

Fiscal Estimate Narratives

DOR 8/8/2007

LRB Number	07-0944/1	Introduction Number	AB-0142	Estimate Type	Original
Description Relating to: the definition of waste treatment facility for property tax exemption purposes					

Assumptions Used in Arriving at Fiscal Estimate

Current law provides a property tax exemption for waste treatment plants and pollution abatement equipment. The exemption applies to all property purchased or constructed as a waste treatment facility used for the treatment of industrial wastes or air contaminants if certain requirements are met.

The Department historically implemented the exemption narrowly to include property used exclusively and directly in the treatment of waste that had no value.

Relative to the Department's application of the waste treatment exemption, in 2004, the Tax Appeals Commission expanded the definition of property that qualifies for the exemption in its ruling on *The Newark Group, Inc. vs. The Wisconsin Department of Revenue*, and the circuit court concurred. Under Newark, waste treatment property may include an entire manufacturing facility if waste treatment is performed at the site. The exemption includes real estate, buildings, improvements, and machinery and equipment.

The bill would amend the exemption for waste treatment facilities by defining a "waste treatment facility" as it is defined in the administrative code, section TAX 12.40. A waste treatment facility would mean tangible property that is built, constructed, or installed as a unit so as to be readily identifiable as directly removing, altering, or storing leftover, superfluous, discarded or fugitive material.

The Department estimates that this bill would not have a significant fiscal effect since it is unlikely to change the treatment of property considered a waste treatment facility under the Newark decision. Under the bill, property that is used for waste treatment may still be exempt even where a marketable product is being manufactured. In addition, the bill would not limit the exemption to property used exclusively and directly to treat industrial wastes. It is likely that an entire facility, including the real estate, buildings, improvements, and machinery and equipment, could be exempt under this language.

Long-Range Fiscal Implications