

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/2000

BILL NO. SB 356

OR

SUBJECT Local Unit of Gov't

Negotiation Process

(NAME) Donald P. Gallo

Michael Best & Friedrich  
(Street Address or Route Number)  
100 E. Wisconsin Ave.

Milwaukee, Wis. 53202-4108  
(City and Zip Code)

City of Waukesha  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/00

BILL NO. \_\_\_\_\_

OR SB 356

SUBJECT Sen. Bob W. rch

(NAME) 22nd Senate District

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2-9-00

BILL NO. SB 356

OR

SUBJECT \_\_\_\_\_

(NAME) Kate Jelacic

City of Waukesha  
(Street Address or Route Number)

130 Delafield  
(City and Zip Code)

Waukesha, WI 53188  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2-9-00

BILL NO. AB 708 / SB 356

OR

SUBJECT \_\_\_\_\_

(NAME) Darsi Foss - DNR

(Street Address or Route Number) 101 S. Webster St.

(City and Zip Code) Madison WI

(Representing) WI. DNR

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/00

BILL NO. SB 352

OR

SUBJECT WATERWAY

LANDFILL

(NAME) SEN. FOLEY-SMITH

(Street Address or Route Number) STATE CAPITOL BLDG

(City and Zip Code) MADISON, WI 53707

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/00

BILL NO. SB 354

OR

SUBJECT Cleanup Negotiation

Process

(NAME) PAT STEVENS

(Street Address or Route Number) 501 E Washington Ave

(City and Zip Code) Madison, WI 53501

(Representing) WI Manufacturers & Commerce

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/00

BILL NO. SB356

OF [REDACTED]

SUBJECT \_\_\_\_\_

Scott R. Jensen  
(NAME)

(Street Address or Route Number)

(City and Zip Code)

self  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
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**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/8/00

BILL NO. SB356

OF \_\_\_\_\_

SUBJECT \_\_\_\_\_

Fel Huck  
(NAME)

(Street Address or Route Number)

(City and Zip Code)

MADISON SELF  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2/9/00

BILL NO. SB356

OF \_\_\_\_\_

SUBJECT \_\_\_\_\_

Chad R. Taylor  
(NAME)

(Street Address or Route Number)

(City and Zip Code)

City of Waukesha  
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

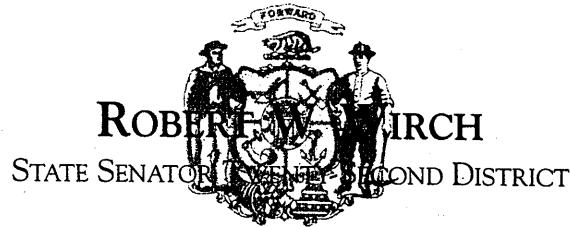
Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882



**Testimony before the Senate Committee on Economic Development, Housing, and  
Government Operations**

**by  
Senator Robert Wirch  
Senate Bill 356  
February 9, 2000**

Senate Bill 356 expands the opportunity to clean up contaminated land using the “umpire process” contained in Chapter 292.35 of Wisconsin Statutes, which provides a state-based alternative to the Federal Superfund process. Under current law, when a contaminated site is identified, communities can only use the umpire process if they have 100% ownership of the contaminated parcel. This bill allows a local governmental unit to use the process if the body commits itself, through a resolution, to paying more than 50% of the investigation and remedial action costs for cleanup of the contaminated property.

SB 356 does not change the process at all, it merely allows those communities that may not own 100% of a contaminated site to use the process already outlined by Wisconsin Statutes.

You will also hear from the City of Waukesha, which was unable to use the umpire process in cleaning up a contaminated landfill they did not have 100% ownership of. SB 356 would help them, and has the potential to allow other communities around the state who may experience a similar situation. Passage of this bill will provide more green space for communities where there would otherwise be an abandoned land fill or

State Capitol, P.O. Box 7882, Madison, Wisconsin 53707-7882 • 608-267-8979

Toll-Free Office Hotline: 1-888-769-4724

Email: [Sen.Wirch@legis.state.wi.us](mailto:Sen.Wirch@legis.state.wi.us) • Website: [www.legis.state.wi.us/senate/sen22/sen22.html](http://www.legis.state.wi.us/senate/sen22/sen22.html) • Fax: (608) 267-0984

Home: 3007 Springbrook Road, Pleasant Prairie, Wisconsin 53158 • (262) 694-7379

contaminated site. It will aid in the environmental goal of cleaning polluted land, protecting groundwater, and doing it in a way that allows negotiation rather than litigation.

Thank you for your time. I would be happy to answer any questions.



STEPHEN R. MILLER  
CHIEF

# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
P. O. BOX 2037  
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341  
REFERENCE FAX: (608) 266-5648

Date: February 8, 2000

**To:** Senator Wirch

**From:** Mike Barman  
LRB Legal Section – Front Office

**Subject:** *Early Copy Of Fiscal Estimate*

**Bill Number:** 1999 SB 356

**LRB Number:** 99-3497/3

**Agency/Prepared By:** DNR

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Enclosed is a early “faxed” copy of a Fiscal Estimate prepared for a draft your office was the primary sponsor of.

This copy is for your information. The quality of the “faxed” copy is not adequate for release. The agency that prepared this fiscal should also be sending a “clean” copy over to DOA for release. When we receive the “clean” copy back from DOA we will forward it on to your office for your review and for later release.

If you have any questions you can contact me at 266-3561.



1999 Session

LRB or Bill No./Adm. Rule No.
SB 356, 99-3497/3
Amendment No. if Applicable

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**FISCAL ESTIMATE**  
**DOA-2048 N(R10/94)**

**Subject**

Expand authority under Local Governmental Unit Negotiation and Cost Recovery Process

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- |  |   |
|--|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation        |   |

- Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No
- Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Government Units Affected:

- Towns       Villages       Cities  
 Counties       WTCS Districts  
 School Districts       Others redevelop. authy.

Fund Sources Affected

- GPR    FED    PRO    PRS    SEG    SEG-S


Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

**SUMMARY OF BILL** -This bill expands the authority of local governmental units to address environmental contamination by pursuing responsible parties to participate in a negotiated settlement. The bill expands the applicability of the negotiation and cost-recovery process so that it may be used by a local governmental unit that does not own a contaminated property, if the governmental unit commits itself to paying more than 50% of the investigation and remedial action costs, less financial assistance received, for the contaminated property.

**FISCAL IMPACT:** There would be no fiscal impact on the Department. Should a local governmental unit take action under this provision they may incur significant costs, but this action is not mandatory. These costs may be offset by settlement with responsible parties and an increase in the tax base with the redevelopment of commercial property. It is not possible to quantify the costs, or the size of the possible settlements or tax base increases.

Long-Range Fiscal Implications

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	02/07/2000



**FISCAL ESTIMATE WORKSHEET**

**1999 Session**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. SB 356, 99-3497/3	Amendment No.
--	---------------

Subject

Expand authority under Local Governmental Unit Negotiation and Cost Recovery Process

**I. One-Time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>		
State Operations - Salaries and Fringes	\$0	\$0
(FTE Position Changes)		
State Operations - Other Costs		
Local Assistance		
Aids to Individuals or Organizations		
<b>TOTAL State Costs by Category</b>	\$0	\$0
<b>B. State Costs by Source of Funds</b>	Increased Costs	Decreased Costs
GPR		
FED		
PRO/PRS		
SEG/SEG-S		
<b>III. State Revenues:</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$0	\$0
GPR Eamed		
FED		
PRO/PRS		
SEG/SEG-S		
<b>TOTAL State Revenues</b>	\$0	\$0

**NET ANNUALIZED IMPACT**

STATE

LOCAL

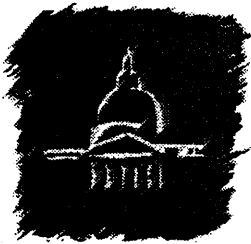
NET CHANGE IN COSTS

\$0

NET CHANGE IN REVENUES

\$0

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasck	(608) 266-2794	<i>[Signature]</i>	(608) 266-2794	02/07/2000



**SCOTT R. JENSEN**  
ASSEMBLY SPEAKER

DATE: February 9, 2000

TO: Members of the Senate Committee on Economic Development, Housing and Government Operations

FROM: <sup>SPS</sup> Scott R. Jensen, Speaker of the Assembly

SUBJECT: Senate Bill 356, relating to the applicability of the local governmental unit negotiation and cost-recovery process for contaminated property.

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Under current law, local units of government may participate in Wisconsin's "Umpire Process" to initiate negotiations regarding cleaning up contaminated properties and determining how much responsible parties will contribute. Current law requires the local unit of government *own* the contaminated property in order to make use of the Umpire Process.

These negotiations are conducted by an umpire and, if an agreement is reached, it is binding on the parties. If an agreement is not reached, the umpire makes a recommendation which may be accepted or rejected by the parties.

If the local governmental unit accepts the umpire's recommendation and another party rejects the recommendation, the local governmental unit may sue that party to attempt to recover a portion of the investigation and remedial action costs. If the local governmental unit recovers an amount equal to or exceeding the amount which the party would have paid under the umpire's recommendation, the local governmental unit may recover interest and litigation costs.

Senate Bill 356 expands the applicability of this negotiation and cost-recovery process so it may be used by a local governmental unit which does not *own* the contaminated property. To qualify under this bill, the local governmental unit must commit itself to paying more than 50 percent of the investigation and remedial action costs, less any financial assistance received, for the contaminated property.

This is a modest expansion of the existing Umpire Process and will help local units of government clean up contaminated property which they do not own, but, are willing to pay more than half the cost to do so. Communities will be encouraged to negotiate with responsible parties instead of suing them.

I respectfully urge the committee to recommend Senate Bill 356 for passage.

**Testimony Of:  
City Of Waukesha**

**Carol J. Lombardi, Mayor  
Katie Jelacic, Civil Engineer  
Paul Feller, Director Of Public Works  
Donald P. Gallo, Michael Best & Friedrich**

**Senate Committee On Economic Development, Housing And Government Operations**

**Wednesday, February 9, 2000  
State Capitol, Room 300 Southeast**

**RE: SUPPORT FOR SB 356 – EXPANDED APPLICABILITY OF THE “UMPIRE  
PROCESS” UNDER SECTION 292.35, WIS. STATS.**

Under current law, Wisconsin communities face only two choices for cost recovery when cleaning up contaminated properties:

1. Superfund (CERCLA) under Federal Law, or
2. The local governmental unit negotiation and cost-recovery processes for contaminated property (“Umpire Process”) under State Law

Without the statutory change set forth in SB 356, the City of Waukesha and communities with similar properties, will be left with only one choice – Superfund! Unfortunately, under Superfund, the local businesses and persons who are defined as “potentially responsible parties” (PRPs) must not only pay their direct share(s), but must also pay an additional allocated portion of the “orphan” share to cover the non-solvent, bankrupt and dissolved entities who are not around to pay. This results in an unjust added burden on these parties. Further, the administrative and legal costs are usually much greater for the community and for the PRPs under Superfund.

However, under Wisconsin’s “Umpire Process,” these same parties pay only their direct share, while the orphan share is paid by the community or, in Waukesha’s case, by the WDNR. This allows the community the opportunity to pay for the orphan share or find alternative funding for the orphan share.

To illustrate, a landfill identified as the “West Avenue Landfill” was closed and capped by Waukesha in 1978. In 1991, the DNR and EPA completed a site screening report concluding our community needed to proceed with clean-up procedures. Since 1991, many changes in rules, processes and deadlines have occurred, adding to the time and financial investment made by the

City of Waukesha, however, resulting in no “clean-up.” Thus, the City of Waukesha is asking for legislative support in the passage of SB 356.

Passage of SB 356 will allow the City to implement its plans, bring a recreational use to the land and allow businesses bordering the area to grow our tax base with increased customer service. Waukesha has dollars to get the work done, arbitrage laws are closer than ever before to use the bonded funds for the project and the PRPs already know their obligation and have participated in a third-party, neutral allocation process.

In summary, passage of SB 356 will:

- Expand the applicability of a state-based, less expensive process for municipalities to “clean-up” contaminated properties by removing a technicality.
- Allow communities to negotiate with their corporate citizens rather than engaging them in litigation.
- Protect the environment and groundwater sources from contamination more efficiently.
- Create opportunities for municipalities to utilize abandoned, unproductive land.
- Allow communities to recycle contaminated land into useable greenspace available for parks and athletic fields.