2013 DRAFTING REQUEST

Bill

Received:	**6/13/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	
For:	**Robert Jauch (608) 266-3510**	By/Representing:	**Lisa Lundquist**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - solid haz. waste**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Sen.Jauch@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Proof of financial responsibility for long term care for certain solid waste facilities

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	btradewe 7/10/2013						
/1		evinz 7/12/2013	jmurphy 7/12/2013		sbasford 7/12/2013	lparisi 9/3/2013	

FE Sent For:

Not Needed

<END>

2013 DRAFTING REQUEST

Bill

Received:	**6/13/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	
For:	**Robert Jauch (608) 266-3510**	By/Representing:	**Lisa Lundquist**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - solid haz. waste**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Sen.Jauch@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Proof of financial responsibility for long term care for certain solid waste facilities

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	btradewe 7/10/2013			_______ _______			
/1		evinz 7/12/2013	jmurphy 7/12/2013	_______ _______	sbasford 7/12/2013		

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	**6/13/2013**	Received By:	**btradewe**
Wanted:	**As time permits**	Same as LRB:	
For:	**Robert Jauch (608) 266-3510**	By/Representing:	**Lisa Lundquist**
May Contact:		Drafter:	**btradewe**
Subject:	**Environment - solid haz. waste**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Sen.Jauch@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Proof of financial responsibility for long term care for certain solid waste facilities

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	btradewe	/1 eev 7/12/13	[illegible]	[illegible]			

FE Sent For:

<END>

6/13/13 Call from Lisa M Sen. Jauch's office -
They have been working with DNR on a proposal to help a company that has a facility that recycles railroad ties and utility poles. It needs a solid waste facility license. It does not meet one of the criteria for the net worth method of showing proof of financial responsibility under s. 289.41. So they are looking for an alternative criterion that this company meets kind of like s. 289.41 (6) (L). She will send the language.

RCT

Tradewell, Becky

From: Lundquist, Lisa
Sent: Thursday, June 13, 2013 4:15 PM
To: Tradewell, Becky
Subject: bill language

**Sorry, I just realized I forget to hit send on this....

Hi Becky,

Here is the proposed language:

201306131131.pdf

As I mentioned, this is language that the DNR and the company, Stella Jones worked on together. Please feel free to contact me with any questions. Also, you should probably be getting a call from Representative Milroy's office about this as well if you haven't already.

Some background information on the issue:

State Statute 289.41 (4)-(9) lays out the criteria companies have to meet to be deemed financially solvent. Stella Jones exceeds 5 of the 6 requirements but they do not meet the required Net Fixed Assets to Total Assets ratio because they tend to have a very large working inventory. They process old railroad ties and utility poles. Some ties they sell back to railroad companies, some they grind for fuel, some they sell to home improvement stores.

Under the terms of the statute, they can apply for a variance if one of the 6 requirements isn't met. However, because of their large inventory they could not even meet the variance criteria.

They said the location in Superior has their lowest margin of profits and they had to purchase a performance bond to operate in the state which they estimate is costing them about $40,000 (this year).

Within 289.41, there is paragraph (L),"*Alternative Criteria for Certain Companies*" that provides an exemption to certain financial criteria for a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies all other financial criteria and:

> **1.** The company received a rating for its senior unsubordinated debt of "AAA," "AA," "A," or "BBB" from Standard and Poor's Corporation, or of "Aaa," "Aa," "A," or "Baa" from Moody's Investor Service, Incorporated, in the most recent issuance of ratings by either firm.
> 289.41(6)(L)2.
> **2.** The quotient of the sum of net income plus depreciation, plus depletion, plus amortization, minus $10,000,000, divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

DNR suggested adding a new paragraph (M) to the statutes that would create an exception from (d)- the net fixed assets to total assets ratio- if the company meets (L) 1 & (L) 2.

Stella Jones is going to look at their numbers to make sure that the criteria in (L) would apply to them. Their financial representative said they are expecting a draft of their 2012 financial numbers shortly.

Once DNR has more information from Stella Jones the plan is to review and reconvene.

Ann Coakley (261-8449) is the point of contact at DNR for this issue.

(6) COMPLIANCE WITH MINIMUM FINANCIAL STANDARDS UNDER NET WORTH METHOD.

289.41(6)(a)**(a)** *Compliance.* Except as provided under par. (j), (k), or (L) or sub. (7), calculations and determinations based on data and information provided in the opinion of the certified public accountant are required to establish that the company satisfies each of the criteria under pars. (b) to (i) in order to comply with minimum financial standards.

289.41(6)(b)**(b)** *Net worth to closure, long-term care and corrective action cost ratio.* The net worth of the company at the end of its most recently completed fiscal year equals or exceeds 6 times the estimated total cost of compliance with the closure and any long-term care requirements specified in the plan of operation or the approved plan under s. 291.29 plus the costs of any corrective action required under s. 291.37.

289.41(6)(c)**(c)** *Minimum net worth.* The net worth of a company at the end of its most recently completed fiscal year equals or exceeds $10,000,000.

289.41(6)(d)**(d)** *Net fixed assets to total assets ratio.* The quotient of the net fixed assets divided by total tangible assets at the end of the company's most recently completed fiscal year exceeds 0.3.

289.41(6)(e)**(e)** *Working capital to total liabilities ratio.* The quotient of the working capital provided from operations divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

289.41(6)(f)**(f)** *Total liabilities to net worth ratio.* The quotient of the total liabilities divided by net worth at the end of the company's most recently completed fiscal year is less than 1.5.

289.41(6)(j)**(j)** *Variance from one criterion.* If calculations and determinations based on data and information provided in the opinion of the certified public accountant establish that the company satisfies both the criteria under pars. (b) and (c) and all but one of the criteria under pars. (d) to (i) and if the department finds that the company meets minimum variance requirements, the department may grant a variance and issue a determination stating that the company complies with minimum financial standards. In order to meet minimum variance requirements:

289.41(6)(j)1.**1.** The deviation from the criterion may not be significant;

289.41(6)(j)2.**2.** The company is required to have satisfied the criterion consistently in previous fiscal years; and

289.41(6)(j)3.**3.** The company is required to establish that it is likely to satisfy the criterion in future fiscal years.

289.41(6)(k)**(k)** *Exception from one criterion.* Paragraph (e) does not apply to a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies the criteria under pars. (b) to (d) and (f) to (i).

289.41(6)(L)**(L)** *Alternative criteria for certain companies.* Paragraphs (e) and (f) do not apply to a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies the criteria under pars. (b) to (d) and (g) to (i) and one of the following criteria:

289.41(6)(L)1.**1.** The company received a rating for its senior unsubordinated debt of "AAA," "AA," "A," or "BBB" from Standard and Poor's Corporation, or of "Aaa," "Aa," "A," or "Baa" from Moody's Investor Service, Incorporated, in the most recent issuance of ratings by either firm.

289.41(6)(L)2.**2.** The quotient of the sum of net income plus depreciation, plus depletion, plus amortization, minus $10,000,000, divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

Please see below the proposed changes and attached the ratio explanation. I used ratios we typically use and discuss with financial analysts and banks.
Let me know what you think.

Thanks.

Proposed Language:

289.41(6)(m) *Alternative criteria for certain companies.* Paragraph (d) does not apply to a company that owns a solid waste wood material facility at which more than one-half, by volume, of the solid waste processed is destined for energy recovery if the company satisfies the criteria under pars. (b) and (c) and (e) to (i) and the two following criteria:

1. The ratio of short term assets divided by short term liabilities should be 4.0 or greater

2. The ratio of the sum of net income plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for a 12 month rolling period
Divided by the sum of interest expenses and mandatory payments on funded debt for the same period should be 4.0 or greater

Eric Vachon, CPA, CA
Stella-Jones Inc.
Senior Vice-President and CFO

3100 Cote Vertu BLVD, Suite 300
St-Laurent, Quebec, H4R 2J8
Tel: 514-940-3903
Fax: 514-934-5327

Rebecca Tradewell @ LRB

STELLA-JONES CORPORATION

FINANCIAL RATIO EXPLANATION

The following two ratios are commonly used by financial institutions such as HSBC and Bank of America to validate the credit worthiness of a company and are often used as credit agreement covenants.

A. **The Working Capital ratio**

Definition: Short term assets divided by short term liabilities

Short term assets are usually easily converted to cash such as treasury bonds, accounts receivables and inventory. Short term liabilities are defined as financial obligations maturing in the next twelve months and usually include on demand bank margins, accounts payables and upcoming payments on long term debt.

A ratio result of 1 indicates that a company has enough assets, that in can quickly convert into cash, to cover its financial obligations in the next twelve months. A ratio result greater than 1 indicates how many times the existing assets can cover the upcoming financial obligations but also indicates the potential to generate free cash.

B. **Fixed charge coverage ratio**

Definition: The sum of net income plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for a 12 month rolling period divided by the sum of interest expenses and mandatory payments on funded debt for the same period

Net income plus interest, plus depreciation, plus amortization is a typical calculation to determine the free cash generated by a company for a certain period (usually 12 months). As asset quality (capital expenditures) and shareholder expectations (dividends) are important to the health of a company, cash outflows related to these two items are subtracted. The maintenance and investment in property plant and equipment is crucial to a manufacturing company to maintain its productivity. Shareholders usually represent a source of financing and their ongoing support is typically remunerated through dividends. Therefore to ensure that capital expenditures and shareholder expectations are meet, free cash is reduced by these obligations.

Interest expenses and mandatory payments on funded debt are fixed expenses related to the financing of a company. A company using bank debt as financing cannot continue its operations if it does not meet its obligations to the financial institutions.

A ratio result of 1 indicates that a company generates enough free cash in a year to cover its obligations to financial institutions. A ratio result greater than 1 indicates that a company generates enough free cash to cover financing obligations and also generate savings for future projects (Pay down debt faster, perform acquisitions, increase working capital,....)

Tradewell, Becky

From: Tradewell, Becky
Sent: Tuesday, June 25, 2013 3:26 PM
To: Lundquist, Lisa
Subject: RE: bill language

Lisa,

Initially, I have to admit that I do not have an accounting background, but I am trying to understand this proposal thoroughly in order to make the draft as clear as possible. The draft must also integrate this new alternative with the other provisions of s. 289.41 (4), (5), and (6).

Section 289.41 (4) (b) and (c) of the statutes describe the process for a company to establish proof of financial responsibility using the net worth method, namely by submitting an application that includes its most recent annual audited financial statement and the opinion of a certified CPA. The opinion of the CPA must include all of the information necessary to determine whether the company qualifies with the financial standards. Also, s. 289.41 (6) (a) generally requires the calculations and determinations needed to show that the company qualifies to be provided in the opinion of the CPA. Section 289.41 (5) (d) requires an annual review of eligibility for the net worth method (based on annual reapplication) and s. 289.41 (5) (e) provides for special reviews when DNR has reason to believe that a company no longer meets the net worth requirements.

Having looked over the proposed language, I do not understand how the proposal is intended to work with respect to the 12 month rolling period in the second point below. Would this ratio be calculated after the end of every month based on the previous 12 months? If not, what is intended? If so, would the company have to report the ratio each month? Or would the company report only once a year? Either way, what if the ratio is not 4.0 or greater for one or more months? Also, should the draft require the CPA's opinion to include the information necessary to determine this ratio?

Please let me know if my questions are not clear. I am available to discuss the proposal with anyone you wish, but thought it would be most efficient to try to put my questions into writing first.

Thank you for your help with this,
Becky Tradewell
Managing Attorney
Legislative Reference Bureau
(608) 266-7290

From: Lundquist, Lisa
Sent: Thursday, June 13, 2013 4:15 PM
To: Tradewell, Becky
Subject: bill language

**Sorry, I just realized I forget to hit send on this....

Hi Becky,

Here is the proposed language:

Tradewell, Becky

From: Lundquist, Lisa
Sent: Wednesday, July 03, 2013 9:28 AM
To: Tradewell, Becky
Subject: FW: bill language

Hi Becky,

I did get some answers to your questions. Does this help? Ann Coakley was out of the office but I can follow up with her after the 4th. I can also try to get in touch with the CPA for Stella Jones.

Thanks again,

Lisa

From: Bruhn, Michael L - DNR [mailto:Michael.Bruhn@wisconsin.gov]
Sent: Tuesday, July 02, 2013 3:33 PM
To: Lundquist, Lisa; Coakley, Ann M - DNR
Subject: RE: bill language

I am going to give this a try. My answers are based off of a conversation with our staff over a month ago, so I hope I am remembering them correctly. I believe engaging the company's CPA is also a good idea.

Having looked over the proposed language, I do not understand how the proposal is intended to work with respect to the 12 month rolling period in the second point below. Would this ratio be calculated after the end of every month based on the previous 12 months? If not, what is intended? What I believe the intent is...is a "smoothing" effect to smooth out any potential outlier month. If so, would the company have to report the ratio each month? No, we would still just want the regularly required annual report. Or would the company report only once a year? Yes, once a year. Either way, what if the ratio is not 4.0 or greater for one or more months? (Ann???) Also, should the draft require the CPA's opinion to include the information necessary to determine this ratio?

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-5375
( ) e-mail: michael.bruhn@wisconsin.gov
Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR

From: Lundquist, Lisa [mailto:Lisa.Lundquist@legis.wisconsin.gov]
Sent: Tuesday, July 02, 2013 12:13 PM
To: Bruhn, Michael L - DNR; Coakley, Ann M - DNR
Subject: FW: bill language

Hello,

I just spoke to Becky Tradewell because I didn't quite understand her e-mail, I'm still not sure that I do. It seems she has questions about the "12 month rolling period" and how it will work:

<< OLE Object: Picture (Device Independent Bitmap) >>

Is there someone at DNR that understands this better or would she need to talk to the accountant at Stella Jones?

Thanks,

Lisa
Office of Senator Jauch
266-3510

From: Tradewell, Becky
Sent: Tuesday, June 25, 2013 3:26 PM
To: Lundquist, Lisa
Subject: RE: bill language

Lisa,

Initially, I have to admit that I do not have an accounting background, but I am trying to understand this proposal thoroughly in order to make the draft as clear as possible. The draft must also integrate this new alternative with the other provisions of s. 289.41 (4), (5), and (6).

Section 289.41 (4) (b) and (c) of the statutes describe the process for a company to establish proof of financial responsibility using the net worth method, namely by submitting an application that includes its most recent annual audited financial statement and the opinion of a certified CPA. The opinion of the CPA must include all of the information necessary to determine whether the company qualifies with the financial standards. Also, s. 289.41 (6) (a) generally requires the calculations and determinations needed to show that the company qualifies to be provided in the opinion of the CPA. Section 289.41 (5) (d) requires an annual review of eligibility for the net worth method (based on annual reapplication) and s. 289.41 (5) (e) provides for special reviews when DNR has reason to believe that a company no longer meets the net worth requirements.

Having looked over the proposed language, I do not understand how the proposal is intended to work with respect to the 12 month rolling period in the second point below. Would this ratio be calculated after the end of every month based on the previous 12 months? If not, what is intended? If so, would the company have to report the ratio each month? Or would the company report only once a year? Either way, what if the ratio is not 4.0 or greater for one or more months? Also, should the draft require the CPA's opinion to include the information necessary to determine this ratio?

Please let me know if my questions are not clear. I am available to discuss the proposal with anyone you wish, but thought it would be most efficient to try to put my questions into writing first.

Thank you for your help with this,
Becky Tradewell
Managing Attorney
Legislative Reference Bureau
(608) 266-7290

From: Lundquist, Lisa
Sent: Thursday, June 13, 2013 4:15 PM
To: Tradewell, Becky
Subject: bill language

**Sorry, I just realized I forget to hit send on this....

Hi Becky,

Here is the proposed language:

As I mentioned, this is language that the DNR and the company, Stella Jones worked on together. Please feel free to contact me with any questions. Also, you should probably be getting a call from Representative Milroy's office about this as well if you haven't already.

Some background information on the issue:

State Statute 289.41 (4)-(9) lays out the criteria companies have to meet to be deemed financially solvent. Stella Jones exceeds 5 of the 6 requirements but they do not meet the required Net Fixed Assets to Total Assets ratio because they tend to have a very large working inventory. They process old railroad ties and utility poles. Some ties they sell back to railroad companies, some they grind for fuel, some they sell to home improvement stores.

Under the terms of the statute, they can apply for a variance if one of the 6 requirements isn't met. However, because of their large inventory they could not even meet the variance criteria.

They said the location in Superior has their lowest margin of profits and they had to purchase a performance bond to operate in the state which they estimate is costing them about $40,000 (this year).

Within 289.41, there is paragraph (L),"*Alternative Criteria for Certain Companies*" that provides an exemption to certain financial criteria for a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies all other financial criteria and:
1. The company received a rating for its senior unsubordinated debt of "AAA," "AA," "A," or "BBB" from Standard and Poor's Corporation, or of "Aaa," "Aa," "A," or "Baa" from Moody's Investor Service, Incorporated, in the most recent issuance of ratings by either firm.
289.41(6)(L)2.
2. The quotient of the sum of net income plus depreciation, plus depletion, plus amortization, minus $10,000,000, divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

DNR suggested adding a new paragraph (M) to the statutes that would create an exception from (d)- the net fixed assets to total assets ratio- if the company meets (L) 1 & (L) 2.

Stella Jones is going to look at their numbers to make sure that the criteria in (L) would apply to them. Their financial representative said they are expecting a draft of their 2012 financial numbers shortly.

Once DNR has more information from Stella Jones the plan is to review and reconvene.

Ann Coakley (261-8449) is the point of contact at DNR for this issue.

(6) COMPLIANCE WITH MINIMUM FINANCIAL STANDARDS UNDER NET WORTH METHOD.

289.41(6)(a)**(a)***Compliance.* Except as provided under par. (j), (k), or (L) or sub. (7), calculations and determinations based on data and information provided in the opinion of the certified public accountant are required to establish that the company satisfies each of the criteria under pars. (b) to (i) in order to comply with minimum financial standards.

289.41(6)(b)**(b)***Net worth to closure, long-term care and corrective action cost ratio.* The net worth of the company at the end of its most recently completed fiscal year equals or exceeds 6 times the estimated total cost of compliance with the closure and any long-term care requirements specified in the plan of operation or the approved plan under s. 291.29 plus the costs of any corrective action required under s. 291.37.

289.41(6)(c)**(c)***Minimum net worth.* The net worth of a company at the end of its most recently completed fiscal year equals or exceeds $10,000,000.

289.41(6)(d)**(d)***Net fixed assets to total assets ratio.* The quotient of the net fixed assets divided by total tangible assets at the end of the company's most recently completed fiscal year exceeds 0.3.

289.41(6)(e)**(e)***Working capital to total liabilities ratio.* The quotient of the working capital provided from operations divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

289.41(6)(f)**(f)***Total liabilities to net worth ratio.* The quotient of the total liabilities divided by net worth at the end of the company's most recently completed fiscal year is less than 1.5.

289.41(6)(j)**(j)***Variance from one criterion.* If calculations and determinations based on data and information provided in the opinion of the certified public accountant establish that the company satisfies both the criteria under pars. (b) and (c) and all but one of the criteria under pars. (d) to (i) and if the department finds that the company meets minimum variance requirements, the department may grant a variance and issue a determination stating that the company complies with minimum financial standards. In order to meet minimum variance requirements:

289.41(6)(j)1.**1.** The deviation from the criterion may not be significant;

289.41(6)(j)2.**2.** The company is required to have satisfied the criterion consistently in previous fiscal years; and

289.41(6)(j)3.**3.** The company is required to establish that it is likely to satisfy the criterion in future fiscal years.

289.41(6)(k)**(k)***Exception from one criterion.* Paragraph (e) does not apply to a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies the criteria under pars. (b) to (d) and (f) to (i).

289.41(6)(L)**(L)***Alternative criteria for certain companies.* Paragraphs (e) and (f) do not apply to a company that owns a solid waste facility at which more than one-half, by volume, of the solid waste disposed of is high-volume industrial waste if the company satisfies the criteria under pars. (b) to (d) and (g) to (i) and one of the following criteria:

289.41(6)(L)1.**1.** The company received a rating for its senior unsubordinated debt of "AAA," "AA," "A," or "BBB" from Standard and Poor's Corporation, or of "Aaa," "Aa," "A," or "Baa" from Moody's Investor Service, Incorporated, in the most recent issuance of ratings by either firm.

289.41(6)(L)2.**2.** The quotient of the sum of net income plus depreciation, plus depletion, plus amortization, minus $10,000,000, divided by total liabilities at the end of the company's most recently completed fiscal year exceeds 0.1.

Tradewell, Becky

From: Storck, Colleen D - DNR <Colleen.Storck@wisconsin.gov>
Sent: Monday, July 08, 2013 1:09 PM
To: Coakley, Ann M - DNR; Tradewell, Becky
Cc: Bruhn, Michael L - DNR
Subject: RE: bill language

Hello Becky,
I would suggest that someone speak directly with Stella Jones' CPA regarding the question on the "12 month rolling period". I don't know why they chose to use a rolling 12 month period, rather than the typical 12 month fiscal year period – it would probably be best to ask their CPA directly. I can make the contact with him if you'd like.

Thanks.
Colleen

Colleen D. Storck
Chief, Business Support and Information Technology Section
Bureau of Waste & Materials Management - WA/5
Wisconsin Department of Natural Resources
Box 7921
Madison, WI 53707
phone: (608) 267-7515
fax: (608) 267-2768
e-mail: colleen.storck@wisconsin.gov

From: Coakley, Ann M - DNR
Sent: Monday, July 08, 2013 12:14 PM
To: Tradewell, Becky - LEGIS
Cc: Bruhn, Michael L - DNR; Storck, Colleen D - DNR
Subject: RE: bill language

Good Morning Becky,
I was out of the office last week on vacation. Colleen Storck is our expert in this area. Colleen, will you please work with Becky?
Thank you,
Ann

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Monday, July 08, 2013 11:38 AM
To: Coakley, Ann M - DNR
Cc: Bruhn, Michael L - DNR
Subject: FW: bill language

Ann,

Lisa Lundquist has authorized me to contact you directly about a drafting request for Sen. Jauch that would enable the Stella Jones Co. to qualify for the net worth method for solid waste facility proof of financial responsibility. I believe that you have seen earlier email messages in this conversation.

I have questions about how the language proposed by the company's CPA would work, as explained below. The language proposed by the company is attached to this message.

Please let me know if I should be communicating with someone else about this matter. I would be glad to discuss this in person or by phone, but thought it would be helpful first to try to explain my questions in writing.

Thank you for your assistance,

Becky Tradewell
Managing Attorney
Legislative Reference Bureau
266-7290

From: Tradewell, Becky
Sent: Monday, July 08, 2013 10:36 AM
To: Lundquist, Lisa
Subject: RE: bill language

Lisa,

I appreciate Mike's response, but the intent is still not completely clear to me. I am more than willing to communicate directly with Ann Coakley or anyone else if you wish.

If the idea is that calculating the ratio for a 12 month period would smooth out any outlier month, it seems as though calculating the ratio for the 12 months of the company's most recently completed fiscal year would accomplish this. If so, there would be no need to refer to a 12 month rolling period.

If that is consistent with the intent of the proposal, I thought it might be helpful to include preliminary draft language for DNR and the company's CPA to review. I would plan to draft this item something like this (based in part on how the other requirements in s. 289.41 (6) are written):

> 2. The quotient of the sum of net income, plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for the company's most recently completed fiscal year divided by the sum of interest expenses and mandatory payments on funded debt for that year equals or exceeds 4.0.

If it is desired to have the company do the calculation each month (for the 12 months preceding that month) and provide the information to DNR once a year with the other financial information, I will need to know what happens if the ratio is not 4.0 or greater for one or more of the 12 month periods.

Becky

From: Lundquist, Lisa
Sent: Wednesday, July 03, 2013 9:28 AM
To: Tradewell, Becky
Subject: FW: bill language

Hi Becky,

I did get some answers to your questions. Does this help? Ann Coakley was out of the office but I can follow up with her after the 4th. I can also try to get in touch with the CPA for Stella Jones.

Tradewell, Becky

From: Tradewell, Becky
Sent: Monday, July 08, 2013 3:26 PM
To: 'evacahon@stella-jones.com'
Subject: Wisconsin legislative proposal

Mr. Vachon:

My name is Becky Tradewell and I am an attorney with the State of Wisconsin Legislative Reference Bureau. I am a legislative drafter and draft most of the state legislation in the environmental subject area. As you may be able to tell from rest of this message, I do not have an accounting background. Nevertheless, it is my job to understand each legislative proposal and to draft language that will ensure that the draft is as clear as possible and that the intent of the proposal is carried out.

I have been asked to draft a bill that is intended to allow your corporation to qualify to use the net worth method of providing proof of financial responsibility, under section 289.41 (4) to (6) of the Wisconsin Statutes. Senator Jauch's office provided me with your proposed language (see the attachment) and authorized me to discuss the proposal with staff of the Department of Natural Resources and with you.

201306131131.pdf

I have questions about your proposed language that my contact at DNR (Colleen Storck) is unable to answer, which is why I am contacting you. I would be happy to discuss this with you over the telephone, but thought that it would be best to try to explain in writing first.

My questions are about the second point in your proposed language:

2. The ratio of the sum of net income plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for a 12 month rolling period
Divided by the sum of interest expenses and mandatory payments on funded debt for the same period should be 4.0 or greater

I do not understand how this is intended to work with respect to the "12 month rolling period."

The current financial criteria in s. 289.41 (6) are determined at the end of each fiscal. For example, the first sentence of s. 289.41 (6) (g) reads:

> 289.41 (6) (g) *Credit worthiness.* The quotient of the total of the working capital provided from operations at the end of the company's most recently completed fiscal year plus interest payments made during that year plus rental expenses incurred during that year, used as a dividend, divided by the total of interest payments made during that year plus rental expenses incurred during that year plus the product of the sinking fund at the end of that year times the tax factor, used as the divisor, exceeds 2.0. ...

Note that s. 289.41 (5) requires an annual review of eligibility for the net worth method. If the intent is to require a company to have the ratio that you describe based on its fiscal year, I would propose to write the statutory language something like this (based in part on how the other requirements in s. 289.41 (6) are written):

> 2. The quotient of the sum of net income plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for the company's most recently completed fiscal year divided by the sum of interest expenses and mandatory payments on funded debt for that year equals or exceeds 4.0.

Would this accomplish what you want?

If not, is your proposal intended to require the company to maintain the ratio for every 12 month period on a continuing basis? That is, must the company have a ratio of 4.0 or greater for the 12 month period ending December 31, January 31, February 28, March 31, and so forth? If so, what would happen if the ratio is not at least 4.0 as calculated at the end of a month? If not, for what 12 month period must the company have that ratio?

If I am off the mark, perhaps you could provide an example of how you intend this to be calculated.

Again, I would be happy to discuss this matter with you. If you wish, we could set up a time for a telephone call.

Thank you for your assistance,

Becky Tradewell
Managing Attorney
Wisconsin Legislative Reference Bureau
(608) 266-7290

Tradewell, Becky

From: Vachon, Eric <EVachon@stella-jones.com>
Sent: Wednesday, July 10, 2013 11:13 AM
To: Tradewell, Becky
Subject: RE: Wisconsin legislative proposal

Good morning Mrs. Tradewell,

In the case where the financial review is performed annually and not quarterly, I agree with your proposed change. The text I submitted was inspired by the banking industry where frequent reviews are necessary.

Please do not hesitate to contact me if you have any other questions.

Best regards,

Eric Vachon, CPA, CA
Stella-Jones Inc.
Senior Vice-President and CFO

3100 Cote Vertu BLVD, Suite 300
St-Laurent, Quebec, H4R 2J8
Tel: 514-940-3903
Fax: 514-934-5327

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: July-08-13 4:42 PM
To: Vachon, Eric
Subject: FW: Wisconsin legislative proposal

Mr. Vachon:

My name is Becky Tradewell and I am an attorney with the State of Wisconsin Legislative Reference Bureau. I am a legislative drafter and draft most of the state legislation in the environmental subject area. As you may be able to tell from rest of this message, I do not have an accounting background. Nevertheless, it is my job to understand each legislative proposal and to draft language that will ensure that the draft is as clear as possible and that the intent of the proposal is carried out.

I have been asked to draft a bill that is intended to allow your corporation to qualify to use the net worth method of providing proof of financial responsibility, under section 289.41 (4) to (6) of the Wisconsin Statutes. Senator Jauch's office provided me with your proposed language (see the attachment) and authorized me to discuss the proposal with staff of the Department of Natural Resources and with you.

<<201306131131.pdf>>

State of Wisconsin
2013 - 2014 LEGISLATURE

soon (in 7/10)

LRB-2533/1
RCT:....
Leev

2013 BILL

nNote

SA✓
xref✓

PWF 7/12 Jm

gen cat

AN ACT ...; **relating to:** the net worth method of providing proof of financial responsibility for certain solid waste facilities.

Analysis by the Legislative Reference Bureau

Current law requires the operator of a solid waste facility to provide proof of financial responsibility for the costs of the care, maintenance, and monitoring of the facility after it is closed. Instead of providing proof of financial responsibility by providing a bond, escrow account, or letter of credit, a company may establish the proof through what is called the net worth method, that is, by showing that the company complies with specified financial criteria, including having a net worth of at least $10,000,000. One of the other criteria requires a specified ratio of net fixed assets to total tangible assets. Current law provides exceptions or alternatives to some of the financial criteria in specified circumstances.

This bill provides alternate financial criteria for using the net worth method of providing proof of financial responsibility for a company that does not satisfy the current criterion for the ratio of net fixed assets to total tangible assets but that satisfies the other current financial criteria. The alternate criteria may be used by a company that operates a solid waste facility that processes waste wood if more than 50 percent of the waste wood is processed to be used for energy recovery (fuel). The ~~alternative~~ alternate criteria include a required ratio of short-term assets to short-term liabilities.

hyphe

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

SECTION 1. 289.41 (6) (a) of the statutes is amended to read:

289.41 **(6)** (a) *Compliance.* Except as provided under par. (j), (k), ~~or~~ (L), or (m) or sub. (7), calculations and determinations based on data and information provided in the opinion of the certified public accountant are required to establish that the company satisfies each of the criteria under pars. (b) to (i) in order to comply with minimum financial standards.

History: 1981 c. 374; 1983 a. 27; 1983 a. 53 s. 114; 1985 a. 29 s. 3202 (39); 1987 a. 384; 1989 a. 31, 359; 1991 a. 31, 39; 1993 a. 135; 1995 a. 63; 1995 a. 227 ss. 588, 617 to 624; Stats. 1995 s. 289.41; 1995 a. 377 ss. 1 to 3; 1997 a. 35 ss. 327, 328, 396; 2001 a. 16; 2011 a. 167; s. 35.17 correction in (6) (i) 1.

SECTION 2. 289.41 (6) (m) of the statutes is created to read:

289.41 **(6)** (m) *Alternative criteria for waste wood facility.* Paragraph (d) does not apply to a company that owns a solid waste facility that processes waste wood if more than 50 percent, by volume, of the waste wood is processed to be used for energy recovery and the company satisfies the criteria under pars. (b), (c), and (e) to (i), and the following criteria:

1. The quotient of short term assets divided by short term liabilities at the end of the company's most recent fiscal year equals or exceeds 4.0.

2. The quotient of the sum of net income plus interest expense, plus depreciation, plus amortization, less capital expenditures, less dividends for the company's most recently completed fiscal year divided by the sum of interest expenses and mandatory payments on funded debt for that year equals or exceeds 4.0.

(END)

DNote

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

Lisa Lundquist:

This is a draft of the proposal concerning the net worth method of providing proof of financial responsibility for a solid waste facility.

I contacted Eric Vachon of the Stella–Jones Company with my questions about the proposed language with respect to using a 12–month rolling period for the second proposed financial criterion. He agreed that in this situation, because the financial review is performed annually, it is appropriate to determine the ratio on a fiscal year basis rather than on the basis of a 12–month rolling period.

Please let me know if there are any questions about the draft or any redraft instructions. Also, please let me know when the language is satisfactory and I will draft the companion bill.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266–7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2533/1dn
RCT:eev:jm

July 12, 2013

Lisa Lundquist:

This is a draft of the proposal concerning the net worth method of providing proof of financial responsibility for a solid waste facility.

I contacted Eric Vachon of the Stella-Jones Company with my questions about the proposed language with respect to using a 12-month rolling period for the second proposed financial criterion. He agreed that in this situation, because the financial review is performed annually, it is appropriate to determine the ratio on a fiscal year basis rather than on the basis of a 12-month rolling period.

Please let me know if there are any questions about the draft or any redraft instructions. Also, please let me know when the language is satisfactory and I will draft the companion bill.

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

Parisi, Lori

From: Lundquist, Lisa
Sent: Tuesday, September 03, 2013 11:37 AM
To: LRB.Legal
Subject: Draft Review: LRB -2533/1 Topic: Proof of financial responsibility for long term care for certain solid waste facilities

Please Jacket LRB -2533/1 for the SENATE.