



## 1997 ASSEMBLY BILL 774

February 10, 1998 - Introduced by Representative JOHNSRUD. Referred to  
Committee on Environment.

1       **AN ACT to repeal** 281.48 (4m) (b) 1. to 3. and 281.48 (4s) (a) 4. and (b); **to**  
2       **renumber and amend** 281.48 (4m) (b) (intro.); **to amend** 20.370 (4) (bL),  
3       145.245 (3), 145.245 (5) (a) 1., 145.245 (5) (a) 2., 281.48 (2) (b) to (g), 281.48 (2m),  
4       281.48 (4g), 281.48 (4m) (title) and (a), 281.48 (4m) (c) and 281.49 (5) (c) 4.; **to**  
5       **repeal and recreate** 281.48 (5m); and **to create** 20.143 (3) (i), 20.370 (4) (bg),  
6       145.245 (1) (ac), 145.245 (2), 145.245 (3e), 145.245 (3m), 227.01 (13) (zr), 281.48  
7       (2) (bm), 281.48 (4w), 281.48 (5p), 281.48 (5r) and 283.82 of the statutes;  
8       **relating to:** the inspection, maintenance and pumping of private sewage  
9       systems, financial assistance for replacing or rehabilitating private sewage  
10      systems, the disposal of septage on land, authority over the application of  
11      sewage sludge to land, waste treatment service charges, providing an

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- 1 exemption from rule-making procedures, granting rule-making authority and  
2 making an appropriation.
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***Analysis by the Legislative Reference Bureau***

This bill makes changes in the laws relating to private sewage systems (such as septic systems and holding tanks) and the disposal of septage and sewage sludge on land. The changes generally take effect on July 1, 1998, or on the day after publication, whichever is later. Currently, 2 state agencies have responsibilities relating to these matters, the department of natural resources (DNR) and the department of commerce.

This bill requires a person who inspects, performs maintenance on or pumps septage from a private sewage system to charge a servicing fee beginning on January 1, 1999. The servicing fee is \$7.50 for a private sewage system other than a holding tank and, generally, \$2.50 for a holding tank. DNR may change the amount of the fee by rule. A person who collects the fee may retain 10% of the amount collected and must pay the balance to DNR. The fee is used for DNR's septage management activities and for the private septage system replacement and rehabilitation program administered by the department of commerce.

Current law requires the department of commerce to establish a program for the maintenance of private sewage systems. The program is administered by counties, except that in Milwaukee County it is administered by cities, villages and towns in which private sewage systems are located. The maintenance program generally applies to private sewage systems installed after a county began to administer the program. The maintenance program must require inspection or pumping of a private sewage system at least once every 3 years. Inspections may be conducted by plumbers, persons licensed by DNR to service private sewage systems or certain state and local employees.

This bill requires counties, or municipalities in Milwaukee County, to operate private sewage system maintenance programs that apply to private sewage systems not currently covered by the programs, beginning no sooner than July 1, 1999, and no later than July 1, 2006. The bill requires the department of commerce to specify the required frequency of inspection, maintenance and pumping for each type of private sewage system and to specify the kinds of inspections, maintenance and repairs that may be conducted by persons with specified qualifications.

Under this bill, a county that has not identified the location of all private sewage systems located within the county must either conduct an inventory of private sewage systems or cooperate with an inventory conducted by another person under contract with DNR. If a county conducts its own inventory, DNR is required to pay the county \$2.50 for each private sewage system installed before January 1, 1980, that is identified through the inventory.

Under current law, DNR regulates persons who pump septage from private sewage systems and regulates the disposal of septage on land. Under current law,

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DNR may generally require a license for any site where septage is disposed of on land. This bill replaces the optional license with a mandatory site approval.

Under current law, a county may apply to DNR to regulate the disposal of septage on land. If DNR approves the county application, the county may enact a septage disposal ordinance. The ordinance applies throughout the county. A city, village or town may not enact a septage disposal ordinance if the county has adopted an ordinance.

Under this bill, a city, village, town or county may not prohibit the disposal of septage on land if that disposal complies with DNR's rules concerning the disposal of septage on land. A county may not regulate the disposal of septage on land, except that it may enact the DNR model septage land disposal ordinance (which this bill requires DNR to develop). A city or village or town may not regulate the disposal of septage on land except that, if the county has not enacted DNR's model ordinance, the city or village or town may enact DNR's model ordinance.

The bill requires a city, village or town with more than 2,500 residents whose residences are not served by a sewerage system to provide, or ensure the availability of, sufficient storage or treatment capacity for septage so that during the winter the land application of septage generated in the city, village or town is not necessary. The bill also requires the city, village or town to prohibit the land application of septage during the winter. These requirements take effect on January 1, 2003. The bill modifies the current restrictions on rates that a publicly owned treatment works may charge for treating septage.

The bill requires DNR, in consultation with the department of commerce, to develop and, by July 1, 1999, begin operating a statewide septage records system. The bill requires a person who inspects, performs maintenance on or pumps septage from a private sewage system to report that activity to the statewide records system.

Currently, under the private sewage system replacement or rehabilitation program, this state provides financial assistance to certain persons whose private sewage systems are failing. To be eligible for the program, the residence or small commercial establishment served by the private sewage system must have been constructed before July 1, 1978. This bill changes that date to July 1, 1988.

This bill requires DNR to oversee, set technical standards for and regulate the application of sewage sludge to land. The bill prohibits political subdivisions from regulating the application of sewage sludge to land.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1           **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
2           the following amounts for the purposes indicated:

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	<b>1997-98</b>	<b>1998-99</b>
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2     **20.370 Natural resources department of**

3     (4)    WATER

4     (bg)   Septage management.                   PR       B               -0-       450,000

5           **SECTION 2.** 20.143 (3) (i) of the statutes is created to read:6           20.143 (3) (i) *Private sewage system assistance, program revenue.* All moneys  
7 received under s. 281.48 (4w) and not appropriated under s. 20.370 (4) (bg) for  
8 financial assistance under the private sewage system replacement and  
9 rehabilitation program under s. 145.245.10          **SECTION 3.** 20.370 (4) (bg) of the statutes is created to read:11          20.370 (4) (bg) *Septage management.* Biennially, from the general fund, the  
12 amounts in the schedule from moneys received under s. 281.48 (4w) for septage  
13 management activities, including the inventory under s. 145.245 (2), and public  
14 education related to septage management.15          **SECTION 4.** 20.370 (4) (bL) of the statutes, as affected by 1997 Wisconsin Act  
16 27, is amended to read:17          20.370 (4) (bL) *Wastewater management — fees.* From the general fund, all  
18 moneys received under ~~s. ss. 281.17 (3) and 281.48 (4s) (a)~~ for the certification of  
19 operators of water systems, wastewater treatment plants and septage servicing  
20 vehicles ~~and under s. 281.48 (4s) (a) and (b), and~~ for wastewater management  
21 activities.22          **SECTION 5.** 145.245 (1) (ac) of the statutes is created to read:

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1           145.245 (1) (ac) “Existing private sewage system” means a private sewage  
2 system that was constructed in a governmental unit before the date on which the  
3 governmental unit adopted the maintenance program under sub. (3).

4           **SECTION 6.** 145.245 (2) of the statutes is created to read:

5           145.245 (2) INVENTORY. (a) A governmental unit that, on the effective date of  
6 this paragraph ... [revisor inserts date], has not identified the locations of all of the  
7 private sewage systems located within the governmental unit shall either conduct  
8 an inventory to identify the location, by legal description, of all of the private sewage  
9 systems located within the local governmental unit or shall cooperate with an  
10 inventory conducted under contract with the department of natural resources.

11           (b) If a governmental unit with a population of 40,000 or more chooses to  
12 conduct the inventory under par. (a), it shall complete the inventory before July 1,  
13 2001. If a governmental unit with a population of less than 40,000 chooses to conduct  
14 the inventory under par. (a), it shall complete the inventory before July 1, 2000.

15           (c) From the appropriation under s. 20.370 (4) (bL), the department of natural  
16 resources shall pay each governmental unit that chooses to conduct the inventory  
17 under par. (a) \$2.50 for each private sewage system installed before January 1, 1980,  
18 that the governmental unit identifies through the inventory.

19           (d) The department of natural resources shall contract with another person to  
20 conduct an inventory to identify the location, by legal description, of all private  
21 sewage systems located in a governmental unit that has not, on the effective date of  
22 this paragraph ... [revisor inserts date], identified the locations of all of the private  
23 sewage systems located within the governmental unit and that chooses not to  
24 conduct the inventory under par. (a).

25           **SECTION 7.** 145.245 (3) of the statutes is amended to read:

**ASSEMBLY BILL 774****SECTION 7**

1           145.245 (3) MAINTENANCE. The department shall establish a maintenance  
2 program to that shall be administered by governmental units. The maintenance  
3 program is applicable to all new or replacement private sewage systems constructed  
4 in a governmental unit after the date on which the governmental unit adopts this  
5 program. ~~The maintenance program shall include a requirement of inspection or~~  
6 ~~pumping of the private sewage system at least once every 3 years. Inspections and~~  
7 ~~to existing private sewage systems according to the schedule under sub. (3e). The~~  
8 ~~department shall specify the required frequency of inspection, maintenance and~~  
9 ~~pumping for each type of private sewage system and shall periodically update the~~  
10 ~~requirements. The department shall specify the types of inspections, maintenance~~  
11 ~~and repairs that may be conducted by a master plumber, journeyman plumber or~~  
12 restricted plumber licensed under this chapter, a person licensed certified under s.  
13 ~~281.48~~ 281.17 (3) as a septage servicing vehicle operator or by an employe of the state  
14 or governmental unit designated by the department. The department of natural  
15 resources may suspend or revoke a license issued under s. 281.48 or a certificate  
16 issued under s. 281.17 (3) to the operator of a septage servicing vehicle if the  
17 department of natural resources finds that the licensee or operator falsified  
18 information on inspection forms. The department of commerce may suspend or  
19 revoke the license of a plumber licensed under this chapter if the department finds  
20 that the plumber falsified information on inspection forms.

21           **SECTION 8.** 145.245 (3e) of the statutes is created to read:

22           145.245 (3e) SCHEDULE FOR REQUIRING MAINTENANCE OF EXISTING PRIVATE SEWAGE  
23 SYSTEMS. (a) A governmental unit shall begin to apply the requirements under sub.  
24 (3) to existing private sewage systems according to the following schedule:

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1           1. In a county with a population of more than 90,000, no sooner than July 1,  
2           1999, and no later than July 1, 2002.

3           2. In a county with a population of more than 40,000 but not more than 90,000,  
4           no sooner than July 1, 2001, and no later than July 1, 2004.

5           3. In any other county, no sooner than July 1, 2003, and no later than July 1,  
6           2006.

7           (b) A county shall implement a schedule to require repair or replacement of  
8           existing private sewage systems that are determined to be failing private sewage  
9           systems under par. (a).

10          **SECTION 9.** 145.245 (3m) of the statutes is created to read:

11          145.245 **(3m)** REPORTING. Beginning on January 1, 1999, a person who  
12          inspects, performs maintenance on or pumps a private sewage system shall report  
13          the operational status of the private sewage system and the nature of the activity  
14          performed to the statewide records system under s. 281.48 (5r).

15          **SECTION 10.** 145.245 (5) (a) 1. of the statutes is amended to read:

16          145.245 **(5)** (a) 1. A person is eligible for grant funds under this section if he or  
17          she owns a principal residence which is served by a category 1 or 2 failing private  
18          sewage system, if the residence was constructed prior to and inhabited on July 1,  
19          ~~1978~~ 1988, if the family income of the person does not exceed the income limitations  
20          under par. (c), if the amount of the grant determined under sub. (7) is at least \$100,  
21          if the residence is not located in an area served by a sewer and if determination of  
22          failure is made prior to the rehabilitation or replacement of the failing private  
23          sewage system.

24          **SECTION 11.** 145.245 (5) (a) 2. of the statutes is amended to read:

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1           145.245 (5) (a) 2. A business is eligible for grant funds under this section if it  
2 owns a small commercial establishment which is served by a category 1 or 2 failing  
3 private sewage system, if the small commercial establishment was constructed prior  
4 to July 1, 1978 1988, if the gross revenue of the business does not exceed the  
5 limitation under par. (d), if the small commercial establishment is not located in an  
6 area served by a sewer and if a determination of failure is made prior to the  
7 rehabilitation or replacement of the private sewage system.

8           **SECTION 12.** 227.01 (13) (zr) of the statutes is created to read:

9           227.01 (13) (zr) Specifies the required frequency of inspection, maintenance  
10 and pumping for private sewage systems or the types of inspections, maintenance or  
11 repairs of private sewage systems that may be performed by persons with various  
12 qualifications, under s. 145.245 (3).

13           **SECTION 13.** 281.48 (2) (b) to (g) of the statutes are amended to read:

14           281.48 (2) (b) "~~Grease trap~~ interceptor" means a ~~watertight tank for the~~  
15 ~~collection of grease present in sewage and other wastes, and from which grease may~~  
16 ~~be skimmed from the surface of liquid waste for disposal~~ receptacle designed to  
17 intercept and retain grease or fatty substances.

18           (c) "Privy" means a ~~cavity in the ground or a portable above-ground device~~  
19 ~~constructed for toilet uses which receives human excrement either to be partially~~  
20 ~~absorbed directly by the surrounding soil or stored for decomposition and periodic~~  
21 ~~removal~~ an enclosed toilet that is not portable and that receives wastes that are not  
22 water carried.

23           (d) "Septage" means the scum, liquid, sludge or other waste in a septic tank,  
24 soil absorption field, holding tank, grease trap ~~or~~ interceptor, privy or other  
25 component of a private sewage system.



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1 (e) "Septic tank" means ~~and includes~~ a septic toilet, chemical closet and any  
2 other watertight enclosure used for storage and anaerobic decomposition of human  
3 excrement, or domestic or industrial wastes wastewater.

4 (f) "Servicing" means removing septage from a septic tank, soil absorption field,  
5 holding tank, grease ~~trap or~~ interceptor, privy or other component of a private sewage  
6 system and disposing of the septage.

7 (g) "Soil absorption field" means an area or cavity in the ground which receives  
8 the liquid discharge of a septic tank or similar ~~wastewater treatment device~~  
9 component of a private sewage system.

10 **SECTION 14.** 281.48 (2) (bm) of the statutes is created to read:

11 281.48 (2) (bm) "Private sewage system" has the meaning given in s. 145.01  
12 (12).

13 **SECTION 15.** 281.48 (2m) of the statutes is amended to read:

14 281.48 (2m) POWERS OF THE DEPARTMENT. The department shall have has  
15 general supervision and control of servicing septic tanks, soil absorption fields,  
16 holding tanks, grease ~~traps and~~ interceptors, privies and other components of  
17 private sewage systems.

18 **SECTION 16.** 281.48 (4g) of the statutes is amended to read:

19 281.48 (4g) RULES ON SERVICING. The department shall promulgate rules  
20 relating to servicing septic tanks, soil absorption fields, holding tanks, grease ~~traps~~  
21 and interceptors, privies and other components of private sewage systems in order  
22 to protect the public health against unsanitary and unhealthful practices and  
23 conditions, and to protect the surface waters and groundwaters of the state from  
24 contamination by septage. The rules shall comply with ch. 160. The rules shall apply  
25 to all septage disposal, whether undertaken pursuant to a license or ~~registration a~~

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1 license exception under sub. (3). The rules shall require each person with a license  
2 under sub. (3) to maintain records of the location of sites private sewage systems  
3 serviced and the volume of septage disposed of and location of ~~septage disposed that~~  
4 disposal.

5 **SECTION 17.** 281.48 (4m) (title) and (a) of the statutes are amended to read:

6 281.48 **(4m)** (title) ~~SITE LICENSES~~ APPROVALS. (a) The department may require  
7 a soil test and a license shall require a site approval for any location where septage  
8 is stored or disposed of on land, ~~except that the department may not require a soil~~  
9 ~~test and a license for septage disposal in a licensed solid waste disposal facility. In~~  
10 ~~determining whether to require a license for a site, the department shall consider the~~  
11 ~~septage disposal needs of different areas of the state.~~

12 **SECTION 18.** 281.48 (4m) (b) (intro.) of the statutes is renumbered 281.48 (4m)  
13 (b) and amended to read:

14 281.48 **(4m)** (b) Notwithstanding par. (a), the department may not require a  
15 license for a location where septage is disposed of on land if: the person who disposes  
16 of the septage is a farmer and all of the conditions in sub. (3) (d) 1. to 4. apply.

17 **SECTION 19.** 281.48 (4m) (b) 1. to 3. of the statutes are repealed.

18 **SECTION 20.** 281.48 (4m) (c) of the statutes is amended to read:

19 281.48 **(4m)** (c) If a location is exempt from ~~licensing~~ site approval under par.  
20 (b), the department may require the person who services the septic tank, soil  
21 absorption field, holding tank, grease trap or privy ~~to register the disposal site with~~  
22 ~~the department and~~ interceptor, privy or other component of a private sewage system  
23 to provide the department with information to show that sufficient land area is  
24 available for disposal.

25 **SECTION 21.** 281.48 (4s) (a) 4. and (b) of the statutes are repealed.

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1           **SECTION 22.** 281.48 (4w) of the statutes is created to read:

2           281.48 **(4w)** SERVICING FEE. (a) Beginning on January 1, 1999, a person  
3 servicing, inspecting or performing maintenance on a private sewage system shall  
4 charge a servicing fee in addition to the amount that the person charges for  
5 performing the servicing, inspection or maintenance. The fee is \$7.50, except that  
6 the fee for servicing, inspecting or performing maintenance on a holding tank is \$2.50  
7 per occurrence or \$2.50 per week, whichever is less, and except as provided under  
8 par. (b).

9           (b) The department may change the amount of the fees under this subsection  
10 by rule. The rule may specify a reduced charge for servicing, inspection or  
11 maintenance performed more frequently than required under s. 145.245 (3).

12           (c) A person who collects fees under par. (a) may retain 10% of the amount  
13 collected. A person licensed under sub. (3) who has 5 or more vehicles used for  
14 servicing shall remit the balance of the amount collected to the department every 2  
15 months, beginning on March 15, 1999, and a person licensed under sub. (3) who has  
16 fewer than 5 vehicles used for servicing shall remit the balance of the amount  
17 collected to the department every 3 months, beginning on April 15, 1999, except that  
18 the department may establish a different schedule by rule.

19           **SECTION 23.** 281.48 (5m) of the statutes is repealed and recreated to read:

20           281.48 **(5m)** LOCAL REGULATION. (a) No city, village, town or county may  
21 prohibit, through zoning or any other means, the disposal of septage on land if that  
22 disposal complies with this section and rules promulgated under this section.

23           (b) 1. A county may not regulate the disposal of septage on land, except that the  
24 county may limit vehicle weights as authorized in ch. 349 and may enact the model  
25 ordinance developed under par. (c).

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1           2. A city, village or town may not regulate the disposal of septage on land, except  
2 as provided in sub. (5p) (b) and except that the city, village or town may limit vehicle  
3 weights as authorized in ch. 349 and, if the city, village or town is located in a county  
4 that has not enacted the model ordinance under subd. 1., the city, village or town may  
5 enact the model ordinance developed under par. (c).

6           (c) The department shall develop a model septage land disposal ordinance. The  
7 model ordinance shall be consistent with rules promulgated under this chapter. The  
8 department shall develop the model ordinance in consultation with counties and  
9 persons who perform servicing.

10           **SECTION 24.** 281.48 (5p) of the statutes is created to read:

11           281.48 **(5p)** OTHER LOCAL RESPONSIBILITIES. (a) No later than January 1, 2003,  
12 a city, village or town with more than 2,500 residents whose residences are not served  
13 by a sewerage system shall provide, or ensure the availability of, sufficient storage  
14 or treatment capacity for septage so that during the winter the land disposal of  
15 septage generated within the city, village or town is unnecessary.

16           (b) No later than January 1, 2003, a city, village or town with more than 2,500  
17 residents whose residences are not served by a sewerage system shall enact an  
18 ordinance, approved by the department, that prohibits the land disposal of septage  
19 during the winter and requires that septage pumped from private sewage systems  
20 during the winter be delivered to storage or treatment facilities.

21           **SECTION 25.** 281.48 (5r) of the statutes is created to read:

22           281.48 **(5r)** STATEWIDE RECORDS SYSTEM. (a) The department of natural  
23 resources, in consultation with the department of commerce, shall develop and,  
24 beginning no later than July 1, 1999, operate a statewide septage records system.  
25 In developing the system, the department of natural resources shall also consult with

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1 counties, towns, persons who perform servicing and others who will be affected by  
2 the system. The system shall be designed to record information concerning  
3 inspection, maintenance and pumping of private sewage systems, disposal of  
4 septage, sites approved for the land application of septage, licensing of persons who  
5 perform servicing, certification of operators of septage servicing vehicles and other  
6 activities associated with septage regulation and to facilitate statewide access to that  
7 information.

8 **SECTION 26.** 281.49 (5) (c) 4. of the statutes is amended to read:

9 281.49 (5) (c) 4. Actual and equitable disposal fees based on the volume and  
10 strength of septage introduced into the municipal sewage system and calculated at  
11 the rate applied to other users of the municipal sewage system, ~~and including the~~  
12 ~~costs of additional facilities or personnel necessary to accept~~ plus reasonable  
13 administrative costs of accepting septage ~~at the point of introduction~~ into the  
14 municipal sewage system.

15 **SECTION 27.** 283.82 of the statutes is created to read:

16 **283.82 Land application of sewage sludge.** (1) The department shall  
17 oversee, set technical standards for and regulate the application of sewage sludge to  
18 land.

19 (3) A city, village, town or county may not regulate the land application of  
20 sewage sludge, except that the city, village, town or county may limit vehicle weights  
21 as authorized in ch. 349.

22 **SECTION 28. Effective date.**

23 (1) This act takes effect on July 1, 1998, or on the day after publication,  
24 whichever is later.

25 (END)