



JOHN MURTHA

STATE REPRESENTATIVE • 29th ASSEMBLY DISTRICT

Testimony on Assembly Bill 444
Fees imposed on the disposal of waste and hazardous waste
Assembly Committee on Environment and Forestry
October 29, 2013

Good morning Chairman Mursau and members of the Assembly Committee on Environment and Forestry. Thank you for allowing me to testify today on Assembly Bill 444 (AB444).

I am authoring AB 444 this session to eliminate state-imposed landfill taxes on certain waste streams. This bill will save money for Wisconsin municipalities and businesses while encouraging recycling and brownfields redevelopment.

As you know, Wisconsin's landfill tax was increased by \$7.10 in 2009 to \$13 per ton making it one of the highest such taxes in the nation. The increased tax is leading to unintended consequences. These include higher costs for municipal recycling programs and brownfields cleanups, disincentives to recycle construction debris, and tax liability for county and private sector service providers that have non-paying customers.

AB 444 addresses these problems by:

- Exempting recycling plants used by local governments and businesses from the landfill tax on a portion of the residue produced during the sorting of recyclables. Many communities pay for recycling services through property taxes or utility fees, and this tax reduction would reduce those expenses. For businesses the increased cost to recycle is built into the price for the service.
- Eliminating the landfill tax on a portion of the residue produced by facilities licensed to recover recyclables from construction and demolition debris. This would encourage voluntary recycling of this nature by making it less costly to divert loads for recovery.
- Waiving the landfill tax on contaminated soils removed during brownfields remediation. This will free state and local brownfields funding for more constructive purposes.
- Allowing public and private landfill operators to seek a waiver from the DNR for taxes submitted to the state from customer accounts that can't be collected. Currently, landfill operators pay the tax to the state regardless of whether or not they have received payment from the customer for the taxes and service. This would allow a landfill operator to receive credit for unpaid taxes.



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Thank you for your time and attention to this matter. I look forward to working with all of you on this bill. I would be happy to answer any questions at this time.

STANDING COMMITTEES:
Energy, Consumer Protection, and
Government Reform, Chair
State and Federal Relations, Vice-Chair
Transportation, Public Safety,
and Veterans and Military affairs



ROBERT L. COWLES
Wisconsin State Senator
2nd Senate District

JOINT COMMITTEES
Joint Audit Committee, Co-Chair
Joint Committee on Information Policy
and Technology

TO: Members of the Assembly Committee on Environment and Forestry
FROM: Senator Robert Cowles
DATE: October 29, 2013
RE: Assembly Bill 444

Chairman Mursau and Members of the Committee:

Thank you for having a public hearing on Assembly Bill 444 today. I am pleased to offer this bill and its Senate companion, SB 355, with Rep. Murtha.

We are authoring AB 444 this session to eliminate state-imposed tipping fees on certain waste streams. This bill will lower costs for Wisconsin municipalities and businesses, while encouraging recycling and brownfields redevelopment. The bill also can aid in job creation in the growing recycling industry, as you will hear from others who will testify today.

Wisconsin's tipping fee was increased by \$7.10 in 2009 to \$13 per ton making it one of the highest such taxes in the nation. The increased tax has led to several unintended negative consequences, including higher costs for municipal recycling programs and brownfields cleanups, disincentives to recycle construction debris, and tax liability for government and private sector service providers that have non-paying customers.

AB 444 addresses these problems by:

- Exempting recycling plants used by local governments and businesses from the landfill tax on a portion of the residue produced during the sorting of recyclables. Many communities pay for recycling services through property taxes or utility fees, and this tax reduction would reduce those expenses. For businesses the increased cost to recycle is built into the price for the service.
- Eliminating the tipping fee on a portion of the residue produced by facilities licensed to recover recyclables from construction and demolition debris. This would encourage voluntary recycling of this nature by making it less costly to divert loads for recovery.
- Waiving the tipping fee on contaminated soils removed during brownfields remediation. This will free state and local brownfields funding for more constructive purposes.
- Allowing public and private landfill operators to seek a waiver from the DNR for taxes submitted to the state from customer accounts that can't be collected. Currently, landfill operators pay the tax to the state regardless of whether or not they have received payment from the customer for the taxes and service. This would allow a landfill operator to receive credit for unpaid taxes.

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Testimony of DNR on AB 444
Assembly Environment and Forestry Committee
October 29, 2013

Good morning, Mr. Chairman and committee members. My name is Brad Wolbert and I am the DNR section chief in charge of Recycling and Solid Waste. First of all, I'd like to thank you for this opportunity to testify, for information only, on Assembly Bill 444, relating to environmental fees imposed on solid waste landfilled in Wisconsin.

The bill would waive the state's environmental fees for four types of landfilled solid waste:

- (1) Solid waste residuals from recycling facilities that handle paper, bottles, cans and the like;
- (2) Solid waste residuals from recycling facilities that handle construction and demolition materials like lumber, drywall, shingles and so forth;
- (3) Soil removed during the cleanup of a contaminated site that is undergoing remediation; and
- (4) Waste that was landfilled in situations where the landfill operator who accepted the waste was unable to collect its own fees to the customer disposing of the waste.

The landfill environmental fees top out at about \$13 per ton, depending on the origin and type of waste and how it is used at the landfill. These fees are deposited in the state's Environmental Fund and are used for a wide variety of environmental and public health programs, primarily in DNR but also in DHS, DATCP, DMA, DOC, the UW-System. A portion of the fund is also allocated to WEDC. The fiscal note indicates the approximate effect of the proposed fee waivers on the Environmental Fund.

Numerous waste types are exempt from part or all of the environmental fees already. The DNR maintains a fee schedule with 19 separate categories, 15 of which are subject to significantly reduced fees or no fees at all. This includes many industrial wastes, wastes used in landfill construction, sediments contaminated with PCBs, wastes generated by certain nonprofit organizations, and wastes generated from certain natural disasters. In some cases we have had difficulty verifying or auditing the use of these exemptions to ensure the appropriate fees are being paid and that the exemptions are not being over-reported, and some of the same issues may arise with the newly proposed exempt categories.

Regarding contaminated soils, this bill provides a disposal fee exemption for: contaminated soil removed during a cleanup of an industrial or commercial site that is "abandoned, idled or underused", which is the state definition of "brownfield." Implementing this provision would require the Department, waste hauler and landfill operator to determine which loads, or portions of loads, are contaminated soil, whether they were actually removed during a cleanup or some other construction activity, and whether the material actually came from a site that meets the definition of "brownfield" rather than from a different type of cleanup site. The determination of whether a site is a "brownfield" is somewhat subjective.

With respect to the proposed waiver of fees for materials recovery facility, or "MRF," residuals; the residual rates among the 60-odd MRFs active in recycling household materials in 2012 ranged from 0 percent to 33 percent. AB 444 caps the fee waiver at 10 percent, which is to say, landfilled residuals constituting more than 10 percent of a MRF's incoming materials stream would have to pay the fees. Only 6 of the ~60 MRFs exceeded the proposed cap rate, and nearly 80 percent of the MRFs managed to keep their residual rate below 5 percent.

Thank you, and I'd be happy to answer any questions you may have.

RECYCLING FACILITY RESIDUE
PROPOSED EXEMPTION FROM WISCONSIN'S \$13/TON LANDFILL TAX

Justification

- Reduces cost of recycling
- Direct financial benefit to RUs under MRF contracts that deduct the expense of residue disposal from material sales revenue shared with the RU
- For communities that implement pay-as-you-throw, reduces the cost of handling non-recyclables that residents attempt to recycle in order to avoid fees
- Encourages voluntary recycling of construction and demolition wastes by making it less costly to divert loads for recovery
- Enables C & D recycling to compete with C & D dump sites, which are 100% tax free

Eligibility

- Residue that can't be reused or recycled or is impractical to reuse or recycle, and has been removed from loads of recyclable material
- Up to 10% of the total material received at a MRF that is self-certified and reporting under NR 544 as a handler of materials banned under s. 287.07(3) and (4)
- Up to 30% of the total material received at a facility recovering recyclable construction and demolition material, if the facility meets certification and reporting requirements comparable to an NR 544 MRF under new rules DNR will promulgate. Note: The facility must exclude banned recyclables other than cardboard.

Process

The MRF will notify the receiving landfill that its residue is tax-exempt and provide documentation that it is self-certified. The DNR will require MRFs to report the volume of residue deemed tax-exempt and the name of the landfill receiving the waste. The DNR will require landfills to report the amount of tax-exempt MRF residue received by creating a new waste category on the existing landfill capacity certifications, just as landfills currently track other categories of wastes that are subject to varying tax rates. The landfill and MRF records will be subject to DNR review, just as they are now.

Precedents

Landfills do not collect the recycling tax portion of the landfill tax for waste removed from recyclable paper at a paper mill, or for waste generated by Goodwill Industries and similar non-profit groups. Landfills report these waste categories separately to the DNR. C & D dump sites are not required to collect state landfill taxes.

Fiscal Impact

An estimated 150,000 tons of residue could be eligible for the exemption, reducing recycling costs by roughly \$1.9 million a year.

BROWNFIELDS WASTE
PROPOSED EXEMPTION FROM WISCONSIN'S \$13/TON LANDFILL TAX

Justification

- Reduces the cost of remediating contamination
- Makes removing waste to a secure site more affordable in comparison to leaving waste in situ
- Frees state brownfields grant dollars to be used for remediation activity
- Provides a tax-exempt cleanup option in areas of the state where soil bioremediation is not readily available

Eligibility

Contaminated soil removed during remediation of an industrial or commercial site that:

- 1) Is abandoned, idle or underused and adversely affected by contamination, and
- 2) has been assigned a project activity number under DNR's existing database of locations at which pollution has been reported.

Process

Landfills would track and report wastes received in this category separately, as they now do for many other waste types.

Precedents

PCB-contaminated sediment from the Fox River cleanup is exempt from the \$7/ton state recycling tax.

Fiscal Impact

An estimated 35,000 tons of soil from brownfields would be eligible for the exemption, at a cost of about \$455,000 a year.

BAD DEBT

PROPOSED EXEMPTION FROM WISCONSIN'S \$13/TON LANDFILL TAX

Justification

- Protects landfill operators and haulers from some of the costs incurred when a customer fails to pay for service
- Protects other customers from bearing the costs of taxes that weren't paid

Eligibility

Taxes owed by a customer who failed to pay both taxes and service fees. A tax waiver could not be sought until at least 120 days after the date of disposal.

Process

A landfill would submit an affidavit to the DNR identifying the non-paying customer(s) and describing the efforts made to collect the taxes due. After accepting the affidavit, the DNR would deduct uncollectable taxes from the taxes payable by the landfill, or refund the taxes to the landfill if they have already been paid. A hauler could submit an affidavit to the landfill, which the landfill would in turn submit to the DNR. If the DNR waived the taxes, the landfill would waive or refund the taxes it was due from the hauler.

The landfill and hauler would have to agree not to service the non-paying account until the taxes were paid. If the generator or hauler later pays the past due taxes, the hauler or landfill would be required to repay the taxes to the DNR.

Precedents

Wisconsin retailers are not required to remit sales taxes on behalf of non-paying customers. Distributors of tobacco products are not required to pay tobacco taxes for accounts that default.

Fiscal Impact

An estimated 5,000 tons of waste would be exempt from taxation, saving public and private haulers and landfill operators about \$65,000 a year.



LANDFILL REDUCTION AND RECYCLING, INC.

Construction and Demolition Recycling



Overview

Open in January 2012, Landfill Reduction & Recycling is a construction and demolition (C&D) recycling facility designed to accept mixed and sorted loads of construction material. The facility is a WDNR licensed processing facility. The facility is over 30,000 sqft and sits on 5.5 acres in the Northeast Appleton Industrial Park. Currently, the company accepts 300-600 tons/day, processes 25-35 tons/hour, and has created 40+ full time jobs.



Materials Accepted

Landfill Reduction & Recycling accepts and processes materials from new commercial and residential construction, renovation, and complete demolition projects in addition to commercial packaging (pallets, cardboard, etc) and wood waste. Materials come from private and public waste hauling companies, demolition contractors, as well as from public and private transfer stations.

Processing the Materials

Landfill Reduction uses a semi-automated sorting system to maximize recycling efficiency. The system is similar to many other C&D facilities throughout the United States and is made up of conveyors, screens, heavy equipment, magnets, and manual separation. Landfill Reduction's recycling rates fall within the industry's average recycling rates.

Landfill Reduction Recycling Partners



Landfill Reduction: Recycling Rates

Sorted Materials	End Use	Distribution
Fines	Daily Cover at Landfills in Place of Virgin Soil	25.49%
Clean Wood	Boiler Fuel, Mulch, Animal Bedding	25.81%
Mixed Aggregates	Parking Lots, etc	5.70%
Drywall	Gypsum, landspread on fields to improve soil	1.97%
Metals	Metal Processor	3.44%
Vinyl Siding	Reprocessed to make PVC piping and new Vinyl Siding	0.28%
Cardboard	Repulped for new Cardboard	1.20%
Shingles	Added to Hotmix Asphalt for Roadways	6.99%
Carpet & Pad	New pad, plastic extracted from carpet to make plastic parts	0.26%
Unrecyclables	Landfilled	28.86%
Total		100.00%
Total Recycled		71.1%

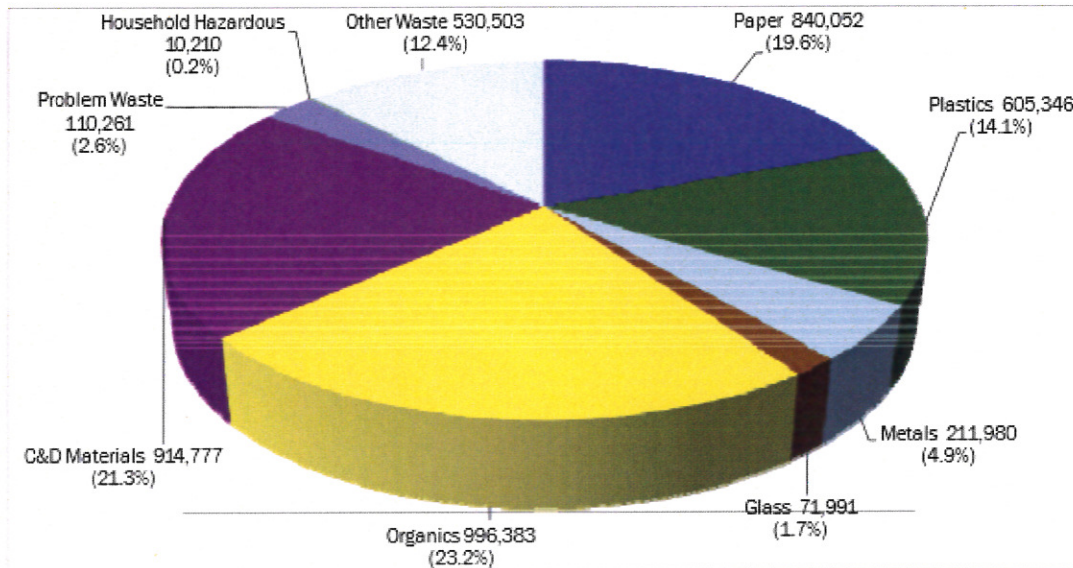


Supporting Wisconsin Industry



Potential for Growth

Figure ES-1 2009 Statewide Waste Composition by Material Group



Source: WDNR 2009 Wisconsin State-Wide Waste Characterization Study

WI General Waste: 4,000,000 – 5,000,000 tons/year
C&D: 850,000 – 1,000,000 tons/year

CONSTRUCTION & DEMOLITION RECYCLING

HIGH-VOLUME MIXED C&D SORTING FACILITIES 2012

