

1989 Assembly Bill 736

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1989 WISCONSIN ACT 325

AN ACT to create 15.155 (5), 20.143 (1) (em), 36.25 (30), 144.737, 144.955 and 560.18 of the statutes, relating to: reducing the use and release of hazardous substances, toxic pollutants and hazardous waste, creating a board and making appropriations.

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

SECTION 1. Legislative findings and purpose. (1)

The legislature finds:

(a) That significant opportunities exist to eliminate or reduce the generation of hazardous substances, toxic pollutants and hazardous waste through modifications in processes and raw materials used.

(b) That those modifications may offer significant savings through reduced costs for raw materials, insurance and pollution control and are likely to improve worker health and safety.

(c) That hazardous pollution prevention opportunities are not realized because existing regulatory efforts focus on treatment and disposal of wastes that have already been generated, rather than on reducing the use and production of hazardous substances, toxic pollutants and hazardous waste; existing regulatory efforts focus specifically on air pollution, water pollution or solid waste rather than taking a unified approach to waste management; and users and producers of hazardous substances, toxic pollutants and hazardous waste may not be aware of the potential benefits of hazardous pollution prevention.

(d) That state agencies, in addition to administering regulatory programs, can help promote hazardous pollution prevention by disseminating information about hazardous pollution prevention strategies to the public.

(e) That some users and producers of hazardous substances, toxic pollutants and hazardous waste may be

more likely to implement hazardous pollution prevention with information, education and technical assistance.

(f) That in the control and management of pollution this state should, whenever possible and practical, encourage the following priorities:

1. Reduction in waste production at the source.
2. Recovery and reuse of resources, excluding incineration.
3. Recycling on-site.
4. Recycling off-site.
5. Treatment of waste, including incineration, to reduce volume and toxicity.
6. Disposing of any remaining waste in a manner that minimizes potential harm to this state's water, air and land resources.

(2) It is the purpose of this act to reduce the disposal and release of hazardous substances, toxic pollutants and hazardous wastes that may have serious, adverse effects on health and the environment, to promote hazardous pollution prevention as the preferred means of achieving compliance with environmental laws, to use existing regulatory programs to promote hazardous pollution prevention and to stimulate hazardous pollution prevention activities.

(3) This act is not intended to restrict any authority of the department of natural resources or to require the department of natural resources to issue any license, permit, plan approval or other decision that is less stringent than what would otherwise be issued under any regulatory program.

SECTION 2. 15.155 (5) of the statutes is created to read:

15.155 (5) HAZARDOUS POLLUTION PREVENTION BOARD. (a) There is created a hazardous pollution prevention board that is attached to the department of development under s. 15.03.

(b) The board shall consist of the following members:

1. The department of natural resources hazardous pollution prevention coordinator designated under s. 144.955 (2) (a).

2. A representative of the department of industry, labor and human relations, appointed by the secretary of industry, labor and human relations.

3. A representative of the department of development, appointed by the secretary of development.

4. A representative of the department of health and social services, appointed by the secretary of health and

social services.

5. A representative of the university of Wisconsin-extension appointed by the president of the university of Wisconsin system or his or her designee.

6. A member representing small business, appointed by the speaker of the assembly.

7. Two members representing large business, one appointed by the governor and one appointed by the minority leader of the senate.

8. Three members representing environmental groups, one appointed by the governor, one appointed by the minority leader of the assembly and one appointed by the president of the senate.

9. A representative of organized labor.

10. A representative of a municipality with a publicly owned wastewater treatment work.

(c) Each member of the board designated under par. (b) 6. to 10. shall serve a 3-year term.

SECTION 3. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

1989-90 1990-91

20.143 Development, department of

(1) ECONOMIC AND COMMUNITY

DEVELOPMENT

(em) Hazardous pollution

prevention audit grants GPR A -0- 75,000

SECTION 4. 20.143 (1) (em) of the statutes is created to read:

20.143 (1) (em) *Hazardous pollution prevention audit grants.* The amounts in the schedule for hazardous pollution prevention audit grants under s. 560.18.

SECTION 5. 36.25 (30) of the statutes is created to read:

36.25 (30) HAZARDOUS POLLUTION PREVENTION PROGRAM. The board shall establish in the extension a hazardous pollution prevention program to promote hazardous pollution prevention, as defined in s. 144.955 (1) (c). In cooperation with the department of natural resources and the hazardous pollution prevention board, the program shall do all of the following:

(a) Conduct an education and technical assistance program to promote hazardous pollution prevention in this state.

(b) Consult with the department of development concerning requirements for audit summaries under s. 560.18 (5) (c) and for implementation summaries under s. 560.18 (5) (d).

(c) Assist the hazardous pollution prevention board in preparing the report under s. 144.955 (3) (f).

SECTION 6. 144.737 of the statutes is created to read:

144.737 Capacity assurance plan revision and review. (1) In this section:

(a) "Board" means the hazardous pollution prevention board created under s. 15.155 (5).

(b) "Capacity assurance plan" means the plan submitted under 42 USC 9604 (c) (9) for the management of hazardous waste generated in this state.

(2) The department shall do all of the following:

(a) Monitor changes in the generation of hazardous waste in this state and the progress toward meeting the goals in the capacity assurance plan.

(b) Notify the governor and the board of any significant problems that occur or may occur in the ability to manage a type of hazardous waste in this state and of the need to change the goals in the capacity assurance plan.

(c) On or before July 30 of each year in which submission of a revised capacity assurance plan is required by the federal environmental protection agency, complete a draft of a revised capacity assurance plan and provide the draft to the board, the governor and the chief clerk of each house of the legislature for distribution under s. 13.172 (2).

(d) Hold a public informational hearing to solicit comments on the draft of the revised capacity assurance plan no later than 45 days after providing the draft under par. (c).

(e) Each year in which submission of a revised capacity assurance plan is required by the federal environmental protection agency, provide its proposed version of the revised capacity assurance plan, no later than 14 days prior to the federal environmental protection agency deadline for submittal, to the board, the governor and the

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chief clerk of each house of the legislature for distribution under s. 13.172 (2).

SECTION 7. 144.955 of the statutes is created to read:

144.955 Hazardous pollution prevention. (1)

DEFINITIONS. In this section:

(a) “Board” means the hazardous pollution prevention board created under s. 15.155 (5).

(b) “Capacity assurance plan” means the plan submitted under 42 USC 9604 (c) (9) for the management of hazardous waste generated in this state.

(c) “Hazardous pollution prevention” means changes in processes or raw materials that reduce or eliminate the use or production of hazardous substances, toxic pollutants and hazardous waste. “Hazardous pollution prevention” does not include incineration, changes in the manner of release of a hazardous substance, toxic pollutant or hazardous waste, recycling of a hazardous substance, toxic pollutant or hazardous waste outside of the process or treatment of hazardous substances, toxic pollutants or hazardous waste after the completion of the process.

(d) “Hazardous waste” has the meaning given in s. 144.43 (2).

(e) “Program” means the hazardous pollution prevention program established under s. 36.25 (30).

(f) “Release” means emission to the air, discharge to the waters of the state or disposal on the land.

(g) “Toxic pollutants” has the meaning given in s. 147.015 (17).

(1m) PROMOTION OF HAZARDOUS POLLUTION PREVENTION. In carrying out the duties under ss. 36.25 (30) and 560.18 and this section, the department, the department of development, the board and the program shall promote all of the following techniques for hazardous pollution prevention:

(a) Replacing a hazardous substance used in a process with a substance that is not hazardous or is less hazardous.

(b) Reformulating a product so that the product is not hazardous or is less hazardous upon use, release or disposal.

(c) Changing processes and equipment that produce hazardous substances, toxic pollutants or hazardous waste.

(d) Improving operation of production processes and equipment.

(e) Reusing or otherwise reducing the demand for hazardous substances within processes.

(2) DEPARTMENT DUTIES. The department shall do all of the following:

(a) Designate an employe of the department to serve as hazardous pollution prevention coordinator and to do all of the following:

1. Serve on the board.

2. Recommend educational priorities to the university of Wisconsin–extension for the program, consider-

ing volume and toxicity of hazardous substances, toxic pollutants and hazardous waste produced, lack of compliance with environmental standards, potential for hazardous pollution prevention and projected shortfalls in hazardous waste treatment or disposal facilities under the capacity assurance plan.

3. Coordinate the department’s hazardous pollution prevention efforts with those of other governmental agencies and private groups.

4. Provide training concerning hazardous pollution prevention to employes of the department.

(b) Identify all department requirements for reporting on hazardous pollution prevention and, to the extent possible and practical, standardize, coordinate and consolidate the reporting in order to minimize duplication and provide useful information on hazardous pollution prevention to the board, the legislature and the public.

(c) Assist the university of Wisconsin–extension in conducting the education program under s. 36.25 (30).

(d) Seek federal funding to promote hazardous pollution prevention.

(e) Assist the board in preparing the report under sub. (3) (f).

(3) BOARD DUTIES. The board shall do all of the following:

(a) Coordinate and monitor hazardous pollution prevention activities in this state.

(b) Advise the department and other state agencies about the promotion of hazardous pollution prevention.

(c) Act on applications for grants under s. 560.18.

(d) Recommend educational priorities to the university of Wisconsin–extension for the program, considering volume and toxicity of hazardous substances, toxic pollutants and hazardous waste produced, lack of compliance with environmental standards, potential for hazardous pollution prevention and projected shortfalls in hazardous waste treatment or disposal facilities under the capacity assurance plan.

(e) With the assistance of the department and the program, monitor and review the program under s. 36.25 (30) (a), the hazardous pollution prevention activities of the department, and this state’s implementation of the hazardous pollution prevention goals in the capacity assurance plan.

(f) With the assistance of the department and the program, prepare and submit to the governor and to the chief clerk of each house of the legislature, for distribution under s. 13.172 (2), by December 30 of each year in which the capacity assurance plan is not revised, a report on all of the following:

1. The program under s. 36.25 (30) (a).

2. The implementation of the hazardous pollution prevention goals in the capacity assurance plan.

3. The hazardous pollution prevention activities of the department.

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4. The hazardous pollution prevention audit grant program under s. 560.18.

5. Other hazardous pollution prevention activities in this state.

(g) Seek private funding to promote hazardous pollution prevention.

SECTION 8. 560.18 of the statutes is created to read:

560.18 Hazardous pollution prevention audit grants. (1) DEFINITIONS. In this section:

(a) “Board” means the hazardous pollution prevention board created under s. 15.155 (5).

(b) “Hazardous pollution prevention” has the meaning given in s. 144.955 (1) (c).

(c) “Program” means the hazardous pollution prevention program established under s. 36.25 (30).

(2) **PURPOSES.** From the appropriation under s. 20.143 (1) (em), the board shall award hazardous pollution prevention audit grants to applicants located in this state for the following purposes:

(a) Determining the full costs of using and producing hazardous substances, toxic pollutants and hazardous waste.

(b) Identifying processes that use or produce hazardous substances, toxic pollutants or hazardous waste and the composition of the hazardous substances, toxic pollutants or hazardous waste.

(c) Identifying hazardous pollution prevention options.

(3) **DEPARTMENT DUTIES.** The department shall administer the program under this section. The department shall do all of the following:

(a) In consultation with the program, establish requirements for audit summaries under sub. (5) (c) and implementation summaries under sub. (5) (d). The requirements for an implementation summary shall include a description of any recommendations contained in the audit that were implemented and the reasons for not implementing any recommendations.

(b) Provide a copy of each application to the board.

(c) Review applications and recommend approval or disapproval of applications to the board, using the following criteria:

1. The likelihood that an applicant will be technically and financially able and willing to implement hazardous pollution prevention.

2. The volume and toxicity of hazardous substances, toxic pollutants and hazardous waste used or produced by an applicant.

3. The potential for others to use the information gained from an applicant’s hazardous pollution prevention audit.

4. Providing grants to a range of types of applicants.

(d) Make a grant to an applicant approved by the board.

(e) Review the audit summaries and implementation summaries submitted by recipients of grants under this

section and report the results of the review to the board and to the chief clerk of each house of the legislature for distribution under s. 13.172 (2) no later than October 1 annually.

(4) **APPLICATION; REVIEW REQUIRED.** (a) A person seeking a grant under this section shall apply to the department.

(b) The board may not act on an application until it has been reviewed by the department.

(5) **GRANTS: AMOUNT; CONDITIONS.** (a) A grant may not exceed 50% of the cost of a hazardous pollution prevention audit or \$2,500, whichever is less.

(b) No later than 30 days after selecting a person to conduct the audit, the recipient of a grant shall report the name of the person who will conduct the audit and the approximate date on which the audit will be completed to the department.

(c) No later than 60 days after an audit is completed or one year and 60 days after the awarding of the grant, whichever is earlier, the recipient shall provide the department with an audit summary that meets the requirements established under sub. (3) (a). If the recipient fails to provide the audit summary within that time, it shall repay the grant plus interest, as determined by the department. All funds received under this paragraph shall be deposited in the general fund.

(d) No later than one year after providing the audit summary, the recipient of a grant shall provide to the department an implementation summary that meets the requirements established under sub. (3) (a).

SECTION 9. Nonstatutory provisions. Notwithstanding section 15.155 (5) (c) of the statutes, as created by this act, the initial terms of the members of the hazardous pollution prevention board expire as follows:

(1) The members appointed under section 15.155 (5) (b) 6. and 7. of the statutes, as created by this act, on May 1, 1991.

(2) The member appointed under section 15.155 (5) (b) 9. of the statutes, as created by this act, and the members appointed by the minority leader of the assembly and the governor under section 15.155 (5) (b) 8 of the statutes, as created by this act, on May 1, 1992.

(3) The member appointed under section 15.155 (5) (b) 10. of the statutes, as created by this act, and the member appointed by the president of the senate under section 15.155 (5) (b) 8. of the statutes, as created by this act, on May 1, 1993.

SECTION 10. Appropriation changes. (1) **DEVELOPMENT.** The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of development under section 20.143 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$86,900 for fiscal year 1990–91 to increase the authorized FTE positions of the department by 2.0 GPR positions to administer the hazardous pollution pre-

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vention audit grant program and for other costs associated with administering that program.

(2) NATURAL RESOURCES. The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the department of natural resources under section 20.370 (2) (ma) of the statutes, as affected by the acts of 1989, are increased by \$45,800 for fiscal year 1990–91 to increase the authorized FTE positions of the department by 1.0 GPR position to provide a hazardous pollution prevention coordinator and to fund other costs of departmental hazardous pollution prevention activities.

(3) UNIVERSITY OF WISCONSIN SYSTEM. The dollar amounts in the schedule under section 20.005 (3) of the statutes for the appropriation to the board of regents of the university of Wisconsin system under section 20.285 (1) (a) of the statutes, as affected by the acts of 1989, are increased by \$139,000 for fiscal year 1990–91 to increase the authorized FTE positions for the university of Wisconsin—extension by 3.0 GPR positions to staff the hazardous pollution prevention program in the university of Wisconsin—extension and to fund other costs of the program.