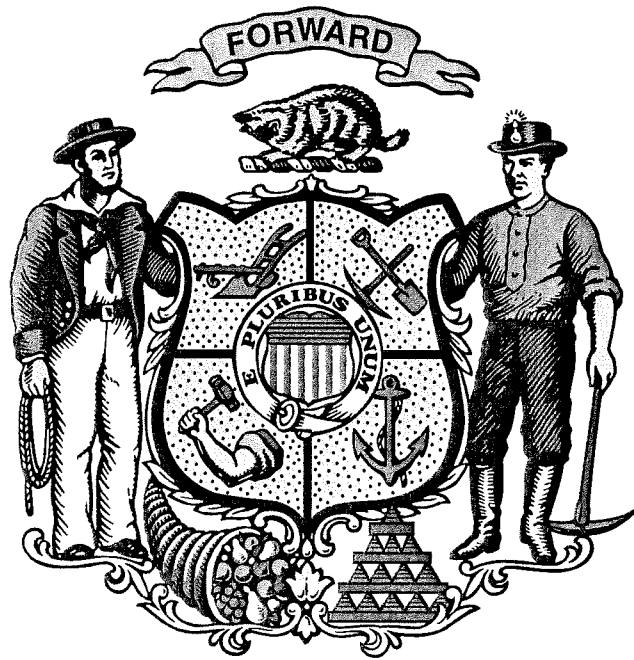
Health insurance seems to be a big driving force. Soil testers and plumbers take County employment for the benefits. This also allows them to do business cheaper than the competing soil tester that has to pay for their own insurance and cover those costs.

I encourage you and the Senate to pass this bill.

Sincerely,

Lara Pagel  
POWTS Inspector  
Waupaca County





October 9, 2007

Environment and Natural Resources Committee  
Senator Mark Miller ( Chair )  
Senator Robert Jauch  
Senator Robert Wirch  
Senator Neal Kedzie

Dear Committee Members;

I would like to express my concerns and opposition to proposed 2007 SENATE BILL 274.

I am a regulator, being the Zoning Administrator and Private On-Site Sewage Disposal System Inspector for Juneau County, and also I do private work as a Soil & Site Evaluator on my own time. The private work that I perform is NOT in the County that I employed in. I have been doing this for 27 years without any problems whatsoever.

To pass this Bill would take away income that I rely on quite heavily. I believe that this could be re-worded to say that this work can not be performed within the same County as the individual is employed in. The way that this is worded now it means anywhere in the State.

I am also a member of the Wisconsin County Code Administrators and this issue was discussed last year and was essentially dropped by the membership because it was felt that it is not an issue of concern. It should be handled and controlled by the individual Counties that it may be an issue in.

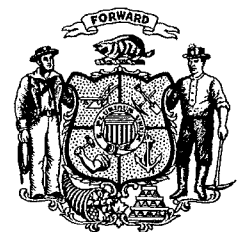
I sincerely thank you for your consideration into this matter because it could have adverse effects on many other occupations that are similar in nature.

Sincerely;

David Donnelly  
Juneau County Zoning Administrator  
Certified Soil Tester  
POWTS Inspector



# WISCONSIN STATE LEGISLATURE



October 9, 2007

Committee on Environmental Resources  
Senator Mark Miller, Chair  
P.O. Box 7882  
Madison WI 53707-7882

Re: SB 274

Dear Committee Members:

I write this letter to oppose SB 274. As I understand the proposed bill, any Inspector employed by a County to regulated Commerce 83 will not be allowed to do Soil Testing, Inspections, or Plumbing anywhere in the State of Wisconsin. This proposal is due to the so-called "conflict of interest" within the industry.

Commerce 5 clearly addresses the "conflict of interest" issue and an Inspector cannot do Soil Testing, Real Estate Inspections, or Plumbing in the County the Inspector administers Commerce 83. The County Personnel Departments also identify "conflict of interest" situations and enforce this, some Counties require the employees to submit financial statements at the end of each year for income earned to evaluate even the most remote interest with County business.

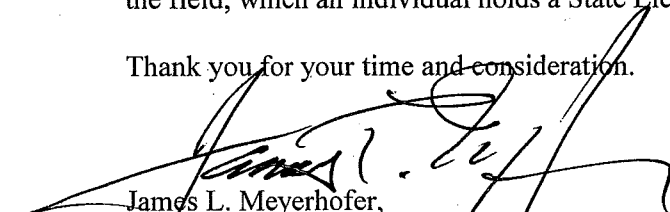
The Department of Commerce has just had this issue presented to the Department by the Private Industry this past year. Please contact Brad Johnson of Commerce 920-492-5605 as this issue of "conflict of interest" was reviewed and addressed by The Department of Commerce, the summation being the issue is addressed in Commerce 5 and by the County Personnel Departments.

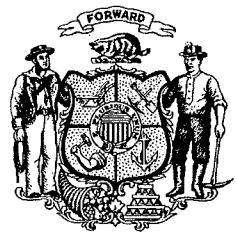
Wisconsin County Code Administrators Assoc. was also contacted regarding the "conflict of interest" and WCCA responded that this is addressed in Commerce 5 and by the County Personnel Departments.

This Bill specifically targets the County Inspectors which administer Commerce 83, but should this Bill become Law, the issue will be with all Commerce license holders, Master Plumbers, Electricians, Cross Connection, Heating Venting and Air Conditioning, etc. Currently all Municipal Building, Plumbing, and Electrical Inspectors can do work in their field outside the Municipality that they inspect in.

I believe this Bill to be completely in the realm of taking away the right to pursue a livelihood in the field, which an individual holds a State License for.

Thank you for your time and consideration.

  
James L. Meyerhofer,  
Certified Soil Tester #223057, POWTS Inspector #223057,  
Registered Sanitarian#883-197



October 9, 2007

Environment and Natural Resources Committee  
Senator Mark Miller ( Chair )  
Senator Robert Jauch  
Senator Robert Wirch  
Senator Neal Kedzie

SB 274  
file

**Subject:** Re: County Employees conducting POWTS work outside the Counties they work in.

There have been many stands taken on this situation going back a few years I found out after speaking to some WCCA and WOWRA board members. I have been contacted by several other County employees that do soil testing and plumbing outside the counties that they work in. Comm. 5.33 (6) of the Wisconsin Administrative Code prohibits a County employee such as an inspector to conduct soil evaluations within the boundaries of the local governmental unit. Most counties have a "conduct code" which would prohibit a county inspector from conducting soil tests or plumbing installations of POWTS, as it would be considered a conflict of interest and not be allowed in that county in which the inspector is employed. I think it should be like this in all counties in Wisconsin. If there is such a problem in whatever counties-WCCA or WOWRA should attempt to end this conflict of interest within those counties. I have my own soil testing business (Perry Dahl Soil Testing). I have been employed by Dane County Environmental Health for 18 years.. My supervisor at Dane County is Jim Clark, and he is fully aware of this and has no problem with this, as long as I don't conduct work in Dane County. We (the five Dane County Sanitarians), pay for our soil testing license renewals on our own, out of our own pockets - and I think that is the way it should be. I spoke with Roman Kaminski, Dept. of Commerce and he has no problem with the side-work that I do nor does his field staff. I am on no plumber's payroll. I bill the homeowner for soil testing that I conduct. I have consulted two attorneys regarding possible proposed WCCA and WOWRA legislation to restrict work done by a County employee. The first lawyer I contacted was a labor attorney and the second was a civil rights attorney. They both agreed that a County employee should not conduct work within the County they work in as it would be considered a "conflict of interest" of their day to day duties. They both went on to agree that any legislation to restrict what I do on my own time, outside the boundaries of Dane County, and outside the realm of my duties at Dane County would "be considered to unconstitutional, discrimination, and a violation of my civil rights. These restrictions would negatively affect my income, livelihood, right to free enterprise and equal opportunity". There are also other ramifications that you haven't thought about. How are you going to tell a Dane County Sheriff's Deputy that he can't work part-time as a security officer in Dane County? Same thing, and this is just the tip of the iceberg. For the record, let it be known that any proposed restrictions by WCCA or WOWRA on what I, and my counterparts do on our own time and outside the counties we work in, will be bitterly opposed in the court of law and will not be tolerated on our part.

*Perry L. Dahl*

Sincerely,  
Perry L. Dahl  
Sanitarian  
Dane County Environmental Health



*"Expert Soil Testing at a reasonable price"*  
★ Conventional Systems  
★ Mound Systems  
★ At-grade Systems

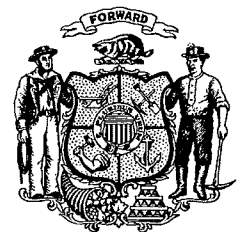
**Perry Dahl Soil Testing**  
Wisconsin Certified Soil Tester #225462  
Wisconsin Certified Plumbing Inspector #225462  
Wisconsin Certified Well Inspector

Perry L. Dahl  
(608) 429-2383

N8132 McElroy  
Pardeeville, WI 53



# WISCONSIN STATE LEGISLATURE



October 9, 2007

Environment and Natural Resources Committee  
Senator Mark Miller ( Chair )  
Senator Robert Jauch  
Senator Robert Wirch  
Senator Neal Kedzie

Dear Committee Members;

I would like to express my concerns and opposition to proposed 2007 SENATE BILL 274.

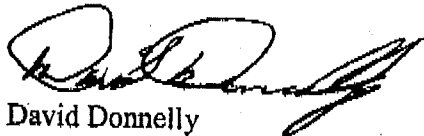
I am a regulator, being the Zoning Administrator and Private On-Site Sewage Disposal System Inspector for Juneau County, and also I do private work as a Soil & Site Evaluator on my own time. The private work that I perform is NOT in the County that I employed in. I have been doing this for 27 years without any problems whatsoever.

To pass this Bill would take away income that I rely on quite heavily. I believe that this could be re-worded to say that this work can not be performed within the same County as the individual is employed in. The way that this is worded now it means anywhere in the State.

I am also a member of the Wisconsin County Code Administrators and this issue was discussed last year and was essentially dropped by the membership because it was felt that it is not an issue of concern. It should be handled and controlled by the individual Counties that it may be an issue in.

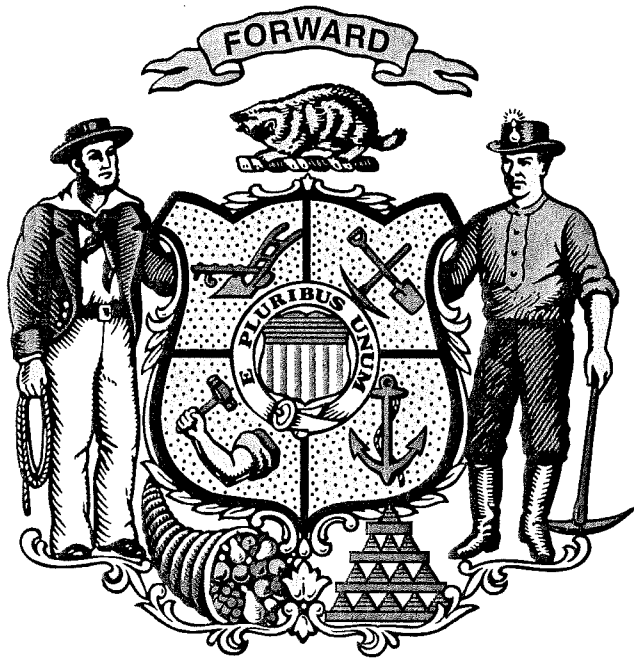
I sincerely thank you for your consideration into this matter because it could have adverse effects on many other occupations that are similar in nature.

Sincerely;



David Donnelly  
Juneau County Zoning Administrator  
Certified Soil Tester  
POWTS Inspector





**Bier, Beth**

---

**From:** Kuhn, Jamie  
**Sent:** Tuesday, October 09, 2007 5:43 PM  
**To:** Bier, Beth  
**Subject:** FW: [Possible Spam] comments to SB 274  
**Importance:** Low  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** mbremer@co.sauk.wi.us [mailto:mbremer@co.sauk.wi.us]  
**Sent:** Friday, October 05, 2007 1:13 PM  
**To:** Sen.Miller; Sen.Olsen; Sen.Schultz; Sen.Lassa; Sen.Lazich; Sen.Lehman; Sen.Cowles; Rep.Gunderson; Rep.Hahn; Rep.Berceau; Rep.LeMahieu; Rep.Mursau; Rep.Ott; Rep.Turner  
**Subject:** [Possible Spam] comments to SB 274  
**Importance:** Low

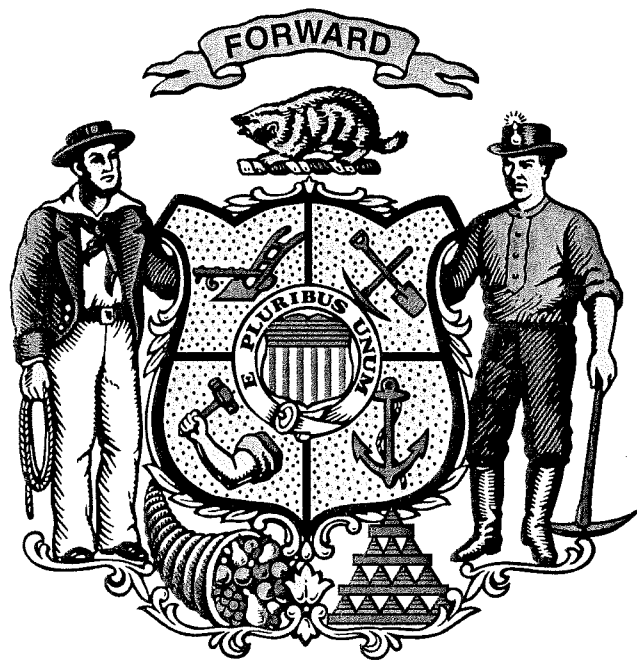
To the authors and co-signers of SB 274

Comm 5.33 (6) already lays out restrictions to the responsibilities of a soil tester within their area of regulatory authority. Though it is of no consequence to me, there are several counties in the state who have either low wages or part time employees who may need to supplement their income by working OUTSIDE of their area of regulatory authority. I am writing to you in the hopes that your bill, if approved, will not negatively impact these people.

I am also thinking that this bill may set the precedent for restricting other part-time and/or full time government employees from having supplemental employment if it could be viewed as conflict of interest. Examples might include off-duty police who act as security guards in their district of responsibility, county Corporation Counsel attorney's who do legal work or have a practice on the side, and county surveyor's who review their peers work for accuracy but are only employed part-time by the county.

I appreciate your consideration of my concerns. Feel free to contact me if you have any questions about my concerns.

Matthew F. Bremer  
Zoning and Environmental Specialist  
608 355-3285 ex 3433





## **Wisconsin Onsite Wastewater Recycling Association, Inc.**

16 N. Carroll St., Suite 900 | Madison, WI 53703

Ph: 608.256.7757 | 800.377.6672 | Fx: 608.251.8192

October 9, 2007

Senate Environment & Natural Resources Committee  
c/o Senator Mark Miller, Chairman  
P.O. Box 7882  
Madison WI 53707-7882

Dear Senator Miller and Committee,

I am here today to testify in support of Senate Bill 274 on behalf of the Wisconsin Onsite Wastewater Recycling Association (WOWRA). WOWRA is a statewide nonprofit association of septic system designers, installers, manufacturers, soil testers and others with an interest in septic systems.

Our organization is concerned about a growing problem in Wisconsin of county employees who regulate the design and installation of septic systems competing in the private sector against the people they regulate. This practice is unethical. We have a concern with the practice of county regulators who do soil testing and septic system installations, design, repair and sales as a "side business" for the following reasons:

- 1) Consumers may be more likely to use the services of the county regulator, assuming he or she is the "person of authority."
- 2) County regulators cannot be fair or impartial when inspecting work performed by their competitors or, as in several cases, regulating installers that they are soil testing and designing septic systems for (their customers).
- 3) This practice gives a "black eye" to governmental units when their employees are allowed to engage in conflict-of-interest activities that relate to their job duties.
- 4) County regulators may engage in improper conduct or retribution against their competitors to whom they have lost a bid for work.

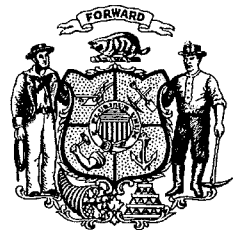
This is a chronic problem around our state – one that is not good for the consumer, taxpayer or private industry. WOWRA supports a positive working relationship with government personnel regulating septic systems, however the relationship becomes murky when the regulators also are allowed to act as business competitors.

I encourage the committee to vote in favor of Senate Bill 274.

Sincerely,  
Patrick Essie  
WOWRA Executive Director



# WISCONSIN STATE LEGISLATURE



10-17-2007

Committee on Environmental Resources  
Senator Mark Miller, Chief  
P O Box 7882  
Madison WI 53707-7882

Re: County regulator conflict-of-interest, SB 274.

I am the owner of the 16 lots which was soil tested by Jim Meyerhofer. Mr. Meyerhofer was identified in the information submitted by WOWRA to you regarding conflict of interest.

I want to set the record straight regarding the soil testing of my 16 lots in Jefferson County.

I first had contact with soil tester Jeff Levake (a member of WOWRA) November 1, 2004 when he was doing a soil test across the street from my home. I spoke with Mr. Levake and revealed that I needed soil testing on my 16 lots. Mr. Levake stated he would like a chance to do the tests and I stated I would keep him in mind.

The surveyor for my lots stated he uses Mr. Levake as a soil tester and would appreciate it if I would have Mr. Levake do the tests. I advised the surveyor that I needed the tests done and to have Mr. Levake do them.

From November 2004 to March 2005 I waited for the soil tests to be done. In April 2005 Jefferson County Zoning advised me I must proceed with the soil tests. I contacted Mr. Levake and he said he would be out to do the tests.

In June 2005 I contacted my neighbor-a local excavator-and told him I needed the soil tests done and Mr. Levake still has not done the tests. My neighbor advised me that our neighbor Jim Meyerhofer was a soil tester.

I contacted Mr. Meyerhofer in June 2005 about doing the soil tests on my 16 lots. Mr. Meyerhofer declined the job.

Jefferson County Zoning advised me that to proceed with the 16 lots the soil testing had to be done. Mr. Levake still had not arrived, and I again contacted Mr. Meyerhofer. Mr. Meyerhofer agreed to do the soil tests.

I contacted Mr. Levake and told him he no longer had the soil testing job for my 16 lots.

Mr. Meyerhofer completed the soil tests by July 1, 2005.

Mr. Meyerhofer is my neighbor; Mr. Levake lives 15 miles away.

i waited for Mr. Levake to do the soil tests for over 6 months, and informed him that i got someone else to do the job. Mr. Levake had been given the opportunity to do the job, and told he lost the job.

Mr. Meyerhofer did the job in one month.

A handwritten signature in cursive script that reads "Eugene Bauer". The signature is written in dark ink and is positioned above the typed name.

Sincerely,  
Eugene Bauer



**Wisconsin Onsite Wastewater Recycling Association, Inc.**

16 N. Carroll St., Suite 900 | Madison, WI 53703  
Ph: 608.256.7757 | 800.377.6672 | Fx: 608.251.8192

14

TO: Senator Mark Miller  
FROM: Patrick Essie, Ann Gryphan  
DATE: August 8, 2007  
RE: County regulator conflict-of-interest

The Wisconsin Onsite Wastewater Recycling Association, a statewide trade association comprised of septic system installers, designers and soil testers, is working to have legislation introduced regarding conflict-of-interest of county regulators.

Under current code, county regulators who as part of their job inspect septic systems cannot also operate a soil testing business on the side within their county. (See Comm 5.33(6). Although WOWRA is in support of this code provision, it is often disregarded and soil testing by county regulators is often allowed to continue. It also does not address other similar problems associated with county inspectors who do septic system installations and inspections on the side. We have a concern with this practice for the following reasons:

- 1) Consumers may be more likely to use the services of the county regulator, assuming he or she is the "person of authority."
- 2) County regulators cannot be fair or impartial when inspecting work performed by their competitors or, as in several cases, regulating installers that they are soil testing and designing septic systems for (their customers).
- 3) In some cases, there have been instances of retribution by county regulators who lost bids for work to private industry.

The following is a list we have developed over time from many people, of instances where county septic system regulators are doing related work as a side business, either within their county or neighboring counties. It is unknown whether the following people are still employed by the county mentioned, but it is assumed.

**Ozaukee County:** Mark Kirchner. Designs, installs, soil tests and is now a representative selling an aerobic treatment process.

**Jefferson County:** Jeff Simes. See the attached phone book advertisement. This is from a phone book within the county he works for. It is obvious that he is competing directly against those he regulates.



**Brown County:** Matthew Heyroth. Performs soil testing and design work for plumbers that do work in the county he is employed by.

**Dane County:** Richard Herro. Soil tests in several counties, including Jefferson and Waukesha.

**Dane County:** Jim Meyerhoffer. A soil tester in Jefferson County has run up against Meyerhoffer on several occasions. In one case, Meyerhoffer did 16 soil tests in a subdivision where the developer had promised the soil testing to a local soil tester.

**Dane County:** Perry Dahl. Performs soil tests in neighboring counties.

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This is just a partial list. As you can see, this is a chronic problem around our state – one that is not good for the consumer, taxpayer or private industry. Our goal is to have legislation introduced that would add other services, such as septic system installation and designing, to the list of prohibited practices by county regulators governing septic systems, expand the prohibition area to statewide and increase enforcement provisions. Please let us know if you have any questions about this important initiative by calling WOWRA at (608) 256-7757.

Bauer  
N2976 Bauer Ln.  
Ft. Atkinson WI  
53538

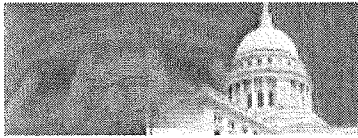
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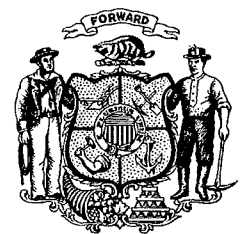


Committee on Environmental Resources  
Senator Mark Miller, Chief  
P. O. Box 7882  
Madison WI 53707-7882

53707-7882



# WISCONSIN STATE LEGISLATURE



October 19 2007

Committee on Environmental Resources  
Senator Mark Miller, Chair  
P O Box 7882  
Madison WI 53707-7882

Re: SB 274

Dear Senator Miller,

I write this letter regarding the information submitted to you by WOWRA and Patrick Essie.

I have been identified as Dane County: Jim Meyerhoffer. (Please see enclosed). Please also read the enclosed letter from the owner of the 16 lots identified by WOWRA.

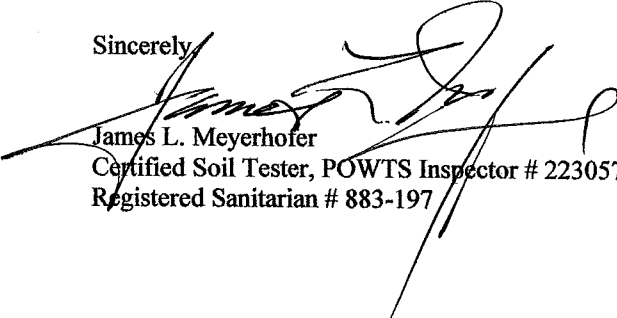
Please find enclosed the print out from Commerce Safety and Buildings regarding the number of Credential holders Statewide. There are 1002 Certified Soil Testers in the State of Wisconsin and WOWRA has mentioned 14 people. This is ONE percent of the Soil Testers in the State. Can ONE percent of part time Soil Testers be taking away that much work from the full time people?

As far as the "conflict of interest", I pay for my Soil Tester License and Dane County Supervisors have advised me the reason I pay for my Soil Tester License is because I can use it outside the County of Dane. I welcome you to contact the Dane County Personnel Department for a review of my performance as a County Inspector. I welcome you to contact the Department of Commerce for a review of my performance as a County Inspector.

I cannot believe a Bill has been introduced to essentially discriminate against All County Inspectors holding the Soil Tester and Plumber Credential. This being developed from the mention of 14 people, ONE percent of the Soil Testers in the State, and with NO evidence of "conflict of interest" issues from the County Employers or The State Department of Commerce.

I have faith in the Wisconsin Legal system that this Bill will be voted down and really should have never been introduced.

Sincerely,



James L. Meyerhofer  
Certified Soil Tester, POWTS Inspector # 223057  
Registered Sanitarian # 883-197



## **Wisconsin Onsite Wastewater Recycling Association, Inc.**

16 N. Carroll St., Suite 900 | Madison, WI 53703  
Ph: 608.256.7757 | 800.377.6672 | Fx: 608.251.8192

14

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James Meyerhofer  
W3998 State Road 106  
Fort Atkinson WI 53538-9683



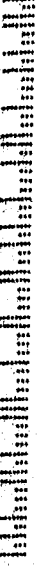
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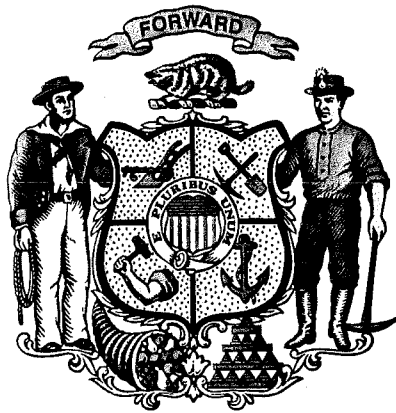
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COMMITTEE ON ENVIRON. RESOURCES  
SENATOR MARK MEHLER, CHIEF  
P.O. Box 7882  
MADISON WI 53707-7882

53707+7882







Date ?

## SB274, Sewerage Services Competition

At the request of the Wisconsin Onsite Wastewater Recycling Association, Rep. Gunderson and I introduced SB274 which prohibits a local government employee who is responsible for the regulation of private sewerage systems from competing for sewerage system services.

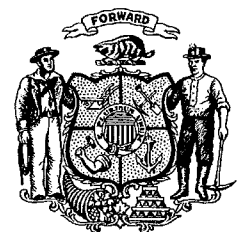
There is an obvious conflict of interest when the person who regulates a service is directly competing with the businesses which provide that service.

Additionally, property owners wishing to install a private septic system may be more inclined to select a business which also inspects the work, thinking that there may be a higher degree of expertise or that there will be reduced chance of regulatory barriers.

The Wisconsin Wastewater Recycling Association reports retaliation by inspectors who lost bids to provide septic services.

The bill provides for a statewide prohibition since contractors frequently provide services in multiple counties and should not have to compete in a regulatory environment that could result in retaliation because of competition in another county where a contractor is also the regulator.

I hope you will support this small change to enhance free and open competition for septic services in Wisconsin.



SB 274 file

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**JEFF LEVAKE**

#223322 / MPRS / CST

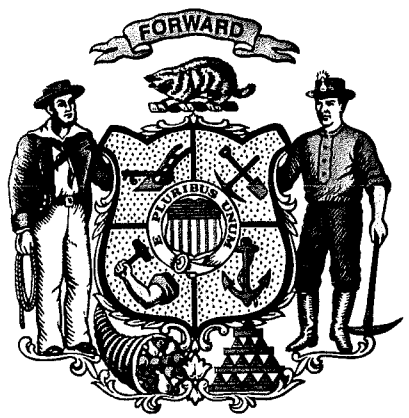
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- \* Install New and Replacement Septic Systems
- \* Mini Excavating Jobs

email: levake@ptwi.net

Lake Mills: 920-648-7566  
Cambridge: 608-516-7593  
Shop: 920-988-7567

SEWAGE PLANT OPERATION

- aklanc Sanitary Diet No 1
- N-445C County Road A Camb.....608 423-3210



SB 274  
file

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

**Comm 5.327 Manufactured home installer. (1) GENERAL.** (a) Except as provided in par. (b), beginning on January 1, 2007, pursuant to s. 101.96, Stats., no person may install a manufactured home onto a foundation or other support system unless the person complies with one of the following conditions:

1. The person holds a license issued by the department as a licensed manufactured home installer.

2. The person is under the general supervision of another person who holds a license issued by the department as a licensed manufactured home installer.

(b) 1. The owner of a manufactured home who will reside in the home may install his or her own manufactured home without holding a license as a licensed manufactured home installer. This exemption does not apply to the owner who contracts for or otherwise arranges for the installation.

2. A person is not required to hold a license as a licensed manufactured home installer for electrical, plumbing or HVAC work associated with the installation of a manufactured home.

Note: There may be other state or local licensing requirements involved in the installation of manufactured homes.

**(2) QUALIFICATIONS FOR LICENSE.** A person applying for a manufactured home installer license shall comply with all of the following conditions:

(a) The person is at least 18 years old.

(b) The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the 2 years before the date on which the person's license application is submitted.

Note: See appendix for a reprint of section 101.96, Stats.

(c) The person has not been found responsible in any judicial or administrative forum during the 2 years before the date on which the person's license application is submitted for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

**(3) APPLICATION FOR LICENSE.** (a) A person may apply for a license as a licensed manufactured home installer by submitting an application, an application fee and the license fee in accordance with ss. Comm 5.01 and 5.02 and one of the following:

1. Evidence that the person holds a manufactured home installer license issued by the federal department of housing and urban development.

2. Evidence that the person holds a manufactured home installer license issued by a state administrative agency (SAA) that has an installer licensing program that is equivalent to the rules under this section.

3. Evidence that the person has completed at least 12 hours in an approved course or courses in the installation of manufactured homes within one year prior to the date of application. The course or courses shall include instruction in at least the following subject matter and one or more tests on the subject matter:

- a. Soil mechanics.
- b. Site preparation.
- c. Structural support, stabilization and anchorage.
- d. Setting.
- e. Ventilation of crawl spaces.
- f. Connections, plumbing, electrical, HVAC.
- g. Joining of home sections.

(b) 1. A person may apply for a license as a licensed manufactured home installer by submitting an application, an application fee and the license fee in accordance with ss. Comm 5.01 and 5.02 and evidence that the person has actively participated in the installation of at least 10 manufactured homes.

2. This paragraph does not apply after June 1, 2007.

**(4) RESPONSIBILITIES.** A person who installs or supervises the installation of manufactured homes as a licensed manufactured

home installer shall be responsible for compliance with the installation requirements in ch. Comm 21.

**(5) RENEWAL.** (a) 1. A person may renew his or her license as a manufactured home installer.

2. A manufactured home installer license shall be renewed in accordance with s. Comm 5.07.

(b) 1. The renewal of a license as a manufactured home installer shall be contingent upon the manufactured home installer obtaining at least 12 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.

2. A person who holds a license as a manufactured home installer may apply to the department for waiver of the continuing education requirements under subd. 1. on the grounds of prolonged illness or disability or similar circumstances. Each application for waiver shall be considered individually on its merits by the department.

(c) The renewal of a license as a manufactured home installer shall be contingent upon all of the following conditions:

1. The person has not been found responsible in any judicial or administrative forum for any violation of s. 101.96, Stats., during the previous 2 years.

2. The person has not been found responsible in any judicial or administrative forum during the previous 2 years for any failure to perform an installation of a manufactured home as required under contract or for defrauding any person with regard to the provision of installation services.

History: CR 06-071; cr Register November 2006 No. 611, eff. 12-1-06; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register July 2007 No. 619.

**Comm 5.33 Soil testers. (1) GENERAL.** Pursuant to s. 145.045, Stats., no person may conduct soil evaluations relative to the discharge or disposal of liquid domestic wastes into the soil unless the person holds a certification issued by the department as a certified soil tester.

**(2) APPLICATION FOR EXAMINATION.** A person applying to take a soil tester certification examination shall submit all of the following:

(a) An application in accordance with s. Comm 5.01.

(b) An application fee and examination fee specified in s. Comm 5.02, Table 5.02.

**(3) QUALIFICATIONS FOR EXAMINATION.** A person applying to take a soil tester certification examination shall be at least 18 years old.

**(4) EXAMINATION.** A person seeking to obtain a soil tester certification shall take and pass an examination in accordance with s. Comm 5.09.

**(5) APPLICATION FOR CERTIFICATION.** Upon notification of the successful passage of the examination for soil tester certification, a person may obtain the certification by submitting an application and a certification fee in accordance with ss. Comm 5.01 and 5.09 (7) (c).

**(6) RESPONSIBILITIES.** A certified soil tester who, as either an employee of a local governmental unit or under contract to a local governmental unit, is responsible for administering regulations governing privately owned wastewater treatment systems may not provide soil evaluations relative to the design, installation or maintenance of private sewage systems within the boundaries of the local governmental unit.

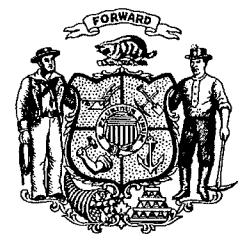
**(7) RENEWAL.** (a) 1. A person may renew his or her certification as a soil tester.

2. A soil tester certification shall be renewed in accordance with s. Comm 5.07.

(b) 1. a. The renewal of a certification as a certified soil tester which has an expiration date on or before June 30, 2006 shall be contingent upon the soil tester obtaining at least 6 hours of acceptable continuing education within the time period specified in s. Comm 5.08 and Table 5.06, except as provided in subd. 2.



# WISCONSIN STATE LEGISLATURE



STATE OF WISCONSIN

To Beth  
Date 8/21 Time 130

WHILE YOU WERE OUT

M Pat Esse

of \_\_\_\_\_

Phone cell: 608-334-6661

Telephoned	<input checked="" type="checkbox"/>	Please Call	<input checked="" type="checkbox"/>
Called to See You	<input type="checkbox"/>	Rush	<input type="checkbox"/>
Returned Your Call	<input type="checkbox"/>	Will Call Again	<input type="checkbox"/>

Message \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



PSE  
Party Receiving Call

SB 274  
file

Talked to Matt Stone  
w/ WI Counties Assn.

- hard for them to oppose or support
- may have some amendments
- get a letter out to this week

- email to Ann to take a look