
May 1984 Spec. Sess.
Assembly Bill 1

Date of enactment: **May 31, 1984**
Date of publication: **June 8, 1984**

1983 Wisconsin Act 545

AN ACT *to repeal* 144.245 (1) (c); *to renumber* 144.245 (1) (a) and (b); *to renumber and amend* 144.245 (9) (a) to (e), 144.245 (12) (c) and 144.245 (12) (d); *to amend* 144.245 (3), 144.245 (5) (title), 144.245 (5) (a), 144.245 (7) (title), 144.245 (8), 144.245 (9) (intro.), 144.245 (10), 144.245 (12) (title), 144.245 (12) (a), 144.245 (13) and 144.245 (14)

(d); to repeal and recreate 144.245 (11); and to create 144.245 (1) (a), (b) and (e), 144.245 (5) (c), 144.245 (5) (d), 144.245 (9) (a) and 144.245 (9) (g) of the statutes, relating to establishing an allocation system for the financial assistance program for septic system replacement and rehabilitation, changing eligibility standards and setting income limitations, revising the definition of small commercial establishment under the program, requiring that governmental units adopt maintenance programs in order to receive grant funds, imposing the requirement of a written enforcement order as a condition of eligibility for grant funds, establishing a maximum state share for any project and requiring governmental units to adopt a system for equitable distribution of grant funds.

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

SECTION 1. 144.245 (1) (a) and (b) of the statutes are renumbered 144.245 (1) (c) and (d).

SECTION 2. 144.245 (1) (c) of the statutes is repealed.

SECTION 3. 144.245 (1) (a), (b) and (e) of the statutes are created to read:

144.245 (1) (a) "Governmental unit" means a governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (5).

(b) "Participating governmental unit" means a governmental unit which applies to the department for financial assistance under sub. (8) and which meets the conditions specified under sub. (9).

(e) "Small commercial establishment" means a commercial establishment or business place with a maximum daily waste water flow rate of less than 2,100 gallons per day.

SECTION 4. 144.245 (3) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (3) MAINTENANCE. The department shall establish a maintenance program to be administered by the governmental units ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5)~~. The maintenance program is applicable to all new or replacement private sewage systems constructed in governmental units which receive a grant under this section a governmental unit after the date on which the governmental unit adopts this program. The maintenance program shall include a requirement of inspection or pumping of the private sewage system at least once every 3 years. Inspections may be conducted by a master plumber, journeyman plumber or restricted plumber licensed under ch. 145, a person licensed under s. 146.20 or by an employe of the state or governmental unit designated by the department. The department may suspend or revoke a license issued under s. 146.20 if the department finds that the licensee falsified information on inspection forms. The department of industry, labor and human relations may suspend or revoke the license of a plumber licensed under ch. 145 if the department of industry, labor and human relations finds that the plumber falsified information on inspection forms.

SECTION 5. 144.245 (5) (title) of the statutes is amended to read:

144.245 (5) (title) ELIGIBILITY.

SECTION 6. 144.245 (5) (a) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (5) (a) 1. A person who owns a principal residence which is served by a failing private sewage system serving one or more principal residences or small commercial establishments and which was constructed prior to and inhabited on July 1, 1978, is eligible for grant funds under this section if ~~an~~ the family income of the person does not exceed the income limitations under par. (c) and if a written enforcement order was issued under s. 144.025 (2) (d), 145.02 (3) (f) or 145.20 (2) (f) or ~~an~~ a written enforcement order under

s. 146.13 was issued by a governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5).~~

2. A business which owns a small commercial establishment which is served by a failing private sewage system and which was constructed prior to July 1, 1978, is eligible for grant funds under this section if the income of the business does not exceed the income limitations under par. (d) and if a written enforcement order was issued under s. 144.025 (2) (d), 145.02 (3) (f) or 145.20 (2) (f) or a written enforcement order was issued under s. 146.13 by a governmental unit.

3. A person who owns a principal residence which is served by a private sewage system subject to an a written enforcement order is eligible for grant funds during the 3-year 5-year period after the order is issued, if the application is submitted and work is completed within 12 months after the order is issued the governmental unit submits an application and requests payment for the project prior to the end of this 5-year period. Grant funds may be awarded after work is completed if rehabilitation or replacement of the system meets all requirements of this section and rules promulgated under this section. After receiving a grant application, unless a grant is awarded, the department shall include the private sewage system on the priority list until the end of the 3-year period after the order is issued.

SECTION 7. 144.245 (5) (c) of the statutes is created to read:

144.245 (5) (c) 1. In order to be eligible for grant funds under this section, the annual family income of the person who owns the principal residence may not exceed \$27,000 or 125% of the county median income for the county in which the residence is located, whichever is greater.

2. Except as provided under subd. 4, annual family income shall be based upon the taxable income of the owner and the owner's spouse, if any, as computed for federal income tax purposes for the taxable year prior to the year of the enforcement order. The county median income shall be determined based upon the most recent tables published in the federal register by the federal department of housing and urban development on December 31 of the year prior to the year of the enforcement order.

3. In order to be eligible for grant funds under this section, a person shall submit a copy of his or her federal income tax return for the taxable year prior to the year of the enforcement order and, if married and filing separately, a copy of his or her spouse's federal income tax return for that year together with any application required by the governmental unit.

4. A governmental unit may disregard the federal income tax return for the taxable year prior to the year of the enforcement order and may determine annual family income based upon satisfactory evidence of taxable income or projected taxable income of the owner and the owner's spouse in the current year. The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of taxable income or projected taxable income in a current year.

SECTION 8. 144.245 (5) (d) of the statutes is created to read:

144.245 (5) (d) 1. In order to be eligible for grant funds under this section, the annual income of the business which owns the small commercial establishment may not exceed \$27,000 or 125% of the county median income for the county in which the small commercial establishment is located, whichever is greater.

2. Except as provided under subd. 4, annual income shall be based upon the adjusted gross income of the business as computed for federal income tax purposes for the taxable year prior to the year of the enforcement order. The county median income shall be determined based upon the most recent tables published in federal register by the federal department of housing and urban development on December 31 of the year prior to the year of the enforcement order.

3. In order to be eligible for grant funds under this section, a business shall submit a copy of the business' federal income tax return for the taxable year prior to the year of the enforcement order together with any application required by the governmental unit.

4. A governmental unit may disregard the federal income tax return for the taxable year prior to the year of the enforcement order and may determine annual income based upon satisfactory evidence of adjusted gross income or projected adjusted gross income of the business in the current year. The department shall promulgate rules establishing criteria for determining what constitutes satisfactory evidence of adjusted gross income or projected adjusted gross income in a current year.

SECTION 9. 144.245 (7) (title) of the statutes is amended to read:

144.245 (7) (title) ALLOWABLE COSTS; STATE SHARE.

SECTION 10. 144.245 (8) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (8) APPLICATION. In order to be eligible for a grant under this section, a governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5)~~, shall make an application for replacement or rehabilitation of private sewage systems of principal residences or small commercial establishments and shall submit an application for participation to the department. The application shall be in the form and include the information the department prescribes. In order to be eligible for funds available in a fiscal year, an application is required to be received by the department prior to the end of the previous fiscal year.

SECTION 11. 144.245 (9) (intro.) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (9) CONDITIONS; GOVERNMENTAL UNITS. (intro.) As a condition for obtaining a grant under this section, a governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5), making an application~~ shall:

SECTION 12. 144.245 (9) (a) to (e) of the statutes, as affected by 1983 Wisconsin Act 189, are renumbered 144.245 (9) (b) to (f), and 144.245 (9) (b), (d), (e) and (f), as renumbered, are amended to read:

144.245 (9) (b) Certify that grants will be used for private sewage systems ~~which meet system replacement or rehabilitation for a principal residence or small commercial establishment owned by a person who meets~~ the eligibility requirements under sub. (5), that the funds will be used as provided under sub. (6) and that allowable costs will not exceed the amount permitted under sub. (7);

(d) Certify that grants provided to the governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5)~~, will be disbursed to the eligible owners of eligible private sewage systems;

(e) Establish a process for regulation and inspection of private sewage systems; ~~and~~

(f) Establish a system of user charges and cost recovery if the governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5)~~, considers this system to be appropriate. User charges and cost recovery may include the cost of the grant application fee and the cost of supervising installation and maintenance; and

SECTION 13. 144.245 (9) (a) of the statutes is created to read:

144.245 (9) (a) Adopt and administer the maintenance program established under sub. (3);

SECTION 14. 144.245 (9) (g) of the statutes is created to read:

144.245 (9) (g) Establish a system, by resolution of the governing body of that governmental unit, which provides for the equitable distribution of grant funds received among the owners of eligible private sewage systems. This system shall be based on eligibility criteria established under sub. (5). This system shall provide that eligible owners of private sewage systems who are denied grants in one fiscal year receive first priority in the next fiscal year.

SECTION 15. 144.245 (10) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (10) ASSISTANCE. The department shall make its staff available to provide technical assistance to each governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5).~~

SECTION 16. 144.245 (11) of the statutes is repealed and recreated to read:

144.245 (11) ALLOCATION OF FUNDS. (a) *Determination of available funds.* At the beginning of each fiscal year the department shall estimate the total amount of funds available for grants under this section during that fiscal year and distribute these funds on the basis of the number of eligible applications from individuals and businesses received by all participating governmental units. The department may revise this estimate during a fiscal year and distribute the funds accordingly.

(b) *Determination of eligible applications.* At the beginning of each fiscal year the department shall determine the number of applications from eligible owners received by participating governmental units. The department may revise this determination if a governmental unit does not meet the conditions specified under sub. (9) or if it determines that individuals do not meet eligibility requirements under sub. (5).

(c) *Allocation.* The department shall allocate available funds for grants to each participating governmental unit according to the number of eligible applications received by that governmental unit. The department may prorate available funds on this basis if these funds are not sufficient to fully fund all applications.

SECTION 17. 144.245 (12) (title) of the statutes is amended to read:

144.245 (12) (title) DETERMINATION OF ELIGIBILITY; DISBURSEMENT OF GRANTS.

SECTION 18. 144.245 (12) (a) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (12) (a) ~~A governmental unit responsible for the regulation of private sewage systems, as defined under s. 145.01 (5), which desires to participate in the financial assistance program under this section shall submit an application for participation to the department. The application shall be in the form and include the information the department prescribes. The department shall review applications for participation in the state program.—It submitted under sub. (8). The department shall determine those applications which meet the criteria it established if a governmental unit submitting an application meets the conditions specified under sub. (9). Applications must be received by the department no later than January 1 of any year for consideration in that fiscal year.~~

SECTION 19. 144.245 (12) (c) of the statutes is renumbered 144.245 (7) (c) and amended to read:

144.245 (7) (c) ~~The state grant share under this section for any private sewage system and the cost of its installation shall be is limited to \$3,000 for each principal resident residence or small commercial establishment served or 60% of the total project cost to be served by the private sewage system or to the amount determined by the department based upon private sewage system grant funding tables, whichever is less. The total share for each principal residence owner or small commercial establishment owner shall not be less than 25% of the total costs of the project attributable to that principal resident or small commercial establishment department shall prepare and publish private sewage system grant funding tables which specify the maximum state share limitation for~~

various components and costs involved in the rehabilitation or replacement of a private sewage system based upon minimum size and other requirements specified in the state plumbing code promulgated under s. 145.02. The maximum state share limitations shall be designed to pay approximately 60% of the average allowable cost based upon the level of state funding provided in grants under this section from July 1, 1979, to December 31, 1982.

SECTION 20. 144.245 (12) (d) of the statutes, as affected by 1983 Wisconsin Act 189, is renumbered 144.245 (12) (b) and amended to read:

144.245 (12) (b) The department shall promulgate rules which shall define payment mechanisms to be used to disburse grants to a governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5).~~

SECTION 21. 144.245 (13) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (13) INSPECTION. Agents of the department or the governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5),~~ may enter premises where private sewage systems are located pursuant to a special inspection warrant as required under s. 66.122, to collect samples, records and information and to ascertain compliance with the rules and orders of the department or the governmental unit.

SECTION 22. 144.245 (14) (d) of the statutes, as affected by 1983 Wisconsin Act 189, is amended to read:

144.245 (14) (d) Additional grants under this section to a governmental unit ~~responsible for the regulation of private sewage systems, as defined under s. 145.01 (5),~~ previously awarded a grant under this section may be suspended or terminated if the department finds that a private sewage system previously funded in the governmental unit is not being or has not been properly rehabilitated, constructed, installed or maintained.

SECTION 23. **Initial applicability.** (1) REVISION OF APPLICATION FORM AND RELATED CHANGES; ALL APPLICATIONS RECEIVED ON OR AFTER JULY 1, 1984. The treatment or creation of section 144.245 (8) and (9) of the statutes by this act does not apply to applications for septic tank replacement and rehabilitation grants received by the department of natural resources prior to July 1, 1984, but applies to all applications received on and after that date.

(2) REVISION OF ELIGIBILITY REQUIREMENTS; ALL APPLICATIONS RECEIVED ON AND AFTER JULY 1, 1984. The treatment of section 144.245 (5) of the statutes by this act does not apply to applications for septic tank replacement and rehabilitation grants received by the department of natural resources prior to July 1, 1984, but applies to all applications received on or after that date.

(3) REPLACEMENT OF PRIORITY SYSTEM WITH ALLOCATION SYSTEM. Section 144.245 (11) of the statutes, as affected by this act, applies to all septic tank replacement and rehabilitation grants provided by the department of natural resources on or after July 1, 1984.

(4) MAXIMUM STATE SHARE REVISION. (a) *On or after July 1, 1986.* Section 144.245 (7) (c) and (12) of the statutes, as affected by this act, applies to all septic tank replacement and rehabilitation grants provided by the department of natural resources on or after July 1, 1986.

(b) *Before July 1, 1984.* Section 144.245 (12), 1981 stats., applies to all septic tank replacement and rehabilitation grants provided by the department of natural resources prior to July 1, 1984.

(c) *Transition provision.* Between July 1, 1984, and June 30, 1986, section 144.245 (7) (c) and (12) of the statutes, as affected by this act, applies to grants for which applications are received by the department of natural resources on or after July 1, 1984, and section

83 WisACT 545

- 2262 -

144.245 (12), 1981 stats., applies to grants for which applications are received prior to July 1, 1984.
