



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1304/P6
MCP:cdc/wlj/emw

DOA:.....Hutter, BB0294 - Revitalize Wisconsin

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Dry cleaner response program and revitalize Wisconsin program

This bill eliminates the existing dry cleaner environmental response program and its associated fund and council and creates the revitalize Wisconsin program, which is administered by DNR.

The revitalize Wisconsin program created under the bill provides aid, in the form of grants or direct services to local governments, dry cleaners, and private parties, to address the discharge of a hazardous substance or the existence of environmental pollution on the government's or person's property. Aid may be provided for sites for which the site's owner or operator applied for assistance under the dry cleaner environmental response program before its repeal; brownfields; sites that are exempt from the state's hazardous substance remediation laws (often called the "spill law"); and sites that are subject to the spill law but that are owned by private parties. The bill defines "private party" to include a bank, trust company, savings bank, or credit union; a developer; a nongovernmental organization; and an innocent landowner. The bill defines an "innocent landowner" as a property owner that either 1) acquired the property prior to November 1, 2006, has continuously owned the property since the date of acquisition, and can demonstrate, through

documentation, that the discharge or environmental pollution being addressed was caused by another person and that the property owner did not know and had no reason to know of the discharge or pollution when the owner acquired the property; or 2) acquired the property on or after November 1, 2006, meets all of the previously stated requirements, and can demonstrate, through documentation, that the property owner conducted all appropriate inquiries in compliance with the federal All Appropriate Inquiries rule under [40 CFR part 312](#) prior to acquiring the property.

The bill provides that DNR may not award aid to an applicant under the revitalize Wisconsin program if the applicant caused the discharge or environmental pollution unless the applicant is a dry cleaner that applied for assistance under the dry cleaner environmental response program before its repeal. The bill also provides that DNR may require an applicant to provide a match, either in cash or in-kind, for any aid that is awarded under the program.

Activities for which aid may be provided under the program include removing hazardous substances from contaminated media such as surface waters, groundwater, or soil; investigating and assessing the discharge or environmental pollution; removing abandoned containers; asbestos abatement; and restoring or replacing a private potable water supply.

The bill also allows DNR to inspect any document in the possession of an applicant or any other person if the document is relevant to an application for financial assistance under the program.

For further information see the state 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. 15.347 (2) of the statutes is repealed.

SECTION 2. 20.320 (1) (sm) of the statutes is amended to read:

20.320 (1) (sm) *Land recycling loan program financial assistance.* From the clean water fund program federal revolving loan fund account in the environmental improvement fund, a sum sufficient, not to exceed ~~a total of \$20,000,000 less the maximum transfer amount specified in any agreement under s. 25.43 (2s),~~ to provide land recycling loan program financial assistance under s. 281.60.

SECTION 3. 20.370 (4) (eq) of the statutes is repealed.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 20.370 (6) (eq) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 5. 20.370 (6) (et) of the statutes is created to read:

20.370 (6) (et) *Environmental aids —revitalize Wisconsin program.* Biennially, from the environmental fund, the amounts in the schedule for aid awards under s. 292.66 and to make any required payments under s. 25.43 (2s).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 6. 20.370 (6) (eu) of the statutes is created to read:

20.370 (6) (eu) *Environmental aids —waste removal and sampling.* Biennially, from the environmental fund, the amounts in the schedule to provide financial assistance for the purpose of removing waste materials that have accumulated or been dumped on abandoned properties and to conduct sampling and testing to determine if those properties pose a risk to public health and safety or the environment.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 7. 20.370 (9) (nq) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 8. 20.566 (1) (r) of the statutes is amended to read:

20.566 (1) (r) *Administration of dry cleaner fees.* From the ~~dry-cleaner environmental response~~ environmental fund, the amounts in the schedule for the purpose of administering the fees under subch. XII of ch. 77.

SECTION 9. 25.17 (1) (d) of the statutes is repealed.

SECTION 10. 25.43 (2s) of the statutes is repealed and recreated to read:

25.43 (2s) The secretary of administration and the secretary of natural resources shall ensure that any moneys required to be repaid to the environmental improvement fund as a result of a transfer under s. 25.43 (2s), 2021 stats., shall be paid from the environmental fund to the environmental improvement fund.

SECTION 11. 25.46 (1) (s) of the statutes is created to read:

25.46 (1) (s) All moneys received under s. 77.9964 (3) for environmental management.

SECTION 12. 25.46 (2m) of the statutes is amended to read:

25.46 (2m) Of the moneys described in sub. (1) that are received for the purpose of environmental management, except the moneys described in sub. (1) (ej), (ek), (hm), (j), (jj), (s), (t), and (u), \$6,150,000 shall, in each fiscal year, be considered to have been received for the purpose of nonpoint source water pollution abatement.

SECTION 13. 25.48 of the statutes is repealed.

SECTION 14. 77.9964 (3) of the statutes is amended to read:

77.9964 (3) The department shall deposit all of the revenue that it collects under this subchapter in the environmental fund ~~under s. 25.48.~~

SECTION 15. 292.65 (14) of the statutes is amended to read:

292.65 (14) SUNSET. This section does not apply after ~~June 30, 2032~~ the effective date of this subsection [LRB inserts date].

SECTION 16. 292.66 of the statutes is created to read:

292.66 Revitalize Wisconsin program. (1) DEFINITIONS. In this section:

(a) “Brownfield” means a property that is abandoned, idle, or underused, the expansion or redevelopment of which is adversely affected by actual or perceived discharge or environmental pollution.

(b) “Discharge” has the meaning given in s. 292.01 (3).

(c) “Innocent landowner” means any of the following:

1. A property owner that acquired the property prior to November 1, 2006, has continuously owned the property since the date of acquisition, and can demonstrate, through documentation, that the discharge or environmental pollution on the property was caused by another person and that the property owner did not know and had no reason to know of the discharge or environmental pollution when the owner acquired the property.

2. A property owner that acquired the property on or after November 1, 2006, has continuously owned the property since the date of acquisition, and can demonstrate, through documentation, that the property owner conducted all appropriate inquiries in compliance with [40 CFR part 312](#) prior to acquisition, that the discharge or environmental pollution on the property was caused by another person, and that the property owner did not know and had no reason to know of the discharge or environmental pollution when the owner acquired the property.

(d) “Interim action” means a response action that is taken to contain or stabilize a discharge or environmental pollution at a site or facility, in order to minimize any threats to public health, safety, or welfare or to the environment, while other response actions are being taken or planned for the site or facility.

(e) “Local governmental unit” has the meaning given under s. 292.11 (9) (e) 1.

(f) “Private party” means any of the following:

1. A bank, trust company, savings bank, or credit union.
2. A developer, as defined in s. 66.0617 (1) (b).
3. An organization or enterprise, other than a sole proprietorship, that is operated for profit or that is nonprofit and nongovernmental, including an

association, business trust, corporation, joint venture, limited liability company, limited liability partnership, partnership, or syndicate.

4. An innocent landowner.

(g) "Remedial action" has the meaning given in s. 292.12 (1) (d).

(2) POWERS AND DUTIES OF THE DEPARTMENT. (a) The department shall administer a program to award aids from the appropriation under s. 20.370 (6) (et) to eligible entities under sub. (5).

(b) The department may not award aid to an entity under this section if that entity caused the discharge or environmental pollution at the site or facility for which aid is awarded, except to eligible entities for sites or facilities under sub. (4) (a).

(c) The department may award aid to eligible entities in the form of grants or direct services or, for sites or facilities under sub. (4) (a), in the form of reimbursements.

(d) The department may require a match from an eligible entity for an awarded aid in the form of cash or in-kind services, except from an eligible entity for a site or facility for which funds are designated under sub. (3) (a).

(3) ALLOCATION OF FUNDS. (a) In any fiscal year, if there remain any sites or facilities under sub. (4) (a) for which a claim for reimbursement was submitted before the effective date of this paragraph [LRB inserts date], but for which the claim has not been paid, the department shall designate \$1,000,000 of the funds appropriated under s. 20.370 (6) (et), or the total amount of such unpaid claims, whichever is less, to the payment of those claims.

(b) In any fiscal year, if there remain any sites or facilities under sub. (4) (a) for which an application for eligibility was submitted before the effective date of this paragraph [LRB inserts date], but for which a claim has not been made to the

department, the department shall designate \$450,000 of the funds appropriated under s. 20.370 (6) (et) to the payment of claims for such sites or facilities, until all such sites or facilities have received a case closure letter under s. 292.12.

(c) The department shall designate 15 percent of the funds appropriated under s. 20.370 (6) (et) to provide aid in small or disadvantaged communities.

(d) The department may not provide more than one award of aid for a site or facility in a single fiscal year, except for sites or facilities under sub. (4) (a).

(4) ELIGIBLE SITES AND FACILITIES. An eligible applicant under sub. (5) may receive aid under this section for any the following sites or facilities:

(a) Sites or facilities for which an application for eligibility was submitted under the dry cleaner environmental response program under s. 292.65, 2021 stats., and that were deemed eligible for that program before the effective date of this paragraph [LRB inserts date].

(b) Brownfields.

(c) Sites or facilities regulated under s. 292.11 that are owned by entities that are exempt from s. 292.11 (3), (4), and (7) (b) and (c) as provided under s. 292.11 (9) (e), 292.13, or 292.21.

(d) Sites or facilities regulated under s. 292.11 that are owned by private parties.

(5) ELIGIBLE ENTITIES. The following entities are eligible for an award under this section.

(a) Local governmental units that did not cause the discharge or environmental pollution.

(b) Owners or operators of dry cleaning facilities that own or operate an eligible site or facility under sub. (4) (a).

(c) Private parties, other than a dry cleaning facility under par. (b), that did not cause the discharge or environmental pollution and can demonstrate that the party's property was fairly acquired through an arm's-length transaction.

(6) ELIGIBLE ACTIVITIES; INELIGIBLE COSTS. (a) All activities for which aid is provided under this section shall comply with all state and federal laws and rules promulgated by the department, unless otherwise provided under this section or rules promulgated under this section.

(b) The department may award aid under this section to cover the costs of any of the following activities:

1. Assessment and investigation of a discharge or environmental pollution.
2. Interim and remedial actions to remove hazardous substances from contaminated media.
3. Treatment and disposal of contaminated media.
4. Vapor intrusion assessment and mitigation.
5. Removal of abandoned containers, as defined in s. 292.41 (1).
6. Asbestos abatement activities, as defined in s. 254.11 (2), conducted as part of redevelopment activities.
7. Environmental monitoring.
8. Restoration or replacement of a private potable water supply, if eligible for temporary emergency water supplies under rules promulgated by the department.
9. The removal of underground hazardous substance or petroleum product storage tanks.
10. Preparation of documentation to apply for case closure under s. 292.11.

11. Other costs identified by the department as reasonable and necessary for proper investigation, analysis of remedial action options, remedial action planning, and remedial action to meet the requirements of s. 292.11.

(c) The department may not award aid under this section to cover any of the following costs:

1. The cost of activities conducted prior to the award of aid under this section, except for activities conducted at a site or facility under sub. (4) (a).

2. The cost of activities that the department determines are not integral to the investigation and remediation of a discharge or environmental pollution.

3. Legal fees.

4. The cost of investigations or remedial action conducted outside this state.

5. Costs for financing eligible activities.

(7) APPLICATION FOR AID. Eligible applicants shall submit an application on a form prescribed by the department and shall include any information the department finds necessary to evaluate the eligibility of the project and amount of aid to be awarded.

(8) RULES; RECORDS. The department shall promulgate rules to administer the program under this section, including rules prescribing the criteria for determining the amount of aid to be awarded, the records that must be maintained by an applicant, and the periods for which those records must be retained. The department may inspect any document in the possession of an applicant or any other person if the document is relevant to an application for aid under this section.

SECTION 9232. Fiscal changes; Natural Resources.

(1) DRY CLEANER ENVIRONMENTAL RESPONSE FUND TRANSFER. The unencumbered balance in the dry cleaner environmental response fund under s. 25.48, 2021 stats., is transferred to the environmental fund under s. 25.46.

(END)