



1997 SENATE BILL 355

November 14, 1997 - Introduced by Senators DECKER and COWLES, cosponsored by Representatives HUTCHISON, JOHNSRUD and F. LASEE. Referred to Committee on Agriculture and Environmental Resources.

1 **AN ACT to repeal** 287.11 (2) (dm) and 287.25 (3) (cm); **to renumber and amend**
2 287.25 (4); **to amend** 287.19 (1) (a) 2., 287.25 (3) (a), 287.25 (4s), 287.25 (5) (b),
3 289.09 (1) and 289.09 (2) (b) and (d); and **to create** 287.25 (4) (b), 287.27, 289.09
4 (2) (a) 3. and 895.517 of the statutes; **relating to:** effective recycling programs,
5 reports by materials recovery facilities, waste reduction and recycling
6 demonstration grants, liability associated with materials reuse programs,
7 requiring studies and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the department of natural resources (DNR) to maintain current estimates of the amount of materials that are recovered from solid waste for reuse or recycling, as a measure of the effectiveness of the state recycling program. The bill requires materials recovery facilities to report to DNR the amount of specified recyclable materials that they receive annually for the reported information to be used by DNR in preparing DNR's estimates of reuse and recycling rates.

Under current law, if the recycling program of a city, village, town, county or other governmental unit responsible for the region's solid waste (responsible unit) meets a set of statutory criteria, it is an "effective" recycling program. One of the criteria requires that, beginning in 1997, the responsible unit implement a system

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of volume-based solid waste fees unless it achieves a 25% recycling rate. A responsible unit that operates an "effective" recycling program is exempt from the prohibition against disposing specified recyclable materials in a landfill and is entitled to state financial assistance to operate the program. The bill repeals this requirement that a responsible unit impose volume-based solid waste fees in order for its recycling program to be an "effective" recycling program.

The bill provides immunity from civil liability for injury, death or property damage caused by material donated by a person to a materials reuse program operated by a charitable organization, municipality or responsible unit. The immunity from liability does not apply to injury or death caused by wanton or wilful acts or omissions.

The bill amends the waste reduction and recycling demonstration grant program to allow grants to be paid for community-wide waste reduction projects. Grants are limited to 75% of eligible costs (compared to 50% for other projects).

The bill directs the DNR, in cooperation with the University of Wisconsin-Extension, to conduct a study of the future of solid waste management, including an examination of ways to increase the efficiency and effectiveness of current recycling programs and an examination of ways to improve the coordinated and cost-effective management of solid waste in this state. The bill requires DNR to report its findings and recommendations to the governor and the legislature by June 30, 1999.

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:

1 **SECTION 1.** 287.11 (2) (dm) of the statutes is repealed.

2 **SECTION 2.** 287.19 (1) (a) 2. of the statutes is amended to read:

3 287.19 (1) (a) 2. Maintaining current estimates of the amount of components
4 of solid waste specified in s. 287.07 generated by categories of businesses, industries,
5 municipalities and other governmental entities and of the amount of material that
6 is recovered from solid waste for reuse or recycling.

7 **SECTION 3.** 287.25 (3) (a) of the statutes is amended to read:

8 287.25 (3) (a) A municipality, public entity, private business or nonprofit
9 organization which meets eligibility requirements established by the department
10 may apply for a demonstration grant for the purpose of implementing innovative

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1 waste reduction and recycling activities or a community-wide waste reduction
2 project.

3 **SECTION 4.** 287.25 (3) (cm) of the statutes is repealed.

4 **SECTION 5.** 287.25 (4) of the statutes is renumbered 287.25 (4) (a), and 287.25
5 (4) (a) (intro.) and 7., as renumbered, are amended to read:

6 287.25 (4) (a) (intro.) The department shall develop by rule criteria for
7 determining eligibility, for approving, for determining the amount of and for
8 establishing priorities for distributing demonstration grants for innovative waste
9 reduction and recycling activities. These criteria shall include:

10 7. Consideration of the application or implementation of innovative
11 technologies in a project which employs a proven technology in a waste reduction or
12 recycling activity. Notwithstanding subd. 6., a project which employs a proven
13 technology may receive grant moneys for that portion of the project which
14 implements innovative technologies and applications.

15 **SECTION 6.** 287.25 (4) (b) of the statutes is created to read:

16 287.25 (4) (b) The department shall develop by rule eligibility criteria for
17 determining eligibility, for approving and for determining the amount of
18 demonstration grants for community-wide waste reduction projects and for
19 establishing priorities for distributing the grants.

20 **SECTION 7.** 287.25 (4s) of the statutes is amended to read:

21 287.25 (4s) REQUESTS FOR PROPOSALS. The department may request proposals
22 for a waste reduction and recycling activity or a community-wide waste reduction
23 program eligible for funding under this section. Notwithstanding sub. (4) (a), (f) and
24 (g), the department may award a demonstration grant for a waste reduction and
25 recycling project proposed in response to a request under this subsection that does

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1 not implement innovative technology. The amount awarded for demonstration
2 grants under this subsection in a fiscal biennium may not exceed 50% of the total
3 amount available for demonstration grants under this section in that fiscal
4 biennium.

5 **SECTION 8.** 287.25 (5) (b) of the statutes is amended to read:

6 287.25 (5) (b) An eligible applicant for a demonstration grant may receive a
7 grant based upon the weight or equivalent volume of solid waste anticipated to be
8 diverted from disposal at land disposal facilities but a demonstration grant may not
9 exceed 50% of the actual eligible costs of the innovative waste reduction or recycling
10 activities or 75% of the actual eligible costs of the community-wide waste reduction
11 project or \$150,000, whichever is less. An applicant's required contribution for a
12 demonstration grant may consist of funding or an in-kind contribution. The
13 department may award up to 75% of the grant to the applicant upon approval. The
14 department shall award the remainder of the grant only if the waste reduction and
15 recycling activities are implemented and approved by the department. The
16 department may not award grants under this section to any applicant that total more
17 than \$250,000.

18 **SECTION 9.** 287.27 of the statutes is created to read:

19 **287.27 Materials recovered for reuse or recycling. (1) DEFINITION.** In this
20 section, "materials recovery facility" means a facility where the materials specified
21 in sub. (4) (b) or s. 287.07 (3) or (4), not mixed with other solid waste, are processed
22 for reuse or recycling by conversion into a consumer product or a product which is
23 used as a raw material in a commercial or industrial process. "Materials recovery
24 facility" does not include a facility operated by a pulp or paper mill which utilizes

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1 fiber or paper that has been separated from waste for use as a raw material in a
2 commercial product.

3 (2) REPORTS BY MATERIALS RECOVERY FACILITIES. Annually, the owner or operator
4 of a materials recovery facility shall report to the department the amount of each of
5 the materials specified in s. 287.07 (3) or (4) and any other materials specified by the
6 department under sub. (4) (b) that the materials recovery facility receives and that
7 were recovered from waste generated in this state.

8 (3) REPORTS BY TRADE ASSOCIATIONS. A trade association may submit a report
9 to the department containing the information required under sub. (2) in aggregate
10 form for 2 or more materials recovery facilities that are affiliated with the trade
11 association. A report under this subsection shall identify each materials recovery
12 facility for which it is reporting. A materials recovery facility that is covered by a
13 report under this subsection shall be considered to be in compliance with sub. (2).

14 (4) RULES. The department, by rule, may do any of the following:

15 (a) Specify the form and manner of reporting under subs. (2) and (3).

16 (b) Specify additional materials that the owner or operator of a materials
17 recovery facility must report under sub. (2) or (3).

18 (c) Exempt certain materials recovery facilities from all or a part of the
19 reporting requirements of subs. (2) and (3) if the reports are not needed for the
20 calculation of solid waste reuse or recycling rates under s. 287.19 (1) (a) 2.

21 **SECTION 10.** 289.09 (1) of the statutes is amended to read:

22 289.09 (1) RECORDS. Except as provided under sub. (2), any records or other
23 information furnished to or obtained by the department in the administration of this
24 chapter and ~~s. ss. 287.27 and~~ 299.15 are public records subject to s. 19.21.

25 **SECTION 11.** 289.09 (2) (a) 3. of the statutes is created to read:

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1 289.09 (2) (a) 3. An owner or operator of a materials recovery facility, as defined
2 in s. 287.27 (1), may seek confidential treatment of information submitted under s.
3 287.27 (3).

4 **SECTION 12.** 289.09 (2) (b) and (d) of the statutes are amended to read:

5 289.09 (2) (b) *Standards for granting confidential status.* Except as provided
6 under par. (c), the department shall grant confidential status for any records or
7 information received by the department and certified by the owner or operator of the
8 solid waste facility or materials recovery facility or by the licensed hauler as relating
9 to production or sales figures or to processes or production unique to the owner or
10 operator of the solid waste facility or materials recovery facility or which would tend
11 to adversely affect the competitive position of the owner or operator if made public.

12 (d) *Use of confidential records.* Except as provided under par. (c) and this
13 paragraph, the department or the department of justice may use records and other
14 information granted confidential status under this subsection only in the
15 administration and enforcement of this chapter and, ch. 287 or s. 299.15. The
16 department or the department of justice may release for general distribution records
17 and other information granted confidential status under this subsection if the owner
18 or operator expressly agrees to the release. The department of natural resources or
19 the department of justice may release on a limited basis records and other
20 information granted confidential status under this subsection if the department of
21 natural resources or the department of justice is directed to take this action by a
22 judge or hearing examiner under an order which protects the confidentiality of the
23 records or other information. The department of natural resources or the
24 department of justice may release to the U.S. environmental protection agency, or its
25 authorized representative, records and other information granted confidential

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1 status under this subsection if the department of natural resources or the
2 department of justice includes in each release of records or other information a
3 request to the U.S. environmental protection agency, or its authorized
4 representative, to protect the confidentiality of the records or other information.

5 **SECTION 13.** 895.517 of the statutes is created to read:

6 **895.517 Liability exemption: solid waste donation or sale.** (1) In this
7 section:

8 (a) "Charitable organization" has the meaning given in s. 895.51 (1) (b).

9 (b) "Municipality" has the meaning given in s. 289.01 (23).

10 (c) "Qualified food" has the meaning given in s. 895.51 (1) (e).

11 (d) "Responsible unit" has the meaning given in s. 287.01 (9).

12 (e) "Solid waste" has the meaning given in s. 289.01 (33).

13 (2) Any person who donates or sells, at a price not exceeding overhead and
14 transportation costs, solid waste, or a material that is separated from mixed soil
15 waste, to a materials reuse program that is operated by a charitable organization,
16 municipality or responsible unit is immune from civil liability for the death of or
17 injury to an individual or the damage to property caused by the solid waste or
18 material donated or sold by the person.

19 (3) This section does not apply if the death or injury was caused by wilful or
20 wanton acts or omissions.

21 (4) This section does not apply to the sale or donation of qualified food.

22 **SECTION 14. Nonstatutory provisions.**

23 (1) STUDY OF THE FUTURE OF SOLID WASTE MANAGEMENT.

24 (a) The department of natural resources, in cooperation with the University of
25 Wisconsin-Extension, shall study the future needs of solid waste management in

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1 this state. The study shall include an examination of methods to do all of the
2 following:

3 1. Improve the coordination and cost-effectiveness of solid waste management
4 in this state.

5 2. Increase the efficiency and effectiveness of current effective recycling
6 programs under section 287.11 (2) of the statutes.

7 (b) On or before June 30, 1999, the secretary of natural resources and the
8 chancellor of the University of Wisconsin-Extension shall submit the study report
9 and any recommendations to the governor, and the chief clerk of each house of the
10 legislature for distribution in the manner provided under section 13.172 (2) of the
11 statutes.

12 **SECTION 15. Initial applicability.**

13 (1) The treatment of section 895.517 of the statutes first applies to sales or
14 donations occurring on the effective date of this subsection.

15 (END)