



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0389/1
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**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 355**

March 21, 2014 – Offered by Senator COWLES.

1 **AN ACT** *to amend* 289.645 (2) and 289.67 (1) (a); and *to create* 289.63 (6) (d),
2 289.63 (10), 289.64 (4) (d), 289.64 (8), 289.645 (4) (h), 289.645 (8), 289.67 (1) (fj)
3 and 289.67 (1) (j) of the statutes; **relating to:** fees imposed on the disposal of
4 solid waste and hazardous waste at licensed solid waste and hazardous waste
5 disposal facilities.

Analysis by the Legislative Reference Bureau

Current law imposes on generators of solid waste several fees based on the tonnage of solid waste disposed of at solid waste disposal facilities (landfills). The fees are collected by operators of landfills and paid by those operators to the Department of Natural Resources (DNR). Currently there are some exemptions from these fees. This kind of fee is often referred to as a tipping fee.

This substitute amendment creates a new exemption from the groundwater, well compensation, solid waste facility siting board, recycling, and environmental repair tipping fees (the tipping fees). The substitute amendment exempts from the tipping fees materials discarded as residue from a recycling facility, subject to a cap that equals, for a construction and demolition material recycling facility, 30 percent of the total weight of material accepted by the facility and, for any other recycling facility, 10 percent of the total weight of material accepted by the facility.

Under the substitute amendment, if a person who disposes of solid waste at a landfill fails to pay the tipping fees and the disposal charges imposed by the landfill operator within 120 days after the date of disposal, the landfill operator may submit an affidavit to DNR that explains the situation and includes a commitment from the operator not to accept any more solid waste from the person until the overdue tipping fees are paid. When it receives such an affidavit, DNR must refund any amount of the overdue tipping fees that the operator paid to DNR for the person and the operator is not required to pay to DNR any more of the overdue tipping fees owed by the person. If the person later pays the overdue tipping fees to the operator, the operator must pay the tipping fees to DNR.

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

1 **SECTION 1.** 289.63 (6) (d) of the statutes is created to read:

2 289.63 (6) (d) 1. In this paragraph, “qualified materials recovery facility”
3 means one of the following:

4 a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the
5 facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility
6 has an approved plan of operation, the facility is in compliance with its approved plan
7 of operation.

8 b. A facility at which materials generated by construction, demolition, and
9 remodeling of structures are processed for recycling if the facility is licensed under
10 this chapter as a solid waste processing facility, the approved plan of operation for
11 the facility requires the reporting of the volume or weight of materials processed,
12 recycled, and discarded as residue, and the facility is in compliance with its approved
13 plan of operation.

14 2. Subject to subd. 3., the following amounts of solid waste materials are not
15 subject to the groundwater and well compensation fees imposed under sub. (1):

16 a. For a qualified materials recovery facility described in subd. 1. a., an amount
17 equal to the weight of the residue generated by the qualified materials recovery

1 facility or 10 percent of the total weight of material accepted by the qualified
2 materials recovery facility, whichever is less.

3 b. For a qualified materials recovery facility described in subd. 1. b., an amount
4 equal to the weight of the residue generated by the qualified materials recovery
5 facility or 30 percent of the total weight of material accepted by the qualified
6 materials recovery facility, whichever is less.

7 3. a. The department may require an operator that claims the exemption under
8 this paragraph to certify that the operator's facility satisfies the criteria in subd. 1.
9 a. or b. and to report the weight of the residue for which the operator does not pay
10 the groundwater and well compensation fees and any other information needed to
11 determine eligibility for the exemption.

12 b. The department may require the owner or operator of a licensed solid or
13 hazardous waste disposal facility to report the weight of any residue received by the
14 solid or hazardous waste disposal facility for which the groundwater and well
15 compensation fees are not paid and to identify the facilities that generate that
16 residue.

17 c. If the operator of a facility claims the exemption under this paragraph for a
18 greater weight of residue than is authorized under subd. 2., the operator is ineligible
19 for the exemption for any additional residue until it pays the balance of the
20 groundwater and well compensation fees that it owes.

21 **SECTION 2.** 289.63 (10) of the statutes is created to read:

22 289.63 (10) REPAYMENT OR WAIVER OF OVERDUE GROUNDWATER AND WELL
23 COMPENSATION FEES. (a) 1. If a person required under sub. (1) to pay groundwater and
24 well compensation fees to a licensed solid waste or hazardous waste disposal facility
25 fails, within 120 days after the date of disposal, to pay the groundwater and well

1 compensation fees and to pay the charges imposed by the licensed solid waste or
2 hazardous waste disposal facility, the owner or operator of the licensed solid waste
3 or hazardous waste disposal facility may submit an affidavit to the department that
4 includes all of the following:

5 a. Identifying information for the person that failed to pay the groundwater and
6 well compensation fees.

7 b. A description of the efforts made to collect the groundwater and well
8 compensation fees that are overdue.

9 c. A commitment that the owner or operator will not accept any solid waste or
10 hazardous waste from the person that failed to pay the fees until the overdue
11 groundwater and well compensation fees are paid.

12 2. When the department receives an affidavit that complies with subd. 1., the
13 department shall refund to the owner or operator any amount of the overdue
14 groundwater and well compensation fees paid by the owner or operator and shall
15 grant a waiver to the owner or operator from the requirement to pay any additional
16 amount of the overdue groundwater and well compensation fees. If the person later
17 pays the overdue groundwater and well compensation fees to the owner or operator,
18 the owner or operator shall pay the full amount received to the department.

19 (b) 1. If a person required under sub. (1) to pay the groundwater and well
20 compensation fees to an intermediate hauler fails, within 120 days after the date of
21 disposal, to pay the groundwater and well compensation fees and to pay the charges
22 imposed by the intermediate hauler, the hauler may submit an affidavit to the owner
23 or operator of the licensed solid waste or hazardous waste disposal facility at which
24 the solid or hazardous waste is disposed of that includes all of the following:

1 a. Identifying information for the person that failed to pay the groundwater and
2 well compensation fees.

3 b. A description of the efforts made to collect the groundwater and well
4 compensation fees that are overdue.

5 c. A commitment that the hauler will not accept any solid waste or hazardous
6 waste from the person that failed to pay the groundwater and well compensation fees
7 until the overdue groundwater and well compensation fees are paid.

8 2. When the owner or operator of a licensed solid waste or hazardous waste
9 disposal facility receives an affidavit under subd. 1., the owner or operator shall
10 submit the affidavit to the department.

11 3. When the department receives an affidavit that complies with subd. 1., the
12 department shall refund to the owner or operator any amount of the overdue
13 groundwater and well compensation fees paid by the hauler and shall grant a waiver
14 to the hauler from the requirement to pay any additional amount of the overdue
15 groundwater and well compensation fees and the owner or operator shall pay any
16 refund to the hauler. If the person later pays the overdue groundwater and well
17 compensation fees to the hauler, the hauler shall pay the full amount received to the
18 owner or operator and the owner or operator shall forward the payment to the
19 department.

20 **SECTION 3.** 289.64 (4) (d) of the statutes is created to read:

21 289.64 (4) (d) 1. In this paragraph, “qualified materials recovery facility”
22 means one of the following:

23 a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the
24 facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility

1 has an approved plan of operation, the facility is in compliance with its approved plan
2 of operation.

3 b. A facility at which materials generated by construction, demolition, and
4 remodeling of structures are processed for recycling if the facility is licensed under
5 this chapter as a solid waste processing facility, the approved plan of operation for
6 the facility requires the reporting of the volume or weight of materials processed,
7 recycled, and discarded as residue, and the facility is in compliance with its approved
8 plan of operation.

9 2. Subject to subd. 3., the following amounts of solid waste materials are not
10 subject to the solid waste facility siting board fee imposed under sub. (1):

11 a. For a qualified materials recovery facility described in subd. 1. a., an amount
12 equal to the weight of the residue generated by the qualified materials recovery
13 facility or 10 percent of the total weight of material accepted by the qualified
14 materials recovery facility, whichever is less.

15 b. For a qualified materials recovery facility described in subd. 1. b., an amount
16 equal to the weight of the residue generated by the qualified materials recovery
17 facility or 30 percent of the total weight of material accepted by the qualified
18 materials recovery facility, whichever is less.

19 3. a. The department may require an operator that claims the exemption under
20 this paragraph to certify that the operator's facility satisfies the criteria in subd. 1.
21 a. or b. and to report the weight of the residue for which the operator does not pay
22 the solid waste facility siting board fee and any other information needed to
23 determine eligibility for the exemption.

24 b. The department may require the owner or operator of a licensed solid or
25 hazardous waste disposal facility to report the weight of any residue received by the

1 solid or hazardous waste disposal facility for which the solid waste facility siting
2 board fee is not paid and to identify the facilities that generate that residue.

3 c. If the operator of a facility claims the exemption under this paragraph for a
4 greater weight of residue than is authorized under subd. 2., the operator is ineligible
5 for the exemption for any additional residue until it pays the balance of the solid
6 waste facility siting board fee that it owes.

7 **SECTION 4.** 289.64 (8) of the statutes is created to read:

8 289.64 (8) REPAYMENT OR WAIVER OF OVERDUE WASTE FACILITY SITING BOARD FEE.

9 (a) 1. If a person required under sub. (1) to pay the waste facility siting board fee to
10 a licensed solid waste or hazardous waste disposal facility fails, within 120 days after
11 the date of disposal, to pay the waste facility siting board fee and to pay the charges
12 imposed by the licensed solid waste or hazardous waste disposal facility, the owner
13 or operator of the licensed solid waste or hazardous waste disposal facility may
14 submit an affidavit to the department that includes all of the following:

15 a. Identifying information for the person that failed to pay the waste facility
16 siting board fee.

17 b. A description of the efforts made to collect the waste facility siting board fee
18 that is overdue.

19 c. A commitment that the owner or operator will not accept any solid waste or
20 hazardous waste from the person that failed to pay the waste facility siting board fee
21 until the overdue waste facility siting board fee is paid.

22 2. When the department receives an affidavit that complies with subd. 1., the
23 department shall refund to the owner or operator any amount of the overdue waste
24 facility siting board fee paid by the owner or operator and shall grant a waiver to the
25 owner or operator from the requirement to pay any additional amount of the overdue

1 waste facility siting board fee. If the person later pays the overdue waste facility
2 siting board fee to the owner or operator, the owner or operator shall pay the full
3 amount received to the department.

4 (b) 1. If a person required under sub. (1) to pay the waste facility siting board
5 fee to an intermediate hauler fails, within 120 days after the date of disposal, to pay
6 the waste facility siting board fee and to pay the charges imposed by the intermediate
7 hauler, the hauler may submit an affidavit to the owner or operator of the licensed
8 solid waste or hazardous waste disposal facility at which the solid or hazardous
9 waste is disposed of that includes all of the following:

10 a. Identifying information for the person that failed to pay the waste facility
11 siting board fee.

12 b. A description of the efforts made to collect the waste facility siting board fee
13 that is overdue.

14 c. A commitment that the hauler will not accept any solid waste or hazardous
15 waste from the person that failed to pay the waste facility siting board fee until the
16 overdue waste facility siting board fee is paid.

17 2. When the owner or operator of a licensed solid waste or hazardous waste
18 disposal facility receives an affidavit under subd. 1., the owner or operator shall
19 submit the affidavit to the department.

20 3. When the department receives an affidavit that complies with subd. 1., the
21 department shall refund to the owner or operator any amount of the overdue waste
22 facility siting board fee paid by the hauler and shall grant a waiver to the hauler from
23 the requirement to pay any additional amount of the overdue waste facility siting
24 board fee and the owner or operator shall pay any refund to the hauler. If the person
25 later pays the overdue waste facility siting board fee to the hauler, the hauler shall

1 pay the full amount received to the owner or operator and the owner or operator shall
2 forward the payment to the department.

3 **SECTION 5.** 289.645 (2) of the statutes is amended to read:

4 289.645 (2) COLLECTION. The owner or operator of a licensed solid waste or
5 hazardous waste disposal facility shall collect the recycling fee from the generator,
6 a person who arranges for disposal on behalf of one or more generators or an
7 intermediate hauler and shall pay to the department the amount of the fee required
8 to be collected according to the amount of solid waste or hazardous waste received
9 and disposed of at the facility during the preceding reporting period, except as
10 provided under sub. (8).

11 **SECTION 6.** 289.645 (4) (h) of the statutes is created to read:

12 289.645 (4) (h) 1. In this paragraph, “qualified materials recovery facility”
13 means one of the following:

14 a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the
15 facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility
16 has an approved plan of operation, the facility is in compliance with its approved plan
17 of operation.

18 b. A facility at which materials generated by construction, demolition, and
19 remodeling of structures are processed for recycling if the facility is licensed under
20 this chapter as a solid waste processing facility, the approved plan of operation for
21 the facility requires the reporting of the volume or weight of materials processed,
22 recycled, and discarded as residue, and the facility is in compliance with its approved
23 plan of operation.

24 2. Subject to subd. 3., the following amounts of solid waste materials are not
25 subject to the recycling fee imposed under sub. (1):

1 a. For a qualified materials recovery facility described in subd. 1. a., an amount
2 equal to the weight of the residue generated by the qualified materials recovery
3 facility or 10 percent of the total weight of material accepted by the qualified
4 materials recovery facility, whichever is less.

5 b. For a qualified materials recovery facility described in subd. 1. b., an amount
6 equal to the weight of the residue generated by the qualified materials recovery
7 facility or 30 percent of the total weight of material accepted by the qualified
8 materials recovery facility, whichever is less.

9 3. a. The department may require an operator that claims the exemption under
10 this paragraph to certify that the operator's facility satisfies the criteria in subd. 1.
11 a. or b. and to report the weight of the residue for which the operator does not pay
12 the recycling fee and any other information needed to determine eligibility for the
13 exemption.

14 b. The department may require the owner or operator of a licensed solid or
15 hazardous waste disposal facility to report the weight of any residue received by the
16 solid or hazardous waste disposal facility for which the recycling fee is not paid and
17 to identify the facilities that generate that residue.

18 c. If the operator of a facility claims the exemption under this paragraph for a
19 greater weight of residue than is authorized under subd. 2., the operator is ineligible
20 for the exemption for any additional residue until it pays the balance of the recycling
21 fee that it owes.

22 **SECTION 7.** 289.645 (8) of the statutes is created to read:

23 289.645 (8) REPAYMENT OR WAIVER OF OVERDUE RECYCLING FEE. (a) 1. If a person
24 required under sub. (1) to pay the recycling fee to a licensed solid waste or hazardous
25 waste disposal facility fails, within 120 days after the date of disposal, to pay the

1 recycling fee and to pay the charges imposed by the licensed solid waste or hazardous
2 waste disposal facility, the owner or operator of the licensed solid waste or hazardous
3 waste disposal facility may submit an affidavit to the department that includes all
4 of the following:

- 5 a. Identifying information for the person that failed to pay the recycling fee.
- 6 b. A description of the efforts made to collect the recycling fee that is overdue.
- 7 c. A commitment that the owner or operator will not accept any solid waste or
8 hazardous waste from the person that failed to pay the recycling fee until the overdue
9 recycling fee is paid.

10 2. When the department receives an affidavit that complies with subd. 1., the
11 department shall refund to the owner or operator any amount of the overdue
12 recycling fee paid by the owner or operator and shall grant a waiver to the owner or
13 operator from the requirement to pay any additional amount of the overdue recycling
14 fee. If the person later pays the overdue recycling fee to the owner or operator, the
15 owner or operator shall pay the full amount received to the department.

16 (b) 1. If a person required under sub. (1) to pay the recycling fee to an
17 intermediate hauler fails, within 120 days after the date of disposal, to pay the
18 recycling fee and to pay the charges imposed by the intermediate hauler, the hauler
19 may submit an affidavit to the owner or operator of the licensed solid waste or
20 hazardous waste disposal facility at which the solid or hazardous waste is disposed
21 of that includes all of the following:

- 22 a. Identifying information for the person that failed to pay the recycling fee.
- 23 b. A description of the efforts made to collect the recycling fee that is overdue.

1 c. A commitment that the hauler will not accept any solid waste or hazardous
2 waste from the person that failed to pay the recycling fee until the overdue recycling
3 fee is paid.

4 2. When the owner or operator of a licensed solid waste or hazardous waste
5 disposal facility receives an affidavit under subd. 1., the owner or operator shall
6 submit the affidavit to the department.

7 3. When the department receives an affidavit that complies with subd. 1., the
8 department shall refund to the owner or operator any amount of the overdue
9 recycling fee paid by the hauler and shall grant a waiver to the hauler from the
10 requirement to pay any additional amount of the overdue recycling fee and the owner
11 or operator shall pay any refund to the hauler. If the person later pays the overdue
12 recycling fee to the hauler, the hauler shall pay the full amount received to the owner
13 or operator and the owner or operator shall forward the payment to the department.

14 **SECTION 8.** 289.67 (1) (a) of the statutes is amended to read:

15 289.67 (1) (a) *Imposition of fee.* Except as provided under pars. (f) and to (fm),
16 a generator of solid or hazardous waste shall pay an environmental repair fee for
17 each ton or equivalent volume of solid or hazardous waste which is disposed of at a
18 licensed solid or hazardous waste disposal facility. If a person arranges for collection
19 or disposal services on behalf of one or more generators, that person shall pay the
20 environmental repair fee to the licensed solid or hazardous waste disposal facility or
21 to any intermediate hauler used to transfer wastes from collection points to a
22 licensed facility. An intermediate hauler who receives environmental repair fees
23 under this paragraph shall pay the fees to the licensed solid or hazardous waste
24 disposal facility. Tonnage or equivalent volume shall be calculated in the same
25 manner as the calculation made for tonnage fees under s. 289.62 (1).

1 **SECTION 9.** 289.67 (1) (fj) of the statutes is created to read:

2 289.67 (1) (fj) *Exemption from environmental repair fee; recycling residue.* 1.

3 In this paragraph, “qualified materials recovery facility” means one of the following:

4 a. A materials recovery facility, as defined in s. 287.27 (1), if the operator of the
5 facility is self-certified under s. NR 544.16 (2), Wis. Adm. Code, and, if the facility
6 has an approved plan of operation, the facility is in compliance with its approved plan
7 of operation.

8 b. A facility at which materials generated by construction, demolition, and
9 remodeling of structures are processed for recycling if the facility is licensed under
10 this chapter as a solid waste processing facility, the approved plan of operation for
11 the facility requires the reporting of the volume or weight of materials processed,
12 recycled, and discarded as residue, and the facility is in compliance with its approved
13 plan of operation.

14 2. Subject to subd. 3., the following amounts of solid waste materials are not
15 subject to the environmental repair fee imposed under par. (a):

16 a. For a qualified materials recovery facility described in subd. 1. a., an amount
17 equal to the weight of the residue generated by the qualified materials recovery
18 facility or 10 percent of the total weight of material accepted by the qualified
19 materials recovery facility, whichever is less.

20 b. For a qualified materials recovery facility described in subd. 1. b., an amount
21 equal to the weight of the residue generated by the qualified materials recovery
22 facility or 30 percent of the total weight of material accepted by the qualified
23 materials recovery facility, whichever is less.

24 3. a. The department may require an operator that claims the exemption under
25 this paragraph to certify that the operator’s facility satisfies the criteria in subd. 1.

1 a. or b. and to report the weight of the residue for which the operator does not pay
2 the environmental repair fee and any other information needed to determine
3 eligibility for the exemption.

4 b. The department may require the owner or operator of a licensed solid or
5 hazardous waste disposal facility to report the weight of any residue received by the
6 solid or hazardous waste disposal facility for which the environmental repair fee is
7 not paid and to identify the facilities that generate that residue.

8 c. If the operator of a facility claims the exemption under this paragraph for a
9 greater weight of residue than is authorized under subd. 2., the operator is ineligible
10 for the exemption for any additional residue until it pays the balance of the
11 environmental repair fee that it owes.

12 **SECTION 10.** 289.67 (1) (j) of the statutes is created to read:

13 289.67 (1) (j) *Repayment or waiver of overdue environmental repair fee.* 1. a.
14 If a person required under par. (a) to pay the environmental repair fee to a licensed
15 solid waste or hazardous waste disposal facility fails, within 120 days after the date
16 of disposal, to pay the environmental repair fee and to pay the charges imposed by
17 the licensed solid waste or hazardous waste disposal facility, the owner or operator
18 of the licensed solid waste or hazardous waste disposal facility may submit an
19 affidavit to the department that includes identifying information for the person that
20 failed to pay the environmental repair fee; a description of the efforts made to collect
21 the environmental repair fee that is overdue; and a commitment that the owner or
22 operator will not accept any solid waste or hazardous waste from the person that
23 failed to pay the environmental repair fee until the overdue environmental repair fee
24 is paid.

1 b. When the department receives an affidavit that complies with subd. 1. a., the
2 department shall refund to the owner or operator any amount of the overdue
3 environmental repair fee paid by the owner or operator and shall grant a waiver to
4 the owner or operator from the requirement to pay any additional amount of the
5 overdue environmental repair fee. If the person later pays the overdue
6 environmental repair fee to the owner or operator, the owner or operator shall pay
7 the full amount received to the department.

8 2. a. If a person required under par. (a) to pay the environmental repair fee to
9 an intermediate hauler fails, within 120 days after the date of disposal, to pay the
10 environmental repair fee and to pay the charges imposed by the intermediate hauler,
11 the hauler may submit an affidavit to the owner or operator of the licensed solid
12 waste or hazardous waste disposal facility at which the solid or hazardous waste is
13 disposed of that includes identifying information for the person that failed to pay the
14 environmental repair fee; a description of the efforts made to collect the
15 environmental repair fee that is overdue; and a commitment that the hauler will not
16 accept any solid waste or hazardous waste from the person that failed to pay the
17 environmental repair fee until the overdue environmental repair fee is paid.

18 b. When the owner or operator of a licensed solid waste or hazardous waste
19 disposal facility receives an affidavit under subd. 2. a., the owner or operator shall
20 submit the affidavit to the department.

21 c. When the department receives an affidavit that complies with subd. 2. a., the
22 department shall refund to the owner or operator any amount of the overdue
23 environmental repair fee paid by the hauler and shall grant a waiver to the hauler
24 from the requirement to pay any additional amount of the overdue environmental
25 repair fee and the owner or operator shall pay any refund to the hauler. If the person

1 later pays the overdue environmental repair fee to the hauler, the hauler shall pay
2 the full amount received to the owner or operator and the owner or operator shall
3 forward the payment to the department.

4 **SECTION 11. Effective date.**

5 (1) This act takes effect on January 1, 2015.

6 (END)