



1997 ASSEMBLY BILL 851

March 2, 1998 - Introduced by Representatives HARSDORF, BLACK, HOVEN, BAUMGART, SYKORA, HASENOHRL, VRAKAS, NOTESTEIN, MUSSER and ROBSON, cosponsored by Senators CLAUSING, ROESSLER, WIRCH and BURKE. Referred to Committee on Environment.

1 **AN ACT** *to amend* 20.370 (2) (dh) and 20.866 (1) (u); *to repeal and recreate*
2 20.866 (1) (u); and *to create* 20.370 (2) (dr), 20.370 (7) (cq), 20.866 (2) (th),
3 289.645 and 292.60 of the statutes; **relating to:** grants to political subdivisions
4 for landfill cleanups, a municipal landfill cleanup fee, granting bonding
5 authority, granting rule-making authority and making appropriations.

Analysis by the Legislative Reference Bureau

This bill establishes a program under which the department of natural resources (DNR) awards grants to reimburse political subdivisions (cities, villages, towns and counties) for a portion of the costs of investing and remedying environmental pollution caused by landfills owned by political subdivisions. A grant may not exceed 50% of the eligible costs that a political subdivision incurs or \$2,000,000, whichever is less. A political subdivision that receives a grant must reimburse DNR for the costs DNR incurs in evaluating the political subdivision's application and making the grant to the political subdivision.

The bill provides \$10,000,000 in general obligation bonding authority for the grant program. This bill also imposes a 30-cent per ton municipal landfill cleanup fee on solid waste disposed of at municipal waste landfills.

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1 20.370 (7) (cq) *Principal repayment and interest — grants for landfill cleanup.*
2 From the environmental fund, a sum sufficient to reimburse s. 20.866 (1) (u) for the
3 payment of principal and interest incurred in financing grants to political
4 subdivisions for landfill cleanup under s. 20.866 (2) (th) and to make the payments
5 determined by the building commission under s. 13.488 (1) (m) that are attributable
6 to the proceeds of obligations incurred in financing those grants.

7 **SECTION 5.** 20.866 (1) (u) of the statutes, as affected by 1997 Wisconsin Act 27,
8 section 726, and 1997 Wisconsin Act 35, is amended to read:

9 20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys
10 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (f), 20.190 (1) (c), (d),
11 (i) and (j), 20.225 (1) (c), 20.245 (1) (e), (2) (e) and (j), (4) (e) and (5) (e), 20.250 (1) (e),
12 20.255 (1) (d), 20.275 (1) (er), (es), (h) and (hb), 20.285 (1) (d), (db), (fh), (ih) and (kd)
13 and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (aq), (ar), (at), (au),
14 (av), (ba), (ca), (cb), (cc), (cd), (ce), (cq), (ea), (eq) and (er), 20.395 (6) (aq) and (ar),
15 20.410 (1) (e), (ec) and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1) (d), 20.485
16 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (5) (c),(g) and (kc) and 20.867 (1) (a) and
17 (b) and (3) (a), (b), (g), (h), (i) and (q) for the payment of principal and interest on
18 public debt contracted under subchs. I and IV of ch. 18.

19 **SECTION 6.** 20.866 (1) (u) of the statutes, as affected by 1997 Wisconsin Act 27,
20 section 727, and 1997 Wisconsin Act (this act), is repealed and recreated to read:

21 20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys
22 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (f), 20.190 (1) (c), (d),
23 (i) and (j), 20.225 (1) (c), 20.245 (1) (e), (2) (e) and (j), (4) (e) and (5) (e), 20.250 (1) (e),
24 20.255 (1) (d), 20.275 (1) (er), (es), (h) and (hb), 20.285 (1) (d), (db), (fh), (ih) and (kd)
25 and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (aq), (ar), (at), (ba),

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1 (ca), (cb), (cc), (cd), (ce), (cq), (ea), (eq) and (er), 20.395 (6) (aq) and (ar), 20.410 (1) (e),
2 (ec) and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1) (d), 20.485 (1) (f) and
3 (go), (3) (t) and (4) (qm), 20.505 (5) (c),(g) and (kc) and 20.867 (1) (a) and (b) and (3)
4 (a), (b), (g), (h), (i) and (q) for the payment of principal and interest on public debt
5 contracted under subchs. I and IV of ch. 18.

6 **SECTION 7.** 20.866 (2) (th) of the statutes is created to read:

7 20.866 (2) (th) *Natural resources; grants for landfill cleanup.* From the capital
8 improvement fund, a sum sufficient for the department of natural resources to fund
9 grants to political subdivisions for landfill cleanup under s. 292.60. The state may
10 contract public debt in an amount not to exceed \$10,000,000 for this purpose.

11 **SECTION 8.** 289.645 of the statutes is created to read:

12 **289.645 Municipal landfill cleanup fee. (1)** IMPOSITION OF MUNICIPAL
13 LANDFILL CLEANUP FEE ON GENERATORS. Except as provided under sub. (4), a generator
14 of solid waste shall pay a municipal landfill cleanup fee for each ton or equivalent
15 volume of solid waste that is disposed of at a licensed municipal waste landfill. If a
16 person arranges for collection or disposal services on behalf of one or more
17 generators, that person shall pay the municipal landfill cleanup fee to the licensed
18 municipal waste landfill or to any intermediate hauler used to transfer wastes from
19 collection points to a licensed municipal waste landfill. An intermediate hauler who
20 receives the municipal waste landfill fee under this subsection shall pay the fee to
21 the licensed municipal waste landfill. Tonnage or equivalent volume shall be
22 calculated in the same manner as the calculation made for tonnage fees under s.
23 289.62 (1).

24 **(2) COLLECTION.** The owner or operator of a licensed municipal waste landfill
25 shall collect the municipal landfill cleanup fee from the generator, a person who

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1 arranges for disposal on behalf of one or more generators or an intermediate hauler
2 and shall pay to the department the amount of the fee required to be collected
3 according to the amount of solid waste received and disposed of at the municipal
4 waste landfill during the preceding reporting period.

5 **(3) AMOUNT OF MUNICIPAL LANDFILL CLEANUP FEE.** The fee imposed under this
6 section is 30 cents per ton of solid waste.

7 **(4) EXEMPTION FROM MUNICIPAL LANDFILL CLEANUP FEE; CERTAIN MATERIALS USED**
8 **IN OPERATION OF THE LANDFILL.** Solid waste materials approved by the department for
9 lining, daily cover or capping or for constructing berms, dikes or roads within a
10 municipal waste landfill are not subject to the municipal landfill cleanup fee imposed
11 under sub. (1), except that materials approved for use under s. 289.30 (5) or 289.31
12 (9) are subject to the fee.

13 **(5) REPORTING PERIOD.** The reporting period under this section is the same as
14 the reporting period under s. 289.62 (1). The owner or operator of any licensed
15 municipal waste landfill shall pay the municipal landfill cleanup fee required to be
16 collected under sub. (2) at the same time as any tonnage fees under s. 289.62 (1) are
17 paid.

18 **(6) USE OF MUNICIPAL LANDFILL CLEANUP FEES.** The fees collected under sub. (2)
19 shall be deposited in the environmental fund.

20 **(7) FAILURE TO PAY MUNICIPAL LANDFILL CLEANUP FEE.** (a) If a person required
21 under sub. (1) to pay the municipal landfill cleanup fee to a licensed municipal waste
22 landfill fails to pay the fee, the owner or operator of the licensed municipal waste
23 landfill shall submit to the department with the payment required under sub. (2) an
24 affidavit stating facts sufficient to show the person's failure to comply with sub. (1).

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1 (b) If the person named in the affidavit under par. (a) is a generator or a person
2 who arranges for collection or disposal services on behalf of one or more generators
3 and the person holds a license for the collection and transportation of solid waste or
4 hazardous waste, the department shall immediately notify the person that the
5 license will be suspended 30 days after the date on which the notice is mailed unless
6 the person submits to the department an affidavit stating facts sufficient to show
7 that it has paid the fee as required under sub. (1).

8 (c) If the person named in the affidavit under par. (a) is an intermediate hauler
9 that holds a license for the collection and transportation of solid waste or hazardous
10 waste, the department shall immediately notify the person that the license will be
11 suspended 30 days after the date on which the notice is mailed unless the person
12 submits to the department an affidavit stating facts sufficient to show that either of
13 the following has occurred:

14 1. The person named in the affidavit under par. (a) received the required fee
15 from a generator, from a person who arranges for collection or disposal services on
16 behalf of one or more generators or from an earlier intermediate hauler, and paid the
17 fee to the licensed municipal waste landfill or to a subsequent intermediate hauler.

18 2. A generator, a person who arranges for collection or disposal services on
19 behalf of one or more generators or an earlier intermediate hauler failed to pay the
20 required fee to the person named in the affidavit under par. (a).

21 (d) If the department does not receive an affidavit under par. (b) or (c) within
22 30 days after the date on which the notice is mailed, the department shall suspend
23 the license issued to the person for the collection and transportation of solid waste
24 or hazardous waste. Notwithstanding s. 227.42, the department is not required to
25 provide the licensee with a hearing before the suspension.

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1 (e) When a person whose license is suspended under par. (d) provides the
2 department with proof that the person has paid the owner or operator of the licensed
3 municipal waste landfill the amount of the unpaid fee, the department shall
4 immediately reinstate the suspended license.

5 **SECTION 9.** 292.60 of the statutes is created to read:

6 **292.60 Grants to political subdivisions for landfill cleanup. (1)**

7 DEFINITIONS. In this section:

8 (a) Notwithstanding s. 292.01 (7), "landfill" means a solid waste facility for solid
9 waste disposal that is an approved facility, as defined in s. 289.01 (3), or a
10 nonapproved facility, as defined in s. 289.01 (24).

11 (b) "Political subdivision" means a city, village, town or county.

12 **(2) ELIGIBILITY.** The department may award a grant from the appropriation
13 under s. 20.866 (2) (th) to reimburse a political subdivision for a portion of the
14 reasonable and necessary costs of investigating and remedying environmental
15 pollution caused by a landfill if all of the following apply:

16 (a) The political subdivision owns the landfill.

17 (c) The political subdivision enters into a contract with the department that
18 establishes a schedule for completing the investigation and remedial action and
19 specifies the staff, the consultants and contractors and the financial resources that
20 the political subdivision will use in conducting the investigation and remedial action.

21 (d) The political subdivision complies with all legal requirements that apply to
22 investigating and remedying environmental pollution caused by the landfill.

23 **(3) GRANTS.** (a) A grant under this section may not exceed the lesser of the
24 following:

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1 1. Fifty percent of the reasonable and necessary costs that are incurred by the
2 political subdivision to investigate conditions at the landfill and to conduct remedial
3 action to remedy environmental pollution caused by the landfill.

4 2. Two million dollars.

5 (b) The department shall promulgate rules containing criteria to determine
6 eligible costs for grants under this section and providing for the payment of grants
7 in instalments at specified points in the investigation and remedial action process.

8 **(4) REIMBURSEMENT FOR DEPARTMENT EXPENSES.** A political subdivision that
9 receives a grant under this section shall reimburse the department for the staff time
10 and other costs incurred by the department in evaluating the political subdivision's
11 application and making the grant to the political subdivision.

12 **(5) ENFORCEMENT.** If a political subdivision violates the terms of a contract
13 entered into under sub. (2) (c), the department may refer the matter to the
14 department of justice for enforcement under s. 299.95.

15 **SECTION 10. Nonstatutory provisions.**

16 (1) **STUDY.** The department of natural resources shall enter into a contract for
17 a study of the landfill cleanup issue in this state. The study shall identify all landfills
18 that would be eligible for assistance under section 292.60 of the statutes, as created
19 by this act, estimate the cost of remedial action at all of those landfills and identify
20 potential mechanisms for funding that remedial action. The department shall report
21 the results of the study to the legislature in the manner provided under section
22 13.172 (2) of the statutes no later than June 30, 1999.

23 (2) **POSITION AUTHORIZATION.** The authorized FTE positions for the department
24 of natural resources are increased by 3.0 SEG positions on July 1, 1998, to be funded

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1 from the appropriation under section 20.370 (2) (dr) of the statutes, as created by this
2 act, for administration of the program for political subdivision landfill cleanups.

3 **SECTION 11. Initial applicability.**

4 (1) MUNICIPAL LANDFILL CLEANUP FEE. The treatment of section 289.645 of the
5 statutes first applies to solid waste disposed of on January 1, 1998.

6 **SECTION 12. Effective dates.** This act takes effect on the day after publication,
7 except as follows:

8 (1) The repeal and recreation of section 20.866 (1) (u) the statutes takes effect
9 on July 1, 1999.

10 (END)