State of Wisconsin
2011 - 2012 LEGISLATURE

Wed. 2/15

LRB-3583/P3
RCT:kjf:rs

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

AN ACT ***to amend*** 289.645 (2) and 289.67 (1) (a); and ***to create*** 289.63 (6) (c), 289.63 (6) (d), 289.63 (10), 289.64 (4) (c), 289.64 (4) (d), 289.64 (8), 289.645 (4) (g), 289.645 (4) (h), 289.645 (8), 289.67 (1) (fe), 289.67 (1) (fj) and 289.67 (1) (j) of the statutes; **relating to:** fees imposed on the disposal of solid waste and hazardous waste at licensed solid waste and hazardous waste disposal facilities.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

SECTION 1. 289.63 (6) (c) of the statutes is created to read:

289.63 **(6)** (c) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department

has assigned an activity number in the database under s. 292.31 (1) (a) is not subject to the groundwater and well compensation fees imposed under sub. (1).

SECTION 2. 289.63 (6) (d) of the statutes is created to read:

289.63 **(6)** (d) 1. In this paragraph, "materials recovery facility" has the meaning given in s. 287.17 (8) (c) 4.

2. Solid waste materials that are generated at a materials recovery facility are not subject to the groundwater and well compensation fees imposed under sub. (1) if all of the following apply:

a. The solid waste materials are nonrecyclable residue.

b. The operator of the materials recovery facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code.

SECTION 3. 289.63 (10) of the statutes is created to read:

289.63 **(10)** REPAYMENT OR WAIVER OF OVERDUE GROUNDWATER AND WELL COMPENSATION FEES. (a) 1. If a person required under sub. (1) to pay groundwater and well compensation fees to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the fees until the overdue groundwater and well compensation fees are paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue groundwater and well compensation fees. If the person later pays the overdue groundwater and well compensation fees to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the groundwater and well compensation fees to an intermediate hauler fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the groundwater and well compensation fees until the overdue groundwater and well compensation fees are paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue groundwater and well compensation fees and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue groundwater and well compensation fees to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 4. 289.64 (4) (c) of the statutes is created to read:

289.64 **(4)** (c) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the waste facility siting board fee imposed under sub. (1).

SECTION 5. 289.64 (4) (d) of the statutes is created to read:

Insert 4-19

289.64 **(4)** (d) 1. In this paragraph, "qualified materials recovery facility" has the meaning given in s. 287.17 (8) (c) 4.

2. Solid waste materials that are generated at a materials recovery facility are not subject to the the waste facility siting board fee imposed under sub. (1) if all of the following apply:

a. The solid waste materials are nonrecyclable residue.

b. The operator of the materials recovery facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code.

SECTION 6. 289.64 (8) of the statutes is created to read:

289.64 **(8)** REPAYMENT OR WAIVER OF OVERDUE WASTE FACILITY SITING BOARD FEE. (a) 1. If a person required under sub. (1) to pay the waste facility siting board fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue waste facility siting board fee. If the person later pays the overdue waste facility siting board fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the waste facility siting board fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue waste facility siting board fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue waste facility siting board fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department. ✓

SECTION 7. 289.645 (2) of the statutes is amended to read:

289.645 **(2)** COLLECTION. The owner or operator of a licensed solid waste or hazardous waste disposal facility shall collect the recycling fee from the generator, a person who arranges for disposal on behalf of one or more generators or an intermediate hauler and shall pay to the department the amount of the fee required to be collected according to the amount of solid waste or hazardous waste received and disposed of at the facility during the preceding reporting period, except as provided under sub. (8).

SECTION 8. 289.645 (4) (g) of the statutes is created to read:

289.645 **(4)** (g) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the recycling fee imposed under sub. (1).

SECTION 9. 289.645 (4) (h) of the statutes is created to read:

Insert 7-4

289.645 **(4)** (h) 1. In this paragraph, "qualified materials recovery facility" has the meaning given in s. 287.17 (8) (c) 4.

2. Solid waste materials that are generated at a materials recovery facility are not subject to the recycling fee imposed under sub. (1) if all of the following apply:

a. The solid waste materials are nonrecyclable residue.

b. The operator of the materials recovery facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code.

SECTION 10. 289.645 (8) of the statutes is created to read:

289.645 **(8)** REPAYMENT OR WAIVER OF OVERDUE RECYCLING FEE. (a) 1. If a person required under sub. (1) to pay the recycling fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the licensed solid waste or hazardous

waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue recycling fee. If the person later pays the overdue recycling fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the recycling fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue recycling fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue recycling fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 11. 289.67 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

289.67 **(1)** (a) *Imposition of fee.* Except as provided under pars. (f) ~~and~~ to (fm), a generator of solid or hazardous waste shall pay an environmental repair fee for each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the environmental repair fee to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives environmental repair fees under this paragraph shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under s. 289.62 (1).

SECTION 12. 289.67 (1) (fe) of the statutes is created to read:

289.67 **(1)** (fe) *Exemption for environmental repair fee; certain contaminated soils.* Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the environmental repair fee imposed under par. (a).

SECTION 13. 289.67 (1) (fj) of the statutes is created to read:

289.67 **(1)** (fj) *Exemption from environmental repair fee; recycling residue.* 1. In this paragraph, "materials recovery facility" has the meaning given in s. 287.17 (8) (c) 4.

2. Solid waste materials that are generated at a materials recovery facility are not subject to the environmental repair fee imposed under par. (a) if all of the following apply:

a. The solid waste materials are nonrecyclable residue.

b. The operator of the materials recovery facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code.

SECTION 14. 289.67 (1) (j) of the statutes is created to read:

289.67 **(1)** (j) *Repayment or waiver of overdue environmental repair fee.* 1. a. If a person required under par. (a) to pay the environmental repair fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the owner or

operator will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the department receives an affidavit that complies with subd. 1. a., the department shall refund to the owner or operator any amount of the overdue environmental repair fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue environmental repair fee. If the person later pays the overdue environmental repair fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

2. a. If a person required under par. (a) to pay the environmental repair fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 2. a., the owner or operator shall submit the affidavit to the department.

c. When the department receives an affidavit that complies with subd. 2. a., the department shall refund to the owner or operator any amount of the overdue

environmental repair fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue environmental repair fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue environmental repair fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

(END)

Insert 2-4

not means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the groundwater and well compensation fees imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

Insert 4-19

not means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the waste facility siting board fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

Insert 7-14

"Qualified" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the recycling fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

Insert 10-8

no ff means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed,

recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the environmental repair fee imposed under par. (a):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

-3583/P3

2/28/11 Per Derek- redraft to /1 and have jacketed, with no changes.

RCT

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-3583/P3
RCT:kjf:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ***to amend*** 289.645 (2) and 289.67 (1) (a); and ***to create*** 289.63 (6) (c), 289.63 (6) (d), 289.63 (10), 289.64 (4) (c), 289.64 (4) (d), 289.64 (8), 289.645 (4) (g), 289.645 (4) (h), 289.645 (8), 289.67 (1) (fe), 289.67 (1) (fj) and 289.67 (1) (j) of the statutes; **relating to:** fees imposed on the disposal of solid waste and hazardous waste at licensed solid waste and hazardous waste disposal facilities.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

SECTION 1. 289.63 (6) (c) of the statutes is created to read:

289.63 **(6)** (c) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department

has assigned an activity number in the database under s. 292.31 (1) (a) is not subject to the groundwater and well compensation fees imposed under sub. (1).

SECTION 2. 289.63 (6) (d) of the statutes is created to read:

289.63 **(6)** (d) 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the groundwater and well compensation fees imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

SECTION 3. 289.63 (10) of the statutes is created to read:

289.63 **(10)** REPAYMENT OR WAIVER OF OVERDUE GROUNDWATER AND WELL COMPENSATION FEES. (a) 1. If a person required under sub. (1) to pay groundwater and well compensation fees to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the fees until the overdue groundwater and well compensation fees are paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue groundwater and well compensation fees. If the person later pays the overdue groundwater and well compensation fees to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the groundwater and well compensation fees to an intermediate hauler fails, within 120 days after the date of disposal, to pay the groundwater and well compensation fees and to pay the charges

imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the groundwater and well compensation fees.

b. A description of the efforts made to collect the groundwater and well compensation fees that are overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the groundwater and well compensation fees until the overdue groundwater and well compensation fees are paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue groundwater and well compensation fees paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue groundwater and well compensation fees and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue groundwater and well compensation fees to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 4. 289.64 (4) (c) of the statutes is created to read:

289.64 **(4)** (c) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department

has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the waste facility siting board fee imposed under sub. (1).

SECTION 5. 289.64 (4) (d) of the statutes is created to read:

289.64 **(4)** (d) 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the solid waste facility siting board fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

SECTION 6. 289.64 (8) of the statutes is created to read:

289.64 **(8)** REPAYMENT OR WAIVER OF OVERDUE WASTE FACILITY SITING BOARD FEE. (a) 1. If a person required under sub. (1) to pay the waste facility siting board fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue waste facility siting board fee. If the person later pays the overdue waste facility siting board fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the waste facility siting board fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the waste facility siting board fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed

solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the waste facility siting board fee.

b. A description of the efforts made to collect the waste facility siting board fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the waste facility siting board fee until the overdue waste facility siting board fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue waste facility siting board fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue waste facility siting board fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue waste facility siting board fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 7. 289.645 (2) of the statutes is amended to read:

289.645 **(2)** COLLECTION. The owner or operator of a licensed solid waste or hazardous waste disposal facility shall collect the recycling fee from the generator, a person who arranges for disposal on behalf of one or more generators or an intermediate hauler and shall pay to the department the amount of the fee required

to be collected according to the amount of solid waste or hazardous waste received and disposed of at the facility during the preceding reporting period, except as provided under sub. (8).

SECTION 8. 289.645 (4) (g) of the statutes is created to read:

289.645 **(4)** (g) Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the recycling fee imposed under sub. (1).

SECTION 9. 289.645 (4) (h) of the statutes is created to read:

289.645 **(4)** (h) 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the recycling fee imposed under sub. (1):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery

facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

SECTION 10. 289.645 (8) of the statutes is created to read:

289.645 **(8)** REPAYMENT OR WAIVER OF OVERDUE RECYCLING FEE. (a) 1. If a person required under sub. (1) to pay the recycling fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue recycling fee. If the person later pays the overdue recycling fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

(b) 1. If a person required under sub. (1) to pay the recycling fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the recycling fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes all of the following:

a. Identifying information for the person that failed to pay the recycling fee.

b. A description of the efforts made to collect the recycling fee that is overdue.

c. A commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the recycling fee until the overdue recycling fee is paid.

2. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 1., the owner or operator shall submit the affidavit to the department.

3. When the department receives an affidavit that complies with subd. 1., the department shall refund to the owner or operator any amount of the overdue recycling fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue recycling fee and the owner or operator shall pay any refund to the hauler. If the person later pays the overdue recycling fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

SECTION 11. 289.67 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

289.67 **(1)** (a) *Imposition of fee.* Except as provided under pars. (f) ~~and~~ to (fm), a generator of solid or hazardous waste shall pay an environmental repair fee for

each ton or equivalent volume of solid or hazardous waste which is disposed of at a licensed solid or hazardous waste disposal facility. If a person arranges for collection or disposal services on behalf of one or more generators, that person shall pay the environmental repair fee to the licensed solid or hazardous waste disposal facility or to any intermediate hauler used to transfer wastes from collection points to a licensed facility. An intermediate hauler who receives environmental repair fees under this paragraph shall pay the fees to the licensed solid or hazardous waste disposal facility. Tonnage or equivalent volume shall be calculated in the same manner as the calculation made for tonnage fees under s. 289.62 (1).

SECTION 12. 289.67 (1) (fe) of the statutes is created to read:

289.67 **(1)** (fe) *Exemption for environmental repair fee; certain contaminated soils.* Contaminated soil removed during the cleanup of an industrial or commercial site that is abandoned, idle, or underused and that the department has assigned an activity number for the database under s. 292.31 (1) (a) is not subject to the environmental repair fee imposed under par. (a).

SECTION 13. 289.67 (1) (fj) of the statutes is created to read:

289.67 **(1)** (fj) *Exemption from environmental repair fee; recycling residue.* 1. In this paragraph, "qualified materials recovery facility" means one of the following:

a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and the facility is in compliance with its approved plan of operation.

b. A facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under this chapter as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed,

recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

2. The following amounts of solid waste materials are not subject to the environmental repair fee imposed under par. (a):

a. For a qualified materials recovery facility described in subd. 1. a., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 10 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

b. For a qualified materials recovery facility described in subd. 1. b., an amount equal to the weight of the residue generated by the qualified materials recovery facility or 30 percent of the total weight of material accepted by the qualified materials recovery facility, whichever is less.

SECTION 14. 289.67 (1) (j) of the statutes is created to read:

289.67 **(1)** (j) *Repayment or waiver of overdue environmental repair fee.* 1. a. If a person required under par. (a) to pay the environmental repair fee to a licensed solid waste or hazardous waste disposal facility fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the licensed solid waste or hazardous waste disposal facility, the owner or operator of the licensed solid waste or hazardous waste disposal facility may submit an affidavit to the department that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the owner or operator will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the department receives an affidavit that complies with subd. 1. a., the department shall refund to the owner or operator any amount of the overdue environmental repair fee paid by the owner or operator and shall grant a waiver to the owner or operator from the requirement to pay any additional amount of the overdue environmental repair fee. If the person later pays the overdue environmental repair fee to the owner or operator, the owner or operator shall pay the full amount received to the department.

2. a. If a person required under par. (a) to pay the environmental repair fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay the environmental repair fee and to pay the charges imposed by the intermediate hauler, the hauler may submit an affidavit to the owner or operator of the licensed solid waste or hazardous waste disposal facility at which the solid or hazardous waste is disposed of that includes identifying information for the person that failed to pay the environmental repair fee; a description of the efforts made to collect the environmental repair fee that is overdue; and a commitment that the hauler will not accept any solid waste or hazardous waste from the person that failed to pay the environmental repair fee until the overdue environmental repair fee is paid.

b. When the owner or operator of a licensed solid waste or hazardous waste disposal facility receives an affidavit under subd. 2. a., the owner or operator shall submit the affidavit to the department.

c. When the department receives an affidavit that complies with subd. 2. a., the department shall refund to the owner or operator any amount of the overdue environmental repair fee paid by the hauler and shall grant a waiver to the hauler from the requirement to pay any additional amount of the overdue environmental repair fee and the owner or operator shall pay any refund to the hauler. If the person

later pays the overdue environmental repair fee to the hauler, the hauler shall pay the full amount received to the owner or operator and the owner or operator shall forward the payment to the department.

(END)

Analysis insert

Current law imposes on generators of solid waste several fees based on the tonnage of solid waste disposed of at solid waste disposal facilities (landfills). The fees are collected by operators of landfills and paid by those operators to the Department of Natural Resources (DNR). Currently there are some exemptions from these fees. This kind of fee is often referred to as a tipping fee. This bill creates new exemptions from the groundwater, well compensation, solid waste facility siting board, recycling, and environmental repair tipping fees (the tipping fees).

The bill exempts from the tipping fees soil removed during the cleanup of a contaminated site that is listed in DNR's database of contaminated properties. The bill also exempts from the tipping fees materials discarded as residue from a recycling facility, subject to a cap that equals, for a construction and demolition material recycling facility, 30 percent of the total weight of material accepted by the facility and, for any other recycling facility, 10 percent of the total weight of material accepted by the facility.

Under the bill, if a person who disposes of solid waste at a landfill fails to pay the tipping fees and the disposal charges imposed by the landfill operator within 120 days after the date of disposal, the landfill operator may submit an affidavit to DNR that explains the situation and includes a commitment from the operator not to accept any more solid waste from the person until the overdue tipping fees are paid. When it receives such an affidavit, DNR must refund any amount of the overdue tipping fees that the operator paid to DNR for the person and the operator is not required to pay to DNR any more of the overdue tipping fees owed by the person. If the person later pays the overdue tipping fees to the operator, the operator must pay the tipping fees to DNR.

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

Parisi, Lori

From: Rep.Tauchen

Sent: Tuesday, February 28, 2012 3:21 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-3583/1 Topic: Exemptions to recycling and environmental repair fees for certain solid waste

Please Jacket LRB 11-3583/1 for the ASSEMBLY, ASAP.

Thank you,

Derrick

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