January 24, 2020 - Introduced by Senators PETROWSKI, COWLES and JACQUE, cosponsored by Representatives MURSAU, BALLWEG, SKOWRONSKI and TUSLER. Referred to Committee on Local Government, Small Business, Tourism and Workforce Development.

AN ACT to amend 289.41 (3) (c); and to create 289.41 (3m) of the statutes; relating to: method for establishing proof of financial responsibility for solid waste facilities owned or operated by a municipality and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill provides an alternative method for a municipality to establish the proof of financial responsibility required for a solid or hazardous waste facility.

Under current law, the owner or operator of a solid or hazardous waste storage, treatment, or disposal facility (owner or operator) must maintain proof of financial responsibility to ensure the availability of funds for compliance with closure and long-term care requirements and, if necessary, for taking any required corrective action in the event of a spill or leak. The standard method for proving financial responsibility is to obtain, for example, a bond, deposit, escrow account, or irrevocable trust that is payable to or established for the benefit of the Department of Natural Resources.

Alternatively, current law allows an owner or operator that is a for-profit business or a public heat, light, water, or power utility to establish proof of financial responsibility to ensure compliance with closure and long-term care requirements using a net worth test. The net worth test requires, among other things, a certain level of net worth, liabilities to net worth ratio, and credit worthiness.

This bill allows an owner or operator that is a municipality to use an alternative method to establish proof of financial responsibility to ensure compliance with
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closure and long-term care requirements, similar to that allowed for local
governments under federal law. Under the bill, a municipality may prove financial
responsibility by showing either that all of its outstanding general obligation bonds
have a rating of at least “Baa” if issued by Moody’s or at least “BBB” if issued by
Standard & Poor’s, or that its ratio of cash plus marketable securities to total
expenditures is 0.05 or greater and that its ratio of annual debt service to total
expenditures is 0.20 or lower. Under the bill, if a facility is owned or operated by more
than one municipality, any of the municipalities may establish proof of financial
responsibility on behalf of itself and the other owners or operators. The bill also
requires DNR to establish additional rules relating to the alternative method
established under this bill.

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

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

SECTION 1. 289.41 (3) (c) of the statutes is amended to read:

289.41 (3) (c) Changes. The owner or operator may change from one standard
method of establishing proof of financial responsibility under par. (a) to another or
standard method under par. (a), to an alternative method under sub. (3m), or to a net
worth method of establishing proof of financial responsibility under sub. (4).

SECTION 2. 289.41 (3m) of the statutes is created to read:

289.41 (3m) ALTERNATIVE METHOD OF ESTABLISHING FINANCIAL RESPONSIBILITY;
municipalities. A municipality may establish proof of financial responsibility
required under sub. (2) (a), (c), or (d) by applying to the department and meeting the
alternative method requirements established by the department by rule. Rules
promulgated under this subsection shall be based on any or all of 40 CFR 258.74 (f),
as amended. If a facility is owned or operated by more than one municipality, any
such municipality may establish proof of financial responsibility under this
subsection on behalf of itself and the other municipalities that are owners or
operators. A municipality that seeks to establish proof of financial responsibility under this subsection must satisfy either of the following requirements:

(a) Bond rating. If the municipality has any outstanding, rated, general obligation bonds, none have been rated lower than “Baa” as issued by Moody’s Investors Service or “BBB” as issued by Standard & Poor’s Corporation.

(b) Financial ratios. The municipality’s most recent audited annual financial statement shows a ratio of cash plus marketable securities to total expenditures of not less than 0.05, and a ratio of annual debt service to total expenditures of not greater than 0.20.