

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: 06/21/99

Received By: traderc

Wanted: Soon

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Dake

This file may be shown to any legislator: NO

Drafter: traderc

May Contact: LFB

Alt. Drafters:

Subject: Environment - solid haz. waste

Extra Copies:

**Pre Topic:**

ARC:.....Dake - Am # 123,

**Topic:**

Indemnification agreements for PCB contaminated waste

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 06/22/99	chanaman 06/22/99		_____			
/1			kfollet 06/22/99	_____	gretskl 06/22/99		

FE Sent For:

<END>

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1?	traderc	CMM 6/22	KJf 6/22	KJf/mc 6/22			
FE Sent For:		1					

<END>

# To Be Drafted

PLP

Agency

Amendment#

ARC Analyst

LRB#

Tax Cut

## Summary

At the present time, sediments contaminated by PCBs will be removed during future clean-up efforts in the Great Lakes Basin. Communities with landfills in and around the Great Lakes Basin have been asked to accept PCB-contaminated sediments.

The amendment would provide indemnification as follows;

a) allow the DNR to enter into agreements to indemnify municipalities and their agencies, officials, employees and agents against liability damages to persons, property or the environment attributable to PCBs resulting from the municipality's acceptance and disposal of PCB-contaminated sediments from the Great Lakes Basin sediment

b) allow the DNR to enter into agreements to indemnify municipalities and their agencies, officials, employees and agents against liability damages to persons, property or the environment attributable to PCBs resulting from the municipality's conveyance or treatment in a sewerage system of leachate with PCBs that is from a landfill that accepts PCB-contaminated sediments.

c) specify that for the agreement to be valid it must be approved by the Governor, Attorney General, DNR Secretary, and the governing body of the municipality.

d) The agreement must: 1) provide a method for establishing municipal liability; 2) a requirement that the municipality inform DNR and the Attorney General when a claim or lawsuit is filed against the municipality; 3) a provision for the Attorney General to intervene on behalf of the municipality and the state; 4) require the operation of the landfill or sewerage system to minimize risks associated with PCBs; and 5) provide DNR with the authority to enforce or modify the operation of the landfill or sewerage system to minimize PCB-related risks.

e) the DNR may include in an agreement the amount of indemnification provided under the agreement and specify that neither the statute nor the indemnification agreement may be construed as consent to sue the state or as a waiver of sovereign immunity of the state.

f) a sum sufficient appropriation from the DNR's environmental fund is provided to pay prospective claims.

## Fiscal Impact

According to the Legislative Fiscal Bureau, the fiscal effect of the amendment is indeterminate.

## Statement of Intent

DNR. Indemnification agreements for disposal of PCB-contaminated sediments.

1999

Date (time) needed SOON

LRB b 081711

**CAUCUS BUDGET AMENDMENT  
[ONLY FOR CAUCUS]**

RUT : cmd :

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 1999 ASSEMBLY BILL 133**

*ONote*

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page .150, line 24 : *after that line insert* ✓

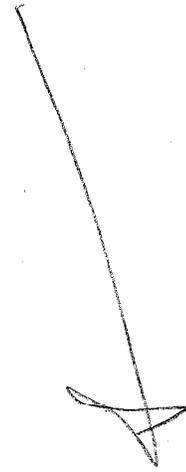
#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:



1999

LRB b0817 11

File With Statute **20.005 (3)** Schedule

RET : \_\_\_\_\_ : \_\_\_\_\_

**\$\$\$ SCHEDULE**

In the component bar:

For the action phrase, execute: ..... create → action: → ch20

For the table layout, execute: ..... create → <Table> → \$sched

**SECTION #.** 20.005 (3) (schedule) of the statutes: at the appropriate place,

insert the following amounts for the purposes indicated:

	1999-00	2000-01
20. _____		
_____		
( ) _____		

" (fg) Indemnification  
↑ agreements.

SEG 5 ..... -0- ..... -0- ..!"

20. _____		
_____		
( ) _____		
_____		
( ) _____		
_____		
_____		

#. Page 315, line 15: after that line insert:  
311a } (C)

1 " SECTION 20.370 (2) (fq) of the statutes is created to read:

2 20.370 (2) (fq) *Indemnification agreements*. From the environmental fund, a  
3 sum sufficient to provide indemnification under agreements under s. 292.70. "

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

#. Page 1303, line 20: after that line insert:  
2648 c } (C)

4 " SECTION 292.70 of the statutes is created to read:

5 **292.70 Indemnification for disposal of polychlorinated biphenyls. (1)**

6 DEFINITION. In this section, "PCBs" has the meaning given in s. 299.45 (1) (a).  
*concerning disposal of contaminated sediments*

7 (2) INDEMNIFICATION AGREEMENT WITH WINNEBAGO COUNTY. The department  
*a municipality*

8 may enter into an agreement with Winnebago County under which this state agrees  
*county*

9 to indemnify the county and its agencies, officials, employes and agents against any  
*municipality*

10 liability or damage resulting from the county's acceptance for disposal of sediments  
*Insert 2-10*

11 that are from the Great Lakes basin and are contaminated with PCBs, if the sediments are disposed of in a manner approved by  
*that are from the Great Lakes basin and are*

12 the department.  
*concerning treatment of contaminated leachate*

13 (3) INDEMNIFICATION AGREEMENT WITH THE CITY OF OSHKOSH. The department  
*a municipality*

14 may enter into an agreement with the city of Oshkosh under which this state agrees  
*municipality*

15 to indemnify the city and its agencies, officials, employes and agents against any  
*city*

16 liability or damage resulting from the city's acceptance for treatment of leachate that  
*for Insert 2-16 municipality's conveyance or*

17 is contaminated with PCBs and that is from a landfill that accepts sediments

18 contaminated with PCBs, if the leachate is treated in a manner approved by the

19 department.  
*Insert 2-19*

20 (4) REVIEW AND PAYMENT. If a claim is filed under an agreement under sub. (2)

21 or (3), the department shall review the claim to determine whether it is valid. A valid

22 claim shall be paid from the appropriation under s. 20.370 (2) (fq). "

23 (END)

Subject to sub. (4)

Subject to sub. (4)

Insert 2-10 + 2-16 (use twice)

NO 91

to persons, property or the environment

Insert 2-19

(91) (B) (4) <sup>ES</sup> Requirements. The department may enter into an agreement under sub. (2) or (3) only if all of the following apply:

(91) (a) The agreement is approved by the governor, the attorney general, the secretary and the governing body of the municipality.

(91) (b) The agreement specifies a method for determining whether the municipality is liable for damage described in sub. (2) or (3).

(91) (c) The agreement requires the municipality to notify the department and the attorney general when a claim or lawsuit to which the agreement may apply is filed against the political subdivision.

Insert  
A (91) (c) The agreement requires the <sup>operator of the solid waste</sup> disposal facility or wastewater treatment facility to minimize risks related to PCBs.

(f) The agreement authorizes the department to require

the operator of the <sup>solid waste</sup> disposal facility or wastewater treatment facility to operate in ~~a~~ <sup>specified by the department</sup> manner in order to minimize risks related to PCBs.

91 B { (5) Limitation. The department may include in an agreement under sub. (4) a limitation on <sup>the</sup> amount that this state will pay to a municipality under the agreement.

92 B { (6) Immunity. This section and any agreement entered into under sub. (3) or (4) may not be construed as consent to sue this state.

(end of insert)

Insert A

(91) (d) The agreement authorizes the attorney general  
= <sup>on behalf of the municipality and this state</sup>  
to intervene in any lawsuit to which the agreement  
may apply.

(END OF INSERT)

60817/1 dn

Note

cmm

Brian Dake:

# This draft corresponds to amendment # 123.

# The definition of "municipality" in s. 292.01(11) will apply to the provision created in this draft. Please review that definition to ensure that includes the entities intended to be covered by the draft.

RD

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0817/1dn  
RCT:cmh:kjf

June 22, 1999

Brian Dake:

This draft corresponds to amendment # 123.

The definition of "municipality" in s. 292.01 (11) will apply to the provision created in this draft. Please review that definition to ensure that includes the entities intended to be covered by the draft.

Rebecca C. Tradewell  
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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0817/1  
RCT:cmh:kjf

ARC:.....Dake - Am # 123, Indemnification agreements for PCB  
contaminated waste

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 150, line 24: after that line insert:

3 “(fq) Indemnification agreements. SEG S -0- -0-”.

4 **2.** Page 315, line 15: after that line insert:

5 “SECTION 311a. 20.370 (2) (fq) of the statutes is created to read:

6 20.370 (2) (fq) *Indemnification agreements*. From the environmental fund, a  
7 sum sufficient to provide indemnification under agreements under s. 292.70.”.

8 **3.** Page 1303, line 20: after that line insert:

9 “SECTION 2648c. 292.70 of the statutes is created to read:

**292.70 Indemnification for disposal of polychlorinated biphenyls. (1)**

1           **292.70 Indemnification for disposal of polychlorinated biphenyls. (1)**  
2       DEFINITION. In this section, "PCBs" has the meaning given in s. 299.45 (1) (a).

3           **(2) INDEMNIFICATION AGREEMENTS CONCERNING DISPOSAL OF CONTAMINATED**  
4       **SEDIMENTS.** Subject to sub. (4), the department may enter into an agreement with a  
5       municipality under which this state agrees to indemnify the municipality and its  
6       agencies, officials, employes and agents against liability for damage to persons,  
7       property or the environment resulting from the municipality's acceptance for  
8       disposal of sediments that are from the Great Lakes basin and are contaminated  
9       with PCBs, if the sediments are disposed of in a manner approved by the department.

10          **(3) INDEMNIFICATION AGREEMENTS CONCERNING TREATMENT OF CONTAMINATED**  
11       **LEACHATE.** Subject to sub. (4), the department may enter into an agreement with a  
12       municipality under which this state agrees to indemnify the municipality and its  
13       agencies, officials, employes and agents against any liability for damage to persons,  
14       property or the environment resulting from the municipality's conveyance or  
15       treatment of leachate that is contaminated with PCBs and that is from a landfill that  
16       accepts sediments contaminated with PCBs, if the leachate is treated in a manner  
17       approved by the department.

18          **(4) REQUIREMENTS.** The department may enter into an agreement under sub.  
19       (2) or (3) only if all of the following apply:

20          (a) The agreement is approved by the governor, the attorney general, the  
21       secretary and the governing body of the municipality.

22          (b) The agreement specifies a method for determining whether the  
23       municipality is liable for damage described in sub. (2) or (3).

