

1983 Assembly Bill 681

Date of enactment: **April 20, 1984**
Date of publication: **April 26, 1984**

1983 Wisconsin Act 282

AN ACT *to renumber* 144.445 (6) (c), 144.445 (6) (d), 144.445 (7) (c), 144.445 (7) (d) to (f), 144.445 (9) (d), 144.445 (9) (e), 144.445 (9) (g) and 144.445 (10) (e) to (j); *to renumber and amend* 144.445 (9) (f) and 144.445 (10) (d); *to amend* 20.505 (4) (eb), 144.44 (1m) (b), 144.44 (2) (h), 144.445 (10) (b) and 144.445 (10) (c); *to repeal and recreate* 144.445 (6) (a) and (b) and 144.445 (7) (b); and *to create* 15.07 (5) (t), 144.44 (1m) (bn), 144.445 (6) (c), 144.445 (6) (d) (title) and (e) (title), 144.445 (6) (f), 144.445 (7) (a) (title), 144.445 (7) (c), 144.445 (7) (d) to (g) (titles), 144.445 (9) (a) (title), (b) (title) and (c) (title), 144.445 (9) (d) (title), 144.445 (9) (e) (title), 144.445 (9) (f) (title), 144.445 (9) (L), 144.445 (10) (a) (title), 144.445 (10) (n) to (s) (titles) and 946.13 (9) of the statutes, *relating to* making technical and minor substantive revisions to the waste facility siting process and making an appropriation.

- 1481 -

83 WisACT 282

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

SECTION 1. 15.07 (5) (t) of the statutes is created to read:

15.07 (5) (t) Members of the waste facility siting board who are town or county officials, \$35 per day.

SECTION 2. 20.505 (4) (eb) of the statutes is amended to read:

20.505 (4) (eb) *Waste facility siting board administrative expenses.* The amounts in the schedule for administrative expenses, travel, materials, staff salaries, payment of per diems and other necessary expenses for the purposes of s. 144.445.

SECTION 3. 144.44 (1m) (b) of the statutes is amended to read:

144.44 (1m) (b) *Application for local approvals required.* Prior to constructing a solid waste disposal facility or hazardous waste facility, the applicant shall submit a written request for the specification of all applicable local approvals to each affected municipality. Within 15 days after the receipt of a written request from the applicant, a municipality shall specify all local approvals for which applications are required or issue a statement that there are no applicable local approvals. Prior to constructing a solid waste disposal facility or a hazardous waste facility, the applicant shall apply for each local approval required to construct the waste handling portion of the facility.

SECTION 4. 144.44 (1m) (bn) of the statutes is created to read:

144.44 (1m) (bn) *Standard notice.* The waste facility siting board shall develop and print a standard notice designed to inform an affected municipality of the time limits and requirements for participation in the negotiation and arbitration process under s. 144.445. An applicant shall submit a copy of this standard notice, if it has been printed, with any written request submitted under par. (b).

SECTION 5. 144.44 (2) (h) of the statutes is amended to read:

144.44 (2) (h) *Distribution of feasibility report.* At the same time an applicant submits a feasibility report to the department, the applicant shall submit a copy of that feasibility report to each participating municipality under s. 144.445 (6) (b). Immediately after the applicant receives notification of the department's determination that the feasibility report is complete, the applicant shall distribute copies of the feasibility report to the persons specified under sub. (4m).

SECTION 6. 144.445 (6) (a) and (b) of the statutes are repealed and recreated to read:

144.445 (6) (a) *Municipal participation.* An affected municipality may participate in the negotiation and arbitration process under this section if the governing body adopts a siting resolution and appoints members to the local committee within 60 days after the municipality receives the written request from the applicant under s. 144.44 (1m) (b) and if the municipality sends a copy of that resolution and the names of those members to the board within 7 days after the municipality adopts the siting resolution and appoints members to the local committee. The siting resolution shall state the affected municipality's intent to negotiate and, if necessary, arbitrate with the applicant concerning the proposed facility. An affected municipality which does not adopt a siting resolution within 60 days after receipt of notice from the applicant may not appoint members to the local committee.

(b) *Notification of participation.* Within 5 days after the board receives copies of resolutions and names of members appointed to the local committee from all affected municipalities or within 72 days after all affected municipalities receive the written request under s. 144.44 (1m) (b), the board shall submit a notification of participation by certified mail to the applicant and each participating municipality identifying the participating municipalities and the members appointed to the local committee and informing the applicant and participating municipalities that negotiations may commence or, if no

affected municipality takes the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant of this fact by certified mail within that 72-day period.

SECTION 7. 144.445 (6) (c) of the statutes is renumbered 144.445 (6) (d).

SECTION 8. 144.445 (6) (c) of the statutes is created to read:

144.445 (6) (c) *Revised notification of participation.* If the board issues a notice under par. (b) and subsequently it is necessary for the applicant to submit a written request under s. 144.44 (1m) (b) to an additional affected municipality because of an error or changes in plans, the board may issue an order delaying negotiations until that affected municipality has an opportunity to participate in the negotiation and arbitration process by taking action under par. (a). Within 5 days after the board receives a copy of the resolution and the names of members appointed to the local committee by that affected municipality or within 72 days after that affected municipality receives the written request from the applicant under s. 144.44 (1m) (b), the board shall submit a revised notification of participation by certified mail to the applicant and each participating municipality stating the participating municipalities and members appointed to the local committee and informing the applicant and participating municipalities that negotiations may recommence or if the additional affected municipality does not take the actions required to participate in the negotiation and arbitration process under par. (a), the board shall notify the applicant and other participating municipalities of this fact by certified mail and informing them that negotiations may recommence.

SECTION 9. 144.445 (6) (d) of the statutes is renumbered 144.445 (6) (e).

SECTION 10. 144.445 (6) (d) (title) and (e) (title) of the statutes are created to read:

144.445 (6) (d) (title) *Rescission.*

(e) (title) *Prohibition on participation by municipality which is also applicant.*

SECTION 11. 144.445 (6) (f) of the statutes is created to read:

144.445 (6) (f) *Failure to participate.* If no affected municipality takes the actions required to participate in the negotiation and arbitration process under par. (a), the applicant may continue to seek state approval of the facility, is not required to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5).

SECTION 12. 144.445 (7) (a) (title) of the statutes is created to read:

144.445 (7) (a) (title) *Appointment of members.*

SECTION 13. 144.445 (7) (b) of the statutes is repealed and recreated to read:

144.445 (7) (b) *Disclosure of private interests.* Each member of a local committee shall file a statement with the board within 15 days after the person is appointed to the local committee specifying the economic interests of the member and his or her immediate family members that would be affected by the proposed facility and its development.

SECTION 14. 144.445 (7) (c) of the statutes is renumbered 144.445 (7) (d).

SECTION 15. 144.445 (7) (c) of the statutes is created to read:

144.445 (7) (c) *Failure to disclose private interests.* If a person fails to file a statement of economic interest as required under par. (b), he or she may not serve on the local committee and the position to which he or she was appointed is vacant.

SECTION 16. 144.445 (7) (d) to (f) of the statutes are renumbered 144.445 (7) (e) to (g).

SECTION 17. 144.445 (7) (d) to (g) (titles) of the statutes are created to read:

144.445 (7) (d) (title) *Removal; vacancies*

(e) (title) *Chairperson.*

(f) (title) *Quorum*.

(g) (title) *Open meetings*.

SECTION 18. 144.445 (9) (a) (title), (b) (title) and (c) (title) of the statutes are created to read:

144.445 (9) (a) (title) *Commencement of negotiation*.

(b) (title) *Determination of negotiability*.

(c) (title) *Mediation*.

SECTION 19. 144.445 (9) (d) of the statutes is renumbered 144.445 (9) (e).

SECTION 20. 144.445 (9) (d) (title) of the statutes is created to read:

144.445 (9) (d) (title) *Mediation costs*.

SECTION 21. 144.445 (9) (e) of the statutes is renumbered 144.445 (9) (f).

SECTION 22. 144.445 (9) (e) (title) of the statutes is created to read:

144.445 (9) (e) (title) *Failure to participate; default*.

SECTION 23. 144.445 (9) (f) of the statutes is renumbered 144.445 (9) (g) and amended to read:

144.445 (9) (g) (title) *Written agreement*. All issues subject to negotiation which are resolved to the satisfaction of both the applicant and the local committee and, if necessary, are approved by the department under par. (e) (f), shall be incorporated into a written agreement.

(h) (title) *Public hearings*. The local committee may hold public hearings at any time concerning the agreement in any town, city or village where all or a portion of the facility is to be located.

(i) (title) *Submission for approval*. Within 2 weeks after approval of the written agreement by the applicant and the local committee, the local committee shall submit the negotiated agreement shall be submitted to the appropriate governing bodies for approval by.

(j) (title) *Appropriate governing bodies for approval*. If the local committee includes members from a town, city or village where all or a portion of the facility is to be located, the appropriate governing bodies consist of the governing body of each town, city or village where all or a portion of the facility is to be located with members on the local committee. If the local committee does not include members from any town, city or village where all or a portion of the facility is to be located, the appropriate governing bodies consist of the governing body of each participating town, city or village.

(k) (title) *Approval*. If the local committee includes members from any town, city or village where all or a portion of the facility is to be located and if the negotiated agreement is approved by resolution by each town, city or village where all or a portion of the facility is to be located of the appropriate governing bodies, the negotiated agreement is binding on all of the participating municipalities. If but if the negotiated agreement is not approved by any town, city or village where all or a portion of the facility is to be located appropriate governing body, the negotiated agreement is void. If the local committee does not include members from any town, city or village where all or a portion of the facility is to be located and if the negotiated agreement is approved by resolution by all of the appropriate governing bodies, the agreement is binding on all of the participating municipalities but if the negotiated agreement is not approved by all of the appropriate governing bodies, the negotiated agreement is void.

SECTION 24. 144.445 (9) (f) (title) of the statutes is created to read:

144.445 (9) (f) (title) *Submission of certain items to the department*.

SECTION 25. 144.445 (9) (g) of the statutes is renumbered 144.445 (9) (d).

SECTION 26. 144.445 (9) (L) of the statutes is created to read:

144.445 (9) (L) *Submission of agreement to board and department.* The applicant shall submit a copy or notice of any negotiated agreement approved under par. (k) to the board and the department by mail within 10 days after the agreement is approved.

SECTION 27. 144.445 (10) (a) (title) of the statutes is created to read:

144.445 (10) (a) (title) *Joint petition for arbitration.*

SECTION 28. 144.445 (10) (b) of the statutes is amended to read:

144.445 (10) (b) (title) *Unilateral petition for arbitration.* Either the applicant or the local committee may submit an individual written petition to the board to initiate arbitration under this subsection but not earlier than 120 days after the board issues a notice ~~under sub. (6) (b) local committee is appointed under sub. (7) (a).~~

SECTION 29. 144.445 (10) (c) of the statutes is amended to read:

144.445 (10) (c) (title) *Decision concerning arbitration.* Within 15 days after receipt of a petition to initiate arbitration, the board shall issue a decision concerning the petition and notify the applicant and the local committee either that they are required of that decision.

(d) (title) *Order to continue negotiation.* The board may issue a decision ordering the applicant and the local committee to continue negotiating for at least 30 days after the date of the notice if, in the judgment of the board, arbitration can be avoided by the negotiation of any remaining issues or, otherwise, that they are required. If the board issues a decision ordering the applicant and the local committee to continue negotiation, the petition to initiate arbitration may be resubmitted after the extended period of negotiation.

(e) (title) *Decision to delay arbitration pending submittal of feasibility report.* The board may issue a decision to delay the initiation of arbitration until the department notifies the board that it has received a feasibility report for the facility proposed by the applicant. The board may decide to delay the initiation of arbitration under this paragraph if the applicant has not made available information substantially equivalent to that in a feasibility report. The petition to initiate arbitration may be resubmitted after the feasibility report is submitted.

(f) (title) *Order for final offers.* The board may issue a decision ordering the applicant and the local committee to submit their respective final offers to the board within 90 days after the date of the notice. If the board directs the applicant and the local committee to continue negotiating, the petition to initiate arbitration may be resubmitted after the extended period of negotiation.

(g) (title) *Failure to submit final offer.* If the local committee fails to submit a final offer within the time limit in this paragraph specified under par. (f), the applicant may continue to seek state approval of the facility, is not required to continue to negotiate or arbitrate under this section and the facility is not subject to any local approval, notwithstanding sub. (5). If the applicant fails to submit a final offer within the time limit in this paragraph specified under par. (f), the applicant may not construct or operate the facility.

SECTION 30. 144.445 (10) (d) of the statutes is renumbered 144.445 (10) (h) and amended to read:

144.445 (10) (h) (title) *Final offers.* ~~Final offers~~ A final offer shall contain the final terms and conditions relating to the facility proposed by the applicant ~~and~~ or the local committee and any information or arguments in support of the proposals. Additional supporting information may be submitted at any time.

(i) (title) *Issues and items in final offer.* The A final offers offer may include only issues subject to arbitration under sub. (8). A final offer may include only items offered in negotiation except that a final offer may not include items settled by negotiation and approved under sub. (9) (f) by each town, city or village where all or a portion of the facility is to be located (k).

(j) *Continued negotiation; revised final offers.* Negotiation may continue during the arbitration process. If an issue subject to negotiation is resolved to the satisfaction of both the applicant and the local committee and, if necessary, is approved by the department under sub. (9) (f), it shall be incorporated into a written agreement and the final offers may be amended as provided under par. (n).

(k) (title) *Public hearings.* The local committee may conduct public hearings on the proposed final offer prior to submitting the final offer to the governing bodies under par. (L).

(L) (title) *Submission for approval.* The final offers prepared by the local committee are required to be submitted for approval by resolution of the governing body of each participating municipality before the final offer is submitted to the board.

(m) (title) *Public documents.* The final offers are public documents and the board shall make copies available to the public.

SECTION 31. 144.445 (10) (e) to (j) of the statutes are renumbered 144.445 (10) (n) to (s).

SECTION 32. 144.445 (10) (n) to (s) (titles) of the statutes are created to read:

144.445 (10) (n) (title) *Amendment of offer.*

(o) (title) *Public meeting.*

(p) (title) *Arbitration award.*

(q) (title) *Award is binding; approval not required.*

(r) (title) *Applicability of arbitration statutes.*

(s) (title) *Environmental impact.*

SECTION 33. 946.13 (9) of the statutes is created to read:

946.13 (9) Subsection (1) does not apply to the member of a local committee appointed under s. 144.445 (7) (a) acting as a member of that committee in negotiation, arbitration or ratification of agreements under s. 144.445.

SECTION 34. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

| A | B | C |
|---------------------------------|----------------------|----------------------|
| Statute Sections | Old Cross-References | New Cross-References |
| 144.445 (10) (n), as renumbered | par. (c) | par. (f) |

SECTION 35. **Initial applicability.** (1) The treatment of section 144.44 (2) (h) of the statutes by this act applies to any feasibility report submitted to the department of natural resources on or after the effective date of this act.

(2) The treatment of section 144.445 (6) of the statutes by this act applies to any municipality which receives a written request under section 144.44 (1m) (b) of the statutes, as affected by this act, on or after the effective date of this act. If a municipality receives a request for specification of local approvals before the effective date of this act, section 144.445 (6) of the statutes applies as if this act did not take effect.

(3) The treatment of section 144.445 (7) of the statutes by this act applies to any member appointed to a local committee after the effective date of this act.

(4) The treatment of section 144.445 (9) of the statutes by this act applies to any negotiated agreement approved after the effective date of this act.

(5) The treatment of section 144.445 (10) of the statutes by this act applies to any arbitration petition for which the waste facility siting board has not required the submission of final offers prior to the effective date of this act.

(6) The creation of section 946.13 (9) of the statutes by this act applies to all members of local committees regardless of when they were appointed.
