

2003 DRAFTING REQUEST

Bill

Received: **09/19/2003**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Karen Asbjornson**

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

Drafter: **btradewe**

May Contact: **Darci Foss, DNR**

Addl. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Brownfields revolving loan program

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>
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	02/05/2004	02/05/2004	02/05/2004	_____	02/05/2004	02/09/2004	
				_____		sbasford	
				_____		02/09/2004	

FE Sent For:

AA Intro.

<END>

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FE Sent For:

Tradewell, Becky

From: Asbjornson, Karen
Sent: Friday, September 19, 2003 9:35 AM
To: Tradewell, Becky
Subject: Re: Brownfields Legislation

Importance: High

Hi Becky,

Per our discussion, please draft each of the following topics individually.

The first document contains the actual draft statutory language for the first four items in the "Table of FY 2003-2005 BF Study Group Recommendations." This language was drafted, included in the Governor's 2001-03 executive budget, but pulled out at JFC. It covers:

- The 2 county tax delinquency issues
- Changes to the Voluntary Party statute
- An exemption for local governments for solid waste sites



Exec budget lang
2001-03 Inst ...



Table of 2003-05
Recos_.doc



ER Law changes -
lists.doc



292.31 editorial
clarification...



Cost recovery and
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NCE.doc



LR Loan Program
changes.doc



Revolving loan fund
authority....



SW Exemption.doc



VPLE changes
2.doc

Here is Darsi's contact info if you need it:

Darsi Foss

Chief

Brownfields Section

Bureau for Remediation and Redevelopment

Wisconsin Department of Natural Resources

() phone: (608) 267-6713

() fax: (608) 267-7646

(+) e-mail: darsi.foss@dnr.state.wi.us

www.dnr.state.wi.us/org/aw/rr

Other individuals who have copies of these are Tad in Panzer's office and Darsi Foss at DNR.

Please call or email with any questions or concerns. Thank you for your assistance. As I am sure you know, the sooner the better on the drafts.

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us

Recommended Changes to Wisconsin Statutes By the Brownfields Study Group

TOPIC	Draft Language	RECOMMENDATION
<p>1. Modify Negotiated Sale In Lieu Of Bidding For Tax Delinquent Brownfields Properties</p>	<p>Yes 2001-2003 Exec Budget Page 614, Item #11 LRB #1315</p>	<p>Create a statutory amendment to s. 75.69(2), Wis. Stats., that would allow a county or city of the first class to transfer tax delinquent property it owns, without using the competitive bidding process, if environmental pollution is present and the property meets the definition of a brownfield under s. 292.75(1)(a), Wis. Stats.</p>
<p>2. Assign Judgment Of A Tax Deed Without Taking Title</p>	<p>Yes 2001-2003 Exec Budget Page 613, Item #10 LRB #1314</p>	<p>allow a county to execute a tax deed under s. 75.14(1), Wis. Stats., to an individual under the same conditions as prescribed under s. 75.106, Wis. Stats. - allow the individual who has elected to accept a tax deed under the above conditions to commence an action to bar former owners under s. 75.39, Wis. Stats.</p>
<p>3. Changes to Voluntary Party Liability Exemption statute, s. 292.15: • Eliminate Interim Liability Exemption for Voluntary Parties • Natural Attenuation at Voluntary Party Sites</p>	<p>Yes 2001-2003 Exec Budget Page 506, Item #18 LRB #1309 Page 506, Item #10 LRB #1312</p>	<p>The first change would eliminate the need for the department to create an insurance mechanism for voluntary parties at the time their site investigation is approved. The second change provides the department access to a property if natural attenuation has or is suspected to have failed, once a Certificate has been issued.</p>
<p>4. Local Government Liability Exemption for Certain Types of Solid Waste Sites</p>	<p>Yes 2001-2003 Exec Budget Page 613, Item #10 LRB #1314 <i>Staff had LRB #1314</i></p>	<p>This change provides that a local governmental unit that is exempt from the clean-up requirements for a property is also exempt from solid waste management standards and other legal requirements relating to solid waste for that property. This would not apply to licensed or approved facilities, nor a facility where the local government caused the contamination.</p>
<p>5. Provide clear statutory authority for the state to receive federal EPA brownfields revolving loan funds, and operate a federally funded revolving loan.</p>	<p>No Issue Paper Attached</p>	<p>- clarify that the state has authority to receive federal EPA funds (a grant), under Public Law 107-118 (H.R. 2869) — the "Small Business Liability Relief and Brownfields Revitalization Act" to create a brownfields revolving loan fund administered by the state.</p>
<p>6. Modify the Environmental Remediation TIF statute, s. 66.1106 Stats</p>	<p>Yes. 3 sets of changes incorporated into the attached language: 2001 AB 510 (LRB #2253(2)), Senate Amendment 1, to AB 510 (LRB# 1420(2)), and additional Study Group changes</p>	<p>- include delinquent taxes as an eligible cost - extend the ER TIF time period from 16 to 28 years - adopt the technical changes proposed by Revenue in the FY 2001-03 executive budget and AB 510 - makes changes retroactive to existing ER TIFs</p>

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Statutory Language Proposals – Brownfields Legislation:

ISSUE/TOPIC:	Brownfields Revolving Loan Program
PROPOSED CHANGE:	Provide the Department of Natural Resources with the authority to accept EPA brownfields grant funds, and to create and administer a brownfields revolving loan program using federal funds.
EXPLANATORY NOTE:	Provide the DNR with the authority to accept brownfields grants from EPA to establish and administer a brownfields revolving loan program, with funds received under Public Law 107-118 (H.R. 2869) The “Small Business Liability Relief and Brownfields Revitalization Act.” In addition, provide the DNR with the authority to accept and administer funds for other governmental entities that may apply for these funds, but choose to have the state administer the funds on behalf of the community or coalition of communities. Eligible entities and activities for the revolving loan funds would be specified by the U.S. EPA through an agreement with the state. No administrative rules would be necessary to establish and administer this program.
DESIRED EFFECTIVE DATE:	The date the act takes effect.
CONTACT PERSON:	Darsi Foss (608) 267-6713

(B) FAILURE TO COMPLY.—The President may decline to offer a settlement to a potentially responsible party under this subsection if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action with respect to the facility.

(C) RESPONSIBILITY TO PROVIDE INFORMATION AND ACCESS.—A potentially responsible party that enters into a settlement under this subsection shall not be relieved of the responsibility to provide any information or access requested in accordance with subsection (e)(3)(B) or section 104(e).

(9) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this subsection, the President shall provide the reasons for the determination in writing to the potentially responsible party that requested a settlement under this subsection.

(10) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the President shall notify any person that the President determines is eligible under paragraph (1) of the person's eligibility for an expedited settlement.

(11) NO JUDICIAL REVIEW.—A determination by the President under paragraph (7), (8), (9), or (10) shall not be subject to judicial review.

(12) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.

SEC. 103. EFFECT ON CONCLUDED ACTIONS.

The amendments made by this title shall not apply to or in any way affect any settlement lodged in, or judgment issued by, a United States District Court, or any administrative settlement or order entered into or issued by the United States or any State, before the date of the enactment of this Act.

TITLE II—BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownfields Revitalization and Environmental Restoration Act of 2001".

Subtitle A—Brownfields Revitalization Funding

SEC. 211. BROWNFIELDS REVITALIZATION FUNDING.

(a) DEFINITION OF BROWNFIELD SITE.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability

Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) BROWNFIELD SITE.—

(A) IN GENERAL.—The term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

(B) EXCLUSIONS.—The term 'brownfield site' does not include—

(i) a facility that is the subject of a planned or ongoing removal action under this title,

(ii) a facility that is listed on the National Priorities List or is proposed for listing,

(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under this Act,

(iv) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(v) a facility that—

(i) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

(ii) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

(vi) a land disposal unit with respect to which—

(i) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

(ii) closure requirements have been specified in a closure plan or permit;

(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

(viii) a portion of a facility—

(i) at which there has been a release of polychlorinated biphenyls; and

(ii) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage

Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

(C) SITE-BY-SITE DETERMINATIONS.—Notwithstanding subparagraph (B) and on a site-by-site basis, the President may authorize financial assistance under section 104(K) to an eligible entity at a site included in clause (i), (iv), (v), (vi), (vii), or (ix) of subparagraph (B) if the President finds that financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

(D) ADDITIONAL AREAS.—For the purposes of section 104(K), the term brownfield site includes a site that—

(i) meets the definition of brownfield site under subparagraphs (A) through (C); and

(ii) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

(iii) is contaminated by petroleum or a petroleum product excluded from the definition of hazardous substance under section 101; and

(iv) is a site determined by the Administrator of the State, as appropriate, to be—

(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

(CC) is not subject to any order issued under section 9003(f) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)) or

(DD) is mine-affected land.

(b) BROWNFIELD REVITALIZATION FUNDING.—Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) is amended by adding at the end the following:

(K) BROWNFIELD REVITALIZATION FUNDING.—

(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term “eligible entity” means—

(A) a general purpose unit of local government;

(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

(C) a government entity created by a State legislature;

(D) a regional council or group of general purpose units of local government;

(E) a redevelopment agency that is chartered or otherwise sanctioned by a State;

(F) a State;

(G) an Indian Tribe other than in Alaska; or

U.S.C. 1601 and following) and the Metlakatla Indian community.

(2) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

(A) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to—

(i) provide grants to inventory, characterize, assess, and conduct planning related to brownfield sites under subparagraph (B); and

(ii) perform targeted site assessments at brownfield sites.

(B) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

(i) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make a grant to the eligible entity to be used for programs to inventory, characterize, assess, and conduct planning related to one or more brownfield sites.

(ii) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under clause (i) shall be performed in accordance with section 101(3)(B).

(3) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

(A) GRANTS PROVIDED BY THE PRESIDENT.—Subject to paragraphs (4) and (5), the President shall establish a program to provide grants to—

(i) eligible entities, to be used for capitalization of revolving loan funds; and

(ii) eligible entities or nonprofit organizations, where warranted, as determined by the President based on considerations under subparagraph (C), to be used directly for remediation of one or more brownfield sites owned by

the entity or organization that receives the grant and in amounts not to exceed \$200,000 for each site to be remediated.

(B) LOANS AND GRANTS PROVIDED BY ELIGIBLE ENTITIES.—An eligible entity that receives a grant under subparagraph (A)(i) shall use the grant funds to provide assistance for the remediation of brownfield sites in the form of—

(i) one or more loans to an eligible entity, a site owner, a site developer, or another person; or

(ii) one or more grants to an eligible entity or other nonprofit organization, where warranted, as determined by the eligible entity that is providing the

assistance, based on considerations under subparagraph (C), to remediate sites owned by the eligible entity or nonprofit organization that receives the grant.

(C) CONSIDERATIONS.—In determining whether a grant under subparagraph (A)(i) or (B)(ii) is warranted, the President or the eligible entity, as the case

may be, shall take into consideration—

(i) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

(ii) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

(iii) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

(iv) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

(D) the extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

(iii) the extent to which a grant will facilitate the use or reuse of existing infrastructure;

(iv) the benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation; and

(v) such other similar factors as the Administrator considers appropriate to consider for the purposes of this subsection.

(D) TRANSITION.—Revolving loan funds that have been established before the date of the enactment of this subsection may be used in accordance with this paragraph.

(4) GENERAL PROVISIONS.—

(A) MAXIMUM GRANT AMOUNT.—

(B) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

(C) IN GENERAL.—A grant under paragraph (2) may be awarded to an eligible entity on a community-wide or site-by-site basis, and shall not exceed, for any individual brownfield site covered by the grant, \$200,000.

(D) WAIVER.—The Administrator may waive the \$200,000 limitation under subsection (C) to permit the brownfield site to receive a grant of not to exceed \$350,000, based on the anticipated level of contamination, size, or status of ownership of the site.

(E) BROWNFIELD REMEDIATION.—A grant under paragraph (3)(A)(i) may be awarded to an eligible entity on a community-wide or site-by-site basis, not to exceed \$1,000,000 per eligible entity. The Administrator may make an additional grant to an eligible entity described in the previous sentence for any year after the year for which the initial grant is made, taking into consideration—

(i) the number of sites and number of communities that are addressed by the revolving loan fund;

(ii) the demand for funding by eligible entities that have not previously received a grant under this subsection;

(iii) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

(iv) such other similar factors as the Administrator considers appropriate to carry out this subsection.

(B) PROHIBITION.—

(D) IN GENERAL.—No part of a grant or loan under this subsection may be used for the payment of—

(i) a penalty or fine;

(D) a Federal cost-share requirement; (E) a Federal cost-share requirement; (F) an administrative cost; or (G) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107, or the cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)), excluding the cost of compliance with laws applicable to the cleanup.

(II) EXCLUSIONS.—For the purposes of clause (D)(ii), the term "administrative cost" does not include the cost of—

(i) investigation and identification of the extent of contamination;

(ii) design and performance of a response action; or

(iii) monitoring of a natural resource.

(C) ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.—A local government that receives a grant under this subsection may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program that may include—

(i) monitoring the health of populations exposed to one or more hazardous substances from a brownfield site; and

(ii) monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance from a brownfield site.

(D) INSURANCE.—A recipient of a grant or loan awarded under paragraph (2) or (3) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

(5) GRANT APPLICATIONS.—

(A) SUBMISSION.—

(B) IN GENERAL.—

(C) APPLICATION.—An eligible entity may submit to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, an application for a grant under this subsection for one or more brownfield sites (including information on the criteria used by the Administrator to rank applications under subparagraph (C), to the extent that the information is available).

(D) NCP REQUIREMENTS.—The Administrator may include in any requirement for submission of an application under subsection (C) a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this subsection.

(E) COORDINATION.—The Administrator shall coordinate with other Federal agencies to assist in making eligible entities aware of other available Federal resources.

(iii) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in applying for grants under this subsection.

(B) APPROVAL.—The Administrator shall—

(i) at least annually, complete a review of applications for grants that are received from eligible entities under this subsection; and

(ii) award grants under this subsection to eligible entities that the Administrator determines have the highest rankings under the ranking criteria established under subparagraph (C).

(C) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications received under this paragraph that includes the following criteria:

(i) The extent to which a grant will stimulate the availability of other funds for environmental assessment or remediation, and subsequent reuse, of an area in which one or more brownfield sites are located.

(ii) The potential of the proposed project or the development plan for an area in which one or more brownfield sites are located to stimulate economic development of the area on completion of the cleanup.

(iii) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment, including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants.

(iv) The extent to which a grant would facilitate the use or reuse of existing infrastructure.

(v) The extent to which a grant would facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

(vi) The extent to which a grant would meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community.

(vii) The extent to which the applicant is eligible for funding from other sources.

(viii) The extent to which a grant will further the fair distribution of funding between urban and nonurban areas.

(ix) The extent to which the grant provides for involvement of the local community in the process of making decisions relating to cleanup and future use of a brownfield site.

(x) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

(G) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

(A) ESTABLISHMENT OF PROGRAM.—The Administrator may provide, or fund eligible entities or nonprofit organizations to provide, training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation.

(B) FUNDING RESTRICTIONS.—The total Federal funds to be expended by the Administrator under this paragraph shall not exceed 15 percent of the total amount appropriated to carry out this subsection in any fiscal year.

(7) AUDITS.—

(A) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants and loans under this subsection as the Inspector General considers necessary to carry out this subsection.

(B) PROCEDURE.—An audit under this subparagraph shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(C) VIOLATIONS.—If the Administrator determines that a person that receives a grant or loan under this subsection has violated or is in violation of a condition of the grant, loan, or applicable Federal law, the Administrator may—

(i) terminate the grant or loan;

(ii) require the person to repay any funds received; and

(iii) seek any other legal remedies available to the Administrator.

(D) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this subsection, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this subsection).

(8) LEVERAGING.—An eligible entity that receives a grant under this subsection may use the grant funds for a portion of a project at a brownfield site for which funding is received from other sources if the grant funds are used only for the purposes described in paragraph (2) or (3).

(9) AGREEMENTS.—Each grant or loan made under this subsection shall—

(A) include a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this subsection, as determined by the Administrator; and

(B) be subject to an agreement that—

(i) requires the recipient to—

(I) comply with all applicable Federal and State laws; and

(II) ensure that the cleanup protects human health and the environment;

"(ii) requires that the recipient use the grant for non-exclusively for purposes specified in paragraph (2) or (3), as applicable;

"(iii) in the case of an application by an eligible entity under paragraph (3)(A), requires the eligible entity to pay a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent from non-Federal sources of funding, unless the Administrator determines that the matching share would place an undue hardship on the eligible entity; and

"(iv) contains such other terms and conditions as the Administrator determines to be necessary to carry out this subsection.

"(10) FACILITY OTHER THAN BROWNFIELD SITE.—The fact that a facility may not be a brownfield site within the meaning of section 101(39)(A) has no effect on the eligibility of the facility for assistance under any other provision of Federal law.

"(11) EFFECT ON FEDERAL LAWS.—Nothing in this subsection affects any liability or response authority under any Federal law, including—

- "(A) this Act (including the last sentence of section 101(4));
"(B) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);
"(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
"(D) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and
"(E) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(12) FUNDING.—

- "(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$200,000,000 for each of fiscal years 2002 through 2006.
"(B) USE OF CERTAIN FUNDS.—Of the amount made available under subparagraph (A), \$50,000,000, or, if the amount made available is less than \$200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii).

Subtitle B—Brownfields Liability Clarifications

SEC. 221. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

- "(g) CONTIGUOUS PROPERTIES.—
"(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—
"(A) IN GENERAL.—A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real

Property that is not owned by that person shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

"(i) the person did not cause, contribute, or consent to the release or threatened release; and
"(ii) the person is not—

- "(I) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship; (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or
"(II) the result of a reorganization of a business entity that was potentially liable;

- "(iii) the person takes reasonable steps to—
"(I) stop any continuing release;
"(II) prevent any threatened future release; and
"(III) prevent or limit human, environmental, or natural resource exposure to any hazardous substance released on or from property owned by that person;

"(iv) the person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the vessel or facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action or natural resource restoration at the vessel or facility);

- "(v) the person—
"(I) is in compliance with any land use restrictions established or relied on in connection with the response action at the facility; and
"(II) does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;
"(vi) the person is in compliance with any request for information or administrative subpoena issued by the President under this Act;

"(vii) the person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and
"(viii) at the time at which the person acquired the property, the person—
"(I) conducted all appropriate inquiry within the meaning of section 101(35)(B) with respect to the property; and
"(II) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of one or more hazardous substances from other real property not owned or operated by the person.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3319/P1

RCT: [Signature]

SOON (in 11/3)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

DNote

Gen

1 AN ACT ...; relating to: brownfield revolving loan programs and making
2 appropriations.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION ~~#~~ 20.370 (6) (eg) of the statutes is created to read:

4 20.370 (6) (eg) *Brownfields revolving loan funds administered for other entity.*

5 All moneys received from another governmental entity under s. 292.72[✓](2), to
6 administer a brownfield revolving loan program for the other governmental entity
7 under s. 292.72 (2).

8 SECTION ~~#~~ 20.370 (6) (ef) of the statutes is created to read:

9 20.370 (6) (ef) *Brownfields revolving loan repayments.* All moneys received in
10 repayment of loans under s. 292.72[✓], to make loans for the remediation of brownfield
11 sites under s. 292.72.

Move

1 ~~SECTION 3.~~ 20.370 (6) (em) of the statutes is created to read:

2 20.370 (6) (em) *Federal brownfields revolving loan funds*. All moneys received
3 from the federal government under s. 292.72 (1), to make loans for the remediation
4 of brownfield sites under s. 292.72 (1).

5 ~~SECTION 4.~~ 292.72 of the statutes is created to read:

6 **292.72 Brownfields revolving loan program.** (1) The department may
7 enter into an agreement with the federal environmental protection agency under
8 which the department receives funds under 42 USC 9604 (k) (3) (A) (i) to establish
9 and administer a brownfields revolving loan program. If the department receives
10 funds under this subsection, it may make loans for the remediation of brownfield
11 sites, as defined in 42 USC 9601 (39), in accordance with the agreement.


12 (2) At the request of another governmental entity, the department may
13 administer funds received under 42 USC 9604 (k) (3) (A) (i) by the other
14 governmental entity for the establishment of a brownfields revolving loan program.

15 (END)

D-Note

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

LRB-3319/P1dn

RCT: 

Date

This is a preliminary draft of the proposal to authorize DNR to administer a brownfield revolving loan program using federal funds. Please review the draft carefully. It is possible that there should be two appropriations for repayments: one for repayments of loans made with funds received by DNR directly from EPA and one for repayments of loans made with funds received by DNR from other governmental entities who are having DNR administer the federal funds.

I believe that the federal program requires a state match. Is there a DNR appropriation from which that match can be provided?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3319/P1dn
RCT:kjfrs

November 13, 2003

This is a preliminary draft of the proposal to authorize DNR to administer a brownfield revolving loan program using federal funds. Please review the draft carefully. It is possible that there should be two appropriations for repayments: one for repayments of loans made with funds received by DNR directly from EPA and one for repayments of loans made with funds received by DNR from other governmental entities who are having DNR administer the federal funds.

I believe that the federal program requires a state match. Is there a DNR appropriation from which that match can be provided?

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Asbjornson, Karen
Sent: Wednesday, February 04, 2004 5:27 PM
To: Tradewell, Becky
Subject: Re: Brownfield Legislation Priorities

Hi Becky,

The following two drafts are the two brownfields proposals that Senator Roessler would like to get introduced this session:

1. LRB - 3319/1 Provide Clear Statutory Authority to Receive and Implement Federal Brownfields RLF

One minor change is needed:

- Sections 3 and 4: Please add the term "or grants" to read "make loans or grants for the remediation..." If the state receives RLF moneys, it has the option to make the funds available either as loans, or as a combination of loans (no less than 60% of the funds) and grants (no more than 40% of the funds). Thus, we request the statute reflect that option.

2. LRB 03-3323 Statewide Voluntary Insurance Program

No changes - please jacket this draft

P.S. I will follow up with changes on the other drafts but these two are our priorities out of all the drafts we sent over regarding brownfields.

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3319/1

RCT:kjf

vmv

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

1 AN ACT *to create* 20.370 (6) (ef), 20.370 (6) (eg), 20.370 (6) (em) and 292.72 of the
2 statutes; **relating to:** brownfield revolving loan programs and making
3 appropriations.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

4 SECTION 1. 20.370 (6) (ef) of the statutes is created to read:
5 20.370 (6) (ef) *Brownfields revolving loan repayments.* All moneys received in
6 repayment of loans under s. 292.72, to make loans ^{or grants} for the remediation of brownfield
7 sites under s. 292.72.

8 SECTION 2. 20.370 (6) (eg) of the statutes is created to read:
9 20.370 (6) (eg) *Brownfields revolving loan funds administered for other entity.*
10 All moneys received from another governmental entity under s. 292.72 (2), to

Analysis
insert →

1 administer a brownfield revolving loan program for the other governmental entity
2 under s. 292.72 (2).

3 **SECTION 3.** 20.370 (6) (em) [✓] of the statutes is created to read:

4 20.370 (6) (em) *Federal brownfields revolving loan funds.* All moneys received
5 from the federal government under s. 292.72 (1), to make loans ^{or grants} for the remediation
6 of brownfield sites under s. 292.72 (1).

7 **SECTION 4.** 292.72 [✓] of the statutes is created to read:

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9 enter into an agreement with the federal environmental protection agency under
10 which the department receives funds under 42 USC 9604 (k) (3) (A) (i) to establish
11 and administer a brownfields revolving loan program. If the department receives
12 funds under this subsection, it may make loans ^{or grants} for the remediation of brownfield
13 sites, as defined in 42 USC 9601 (39), in accordance with the agreement.

14 (2) At the request of another governmental entity, the department may
15 administer funds received under 42 USC 9604 (k) (3) (A) (i) by the other
16 governmental entity for the establishment of a brownfields revolving loan program.

17 (END)

Contamination

Analysis insert

Federal law authorizes the federal Environmental Protection Agency (EPA) to make grants to states and local governments to establish revolving loan programs for brownfields revitalization. Brownfields are sites the redevelopment or reuse of which may be complicated by the presence or potential presence of environmental pollutants. The recipient of a federal grant may use the grant to provide loans or, in some cases, grants for the cleanup of brownfields.

This bill authorizes the Department of Natural Resources (DNR) to enter into an agreement with EPA to establish and administer a brownfields revolving loan program under which DNR would make loans or grants for the cleanup of brownfields. The bill also authorizes DNR to administer funds received from EPA by another governmental entity for the establishment of a brownfields revolving loan program.

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

Tradewell, Becky

From: Asbjornson, Karen
Sent: Monday, February 09, 2004 9:53 AM
To: Tradewell, Becky
Subject: RE: Re: Brownfield Legislation Priorities

Importance: High

Hi Becky,

Can I please have LRB 3319 jacketed. Thanks!

Karen Asbjornson
Office of Senator Carol Roessler
(608) 266-5300/1-888-736-8720
Karen.Asbjornson@legis.state.wi.us

-----Original Message-----

From: Tradewell, Becky
Sent: Thursday, February 05, 2004 11:11 AM
To: Asbjornson, Karen
Subject: RE: Re: Brownfield Legislation Priorities

Karen,

Would you like me have our program assistants jacket the redraft of -3319 right away or would you like to review it first?

Becky

-----Original Message-----

From: Asbjornson, Karen
Sent: Wednesday, February 04, 2004 5:27 PM
To: Tradewell, Becky
Subject: Re: Brownfield Legislation Priorities

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No changes - please jacket this draft