



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3192/1
MCP:ahc

2019 ASSEMBLY BILL 838

January 30, 2020 - Introduced by Representatives MURSAU, BALLWEG, SKOWRONSKI and TUSLER, cosponsored by Senators PETROWSKI, JACQUE and COWLES. Referred to Committee on Local Government.

1 **AN ACT** *to amend* 289.41 (3) (c); and *to create* 289.41 (3m) of the statutes;
2 **relating to:** method for establishing proof of financial responsibility for solid
3 waste facilities owned or operated by a municipality and granting rule-making
4 authority.

Analysis by the Legislative Reference Bureau

This bill provides an alternative method for a municipality to establish the proof of financial responsibility required for a solid or hazardous waste facility.

Under current law, the owner or operator of a solid or hazardous waste storage, treatment, or disposal facility (owner or operator) must maintain proof of financial responsibility to ensure the availability of funds for compliance with closure and long-term care requirements and, if necessary, for taking any required corrective action in the event of a spill or leak. The standard method for proving financial responsibility is to obtain, for example, a bond, deposit, escrow account, or irrevocable trust that is payable to or established for the benefit of the Department of Natural Resources.

Alternatively, current law allows an owner or operator that is a for-profit business or a public heat, light, water, or power utility to establish proof of financial responsibility to ensure compliance with closure and long-term care requirements using a net worth test. The net worth test requires, among other things, a certain level of net worth, liabilities to net worth ratio, and credit worthiness.

This bill allows an owner or operator that is a municipality to use an alternative method to establish proof of financial responsibility to ensure compliance with

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closure and long-term care requirements, similar to that allowed for local governments under federal law. Under the bill, a municipality may prove financial responsibility by showing either that all of its outstanding general obligation bonds have a rating of at least “Baa” if issued by Moody’s or at least “BBB” if issued by Standard & Poor’s, or that its ratio of cash plus marketable securities to total expenditures is 0.05 or greater and that its ratio of annual debt service to total expenditures is 0.20 or lower. Under the bill, if a facility is owned or operated by more than one municipality, any of the municipalities may establish proof of financial responsibility on behalf of itself and the other owners or operators. The bill also requires DNR to establish additional rules relating to the alternative method established under this bill.

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

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

1 **SECTION 1.** 289.41 (3) (c) of the statutes is amended to read:

2 289.41 (3) (c) *Changes.* The owner or operator may change from one standard
3 method of establishing proof of financial responsibility under par. (a) to another or
4 standard method under par. (a), to an alternative method under sub. (3m), or to a net
5 ~~worth method of establishing proof of financial responsibility under sub. (4).~~

6 **SECTION 2.** 289.41 (3m) of the statutes is created to read:

7 289.41 (3m) ALTERNATIVE METHOD OF ESTABLISHING FINANCIAL RESPONSIBILITY;
8 MUNICIPALITIES. A municipality may establish proof of financial responsibility
9 required under sub. (2) (a), (c), or (d) by applying to the department and meeting the
10 alternative method requirements established by the department by rule. Rules
11 promulgated under this subsection shall be based on any or all of 40 CFR 258.74 (f),
12 as amended. If a facility is owned or operated by more than one municipality, any
13 such municipality may establish proof of financial responsibility under this
14 subsection on behalf of itself and the other municipalities that are owners or

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1 operators. A municipality that seeks to establish proof of financial responsibility
2 under this subsection must satisfy either of the following requirements:

3 (a) *Bond rating.* If the municipality has any outstanding, rated, general
4 obligation bonds, none have been rated lower than “Baa” as issued by Moody’s
5 Investors Service or “BBB” as issued by Standard & Poor’s Corporation.

6 (b) *Financial ratios.* The municipality’s most recent audited annual financial
7 statement shows a ratio of cash plus marketable securities to total expenditures of
8 not less than 0.05, and a ratio of annual debt service to total expenditures of not
9 greater than 0.20.

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(END)