

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-SB55)**

Received: **06/23/2001**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Tessmer**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Addl. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Submit via email: **NO**

Requester's email:

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**Pre Topic:**

ARC:.....Tessmer - AM94,

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**Topic:**

Local governments and property owners of brownfields sites

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**Instructions:**

See Attached

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**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 06/24/2001	chanaman 06/24/2001		_____			
/1			rschluet 06/25/2001	_____	lrb_docadmin 06/25/2001		

FE Sent For:

**<END>**

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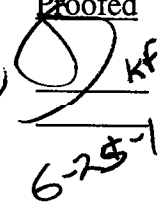
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**Instructions:**

See Attached

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1/?	traderc	ch 1 6/29		 6-25-1			

FE Sent For:

<END>

Fiscal impact: \$0

Location/Status: Adopt LRBb1229/1

**G. Water Towers in the Villages of Athens and Weston**

Designate \$320,000 in bonding authority, of the \$720,000 in residual general obligation bonding authority remaining in the Wisconsin Fund, for a water tower project for the Village of Athens and designate \$400,000 of this bonding authority for a water tower project in the Village of Weston.

Agency affected: DNR

Fiscal impact: Fiscal Bureau has stated that the debt service on \$720,000 of bonding would be about \$57,400 GPR.

*Ra*

Location/Status: Adopt ARC Amendment #117 (Petrowski)

**8. Brownfields and Contaminated Land**

**A. Local Governments and Property Owners of Brownfield Sites**

This amendment creates legislation to include several items included in a brownfields study group dealing with liability exemptions for local governments and property owners of brownfield sites.

*Ra*

This amendment would grant property owners a liability exemption in certain situations regarding brownfield sites.

These four provisions were the same as proposed by the Brownfields Study Group and supported by Governor McCallum in his budget.

- 1) Allow local governments a liability exemption if the property was acquired through the Nelson Stewardship 2000 program.
- 2) Provide liability exemption to a voluntary party who has sold the property even if the new owner fails to maintain and monitor the property as required by the DNR.
- 3) Specify that liability exemption is available for hazardous substances in sediments that originates off the property.
- 4) Voluntary parties could receive liability exemption from soil contamination that originated off-site. The voluntary party would be eligible to obtain a full certification of clean up and exemption from future liability.

Fiscal Impact: None

Location/Status: Adopt ARC Amendment #119 (Wieckert) *see page*

# Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

**Statement of Intent** This amendment creates legislation to include several items included in a brownfields study group dealing with liability exemptions for local governments and property owners of brownfield sites.

<b>Legislator</b>	Wieckert	<b>Amendment</b>	94
<b>Legislator 2</b>		<b>Pass or Fail</b>	Pass
<b>Legislator 3</b>		<b>Spending Cut</b>	
<b>Legislator 4</b>		<b>Withdrawn</b>	
<b>Staff contact</b>	Scott	<b>Package</b>	

**Agency** Natural Resources

**Summary** This amendment would grant property owners a liability exemption in certain situations regarding brownfield sites.

These four provisions were the same as proposed by the Brownfields Study Group and supported by Governor McCallum in his budget.

*p. 505, 17a*  
*-1307* 1) Allow local governments a liability exemption if the property was acquired through the Nelson Stewardship 2000 program.

*p. 507, item 2*  
*-1311* 2) Provide liability exemption to a voluntary party who has sold the property even if the new owner fails to maintain and monitor the property as required by the DNR.

*p. 507, item 3*  
*-1310* 3) Specify that liability exemption is available for hazardous substances in sediments that originates off the property.

*p. 507, item 4*  
*-0332* 4) Voluntary parties could receive liability exemption from soil contamination that originated off-site. The voluntary party would be eligible to obtain a full certification of clean up and exemption from future liability.

**Fiscal Impact** A fiscal estimate provided by the DNR states that this motion has no state or local fiscal impact.

**Drafting Inst**

**ARC Analyst** Raschka

*1*  
*p. 14*

**Request #** 119

Friday, June 22, 2001

Page 7 of 18

DOA:.....Wong – Voluntary party liability exemption, former owners

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a person who applies to DNR for an exemption from this liability, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge.

This party modifies the voluntary party liability exemption so that the requirement to maintain and monitor the property as required by DNR only applies to a voluntary party if the voluntary party owns or controls the property. The bill specifies that the voluntary party liability exemption continues to apply to a

DOA:.....Wong - Liability exemption for sediment

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a person is exempt from the requirements to restore the environment and minimize the effects of the discharge of a hazardous substance on the environment with respect to the existence of a hazardous substance in soil on property possessed or controlled by the person if the discharge originated from a source off of the property and other specified conditions are satisfied, including that the person agrees to allow access to the property so that someone else can conduct a cleanup, the person agrees to avoid actions that worsen the discharge, and the person agrees to any other condition necessary to ensure that an adequate cleanup can be conducted.

This bill specifies that the liability exemption for soil contamination that originates off of the property applies to hazardous substances in sediments.

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

DOA:.....Wong – Voluntary party liability exemption for properties affected  
by off-site contamination

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a person, called a voluntary party, is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharge, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted, the property is cleaned up, DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, and the voluntary party maintains and monitors the property as required by DNR. This exemption applies if later changes to the law would impose greater responsibilities on the voluntary party or if it is discovered that the cleanup failed to fully restore the environment or to minimize the harmful effects of the discharge. Under current law, a person is exempt from the requirements to restore the environment and minimize the effects of the discharge of a hazardous substance on the environment with respect to the existence of a hazardous substance in groundwater or soil on the person's



DOA:.....Wong - Local governmental liability exemption and Stewardship  
funding

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Current law generally exempts a local governmental unit from these clean-up requirements with respect to hazardous substance discharges on land acquired in specified ways, such as through tax delinquency proceedings and condemnation. This exemption applies to land acquired with funds from the original Warren Knowles-Gaylord Nelson stewardship program. This bill expands the exemption so that it applies to land that a local governmental unit acquires with funds from the Warren Knowles-Gaylord Nelson stewardship 2000 program.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2001

Date (time)  
needed

SOON (in 6/24)

LRB b 1640 1 1

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

Ret : CMK : \_\_\_\_\_

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

**CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

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

#. Page 1059, line 16 : after that line insert :

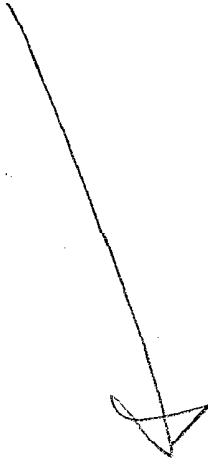
#. Page . . . . ., line . . . . .:

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

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

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

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



LPS -  
no  
alpha - 2 -  
(on whole draft)

3229

1 SECTION 292.11 (9) (e) 1m. f. of the statutes is amended to read:

2 292.11 (9) (e) 1m. f. The local governmental unit acquired the property using  
3 funds appropriated under s. 20.866 (2) (ta) or (tz).

4 ~~END~~



3230

1 SECTION 292.13 (1m) (intro.) of the statutes is amended to read:

2 292.13 (1m) EXEMPTION FROM LIABILITY FOR SOIL CONTAMINATION. (intro.) A  
3 person is exempt from s. 292.11 (3), (4) and (7) (b) and (c) with respect to the existence  
4 of a hazardous substance in the soil, including sediments, on property possessed or  
5 controlled by the person if all of the following apply:

6 ~~(END)~~



voluntary party who does not own or control the property if the person who owns or controls the property fails to maintain and monitor the property as required by DNR.

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

1                    <sup>3231</sup>  
SECTION ~~1~~. 292.15 (2) (a) 4. of the statutes is amended to read:  
2                    292.15 (2) (a) 4. The If the voluntary party owns or controls the property, the  
3 voluntary party maintains and monitors the property as required under rules  
4 promulgated by the department and any contract entered into under those rules.

5                    <sup>3232</sup>  
SECTION ~~2~~. 292.15 (2) (ae) 4. of the statutes is amended to read:  
6                    292.15 (2) (ae) 4. The If the voluntary party owns or controls the property, the  
7 voluntary party maintains and monitors the property as required under rules  
8 promulgated by the department and any contract entered into under those rules.

Insert  
A

9                    <sup>3236</sup>  
SECTION ~~3~~. 292.15 (2) (b) 4. of the statutes is created to read:  
10                    292.15 (2) (b) 4. If the voluntary party does not own or control the property, the  
11 person who owns or controls the property fails to maintain and monitor the property  
12 as required under rules promulgated by the department or any contract entered into  
13 under those rules. '1,

(END)

*Insert A, p. 1*

property if the discharge originated from a source off of the property, the person agrees to allow access to the property so that someone else can conduct a cleanup, and the person agrees to any other condition necessary to ensure that an adequate cleanup can be conducted. Also, under current law, for a property affected by an off-site discharge that has contaminated the groundwater and by discharges of other hazardous substances, a voluntary party is exempt from absolute requirements to restore the environment and minimize the harmful effects of the discharges, and from the requirements of other laws relating to hazardous substances, if an environmental investigation of the property is conducted; the property is cleaned up, except with respect to the discharge that originated off-site, DNR certifies that the cleanup restored the environment and minimized the harmful effects of the discharge, except with respect to the discharge that originated off-site; DNR determines in writing that the voluntary party qualifies for the off-site exemption; and the voluntary party maintains and monitors the property as required by DNR.

This bill expands the voluntary party exemption from liability related to groundwater contamination by an off-site discharge so that it also applies to property on which the *soil* is contaminated by an off-site discharge.

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:*

<sup>3234</sup>  
SECTION 1. 292.15 (2) (ag) of the statutes is amended to read:

292.15 (2) (ag) *Property affected by off-site discharge.* (intro.) Except as provided in sub. (6) or (7), for a property on which there exists a hazardous substance for which a voluntary party is exempt from liability under s. 292.13 (1) or (1m), a voluntary party is exempt from the provisions of ss. 289.05 (1), (2), (3) and (4), 289.42 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c) and 292.31 (8), and rules promulgated under those provisions, with respect to discharges of hazardous substances on or originating from the property, if the release of those hazardous substances occurred prior to the date on which the department approves the environmental investigation of the property under par. (a) 1., if par. (a) 1. and 4. to 6. apply and all of the following occur at any time before or after the date of acquisition:

Insert A p. 2

1           1. The environment is restored to the extent practicable with respect to the  
2 discharges and the harmful effects from the discharges are minimized in accordance  
3 with rules promulgated by the department and any contract entered into under those  
4 rules, except that this requirement does not apply with respect to the hazardous  
5 substance for which the voluntary party is exempt from liability under s. 292.13 (1)  
6 or (1m).

7           2. The voluntary party obtains a certificate of completion from the department  
8 stating that the environment has been satisfactorily restored to the extent  
9 practicable with respect to the discharges and that the harmful effects from the  
10 discharges have been minimized, except with respect to the hazardous substance for  
11 which the voluntary party is exempt from liability under s. 292.13 (1) or (1m).

12           3. The voluntary party obtains a written determination from the department  
13 under s. 292.13 (2) with respect to the hazardous substance for which the voluntary  
14 party is exempt from liability under ~~s.~~ 292.13 (1) or (1m). ~~s.~~ stet.

15           4. The voluntary party continues to satisfy the conditions under s. 292.13 (1)  
16 (d) to (g) or (1m) (d) to (g).

(END) of insert A



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb1640/1  
RCT:cmh:rs

ARC:.....Tessmer - AM94, Local governments and property owners of  
brownfields sites

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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

2 1. Page 1059, line 16: after that line insert:

3 "SECTION 3229. 292.11 (9) (e) 1m. f. of the statutes is amended to read:

4 292.11 (9) (e) 1m. f. The local governmental unit acquired the property using  
5 funds appropriated under s. 20.866 (2) (ta) or (tz).

6 SECTION 3230. 292.13 (1m) (intro.) of the statutes is amended to read:

7 292.13 (1m) EXEMPTION FROM LIABILITY FOR SOIL CONTAMINATION. (intro.) A  
8 person is exempt from s. 292.11 (3), (4) and (7) (b) and (c) with respect to the existence  
9 of a hazardous substance in the soil, including sediments, on property possessed or  
10 controlled by the person if all of the following apply:



1           **SECTION 3231.** 292.15 (2) (a) 4. of the statutes is amended to read:

2           292.15 (2) (a) 4. ~~The~~ If the voluntary party owns or controls the property, the  
3 voluntary party maintains and monitors the property as required under rules  
4 promulgated by the department and any contract entered into under those rules.

5           **SECTION 3232.** 292.15 (2) (ae) 4. of the statutes is amended to read:

6           292.15 (2) (ae) 4. ~~The~~ If the voluntary party owns or controls the property, the  
7 voluntary party maintains and monitors the property as required under rules  
8 promulgated by the department and any contract entered into under those rules.

9           **SECTION 3234.** 292.15 (2) (ag) of the statutes is amended to read:

10          292.15 (2) (ag) *Property affected by off-site discharge.* (intro.) Except as  
11 provided in sub. (6) or (7), for a property on which there exists a hazardous substance  
12 for which a voluntary party is exempt from liability under s. 292.13 (1) or (1m), a  
13 voluntary party is exempt from the provisions of ss. 289.05 (1), (2), (3) and (4), 289.42  
14 (1), 289.67, 291.25 (1) to (5), 291.29, 291.37, 292.11 (3), (4) and (7) (b) and (c) and  
15 292.31 (8), and rules promulgated under those provisions, with respect to discharges  
16 of hazardous substances on or originating from the property, if the release of those  
17 hazardous substances occurred prior to the date on which the department approves  
18 the environmental investigation of the property under par. (a) 1., if par. (a) 1. and 4.  
19 to 6. apply and all of the following occur at any time before or after the date of  
20 acquisition:

21           1. The environment is restored to the extent practicable with respect to the  
22 discharges and the harmful effects from the discharges are minimized in accordance  
23 with rules promulgated by the department and any contract entered into under those  
24 rules, except that this requirement does not apply with respect to the hazardous

1 substance for which the voluntary party is exempt from liability under s. 292.13 (1)  
2 or (1m).

3 2. The voluntary party obtains a certificate of completion from the department  
4 stating that the environment has been satisfactorily restored to the extent  
5 practicable with respect to the discharges and that the harmful effects from the  
6 discharges have been minimized, except with respect to the hazardous substance for  
7 which the voluntary party is exempt from liability under s. 292.13 (1) or (1m).

8 3. The voluntary party obtains a written determination from the department  
9 under s. 292.13 (2) with respect to the hazardous substance for which the voluntary  
10 party is exempt from liability under s 292.13 (1) or (1m).

11 4. The voluntary party continues to satisfy the conditions under s. 292.13 (1)  
12 (d) to (g) or (1m) (d) to (g).

13 **SECTION 3236.** 292.15 (2) (b) 4. of the statutes is created to read:

14 292.15 (2) (b) 4. If the voluntary party does not own or control the property, the  
15 person who owns or controls the property fails to maintain and monitor the property  
16 as required under rules promulgated by the department or any contract entered into  
17 under those rules.”

18

(END)