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To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

**ISSUE****Recycling Fund Transfer to General Fund (DNR -- Air, Waste and Contaminated Land and General Fund Taxes)**

[LFB Summary: Page 428, #28 and Page 32, #16]

**CURRENT LAW**

No provision.

**GOVERNOR**

Transfer \$3,850,000 from the recycling fund to the general fund in 1997-98.

**DISCUSSION POINTS**

1. The initial recycling act, 1989 Act 335, transferred \$29,700,000 from the general fund to the recycling fund. The Act did not require that future amounts be transferred from the recycling fund to the general fund.
2. A total of \$25,850,000 has been transferred from the recycling fund to the general fund, including \$4,750,000 in 1991-92 and \$21,100,000 in 1995-96. Some have viewed the transfers from the recycling fund to the general fund as "repayments" of the original "loan" from the general fund. Others have viewed the initial transfer from the general fund as one-time start-up funding that was not intended to be repaid.

3. Under SB 77, the cumulative transfers from the recycling fund to the general fund would be \$29,700,000, which equals the amount of the initial transfer from the general fund.

**ALTERNATIVES TO BILL**

① <sup>-Default</sup> Approve the Governor's recommendation to transfer \$3,850,000 from the recycling fund to the general fund.

② Maintain current law.

<u>Alternative 2</u>	<u>GPR-REV</u>	<u>SEG-REV</u>
1997-99 REVENUE (Change to Bill)	-\$3,850,000	\$3,850,000

Prepared by: Kendra Bonderud

MO# 14#2

JENSEN	Y	<del>N</del>	A
OURADA	Y	<del>N</del>	A
HARSDORF	Y	<del>N</del>	A
ALBERS	Y	<del>N</del>	A
GARD	Y	<del>N</del>	A
KAUFERT	Y	<del>N</del>	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A

BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	Y	<del>N</del>	A
PANZER	Y	<del>N</del>	A

AYE 8 NO 8 ABS

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Municipal and County Recycling Grant Calculation (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 428, #29]

## CURRENT LAW

The municipal and county recycling grant program provides financial assistance to responsible units of government for a portion of eligible recycling expenses incurred from July 1, 1990, through December 31, 1999. The calendar year 1997 grant calculation formula provides a grant of either 66% of the difference between eligible recycling expenses and avoided disposal costs or \$8 times the population of the responsible unit of government, whichever is less. The grant calculation formula changes in 1998 and 1999 so that yard waste costs and capital costs are funded at 50% in 1998 and 25% in 1999 (instead of 66% in 1997) and other costs of planning and operating the recycling program would continue to be funded at 66% in 1998 and reduced to 50% in 1999. In 1997, the grant calculation formula subtracts avoided disposal costs from eligible costs before multiplying by 66%. In 1998 and 1999 the current formula subtracts avoided disposal costs from eligible costs after multiplying by 66% (in 1998) or 50% (in 1999) of other program costs. Avoided disposal costs are the costs which are not incurred by the responsible unit because materials are recycled rather than disposed of in a landfill or incinerator. As required by law, funding for grants is \$29.2 million in 1996-97 and is reduced to \$24 million in 1997-98 and \$17 million in 1998-99.

## GOVERNOR

Continue the same municipal and county recycling grant calculation formula for calendar years 1998 and 1999 as currently exists for calendar year 1997. The bill would retain the: (a)

calculation percentage of 66%; and (b) subtraction of avoided disposal costs from eligible costs before multiplying by 66%. No additional funding would be provided and the current proration requirements would apply.

## DISCUSSION POINTS

1. The current municipal and county recycling grant formula has been used since calendar year 1993. In 1992, the formula was the same except that the eligible grant was the lesser of the formula calculation or \$6 per capita (instead of the \$8 per capita for subsequent years).

2. It is difficult to determine how the eligible grant would change for any specific local government. In general, if all responsible units would incur the same eligible recycling costs in 1998 and 1999 as they do in 1997, they would all have the same eligible grant as in 1997. However, changes in recycling program costs in various communities and the scheduled decreases in the total grant amount will impact the amount of a local government's final grant.

3. The scheduled formula change under current law that decreases the percentage of eligible capital costs would place more emphasis on funding operational costs of recycling programs rather than start-up capital costs. However, DNR indicates that the scheduled change would penalize grantees who own their own collection equipment and processing facilities and would benefit those that have contracted for services instead of purchasing equipment. This is because the percent of allowable capital equipment expenses would decrease while the percent of allowable contracted services would stay the same.

4. DNR indicates that the scheduled formula change to decrease funding for yard waste costs would require development of a more complex application so the Department could make separate calculations of which costs are allocable to yard waste programs and which are allocable to recycling programs. Currently, grantees do not identify yard waste costs separately when reporting eligible recycling costs.

5. The scheduled formula change that subtracts avoided disposal costs after multiplying by 66% (instead of before) would reduce the grant for responsible units that manage garbage collection in addition to collecting recyclables. Responsible units that do not collect non-recyclable solid waste would not be affected by the scheduled change.

6. The bill's retention of the 1997 grant formula would result in a higher amount of eligible grant than under current law in 1998 and 1999 for some of the 1,016 recycling grant recipients. This would include responsible units who: (a) own their own collection equipment and/or processing facilities (278 responsible units, according to 1995 reports submitted by grant recipients); (b) provide collection of solid waste other than recyclables, and thus have avoided disposal costs (826 responsible unit grantees in 1997); or (c) incur yard waste costs (349

responsible unit grantees in 1997). However, since state funding remains at current law levels under the bill, a higher overall eligible award will result in a greater proration of grants.

7. Under the current law change in formula, DNR will have to make changes to the already complicated application forms, reprogram computers, revise grant award materials, educate responsible units and collect information about capital costs that is not currently kept in a detailed manner.

8. Under the bill, the scheduled changes would be in effect for the final two years of the grant program. The two years are scheduled to provide decreased funding for grantees. It could be argued that the formula used during the last six years of the program should not be changed in the final two years. Alternatively, it could be argued that the program should remain structured as it was created.

### ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to continue the same recycling grant formula in 1998 and 1999 as currently exists for calendar year 1997.
2. Maintain current law.

Prepared by: Kendra Bonderud

MO# \_\_\_\_\_

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_

*all motion #2009 (pass)*

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Recycling Staff Conversion (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 429, #30]

## CURRENT LAW

In 1996-97, the segregated recycling fund provides funding in DNR for 24.5 permanent and 1.0 project position to administer state recycling laws, provide technical assistance, information and education and administer recycling grant programs. In 1996-97, DNR is also provided \$177,600 GPR and 3.0 GPR positions for recycling administration and enforcement activities.

## GOVERNOR

Convert \$73,200 and 1.0 waste manager position annually in the Bureau of Waste Management from GPR to recycling fund SEG.

## DISCUSSION POINTS

1. The GPR position that would be converted from GPR to SEG under the bill provides policy coordination for DNR's recycling programs.
2. Under the bill, supplies and services funds of \$12,000 (\$6,000 annually) related to the position would not be converted from GPR to SEG.

3. One of the remaining two DNR GPR-funded recycling positions performs management information activities related to recycling grants and effective recycling programs in the Bureau of Waste Management. The other position performs recycling enforcement in the Division of Enforcement and Science, Bureau of Law Enforcement, and is provided by allocating a portion of the time of environmental wardens throughout the state.

4. All three of DNR's GPR-funded recycling positions could be converted from GPR to SEG recycling fund instead of the one position identified in the bill. An additional \$115,000 and 2.0 positions annually could be converted from GPR to recycling fund SEG (\$48,000 annually in the Bureau of Waste Management and \$67,000 annually in the Bureau of Law Enforcement). The reduction in GPR costs would be \$230,000 during the 1997-99 biennium.

5. In addition to DNR's allocation of 3.0 GPR positions to recycling activities, the bill continues GPR funding in 1997-99 for recycling activities in the University of Wisconsin System and Department of Administration (DOA). Funding for these activities could be converted from GPR to recycling fund SEG for a reduction in GPR costs of \$622,000 during the 1997-99 biennium. For the UW - System, GPR savings would be \$380,000 during 1997-99, including: (a) \$168,600 annually to continue the 1996-97 funding level for Solid Waste Research Council grants for research into alternative methods of solid waste management; and (b) \$21,200 in 1997-98 and \$21,600 in 1998-99 to convert 0.5 GPR position at solid waste experiment centers. For DOA, GPR savings would be \$242,000 during 1997-99 (\$121,000 annually) to convert 2.5 GPR positions that administer recycling procurement specifications and provide information about products made from recycled material for purchase by state and local governmental agencies.

6. Under the bill, the unencumbered recycling fund balance will be approximately \$12.6 million at the end of 1998-99. If additional recycling activities in DNR, UW - System and DOA are converted from GPR to recycling fund SEG, the unencumbered recycling fund balance would decrease to \$11.7 million at the end of 1998-99.

7. The majority of state solid waste recycling and waste reduction programs are funded from the segregated recycling fund. Use of GPR for a portion of state agency recycling activities has been supported as a way of using statewide revenues other than the business recycling surcharge revenues of the recycling fund for statewide recycling program administration. Further, GPR provides a permanent source for ongoing activities.

8. Currently, the recycling surcharge which funds the recycling fund will end for tax years that end after April 1, 1999. Further, municipal recycling grants will not be provided after 1999 (fiscal year 1998-99). Since the recycling surcharge, investment income and repayments from loans made by the former Department of Development are the only sources of revenue for the recycling fund, revenues will not be sufficient to fund ongoing recycling activities after 1998-99.

9. Conversion of additional GPR-funded recycling activities in DNR, UW - System and DOA to SEG recycling fund will reduce GPR costs in 1997-99 by \$864,000 but the conversion would not allow, absent subsequent legislation, for the provision of ongoing statewide recycling activities.

### ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to convert \$73,200 and 1.0 position annually from GPR to recycling fund SEG.

<u>Alternative 1</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
<b>1997-99 FUNDING</b> (Change to Base)	- \$146,400	\$146,400	\$0
[Change to Bill]	\$0	\$0	\$0]
<b>1998-99 POSITIONS</b> (Change to Base)	- 1.00	1.00	0.00
[Change to Bill]	0.00	0.00	0.00]

2. In addition to approving the Governor's recommendation to convert \$73,200 and 1.0 position annually from GPR to recycling fund SEG, convert an additional \$6,000 annually from GPR to the recycling fund for supplies and services costs.

<u>Alternative 2</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
<b>1997-99 FUNDING</b> (Change to Base)	- \$158,400	\$148,400	\$0
[Change to Bill]	- \$12,000	\$12,000	\$0]
<b>1998-99 POSITIONS</b> (Change to Base)	- 1.00	1.00	0.00
[Change to Bill]	0.00	0.00	0.00]

3. In addition to Alternative 1 or 2, convert any or all of the following GPR funding for recycling activities to recycling fund SEG:

SEG. a. In DNR, convert an additional \$115,000 and 2.0 positions annually from GPR to

<u>Alternative 3a</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	- \$230,000	\$230,000	\$0
[Change to Bill]	- \$230,000	\$230,000	\$0]
1998-99 POSITIONS (Change to Bill)	- 2.00	2.00	0.00
[Change to Bill]	- 2.00	2.00	0.00]

b. In the UW - System, convert \$189,800 in 1997-98 and \$190,200 in 1998-99 and 0.5 position annually from GPR to SEG for research into alternative methods of solid waste management and for solid waste experiment centers.

<u>Alternative 3b</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	- \$380,000	\$380,000	\$0
1998-99 POSITIONS (Change to Bill)	- 0.50	0.50	0.00

c. In DOA, convert \$121,000 annually and 2.5 positions from GPR to SEG to administer recycling procurement specifications and provide information about products made from recycled material for purchase by state and local governmental agencies.

<u>Alternative 3c</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	- \$242,000	\$242,000	\$0
1998-99 POSITIONS (Change to Bill)	- 2.50	2.50	0.00

4. Maintain current law.

<u>Alternative 4</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	\$0	\$0	\$0
[Change to Bill]	\$146,400	- \$146,400	\$0]
1998-99 POSITIONS (Change to Base)	0.00	0.00	0.00
[Change to Bill]	1.00	- 1.00	0.00]

Prepared by: Kendra Bonderud

MO# Alt #2 Bohc

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
AYE	16	NO	0
ABS			

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Brownfields Grant Program/Business Development Assistance Center (Commerce -- Departmentwide and Economic Development)**

[LFB Summary: Page 136, #31, Page 139, #33]

## CURRENT LAW

The Department of Commerce administers the Technology and Pollution Control and Abatement grant and loan program. The program was created in 1995 to provide grants and loans to fund various activities related to the production of products from recycled post-consumer or industrial waste and the abatement, control and treatment of air and water pollution. Eligible applicants include new or expanding businesses, municipalities or other public entities, nonprofit organizations or entities organized by a group of these entities. The grants and loans range from \$25,000 to \$750,000 and provide funding for projects which recycle postconsumer or industrial waste or treat or abate air and water pollution or fund technical research or assistance related to these projects. A total of \$200,000 GPR and \$800,000 SEG is provided for grants and loans. No funds can be encumbered after July 1, 1997; through April, 1997 \$877,614 was awarded to two applicants.

The Bureau of Permit and Business Assistance was created from the Permit Information Center by 1995 Wisconsin Act 27. The Bureau's responsibilities include: (1) serving as a state clearinghouse on state permits; (b) acting to expedite the process of permit application, review and issuance; (c) monitoring the status of permit applications and agreements reached in preapplication meetings; (d) providing advocacy services before regulatory agencies on behalf of permit applicants and advocating relevant legislative changes; and (e) providing mediation or dispute resolution services related to permit applications. The Bureau is currently prohibited from charging for services it provides and is primarily funded by GPR from the Department's economic and community development general program operations appropriation. Two positions

that perform activities related to compliance with the federal Clean Air Act are funded by program revenue.

## GOVERNOR

Provide \$20 million in recycling fund SEG in 1997-98 in a continuing appropriation to create a brownfields grant program administered by the Department of Commerce. The Department would be authorized to make grants to individuals, partnerships, corporations, limited liability companies, associations, organizations and municipalities to fund brownfields redevelopment projects and associated environmental remediation activities. Grants could not be made unless the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be the subject of the project was unknown or could not be located. Grant recipients would contribute a specified proportionate share of the cost of the project in the form of cash or in-kind contributions in the form of actual remediation services. Grants would range from \$300,000 to a maximum of \$5 million and Commerce would be required to award a certain percentage of grants of varying amounts. The Department would be authorized to promulgate rules to administer the program. In awarding grants, Commerce would be required to consider the recommendations of the Department of Administration and the Department of Natural Resources and follow certain criteria. Brownfields would be defined as abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

The responsibilities of the existing Bureau of Permit and Business Assistance would be expanded to include brownfields related activities and the Bureau's name would be changed to the Business Development Assistance Center. The bill would provide \$250,400 SEG in 1997-98 and \$266,700 SEG in 1998-99 from the petroleum inspection fund and 2.0 positions beginning in 1997-98 to support the additional responsibilities. Of the total amounts appropriated, \$150,000 SEG would be provided annually to fund development of internet links and geographic information system databases. The remaining \$100,400 SEG in 1997-98 and \$116,700 SEG in 1998-99 would fund the two positions. The Business Development Assistance Center would be required to provide certain information about DNR permits, licenses and approvals, to act as an ombudsman for brownfields redevelopment projects and to administer the brownfields grant program created in the bill. In addition, the Center would be authorized to charge for the cost of the services it provided and amounts received would be deposited in a newly created program revenue continuing appropriation.

## DISCUSSION POINTS

### Brownfields Grant Program

1. Senate Bill 77 contains a number of programs which would provide financial assistance for the costs of remediation of environmental contamination:

a. Land Recycling Loan Program. Provides up to \$20 million from loan repayments to the clean water fund for financial assistance to cities, villages, towns or counties for projects to remedy environmental contamination of sites or facilities at which environmental contamination has affected, or threatens to affect, groundwater or surface water. (Joint Finance expanded this program to make businesses and individuals eligible.)

b. Environmental Remediation Tax Incremental Financing. Authorizes cities, villages, towns and counties to use an environmental remediation tax increment to pay the eligible costs of remediating environmental pollution on property that the local government owns. The local government would have to transfer the property to another person after it is remediated.

c. Brownfields Redevelopment Loan Guarantee Program. Provides \$4.0 million from the recycling fund to the Wisconsin development reserve fund (WDRF) administered by the Wisconsin Housing and Economic Development Authority (WHEDA) to guarantee loans under a brownfields redevelopment loan guarantee program. Under the program, WHEDA would be allowed to guarantee repayment of up to 80% of the principal of an eligible brownfields redevelopment loan.

d. Development Zone Tax Credits. The current development zone tax credits would be eliminated and replaced with a consolidated development zone credit, based on the amounts spent on environmental remediation and the number of full time jobs created or retained. The environmental remediation credit could be claimed for the amount expended for environmental remediation in a development, development opportunity and enterprise development zone. Environmental remediation would be defined as removal or containment of environmental pollution, and restoration of soil or groundwater that is affected by environmental pollution in a brownfield.

2. Most business investments are evaluated on their likely future return compared to other investment opportunities. The proposed brownfields grant program is designed to provide an incentive for environmental remediation projects and brownfields redevelopment projects on sites where tax incentives and loans would not be sufficient to offset the lower return on investment associated with the remediation and redevelopment project. In some cases, the cost of remediation and redevelopment will exceed the increase in value that would result from the remediation and redevelopment projects. In these instances, the grant could be used offset the difference between project cost and final value. In addition, the grants could be used to provide financial assistance for projects on severely contaminated sites, that might not otherwise be

undertaken. In the absence of any brownfield redevelopment, many contaminated areas will remain in their present state, with minimal potential for any cleanup of the existing contaminants.

3. Environmental contamination has caused urban redevelopers to avoid urban land that could potentially have soil contamination problems. This has often led to "green field" development on the outer borders of urban areas. Development of outlying areas extends the urban infrastructure, can lead to urban sprawl and eliminates valuable agricultural land. In many cases, the necessary infrastructure is already in place to serve brownfield areas. Again, the proposed grant program would provide funds to offset the lower expected return on investment from urban brownfield projects. As a result, it would provide an incentive for developers to purchase urban sites for redevelopment projects.

4. There are a number of current state programs which are designed to clean up hazardous substances and environmentally contaminated land. The environmental fund is administered by DNR and is used for program activities related to groundwater management, environmental response and repair, and nonpoint source water pollution abatement programs. The appropriations fund administrative, enforcement, preventative and cleanup activities. The petroleum environmental cleanup fund award (PECFA) program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage systems and home heating oil systems. The amount of reimbursement varies from a minimum of 75% to over 99% of eligible cleanup costs. Under the agricultural chemical cleanup program, the Department of Agriculture Trade and Consumer Protection (DATCP) oversees the investigation and remediation of agricultural chemical spills. A grant program funds certain cleanup costs. In addition, the WDF major economic development grant and loan program could provide funding for brownfields redevelopment projects. An argument against creating a new brownfields grant program is that current state programs fund brownfields remediation and redevelopment.

5. As an alternative, the proposed grant program could be converted to a loan program. A loan program could result in more efficient use of state funds. Because the loan must be repaid, there is less chance that unnecessary expenditures would be made. Loans would be more consistent with a program that was designed to take advantage of market forces. Under a loan program the remediation and brownfields redevelopment activities would have to produce a project that would generate a revenue stream that was sufficient to repay the loans. In addition, loan repayments could be used to establish a revolving loan fund that could finance future remediation and redevelopment projects. Currently, the Wisconsin Development Fund (WDF), Rural Economic Development (RED) program and Minority Business Development Fund (MBDF) are partially funded through program revenue grant repayment appropriations. On the other hand, a loan program may not provide a sufficient incentive to remediate and redevelop severely contaminated sites. The use of more risky but potentially innovative methods could also be discouraged.

There is some concern that redevelopers could use the grants to remediate and redevelop contaminated sites and then sell the sites for profit. To address this concern, the Committee could authorize Commerce to require grants to be repaid, if the funding is used to remediate and

redevelop sites that are subsequently resold at a gain (Commerce would determine criteria by rule).

6. It could be argued that the intent of the legislation creating the recycling surcharge was that revenues generated were to be spent on recycling collection programs and recycling market development. Under this view, recycling surcharge revenues and any recycling fund balance should be used only for recycling programs. The Committee could decide the proposed use of recycling funds for brownfield grants is inappropriate and not provide the recommended funding.

7. Grant recipients would be required to contribute a specified proportional share of project costs in cash or in-kind remediation services. Cash contributions could include public funds, except for grants or loans obtained through the Wisconsin Development Fund, Rural Economic Development program, or the Minority Business Development program. The proportional share of project cost that would have to be provided by a grant recipient would depend on the size of the grant received as follows: (a) a minimum of 20% for grants that do not exceed \$300,000; (b) 35% for grants exceeding \$300,000 up to \$700,000; and (c) 50% for grants exceeding \$700,000 up to \$5 million. These matching requirements are designed to ensure that the grant recipient is committed to completing the remediation and redevelopment project. Since many of the brownfield projects would be risky, the matching requirements are substantial for large grant amounts. It is believed that a developer would only commit substantial amounts of private funds to a project if the developer believed the project would be successfully completed. However, most of Commerce's grant and loan programs require a minimum 25% match. In addition, SB 77 includes a number of provisions, such as reducing the required match for customized labor training grants from 50% to 25%, which bring current program matching requirements in conformity with the 25% minimum. The matching requirement for the brownfields grant program could be changed to a uniform 25%.

8. Under the bill, Commerce would be required to award: (a) a total of \$3 million in grants that did not exceed \$300,000; (b) a total of \$7 million in grants that would be greater than \$300,000 but did not exceed \$700,000 and (c) a total of \$10 million in grants that would be greater than \$700,000, but did not exceed \$5 million. The maximum grant that could be awarded would be \$5 million. The Department would also be required to award at least seven grants for projects that would be located in municipalities with a population of less than 30,000. These limitations on grant size are intended to distribute funding to projects of different sizes which could be used to determine the most efficient methods for remediation and redevelopment.

The cost of cleaning up contaminated properties varies greatly depending on site-specific circumstances such as the amount and types of contamination, whether groundwater has been contaminated, geologic conditions and the methods that are used to conduct the cleanup. The following are DNR estimates of the approximate costs for various types of cleanups in the state:

a. Preliminary site investigations vary, but usually range between \$5,000 and \$200,000.

b. Further remedial investigation costs where serious contamination exists range from \$200,000 to \$1 million with most less than \$500,000.

c. Soil remedies range in cost from \$10,000 to over \$2 million.

d. The range in costs for groundwater remedies depends upon the type of cleanup. For sites where natural attenuation is being used, the costs generally range between \$20,000 and \$50,000. At sites where an active remedy is conducted, costs range from \$100,000 to potentially millions.

e. Landfill remedies usually involve capping and capital costs range from \$100,000 to \$20 million. However, most cost between \$4 to \$6 million. In addition, expenses for operation and maintenance can cost over \$1 million.

In reviewing these costs, it appears that many activities would cost less than \$1 million while major cleanups would cost millions. Consequently, the Committee may wish to require that total funding be divided equally, with \$10 million allocated to projects costing less than \$1 million and the remaining \$10 million allocated to projects costing over \$1 million.

9. In order to receive a grant, the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be the subject of the project would be required to be unknown or could not be located. The administration has indicated that it intended to include cases in which the parties that were responsible for the contamination were known, but unable to pay for the remediation.

10. Under the proposed grant program, matching contributions could include public funds except for WDF, RED and MBDF grants and loans. As a result, in some cases, PECFA awards could be used in addition to matching funding for brownfields grants. The Committee could exclude projects which receive PECFA awards from being eligible for grants. In addition, the grant program does not specify that investigations are eligible remediation and brownfield redevelopment costs. The Committee could modify the bill to allow grants to be used to fund investigations.

11. The bill provides \$20 million SEG from the recycling fund in 1997-98 to a continuing appropriation under Commerce for the brownfields grant program. As a result, the entire \$20 million could be awarded as grants in 1997-98. However, if the entire \$20 million is awarded in 1997-98, the year-end unencumbered balance in the recycling fund would be in deficit. DOA has indicated that it intends that \$10 million in funding would be appropriated in each year of the biennium. As an alternative, the Committee could provide one-time funding of \$10 million SEG to the Commerce appropriation in each year.

12. Similar to the WHEDA loan guarantee program, Commerce's grant program would not be limited to the remediation of contamination at a brownfield site, but could provide for the construction or reconstruction of some type of facility at the site. It could be argued that the

brownfield grant program should be limited to the remediation of contamination at a brownfield site and should not include the provision of funds to construct a facility or develop a site economically. Commerce and WHEDA have other economic development grant and loan programs that could be used to fund the redevelopment of these properties.

13. In addition, given potential demands on the recycling fund, a more limited program could be considered.

### **Business Development Assistance Center**

14. As noted, the bill would expand the responsibilities of the Bureau of Permit and Business Assistance and provide \$250,400 SEG in 1997-98 and \$266,700 SEG in 1998-99 from the petroleum inspection fund and 2.0 positions beginning in 1997-98 to support the expanded responsibilities. Of the total funding, \$150,000 SEG would be provided annually to fund development of internet links and geographic information system databases. The bill would also rename the Bureau the Business Development Assistance Center and the Center would be required to administer the brownfields grant program and to act as an ombudsman for brownfields redevelopment projects. As ombudsman, the center would have to:

- a. Promote brownfields redevelopment projects and related educational efforts.
- b. Coordinate interagency activities and responsibilities related to brownfields redevelopment projects.
- c. Coordinate, with the Department of Workforce Development (DWD), training programs or activities for unemployed persons who reside in the vicinity of a brownfield redevelopment project.

If the Committee eliminates the brownfields grant program, Commerce would not have a direct role in financing remediation and brownfields redevelopment programs. Consequently, these related provisions could be deleted from the bill.

15. One of the positions that would be provided would be responsible for ombudsman activities. The second position would be responsible for administering the brownfields grant program. Since the funding provided for the grant program is one-time funding, it could be argued that there is no need to provide a permanent position to administer the program. Consequently, the Committee could convert one position from a permanent to a two-year project position.

16. The bill would authorize Commerce to charge for services provided and a program revenue appropriation would be created for amounts received. The Department indicates that it requested this authority in order to determine if there was a market for information from its database related to licenses and permits. However, Commerce has since determined that it would

be too costly to produce updated information and therefore does not need the fee authority. The Committee could delete these provisions.

17. The bill creates a SEG appropriation to provide funding for the 2.0 administrative positions and to develop internet links and geographic information system databases. However, the appropriation language specifies that the funding is for staff for the Business Development Center. The Committee could modify the appropriation language to clarify that the funds are to be used for other purposes related to the Center's activities.

## ALTERNATIVES TO BILL

### A. Brownfields Grant Program

1. Approve the Governor's recommendation to provide \$20 million in recycling fund SEG in 1997-98 in a continuing appropriation to create a brownfields grant program administered by the Department of Commerce. The Department would be authorized to make grants to individuals, partnerships, corporations, limited liability companies, associations, organizations and municipalities to fund brownfields redevelopment projects and associated environmental remediation activities. Grants could not be made unless the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be subject of the project was unknown or could not be located. Grant recipients would contribute a specified proportionate share of the cost of the project in the form of cash or in-kind contributions in the form of actual remediation services. Grants would range from \$300,000 to a maximum of \$5 million and Commerce would be required to award a certain percentage of grants of varying amounts. The Department would be authorized to promulgate rules to administer the program. In awarding grants, Commerce would be required to consider the recommendations of DOA and DNR and follow certain criteria. Brownfields would be defined as abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

2. Modify the Governor's recommendation by adopting one or more of the following:

a. Convert the brownfields grant program to a loan program. Create a program revenue appropriation for loan repayments to be used to fund additional loans under the program.

b. Authorize Commerce, by rule, to require that in cases where grant recipients sell the remediated and redeveloped site at a gain the grant must be repaid. Create a program revenue appropriation for grant repayments to be used to fund future grants.

c. Require that the cash or in-kind match must equal 25% of project costs.

d. Require that \$10 million of funding be used for grants under \$1 million and that \$10 million be used to fund grants of \$1 million or more.

e. Provide that grants could be awarded in cases where the parties responsible for the contamination are unable to pay for the remediation.

f. Provide one-time funding of \$10 million SEG in 1997-98 and \$10 million SEG in 1998-99 for the grant program.

g. Prohibit PECFA award recipients from receiving brownfield grants.

h. Include the cost of investigations as eligible projects costs for grants.

i. Limit awards to include only the costs associated with the remediation of contamination at a brownfield site.

3. Modify alternative 1 or 2 to provide \$10 million in 1997-98 only from the recycling fund and adjust award criteria accordingly. (The recycling fund balance would increase by \$10 million.)

<u>Alternative A3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Bill)	- \$10,000,000

4. Maintain current law.

<u>Alternative A4</u>	<u>SEG</u>
1997-99 FUNDING (Change to Bill)	- \$20,000,000

## B. Business Development Assistance Center

1. Approve the Governor's recommendation to expand the responsibilities of the existing Bureau of Permit and Business Assistance to include brownfields related activities and change the Bureau's name to the Business Development Assistance Center. The bill would provide \$250,400 SEG in 1997-98 and \$266,700 SEG in 1998-99 from the petroleum inspection fund and 2.0 positions beginning in 1997-98 to support the additional responsibilities. Of the total amounts appropriated, \$150,000 SEG would be provided annually to fund development of internet links and geographic information system databases. The remaining \$100,400 SEG in 1997-98 and \$116,700 SEG in 1998-99 would fund the two positions. In addition, the Center would be authorized to charge for the cost of the services it provided and amounts received would be deposited in a newly created program revenue continuing appropriation.

2. Modify the Governor's recommendation by adopting one or more of the following:

a. Convert 1.0 SEG position provided in SB 77 to a two-year project position.

b. Delete provisions which authorize the Business Development Center to charge fees for services and the related program revenue appropriation.

c. Modify SB 77 appropriation language to clarify that the newly created SEG appropriation could be used to fund Center activities in addition to staff.

3. Maintain current law.  
*FAIL*

Alternative B3	SEG
1997-99 FUNDING (Change to Bill)	- \$517,100
1998-99 POSITIONS (Change to Bill)	- 2.00

Prepared by: Ron Shanovich

MO# AH#3

JENSEN	Y	<del>N</del>	A
OURADA	Y	<del>N</del>	A
HARSDORF	Y	<del>N</del>	A
ALBERS	Y	<del>N</del>	A
GARD	Y	<del>N</del>	A
KAUFERT	Y	<del>N</del>	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A
BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	Y	<del>N</del>	A
PANZER	Y	<del>N</del>	A

AYE 06 NO 8 ABS

MO# AH#20

JENSEN	<del>Y</del>	N	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A
BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A

AYE 16 NO 0 ABS

COMMERCE

Brownfields Grant Program

Motion:

Move to delete the \$20 million SEG funding from the recycling fund for the brownfields grant program in the Department of Commerce. Instead, provide \$10 million GPR in one-time funding in each year of the biennium for the program.

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Note:

SB 77 would provide \$20 million in recycling fund SEG in 1997-98 in a continuing appropriation to create a brownfields grant program administered by the Department of Commerce. The Department would be authorized to make grants to individuals, partnerships, corporations, limited liability companies, associations, organizations and municipalities to fund brownfields redevelopment projects and associated environmental remediation activities. Grants could not be made unless the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be the subject of the project was unknown or could not be located. Grant recipients would contribute a specified proportionate share of the cost of the project in the form of cash or in-kind contributions in the form of actual remediation services. Grants would range from \$300,000 to a maximum of \$5 million and Commerce would be required to award a certain percentage of grants of varying amounts. The Department would be authorized to promulgate rules to administer the program. In awarding grants, Commerce would be required to consider the recommendations of the Department of Administration and the Department of Natural Resources and follow certain criteria. Brownfields would be defined as abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

This motion would delete the \$20 million SEG funding for the brownfields grant programs from the recycling fund, and instead, provide \$10 million GPR annually in one-time funding.

[Change to Base: \$20,000,000 GPR]

[Change to Bill: \$20,000,000 GPR and -\$20,000,000 SEG]

VOTE OVER →

MO# 5018

JENSEN	Y	<del>N</del>	A
OURADA	Y	<del>N</del>	A
HARSDORF	Y	<del>N</del>	A
ALBERS	Y	<del>N</del>	A
GARD	Y	<del>N</del>	A
KAUFERT	Y	<del>N</del>	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A

<del>BURKE</del>	<del>Y</del>	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	<del>N</del>	A

AYE 8 NO 8 ABS

COMMERCE

Brownfields Grant Program

Motion:

Move to delete \$20 million SEG from the recycling fund for the brownfields grant program in the Department of Commerce. Create a new business surcharge based on the current recycling surcharge with the following modifications to: (a) reduce the surcharge rate from 5.5% to 2.75% (0.217% for sole proprietorships and partnerships); (b) exempt businesses with gross receipts of less than \$1 million; (c) exempt noncorporate farms; (d) eliminate the sunset of the surcharge and establish the surcharge as a permanent funding source for the Brownfields grant program. Provide funding of \$13.3 million SEG in 1997-98 and \$13.8 million SEG in 1998-99.

Note:

SB 77 would provide \$20 million in recycling fund SEG in 1997-98 in a continuing appropriation to create a brownfields grant program administered by the Department of Commerce. The Department would be authorized to make grants to individuals, partnerships, corporations, limited liability companies, associations, organizations and municipalities to fund brownfields redevelopment projects and associated environmental remediation activities. Grants could not be made unless the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be the subject of the project was unknown or could not be located. Grant recipients would contribute a specified proportionate share of the cost of the project in the form of cash or in-kind contributions in the form of actual remediation services. Grants would range from \$300,000 to a maximum of \$5 million and Commerce would be required to award a certain percentage of grants of varying amounts. The Department would be authorized to promulgate rules to administer the program. In awarding grants, Commerce would be required to consider the recommendations of the Department of Administration and the Department of Natural Resources and follow certain criteria. Brownfields would be defined as abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

This motion would delete the \$20 million SEG funding for the brownfields grant program and establish a new business surcharge as a permanent funding source.

[Change to Base: \$27,100,000 SEG]  
 [Change to Bill: \$7,100,000 SEG]

MO# 7004

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
AYE	6	NO	10
ABS			

Motion #7004

COMMERCE

Brownfields Grant Program [LFB Paper #606]

Motion:

Move to modify the provisions of SB 77 to require that 75% of the amount appropriated for the brownfields grant program be awarded for remediation and redevelopment projects located in municipalities or counties with populations of less than 500,000.

Note:

Under the brownfields grant program, Commerce would be required to award: (a) a total of \$3 million in grants that did not exceed \$300,000; (b) a total of \$7 million in grants that would be greater than \$300,000 but did not exceed \$700,000; and (c) a total of \$10 million in grants that would be greater than \$700,000, but did not exceed \$5 million. The maximum grant that could be awarded would be \$5 million. The Department would also be required to award at least seven grants for projects that would be located in municipalities with a population of less than 30,000.

This motion would also require the Department to award 75% of the amount appropriated for a fiscal year to projects in municipalities or counties with population of less than 500,000.

MO# 5050

JENSEN	Y	<del>N</del>	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	<del>Y</del>	N	A
COGGS	Y	<del>N</del>	A

BURKE	Y	<del>N</del>	A
DECKER	<del>Y</del>	N	A
GEORGE	Y	<del>N</del>	A
JAUCH	<del>Y</del>	<del>N</del>	A
WINEKE	Y	<del>N</del>	A
SHIBILSKI	<del>Y</del>	N	A
1 COWLES	<del>Y</del>	N	A
2 PANZER	<del>Y</del>	N	A

Motion #5050

AYE 10 NO 6 ABS

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

State Recycling Programs

Motion:

Move to make the following changes related to state recycling programs and use of recycling fund monies:

1. Delete \$15,000,000 recycling SEG from the SB 77 Commerce brownfields grant program (LFB Paper #606).

Provide one-time funding of \$5 million GPR in each year to establish a brownfields loan program which would provide loans to municipalities or local development corporations for brownfields redevelopment, environmental audits or associated environmental remediation activities subject to brownfields grant program provisions relating to cash and in-kind matches, award criteria, the amount and distribution of awards, coordination with DOA and DNR, promulgation of rules for administering the programs and providing an annual report. Create a program revenue loan repayment appropriation to fund future loans and grants. In addition, establish the following provisions which would apply to both the grant and loan programs.

Require that before making a grant or loan, the Department must determine that one of the following applies:

a. The party responsible for the actual or perceived environmental contamination of the facility or site that is the subject of the project is unknown, cannot be located, or financially unable to pay the costs of brownfields redevelopment, an environmental audit, or associated environmental remediation activities.

b. The municipality, or local development corporation will pursue recovery of the costs of brownfields redevelopment, an environmental audit, or associated environmental remediation activities from the party responsible for the actual or perceived environmental contamination, and the municipality or local development corporation will repay the department a proportionate amount of the costs actually recovered.

Authorize Commerce to make a grant or loan if all of the following applied:

a. The person uses the loan for brownfields redevelopment, an environmental audit, or associated environmental remediation activities.

b. The party responsible for the actual or perceived environmental contamination of the facility or site that is the subject of the project is unknown, cannot be located, or is financially unable to pay the costs of brownfields redevelopment, an environmental audit, or associated environmental remediation activities.

c. The person contributes to the cost of the project in-kind or cash.

Brownfields redevelopment would be defined to mean any work or undertaking by a person, municipality or local development corporation to acquire a brownfields facility or site, to conduct an environmental audit, to engage in environmental remediation, and to raze, demolish, remove, reconstruct, renovate or rehabilitate existing buildings, structures or other improvements to promote use of the brownfields facility or site for commercial industrial, residential or other purposes.

"Environmental audit" would mean an investigation, analysis and monitoring of a brownfields facility or site to determine the existence and extent of actual or potential environment pollution.

"Environmental remediation activities" would mean abating, removing or containing environmental pollution at a brownfields facility or site, or restoring soil or groundwater at a brownfields facility or site.

"Local development corporation" would mean a nonprofit corporation organized under ch. 181 of the statutes that does all of the following:

1. Operates within specific geographic boundaries;
2. Promotes economic development with a specific geographic area.;
3. Demonstrates a commitment to or experience in redevelopment of brownfields.

"Municipality" would mean a city, village, town or county.

"Person" would mean an individual, partnership, corporation, limited liability company, or limited liability partnership.

2. Repeal, on December 31, 1999, the effective recycling program criteria (which responsible units must meet to receive municipal and county recycling grants), the duty of DNR to review and determine whether local recycling programs are effective, variances to the criteria and exceptions to the criteria. Instead, require a responsible unit of government to register a local recycling program with DNR as being an effective recycling program that manages solid wastes in compliance with the 1991, 1993 and 1995 landfilling and incineration bans and the state solid waste management hierarchy in order to be eligible for recycling grants in 2000.

3. Make the following modifications to the existing municipal and county recycling grant program for calendar years 1998 and 1999: (a) increase the total grant amount for calendar year 1999 from \$17 million under current law to \$24 million; (b) continue the same grant calculation formula as currently exists for calendar year 1997; (c) repeal the funding of yard waste expenses; and (d) repeal the 10% set-aside of the funds appropriated for supplemental grants to responsible units that have implemented a volume-based fee system for solid waste services.

4. Create a municipal and county recycling grant program for calendar year 2000 as follows: (a) provide \$19,000,000 SEG from the recycling fund for grants for calendar year 2000; (b) specify that a responsible unit that has submitted a registration to DNR for the responsible unit's effective recycling program by October 1, 1999, would be eligible for a calendar year 2000 grant; (c) direct DNR to award grants to eligible responsible units by providing them with the same percentage of the total amount of grant funds that a responsible unit received in calendar year 1999; and (d) specify that calendar year 2000 grants may be expended on expenses of a registered recycling program that complies with the 1995 landfilling bans (this excludes yard waste costs).

~~5. Make the following changes related to out-of-state waste disposed of in Wisconsin: (a) authorize an out-of-state government to register its effective recycling program for waste disposed in Wisconsin in the same manner as a responsible unit may register its program; (b) repeal the requirement that the status of the recycling program of a local unit of government located outside of Wisconsin as an "effective recycling program" be promulgated in rules; (c) repeal the requirement that, in order for solid waste generated in another state to be disposed of in Wisconsin, the state in which it is generated must have an "effective landfill siting program"; (d) repeal the solid waste capacity fee; (e) repeal the requirement that an out-of-state unit be in compliance with all of its home state's recycling requirements in order for its recycling program to be registered as an effective program; (f) allow an out-of-state unit to obtain an exception to the 1995 landfilling and incineration bans that responsible units are now able to obtain; and (g) repeal the requirement that the DNR promulgate rules for determining the comparability of an out-of-state unit's recycling program.~~

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Note:

The motion would leave \$5 million of recycling fund monies for the Commerce brownfields grant program. And create a \$10 million GPR revolving loan fund (\$5 million<sup>PR</sup> in each year of the 1997-99 biennium only).

The motion would increase funding for municipal and county recycling grants to \$24 million in 1998-99 and would create an additional year of grant funding and eligibility

requirements in 1999-2000 with \$19 million for grants. For calendar year 2000, the current requirements that a responsible unit obtain DNR certification of its effective recycling program would be replaced with self-certification by the responsible unit that it has an effective recycling program.

In response to recent federal court rulings, the motion would make a number of changes related to out-of-state waste disposed in Wisconsin. Items #6 (b) through (g) were recommended by the Joint Legislative Council Special Committee on the Future of Recycling.

If the motion and the remaining Governor's recommendations related to use of recycling fund monies are approved (\$4 million for a WHEDA brownfields loan guarantee program and \$500,000 for DOA geographic information systems), the recycling fund would have a balance of approximately \$20.6 million on June 30, 1999. The 1998-99 year-end recycling fund balance would be available to fund the \$19 million in municipal and county recycling grants for calendar year 2000, but would not be sufficient to continue other expenditures from the recycling fund at the 1998-99 level.

[Change to Base: \$10,000,000 GPR and \$7,000,000 SEG]

[Change to Bill: \$10,000,000 GPR and -\$8,000,000 SEG]

MO# 7009 (without Items 6)

ZJENSEN	<input checked="" type="checkbox"/>	N	A
OURADA	<input checked="" type="checkbox"/>	N	A
HARSDORF	<input checked="" type="checkbox"/>	N	A
ALBERS	<input checked="" type="checkbox"/>	N	A
GARD	<input checked="" type="checkbox"/>	N	A
KAUFERT	<input checked="" type="checkbox"/>	N	A
LINTON	<input checked="" type="checkbox"/>	N	A
COGGS	<input checked="" type="checkbox"/>	N	A

BURKE	<input checked="" type="checkbox"/>	N	A
DECKER	<input checked="" type="checkbox"/>	N	A
GEORGE	<input checked="" type="checkbox"/>	N	A
JAUCH	<input checked="" type="checkbox"/>	N	A
WINEKE	<input checked="" type="checkbox"/>	N	A
SHIBILSKI	<input checked="" type="checkbox"/>	N	A
COWLES	<input checked="" type="checkbox"/>	N	A
PANZER	<input checked="" type="checkbox"/>	N	A

AYE 14 NO 2 ABS

Motion #7007  
7009

COMMERCE

Brownfields Grant Program [LFB Paper #606]

Motion:

Move to modify eligibility provision related to responsible parties for the brownfields grant program to: (a) specify that the party causing that portion of the actual or perceived environmental contamination of the facility or site that is the subject of the grant request is unknown or cannot be located; (b) add that the term "party" includes the party who owned or managed the business or entity that caused the discharge or who controlled the hazardous substance prior to its discharge; and (c) add "or is unable to pay" to the requirements that the party be unknown or could not be located.

Note:

Under the provisions of SB 77, brownfields grants could not be made unless the party that was responsible for the actual or perceived environmental contamination of the facility or site that would be the subject of the project was unknown or could not be located.

MO# 5007 gtb

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 8 NO 8 ABS     

Motion #5007

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Brownfields Redevelopment Loan Guarantee Program (WHEDA)**

[LFB Summary: Page 649, #1]

## CURRENT LAW

WHEDA administers several loan guarantee programs related to business development and environmental contamination remediation and pollution abatement. The loan guarantee programs are backed by the Wisconsin Development Reserve Fund (WDRF), which must contain one dollar in its cash balance for every four dollars in total outstanding guarantees (However, previous Committee action increased the reserve ratio to require one dollar in reserves for every \$4.50 in total outstanding guarantees).

## GOVERNOR

Provide \$4,000,000 SEG in 1997-98 from the recycling fund to the Wisconsin development reserve fund (WDRF) to guarantee loans under a brownfields redevelopment loan guarantee program. Beginning July 1, 1998, WHEDA would be allowed to guarantee repayment of up to 80% of the principal of an eligible brownfields redevelopment loan. The outstanding principal amount of loans guaranteed would not be allowed to exceed \$500,000. The Authority would be allowed to establish the percentage of the unpaid principal of an eligible loan that will be guaranteed (not to exceed 80%) under agreement with the participating lender. WHEDA would have the authority to establish one guarantee percentage for all loans or establish different percentages for different loans.

A loan made by a participating lender would be eligible for a guarantee if all of the following apply:

- a. The borrower is a business in the state;
- b. As determined by WHEDA, the borrower uses the loan proceeds for direct or related expenses, associated with the redevelopment of brownfields and environmental remediation activities;
- c. The loan proceeds are not applied to the outstanding balance of any other loan;
- d. WHEDA approves the interest rate on the loan, including any origination fees or other charges;
- e. The lender obtains a security interest in any equipment, machinery, physical plant or other assets to secure repayment of the loan.
- f. The term of the loan does not extend beyond 15 years after the date on which the lender disburses the loan unless WHEDA agrees to an extension;
- g. The lender considers the borrowers assets, cash flow, and managerial ability sufficient to preclude voluntary or involuntary liquidation for the term of the loan; and
- h. The lender agrees to WHEDA's guarantee percentage established for the loan.

## **DISCUSSION POINTS**

### **Loan Guarantee Authority**

1. Although the \$4 million appropriated would be sufficient to guarantee of \$22.5 million in loans under a 4:5 to 1 reserve ratio (assuming an 80% guarantee on the loans), outstanding principal amount of loans guaranteed would not be allowed to exceed \$500,000 under the bill. In an April 14, 1997, letter to the Committee, DOA indicates that it was intended that \$500,000 be the per loan limit (\$400,000 in guaranteed principal) rather than the overall guarantee limit for the program required under the bill.
2. While the changes proposed by DOA would limit loans to \$500,000 (\$400,000 in guaranteed principal), the changes would not place an overall loan guarantee limit on the brownfields loan guarantee program. All other WHEDA loan guarantee programs have a loan guarantee limit. Using the 4.5:1 reserve ratio proposed by the Governor and adopted in previous Joint Finance action, the \$4.0 million provided the WDRF under the bill could guarantee up to \$22.5 million in loans at the maximum 80% guarantee rate.

### **Recycling Transfer**

3. Under the bill, the brownfields loan guarantee program would be funded from a \$4.0 million transfer from the recycling fund. It could be argued that the intent of the legislation that created the recycling fund surcharge was that the revenues generated were to be spent on recycling collection programs and recycling market development. Under this view, the recycling surcharge revenues and any recycling fund balance should be used to fund only recycling programs. The Committee could decide that this proposed use of recycling funding is inappropriate and not provide the funding to the WDRF to back a brownfields redevelopment loan guarantee program.

4. Alternatively, to reduce the immediate impact on the recycling fund, the Committee could consider transferring the funds only as guarantees are made. Under this alternative, funds necessary to maintain \$1 dollar in reserves for every \$4.5 in guaranteed principal would be transferred to WHEDA's WDRF. As a result, the funds proposed to be transferred in 1997-98 would remain in the recycling fund balance longer (at least until 1998-99) and the interest on those funds would accrue to the recycling fund rather than the WDRF.

5. However, under its other guarantee programs, WHEDA covers much of its administrative costs associated with issuing loan guarantees from the balance in the WDRF. The WDRF is funded from the direct appropriation of funds, origination or other fees associated with making loans, as well as the interest earnings on the fund balance.

6. WHEDA has indicated in the past that the legal and other administrative costs associated with establishing a loan guarantee program would be approximately \$100,000. The estimate is based on the start-up costs associated with WHEDA's other loan guarantee programs. To cover WHEDA's costs associated with establishing the guarantee program, the Committee could transfer \$100,000 from the recycling fund in 1997-98 and allow for the transfer of additional funds as necessary to back any loan guarantees made under the program.

### **Brownfields Redevelopment**

7. Under the bill, the Department of Commerce would administer a grant program to municipalities and business to conduct remediation and redevelopment of brownfield properties. WHEDA would only be allowed to guarantee loans made to businesses. Similar to the Commerce program, WHEDA's program would not be limited to the remediation of contamination at a brownfield site, but could provide loan guarantees for the construction or reconstruction of some type of facility at the site.

8. It could be argued that the brownfield loan guarantee program should be limited to the remediation of contamination at a brownfield site and should not include the provision of funds to construct a facility or develop a site economically. Limiting the program to remediation would likely reduce the overall level of guarantees needed to meet the program demand.

WHEDA and Commerce have other economic development direct loan and loan guarantee programs that could be used to fund the development of these properties.

9. However, most of WHEDA's loan and guarantee programs involve private business and housing development activities that are expected to generate additional revenues to repay the loan. The remediation of contamination would not, by itself, allow for the generation of additional revenues to support a loan. Therefore, under such a program, it would be uncertain how many guarantees could be made and the viability of any loans that would be guaranteed. WHEDA currently has similar environmental related loan guarantee programs that only fund those activities that bring the borrower into compliance with environmental regulations, such as the agrichemical cleanup, clean air act, stratospheric ozone and nonpoint source pollution abatement loan guarantee programs (previous Committee action deleted these programs and replaced them with a small business loan guarantee program). The total guarantee authority of these programs is \$2.9 million. To date, these programs have been largely unused with only two loans for a total of \$8,000 in guarantees.

10. Further, WHEDA's primary mission is to provide financing for affordable housing for low- and moderate-income people and business development rather than being involved in more environmental regulatory projects such as brownfield remediation. As a result, WHEDA's expertise related to providing financing to entities to meet environmental concerns is limited. Further, WHEDA officials indicate that programs aimed at specific environmental concerns and that require specialized technical expertise are difficult to market to lenders in that WHEDA has to educate the state's financial community about the availability and requirements of the programs. On the other hand, since environmental remediation at brownfield sites may be critical to the economic revitalization of the site or surrounding area, a brownfields remediation program could be viewed as integral to an economic development program.

11. The \$4 million would guarantee approximately 55 (at the \$500,000 maximum per loan principal amount) to 100 loans. A more limited program could be considered. Providing \$2 million would allow for about one-half the number of guarantees compared to the bill.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation, to provide \$4,000,000 SEG from the recycling fund to the WDRF to guarantee loans under a brownfields redevelopment loan guarantee program. Further, incorporate DOA's recommended change to make \$500,000 as the per loan limit rather than the overall guarantee limit for the program.

2. Modify the Governor's recommendation to provide \$100,000 SEG in 1997-98 to WHEDA for the start-up costs associated with the creation of a brownfields redevelopment loan guarantee program. Further, transfer additional funds up to \$3.9 million from the recycling fund to the WDRF to provide \$1 in reserves for every \$4.50 in loan guarantees under the program (the

amount of funds to be transferred from the recycling fund would depend on the loan guarantee program demand). Finally, limit the outstanding principal amount of loans guaranteed to not more than \$22.5 million.

<u>Alternative 2</u>	<u>SEG</u>
1997-99 FUNDING (Change to Bill)	- \$3,900,000

3. Modify the Governor's recommendation to set the total outstanding principal amount of loans guaranteed at \$11.2 million and provide a total of up to \$2 million from the recycling fund (rather than \$4 million under SB 77). Provide \$100,000 SEG in 1997-98 and up to \$1.9 million, as necessary, to provide \$1 in reserve for each \$4.50 in guarantees issued. (The recycling fund balance would increase by at least \$2 million.)

<u>Alternative 3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Bill)	- \$3,900,000

4. In addition to one of the above, limit the loan guarantee program to include only the costs associated with remediation of contamination at a brownfield site.

5. Maintain current law (\$4,000,000 would be retained in the recycling fund).

FAIL

<u>Alternative 5</u>	<u>SEG</u>
1997-99 FUNDING (Change to Bill)	- \$4,000,000

see motion #5005 (FAIL)

Prepared by: Al Runde

MO# Alt #5

JENSEN	Y	<del>N</del>	A
OURADA	Y	<del>N</del>	A
HARSDORF	Y	<del>N</del>	A
ALBERS	Y	<del>N</del>	A
GARD	Y	<del>N</del>	A
KAUFERT	Y	<del>N</del>	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A

BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	Y	<del>N</del>	A
PANZER	Y	<del>N</del>	A

AYE 8 NO 8 ABS

MO# Alt #2

JENSEN	<del>Y</del>	N	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	<del>Y</del>	N	A
COGGS	<del>Y</del>	N	A

BURKE	<del>Y</del>	N	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	<del>Y</del>	N	A
WINEKE	<del>Y</del>	N	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A

AYE 16 NO 0 ABS

VOTE OVER

MO#

AH #4

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 10 NO 6 ABS \_\_\_\_\_

WHEDA (Paper #607)

Brownfields Loan Guarantee Program

Motion:

Move alternative 2 in Legislative Fiscal Bureau paper #607, however, replace the recycling fund SEG with GPR.

Note:

The motion would provide WHEDA with \$100,000 GPR, and allow for the transfer of up to \$3.9 million in GPR to the WDRF as needed to maintain \$1 in reserves for every \$4.50 in brownfield loan guarantees rather than using recycling fund monies as proposed in SB 77 and alternative 2 of LFB paper #607. While \$100,000 GPR in 1997-98 would be needed for start-up costs associated with the program, GPR expenditures could be as high as \$4.0 million in the biennium. However, because the program would be newly created and based on startup of the WHEDA recycling program, it is estimated that GPR expenditures for loan guarantees could be \$250,000 in 1998-99.

[Change to Bill: \$350,000 GPR and -\$4,000,000 SEG]

MO# 5005

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

1 BURKE	Y	N	A
2 DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 8 NO 8 ABS

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Brownfields -- Funding Changes (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 419, #11]

## CURRENT LAW

The Air and Waste Division's Bureau for Remediation and Redevelopment is responsible for administration of laws to clean up contaminated properties. Adjusted base funding in 1996-97 for staff totals \$6,592,400 for 105 positions, including: (a) \$2,692,200 FED and 43.5 FED positions; (b) \$1,847,500 environmental fund SEG and 27.0 positions; (c) \$975,800 GPR and 16 positions; (d) \$697,100 petroleum inspection fund SEG and 12.0 project positions which end on June 30, 1997; (e) \$298,200 PR and 5.5 positions; and (f) \$81,600 recycling fund SEG and 1.0 position.

## GOVERNOR

Provide \$713,200 in 1997-98 and \$730,200 in 1998-99 and 13.0 positions for a brownfields program to clean up contaminated properties that are not being utilized to their full economic potential. Sites would include tax delinquent sites, spills sites, leaking underground storage tank sites, former landfills and sites with abandoned containers. The funding would include: (a) \$487,400 SEG in 1997-98 and \$504,400 SEG in 1998-99 and 9.0 SEG positions from the environmental fund; and (b) \$225,800 petroleum inspection fund SEG annually with 4.0 SEG positions. The initiative would consist of the following funding changes:

a. *Cost Containment.* Provide \$111,200 SEG annually from the petroleum inspection fund to convert 2.0 positions from project to permanent status to review and analyze the

effectiveness of new engineered cleanup systems on an ongoing basis. The project positions and associated funding terminate on June 30, 1997, and are deleted under standard budget adjustments.

b. *Municipal Brownfields Environmental Assessment Program.* Provide \$140,000 SEG in 1997-98 and \$153,700 SEG in 1998-99 from the environmental fund and 3.0 positions to continue a brownfields environmental assessment pilot started in 1995 with federal Superfund project positions. The positions would conduct environmental assessments for selected municipalities to determine the extent of contamination at abandoned properties and recommend further investigatory work, develop technical guidance and train staff in customer service and environmental sampling.

c. *Brownfields Redevelopment Assistance Team.* Provide \$293,400 SEG in 1997-98 and \$301,200 SEG in 1998-99 from the environmental fund with 6.0 positions and \$114,600 SEG annually from the petroleum inspection fund to convert 2.0 positions from project to permanent status. The positions would assist with site cleanup and closure of contaminated properties, assist property owners and municipalities in the area of brownfield redevelopment, provide public outreach and training on DNR administrative rules (NR 700 series) related to cleanup of contaminated property, provide technical assistance on determining site-specific soil standards and implementing closure flexibility for sites with contaminated groundwater and provide "comfort letters" to purchasers, lenders, sellers and lessees of property that may be contaminated.

d. *Information Streamlining and Efficiency Project.* Provide \$54,000 SEG in 1997-98 and \$49,500 SEG in 1998-99 from the environmental fund as one-time funding to hire a management consultant to evaluate and recommend methods to improve and streamline the data system for the brownfields program.

### DISCUSSION POINTS

1. The positions provided under the bill would replace 13.0 of 21.5 positions deleted under the bill: (a) 9.5 federal Superfund and leaking underground storage tank program positions deleted to reflect reductions in or noncontinuing federal funding; and (b) 12 petroleum inspection fund project positions that end June 30, 1997. Under SB 77, positions provided in the remediation and redevelopment subprogram would decrease from 105 to 96.5.
2. DNR estimates that there are 8,000 "brownfields" statewide, which are abandoned or underused properties that are contaminated or suspected to be contaminated.
3. During 1995-97, DNR reallocated up to 10 FED Superfund positions, 6.5 of which have ended or will be deleted under the bill, two GPR positions and up to five environmental fund SEG positions to brownfields activities. Activities include site assessment and site review under the U.S. Environmental Protection Agency (EPA) brownfields environmental assessment

program, under which DNR is conducting assessments of 23 properties that are tax-delinquent or have bankrupt responsible parties, in order to determine the presence or absence of contamination. DNR also reviewed 62 applications under the purchaser limited liability program enacted in 1993 Act 453, which certifies a purchaser's exemption from liability under the hazardous substances spill law if the purchaser satisfactorily completes an investigation and cleanup.

4. In addition to the allocated staff during 1995-97, beginning in 1996-97, DNR is authorized 3.0 PR positions funded from the fees from purchasers under the purchaser limited liability program. To date, DNR has not filled any of the 3.0 PR positions because fees have totalled approximately \$70,300 to date instead of the \$151,200 that would have been required to fund all three positions for the entire year. DNR estimates that under the staffing and language changes under the bill, there will be sufficient revenues generated to fill the three authorized positions and possibly additional positions. If DNR generates more fee revenues than needed to fill the three authorized positions, it could request additional PR positions and expenditure authority through the s. 16.505/515 process or could request conversion of GPR or SEG positions through s. 13.10.

5. The 13.0 positions provided under the bill would: (a) incorporate the cost containment review practices into day-to-day site review that were begun in the PECFA cost-effectiveness project during 1996-97; (b) continue the brownfields assessment pilot started in 1995; and (c) provide technical assistance to persons under current brownfields-related statutes and changes proposed under the bill. DNR and DOA indicate that the positions are needed for current core activities, but will also perform activities related to statutory changes under the bill related to technical assistance and certification of liability exemption or completion of cleanup, for which DNR would be authorized to charge fees to recover its costs.

6. DNR indicates that the positions are critical to making brownfields initiatives succeed and that without the positions, the Department would be limited in its ability to assist owners, municipalities, developers and potential purchasers of brownfields sites.

7. The information streamlining funds provided under the bill would be used to develop methods of managing data about brownfields sites, work with DOA and Commerce on sharing of data and developing links with geographic information system data. Since DNR would charge fees to recover its costs under several of the SB 77 brownfields provisions but no additional program revenue expenditures are included in the bill, one alternative would be to convert the data consulting funding from environmental fund SEG to PR. Further, this would reduce the environmental fund deficit by \$103,500 (from \$240,000 to \$136,500).

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to provide \$713,200 in 1997-98 and \$730,200 in 1998-99 and 13.0 positions for brownfields program activities, including: (a) \$487,400 SEG in 1997-98 and \$504,400 SEG in 1998-99 with 9.0 SEG positions from the environmental fund; and (b) \$225,800 petroleum inspection fund SEG and 4.0 SEG positions annually.

<u>Alternative 1</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$1,443,400
[Change to Bill]	\$0]
1998-99 POSITIONS (Change to Base)	13.00
[Change to Bill]	0.00]

*PASS*  
2. Approve the Governor's recommendation, except provide \$54,000 in 1997-98 and \$49,500 in 1998-99 in one-time funding as PR rather than environmental fund SEG.

<u>Alternative 2</u>	<u>SEG</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	\$1,339,900	\$103,500	\$1,443,400
[Change to Bill]	- \$103,500	\$103,500	\$0]
1998-99 POSITIONS (Change to Base)	13.00	0.00	13.00
[Change to Bill]	0.00	0.00	0.00]

3. Maintain current law.

<u>Alternative 3</u>	<u>SEG</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	- \$1,443,400]
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill]	- 13.00]

MO# *AK#C*

JENSEN	<i>Y</i>	N	A
OURADA	<i>Y</i>	N	A
HARSDORF	<i>Y</i>	N	A
ALBERS	<i>Y</i>	N	A
GARD	<i>Y</i>	N	A
KAUFERT	<i>Y</i>	N	A
LINTON	<i>Y</i>	N	A
COGGS	<i>Y</i>	N	A

<i>2</i> BURKE	<i>Y</i>	N	A
DECKER	<i>Y</i>	N	A
GEORGE	<i>Y</i>	N	A
JAUCH	<i>Y</i>	N	A
WINEKE	<i>Y</i>	N	A
SHIBILSKI	<i>Y</i>	N	A
COWLES	<i>Y</i>	N	A
PANZER	<i>Y</i>	N	A

Prepared by: Kendra Bonderud

AYE 16 NO 0 ABS

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

**Brownfields -- Property Affected by Off-Site Discharges (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 420, #13]

## CURRENT LAW

A person who possesses, controls or causes the discharge of a hazardous substance is required to notify DNR and take actions necessary to restore the environment to the extent practicable. DNR may require that the person take preventive measures and may specify necessary preventive measures by order. If DNR determines that the person is not taking the necessary actions or the person responsible is unknown, DNR may take the necessary actions to respond to the discharge. If a responsible party is identified, the party is required to reimburse DNR for expenses incurred.

## GOVERNOR

Exempt a person who owns land where a hazardous substance is present in the soil or groundwater from the current provisions of the spills law if: (a) the discharge of the hazardous substance originated from a source on property that is owned by another person; and (b) the person did not possess or control the hazardous substance on the other property or cause the original discharge.

Authorize DNR to, upon request, issue a written determination that, based on information available to DNR, the person is not required to respond to the discharge or reimburse DNR for the costs of responding to the discharge if: (a) DNR determines that the person qualifies for the exemption from liability; (b) the person agrees to allow DNR and any authorized representatives

of DNR to enter the property to take action to respond to the discharge; (c) the person agrees to avoid any interference with actions taken by DNR or at the direction of DNR and to avoid actions that worsen the discharge; and (d) the person agrees to any other condition that DNR determines is reasonable and necessary to ensure that DNR can adequately take action to respond to the discharge.

Authorize DNR to promulgate administrative rules to assess fees to offset the costs of issuing determinations.

## DISCUSSION POINTS

1. While the spills law requires the person who possesses, controls or caused a discharge to cleanup the contamination, often the person who possesses or controls the discharge is not the person who caused the contamination. In this situation, the person who possesses or controls the discharge can take legal action against the person who caused the contamination to cleanup or recover the cost of cleaning up the contamination. If the off-site responsible party is unknown or unwilling, the person who possesses or controls the discharge would be responsible for cleaning up the property. Currently, when a property has groundwater contamination that originates from an off-site source that was caused or controlled by another person, DNR has enforcement discretion to seek the off-site (neighboring) responsible party from where the spill originated to cleanup the contamination rather than the on-site possessing party, especially when the on-site party is not able to take necessary cleanup actions.

2. The bill would benefit persons who own property contaminated by a neighbor. The exemption could allow the owner of the contaminated property to redevelop the property for a productive use.

3. The bill could reduce the incentive for the property owner from the originating spill to cleanup the property because he or she would no longer face a threat of legal action from neighboring property owners. However, DNR would continue to be authorized to take action to require the originating responsible party to cleanup the contamination.

4. The bill could lead to different liability standards on adjacent properties purchased by two different parties. For example, if properties A and B are contaminated by a discharge that was caused by the prior owner of property A, the new owner of property B would be eligible for the exemption under the bill, but the new owner of property A would not. However, the new owner of property A could cleanup the discharge caused by the prior owner and seek an exemption from future liability under the current purchaser limited liability program.

5. It could be argued that a person who possesses or controls contamination that was caused by a neighboring property should not have to pay for the cleanup. However, the SB 77 exemption could shift cleanup costs from persons who possess or control contamination to the

state if the contamination is a high priority, poses a threat to public health, safety, welfare or the environment, or if DNR can not identify a responsible party that is able to pay for the cleanup. If the state-funded spills appropriation would not have sufficient funds to pay for the cleanup (\$3,239,500 annually under SB 77), the contamination would remain on the site.

6. The exemption would be available to any person who meets the criteria in the bill. A person could request DNR to issue a written determination, or "comfort letter" that the person meets the necessary requirements and DNR could assess a fee for providing the written determination. DNR indicates that, eventually, there could be up to 100 requests annually for off-site written determinations. At an average cost of approximately \$500 per request, this could generate \$50,000 annually in fee revenues. DNR estimates that perhaps half this amount would be received in 1998-99.

7. DNR suggests that the bill be amended to allow the exemption only in the following situations (in addition to the SB 77 requirement that the person did not possess or control the hazardous substance on the property on which the discharge originated or cause the original discharge): (a) the off-site source was possessed or controlled by another person (rather than the SB 77 requirement that the discharge originate on property owned by another); (b) the person conducts an adequate investigation approved by DNR; (c) the person allows reasonable access to the site to DNR, its representatives, responsible parties, consultants or their contractors to enter the property to take action to respond to the discharge (instead of the SB 77 requirement that the person allow the Department and its representatives to enter the property to take action to respond to the discharge); (d) the person acquired the property prior to the discharge of a hazardous substance which originated from an off-site source possessed or controlled by another person; and (e) the person takes all necessary emergency actions to prevent threats to human health, safety, welfare or the environment and who takes all non-emergency immediate or interim actions that are necessary to prevent a new or continuing release of the hazardous substance into the environment. In addition, DNR recommends that the Department be authorized to revise or revoke the exemption if any of the criteria for exemption would no longer be met. The Department argues that the suggested amendments would be more protective of the public health, safety, welfare and the environment. On the other hand, the provisions could limit eligibility for the exemption, increase landowner costs and, potentially, limit state cleanup costs.

## ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide certain exemptions from the spills law for a discharge that originated off-site if certain conditions are met.

<u>Alternative 1</u>	<u>PR</u>
1997-99 REVENUE (Change to Base)	\$25,000
[Change to Bill]	\$25,000]

2. Modify the Governor's recommendation so that, in addition to the SB 77 requirement, that the person did not possess or control the hazardous substance on the property on which the discharge originated or cause the original discharge, to allow the exemption only in one or more of the following situations:

- a. the off-site source was possessed or controlled by another person;
- b. the person conducts an adequate investigation approved by DNR;
- c. the person allows reasonable access to the site to DNR, its representatives, responsible parties, consultants or their contractors to enter the property to take action to respond to the discharge;

d. the person acquired the property prior to the discharge of a hazardous substance which originated from an off-site source possessed or controlled by another person;

e. the person takes all necessary emergency actions to prevent threats to human health, safety, welfare or the environment and takes all non-emergency immediate or interim actions that are necessary to prevent a new or continuing release of the hazardous substance into the environment. In addition, authorize DNR to revise or revoke the exemption if any of the criteria for exemption would no longer be met.

3. Maintain current law.

MO#

AH# 201020

Prepared by: Kendra Bonderud

JENSEN	<input checked="" type="checkbox"/>	N	A
OURADA	<input checked="" type="checkbox"/>	N	A
HARSDORF	<input checked="" type="checkbox"/>	N	A
ALBERS	<input checked="" type="checkbox"/>	N	A
GARD	<input checked="" type="checkbox"/>	N	A
KAUFERT	<input checked="" type="checkbox"/>	N	A
LINTON	<input checked="" type="checkbox"/>	N	A
COGGS	<input checked="" type="checkbox"/>	N	A

BURKE	<input checked="" type="checkbox"/>	N	A
DECKER	<input checked="" type="checkbox"/>	N	A
GEORGE	<input checked="" type="checkbox"/>	N	A
JAUCH	<input checked="" type="checkbox"/>	N	A
WINEKE	<input checked="" type="checkbox"/>	N	A
SHIBILSKI	<input checked="" type="checkbox"/>	N	A
COWLES	<input checked="" type="checkbox"/>	N	A
PANZER	<input checked="" type="checkbox"/>	N	A

AYE 16 NO 0 ABS \_\_\_\_\_

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Brownfields -- Voluntary Party Liability Limitation (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 421, #15]

## CURRENT LAW

Currently, a person who purchases a property on which a hazardous substance was discharged before the person acquired the property is eligible for an exemption from future cleanup requirements if the purchaser, in a manner approved by DNR, investigates and restores the environment, minimizes the harmful effects of the discharge and maintains and monitors the property.

## GOVERNOR

Apply the current provisions providing certain "purchasers" of property with exemption from environmental liability instead to any voluntary party. Define "voluntary party" as any person who: (a) did not cause the discharge of a hazardous substance on the property; (b) did not control the hazardous substance prior to its discharge; and (c) did not participate in the management, control or ownership of a business or entity that caused the initial release of the hazardous substance on the property.

Exempt a voluntary party who completes these required activities from the following requirements, with respect to the release of a hazardous substance which occurred prior to the date of acquisition of the property: (a) minimum standards for operation, monitoring and maintenance of solid waste facilities; (b) standards for operation, monitoring and maintenance of metallic mining waste disposal facilities; (c) standards for the reuse of foundry sand and other

high-volume industrial waste; (d) certification requirements for persons who operate solid waste disposal facilities; (e) environmental repair fees and surcharges required to be paid by waste generators (50¢ per ton for municipal solid waste or 20¢ per ton for high-volume industrial waste with a base fee of \$100 or \$1,000 annually, and \$12 per ton of hazardous waste with a base fee of \$125 annually); (f) licensing requirements for the treatment, storage and disposal of hazardous waste on the property; (g) requirements to take corrective action to protect human health or the environment from any spill, leak or other release into the environment of a hazardous substance at a facility that stores, treats or disposes of solid or hazardous waste; (h) orders by DNR to take action necessary to protect public health or the environment; (i) license revocation actions under hazardous waste statutes; and (j) liability for repayment of costs incurred by DNR for environmental repair or cleanup of the property. Retain, for voluntary parties, the current liability exemption for purchasers from: (a) the requirement to take future actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge; (b) take measures to prevent a prior discharge; and (c) the obligation to repay DNR for costs of responding to a hazardous substances spill. Specify that the exemption would first apply to persons issued certificates of exemption by DNR on or after the effective date of the biennial budget act.

Make changes in the extent of cleanup that must be completed by a voluntary party. Limit the obligation of the voluntary party to restore the environment "to the extent practicable." Currently, a purchaser who seeks certification of a partial exemption from liability must meet a higher standard of "restoring the environment." Require the cleanup of "discharges," meaning spilling, leaking, pumping, pouring, emitting, emptying or dumping a hazardous substance, instead of "releases," which means the original discharge.

Authorize DNR to approve a partial cleanup by a voluntary party and issue a certificate of completion that states that not all of the property has been satisfactorily restored or that not all of the harmful effects from a discharge of a hazardous substance have been minimized. Specify that approval of a partial cleanup would exempt a voluntary party, with respect to the portion of the property subject to the partial approval, from the spills cleanup law.

Specify that a certificate for partial cleanup may be issued only if: (a) public health, safety or the environment will not be endangered by any hazardous substances remaining on the property after the partial cleanup, given the manner in which the property will be developed and used and any other relevant factors; (b) the activities associated with any proposed use or development of the property will not aggravate or contribute to the discharge of a hazardous substance and will not interfere with or increase the costs of restoring the property and minimizing the harmful effects of the discharge; and (c) the owner of the property agrees to cooperate with DNR to address problems caused by hazardous substances remaining on the property, including allowing access to the property to DNR or its agents to place borings, equipment or structures or to undertake other activities. Authorize DNR to require the owner of the property to grant an easement to DNR to address the hazardous substances on the property.

Specify that the exemption or partial exemption from liability for a voluntary party would not apply to a municipal waste landfill or to an approved solid waste disposal facility. Specify that the exemption or partial exemption would not exempt the property from any lien filed by DNR to recover its costs of cleaning up the property if the lien is filed prior to the date DNR issues a certificate of exemption or partial exemption.

## DISCUSSION POINTS

1. Examples of persons to whom the bill would extend the exemption could include lenders who acquire property through defaults, municipalities who acquire property through tax delinquency or bankruptcy proceedings and persons who inherit contaminated property. Expansion of purchaser limited liability provisions to "voluntary parties" would provide greater flexibility for sellers, purchasers and other parties interested in redeveloping a contaminated property to determine who would cleanup the property. Currently, the purchaser has to complete the cleanup to obtain the liability exemption.

2. The exemption from many solid and hazardous waste disposal laws for the release that occurred prior to the date of acquisition of the property, would provide assurance to sellers, purchasers and developers that if they cleanup the property under the NR 700 cleanup requirements, DNR would not reopen the case under solid and hazardous waste laws. For example, many sites in southeastern Wisconsin have stockpiles of foundry sand (sand waste from industrial processes) that, once cleaned up, would not be subject to solid or hazardous waste disposal laws.

3. The SB 77 provision to allow a voluntary party to obtain approval of a partial cleanup would allow an owner, purchaser, or developer to cleanup and redevelop part of the site, and leave the remaining contamination to be cleaned up in the future. In order to obtain DNR approval of the partial cleanup, the voluntary party would have to cooperate with DNR to address problems caused by hazardous substances remaining on the property. The certificate of partial cleanup would not require the voluntary party to cleanup the remaining contamination by a specific date. It is possible that if the remaining contamination does not endanger public health, safety or the environment, it would remain on the property indefinitely.

4. While an estimate of revenue is not included in the bill, DNR recently estimated that, eventually, there could be up to 80 requests annually from voluntary parties for determination of an exemption from liability, with an average cost of \$1,900, and 15 requests annually for certification of partial cleanup, with an average cost of \$1,500. This could generate \$174,500 annually in fee revenues. DNR estimates that perhaps half this amount would be received in 1998-99.

5. DNR suggests amending the list of requirements that a voluntary party would be exempt from to: (a) delete the exemption under hazardous waste statutes from orders by DNR

to take action necessary to protect public health or the environment; (b) delete the exemption from hazardous waste license revocation actions; and (c) add an exemption from closure and long-term care plan requirements for unlicensed hazardous waste facilities. DNR argues this would more accurately include all the solid and hazardous waste statutes that exemptions could be granted from, but would retain flexibility for DNR to issue orders if necessary to protect public health or the environment.

6. DNR is working with EPA to determine whether the SB 77 exemptions from hazardous waste management statutes would affect EPA authorization of DNR to administer Resource Conservation and Recovery Act (RCRA) regulations or facilities which transport, store, treat, dispose of, or generate hazardous waste. DNR suggests that in order to meet EPA's approval as retaining state provisions that are as stringent as federal provisions, the following amendment could specify that the exemption from liability would not apply to: (a) a new hazardous waste treatment, storage or disposal facility on the property that begins operation after the date of acquisition by the voluntary party; (b) a licensed hazardous waste treatment, storage or disposal facility that operated on the property prior to the date of acquisition of the property by the voluntary party and which continues to operate or resumes operation after the date of acquisition; and (c) any hazardous waste disposal facility that has applied to have a long-term care license as of the effective date of the budget bill.

7. DNR recommends amending the bill so that when a certificate of completion of a partial cleanup is issued and the owner of the property grants DNR an easement or other interest under SB 77, DNR be allowed to record the easement or other interest as a restriction on the deed to the property. It should be noted that DNR sometimes records deed restrictions on properties cleaned up under other statutes, without specific statutory authorization. Adding the authorization for a deed restriction for partial cleanups without adding it in other cleanup statutes could raise questions as to DNR's authority to record deed restrictions on other properties.

8. DNR recommends amending the bill to require that the certificate of completion of partial cleanup can only be granted if public health, safety or the environment will not be endangered by any hazardous substances remaining off of the property, in addition to on the property. DNR argues that the suggested amendment would more clearly address any public health and safety issues related to the contamination. The amendment could also broaden the scope of cleanup required to obtain certification of partial cleanup and could make the certification more costly to obtain.

9. DNR recommends amending the bill to require the owner of the property for which a certification of partial cleanup is made to allow DNR or "its representatives" instead of "its agents" to undertake activities on the property. This would be consistent with other brownfields liability provisions.

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommended changes related to voluntary party liability exemption from the spills law and certification of a partial cleanup.

<u>Alternative 1</u>	<u>PR</u>
1997-99 REVENUE (Change to Base)	\$87,200
[Change to Bill]	\$87,200]

2. Modify the Governor's recommendation to include one or more of the following amendments:

a. Modify the list of requirements that a voluntary party would be exempt from to: (1) delete the exemption under hazardous waste statutes from orders by DNR to take action necessary to protect public health or the environment; (2) delete the exemption from hazardous waste license revocation actions; and (3) add an exemption from closure and long-term care plan requirements for unlicensed hazardous waste facilities.

b. Specify that the voluntary party exemption from liability would not apply to: (1) a new hazardous waste treatment, storage or disposal facility on the property that begins operation after the date of acquisition by the voluntary party; (2) a licensed hazardous waste treatment, storage or disposal facility that operated on the property prior to the date of acquisition of the property by the voluntary party and which continues to operate or resumes operation after the date of acquisition; and (3) any hazardous waste disposal facility that has applied to have a long-term care license as of the effective date of the budget bill.

c. Require the voluntary party who obtains certification of completion of a partial cleanup to allow DNR to record the easement or other interest as a restriction on the deed to the property.

d. Require that the certificate of completion of partial cleanup can only be granted if public health, safety or the environment will not be endangered by any hazardous substances remaining off of the property, in addition to on the property.

e. Require the owner of the property for which a certification of partial cleanup is made to allow DNR or "its representatives" instead of "its agents" to undertake activities on the property.

3. Maintain current law.

Prepared by: Kendra Bonderud

MO# <u>Alt Zabotke</u>							
JENSEN	X	N	A	BURKE	X	N	A
OURADA	X	N	A	DECKER	X	N	A
HARSDORF	X	N	A	GEORGE	X	N	A
ALBERS	X	N	A	JAUCH	X	N	A
GARD	X	N	A	WINEKE	X	N	A
KAUFERT	X	N	A	SHIBILSKI	X	N	A
LINTON	X	N	A	COWLES	X	N	A
COGGS	X	N	A	PANZER	X	N	A
				AYE	<u>16</u>	NO	<u>0</u>
							ABS

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

**Brownfields -- Exemption From Hazardous Substances Spills Law for Local Governments and Nonprofit Economic Development Corporations (Natural Resources -- Air, Waste and Contaminated Land)**

[LFB Summary: Page 424, #18 and Page 427, #25]

## CURRENT LAW

A person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance is required to notify DNR of any discharge and take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state. DNR may require that the person take preventive measures and may specify necessary preventive measures by order. If DNR determines that the person is not taking the necessary actions or if the person responsible for the discharge is unknown, DNR or its representative may take the necessary actions, including emergency actions, to respond to the discharge. If the responsible party who possessed or controlled the hazardous substance or caused the discharge is identified, the party is required to reimburse DNR for expenses the Department incurs in the response.

Municipalities, redevelopment authorities and certain public bodies designated by a municipality ("local governments") are exempt from the spills law for property the local government acquired through tax delinquency proceedings or as the result of a order by a bankruptcy court. The exemption would not apply if the discharge was caused by: (a) an action by the local government; (b) a failure by the local government to take appropriate action to restrict access to the property in order to minimize costs or damages that may result from unauthorized persons entering the property; (c) a failure of the local government to sample and analyze unidentified substances in containers stored aboveground on the property; or (d) a failure of the local government to remove and properly dispose of, or to place in a different container

and properly store, any hazardous substance stored aboveground on the property in a container that is leaking or is likely to leak.

## GOVERNOR

Exempt a tax-exempt economic development corporation that owns land on which a hazardous substance has been discharged from the spills law for property the corporation acquires before, on or after the effective date of the budget act if the property is acquired to further the economic development purposes that qualify the corporation as exempt from federal taxation. Specify that the exemption would not apply under the same situations in which it currently does not apply for local governments.

The exemption would not be available to an eligible tax-exempt economic development corporation or local government if: (a) the discharge is from a federally-regulated hazardous substance storage tank; or (b) DNR determines, after considering the intended development and use of the property, that action is necessary to reduce to acceptable levels any substantial threat to public health or safety when the property is developed or put to the intended use, DNR directs the local government to take the necessary action and the local government does not take the action as directed.

## DISCUSSION POINTS

1. The SB 77 exemption from certain cleanup requirements of the spills law would apply only to a nonprofit economic development corporation. Such a corporation would be eligible for the same exemption as a municipality is currently.

2. DNR would continue to be authorized to take action to respond to a discharge on the property if the Department believes action is necessary. If it believes the discharge is a high enough priority to require cleanup and if state funds would be available, DNR could take necessary response actions. The corporation would be exempt from the obligation to pay DNR costs of responding to the discharge. DNR could seek reimbursement from prior owners.

3. The exemption for eligible corporations may cause existing or newly-created development corporations to undertake economic development activities on currently contaminated properties that might otherwise remain idle because of the contamination.

4. Under the SB 77 exemption, the economic development corporation would not have to cleanup the property before using it for the economic development purposes that qualify it for exemption. If the corporation would sell the property to a person who does not qualify for the exemption, the purchaser could cleanup the property and seek an exemption from future liability under the current purchaser limited liability program.

5. The exemption for eligible corporations could increase state cleanup costs if DNR determines that the contamination on the property is a high enough priority to require a state-funded response. If the contamination is not high priority, or if state funds would not be available, the contamination would likely remain on the property (unless a responsible party could be compelled to cleanup).

6. It is possible that, if the SB 77 provision is adopted, others would seek an expansion of the exemption to apply to additional types of owners.

7. Under the bill, the exemption would not be available to a local government or eligible corporation if the discharge is from a federally-regulated underground storage tank because federal regulations would require the owner to take responsibility for the tank.

8. The exemption would not apply for eligible nonprofit economic development corporations in the same situations in which it currently would not apply for local governments. However, while the bill would revoke the exemption if a local government would not take DNR-directed actions to reduce threats to public health or safety when the property is developed, and the revocation section references the section for eligible corporations, the revocation language would not specifically revoke the exemption for eligible corporations that refuse to take similar DNR-directed actions. A technical amendment would make the revocation of the exemption parallel for local governments and eligible corporations.

9. DNR suggests that a technical amendment be made to delete the current reference to the date a local government acquired eligible property (before, on or after May 13, 1994) to be eligible for the exemption from the spills law. The date was the enactment date of 1993 Act 453, and is no longer necessary in statutes.

10. DNR also suggests that the exemption not apply if the eligible corporation (but not local government) fails to: (a) respond to a discharge of a hazardous substance that poses an imminent threat to public health, safety, welfare or the environment, on or off of the property; (b) enter into an agreement with the Department to conduct any necessary investigation and remediation activities at the property no later than three years after acquiring the property; and (c) allow DNR or its authorized representatives, any party who may have possessed, controlled or discharged the hazardous substance or their consultants or contractors to enter the property to take necessary action to respond to the discharge.

11. The Department argues that the suggested amendment would be more protective of the public health, safety, welfare and the environment. It could also be argued that the amendment, especially allowing the exemption from liability only if the corporation agrees to cleanup the property within three years, would narrow the exemption sufficiently that some economic development corporations would not utilize the exemption.

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to exempt certain tax-exempt economic development corporations from the spills law and to specify that the exemption would not apply for local governments or eligible corporations under certain circumstances. In addition, approve the following technical amendments: (a) clarify that the exemption from the spills law would not be available to an eligible corporation (in addition to local governments) if DNR directs the corporation to take the necessary action and the corporation does not take the action as directed; and (b) delete the current reference to the date a local government acquired eligible property (before, on or after May 13, 1994) to be eligible for the exemption from the spills law.

2. Approve Alternative 1. In addition, specify that the exemption would not apply if the eligible corporation fails to do one or more of the following:

a. respond to a discharge of a hazardous substance that poses an imminent threat to public health, safety, welfare or the environment, on or off of the property;

b. enter into an agreement with the Department to conduct any necessary investigation and remediation activities at the property no later than three years after acquiring the property;

c. allow DNR or its authorized representatives, any party who may have possessed, controlled or discharged the hazardous substance or their consultants or contractors to enter the property to take necessary action to respond to the discharge.

3. Maintain current law.

Prepared by: Kendra Bonderud

MO# AH# Zabc

JENSEN	X	N	A
OURADA	X	N	A
HARSDORF	X	N	A
ALBERS	X	N	A
GARD	X	N	A
KAUFERT	X	N	A
LINTON	X	N	A
COGGS	X	N	A

BURKE	X	N	A
DECKER	X	N	A
GEORGE	X	N	A
JAUCH	X	N	A
WINEKE	X	N	A
SHIBILSKI	X	N	A
COWLES	X	N	A
PANZER	X	N	A

AYE 16 NO 0 ABS \_\_\_\_\_

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Exemption from Spills Law and Civil Immunity for Local Governments

(LFB Paper #611 & #613)

Motion:

Move to:

1. Exempt a local government from the spills law for: (a) properties it acquires through condemnation or other proceedings under the eminent domain statute (chapter 32); or (b) properties it acquires for the purpose of slum clearance or blight elimination. The local government would be required to meet current or SB 77 requirements for an exemption.
2. Add "housing authority" to the definition of local governmental unit that is exempt from the spills law for certain property it acquires.
3. Provide immunity from civil liability for local governmental units (municipalities, redevelopment authorities, certain public bodies designated by a municipality and housing authorities) related to the discharge of a hazardous substance on or from property formerly owned or controlled by the local governmental unit if the property is no longer owned by the local government at the time that the discharge is discovered and if any of the following apply: (a) the local government acquired the property through delinquency proceedings or as the result of an order by a bankruptcy court; (b) the local government acquired the property from a local government that acquired the property through tax delinquency proceedings or as the result of an order by a bankruptcy court; (c) the local government acquired the property through condemnation or other eminent domain proceedings; and (d) the local government acquired the property for the purpose of slum clearance or blight elimination. The immunity from civil liability would not apply with respect to a discharge of a hazardous substance caused by an activity conducted by the local government while the local government owned or controlled the property.

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Note:

Currently, a local government is exempt from the spills law for property that it acquires through tax delinquency proceedings or as the result of an order by a bankruptcy court if certain

requirements are met. The motion would expand the type of property eligible for the exemption to include property acquired through condemnation or other eminent domain proceedings or for the purpose of slum clearance or blight elimination.

The motion would provide immunity from civil liability for local governments for certain property that the local government formerly owned or controlled if the local government no longer owns the property at the time that the discharge is discovered and other conditions are met.

MO# 6001

JENSEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
OURADA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
HARSDORF	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
ALBERS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
GARD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
KAUFERT	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
LINTON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
COGGS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
1 BURKE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
2 DECKER	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
GEORGE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
JAUCH	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
WINEKE	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
SHIBILSKI	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
COWLES	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A
PANZER	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	A

AYE 10 NO 6 ABS