



## 2011 ASSEMBLY BILL 643

February 29, 2012 - Introduced by Representatives TAUCHEN, BERNIER, STROEBEL, ENDSLEY, DOYLE and BROOKS. Referred to Committee on Natural Resources.

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

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### ***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 bill creates new exemptions from the groundwater, well compensation, solid waste facility siting board, recycling, and environmental repair tipping fees (the tipping fees).

The bill exempts from the tipping fees soil removed during the cleanup of a contaminated site that is listed in DNR's database of contaminated properties. The bill also 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.

**ASSEMBLY BILL 643**

Under the bill, 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.

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

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

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

2           289.63 (6) (c) Contaminated soil removed during the cleanup of an industrial  
3 or commercial site that is abandoned, idle, or underused and that the department  
4 has assigned an activity number in the database under s. 292.31 (1) (a) is not subject  
5 to the groundwater and well compensation fees imposed under sub. (1).

6           **SECTION 2.** 289.63 (6) (d) of the statutes is created to read:

7           289.63 (6) (d) 1. In this paragraph, “qualified materials recovery facility”  
8 means one of the following:

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

12           b. A facility at which materials generated by construction, demolition, and  
13 remodeling of structures are processed for recycling if the facility is licensed under  
14 this chapter as a solid waste processing facility, the approved plan of operation for  
15 the facility requires the reporting of the volume or weight of materials processed,

**ASSEMBLY BILL 643**

1 recycled, and discarded as residue, and the facility is in compliance with its approved  
2 plan of operation.

3 2. The following amounts of solid waste materials are not subject to the  
4 groundwater and well compensation fees imposed under sub. (1):

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

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

13 **SECTION 3.** 289.63 (10) of the statutes is created to read:

14 **289.63 (10) REPAYMENT OR WAIVER OF OVERDUE GROUNDWATER AND WELL**  
15 **COMPENSATION FEES.** (a) 1. If a person required under sub. (1) to pay groundwater and  
16 well compensation fees to a licensed solid waste or hazardous waste disposal facility  
17 fails, within 120 days after the date of disposal, to pay the groundwater and well  
18 compensation fees and to pay the charges imposed by the licensed solid waste or  
19 hazardous waste disposal facility, the owner or operator of the licensed solid waste  
20 or hazardous waste disposal facility may submit an affidavit to the department that  
21 includes all of the following:

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

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

**ASSEMBLY BILL 643****SECTION 3**

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

4           2. When the department receives an affidavit that complies with subd. 1., the  
5 department shall refund to the owner or operator any amount of the overdue  
6 groundwater and well compensation fees paid by the owner or operator and shall  
7 grant a waiver to the owner or operator from the requirement to pay any additional  
8 amount of the overdue groundwater and well compensation fees. If the person later  
9 pays the overdue groundwater and well compensation fees to the owner or operator,  
10 the owner or operator shall pay the full amount received to the department.

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

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

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

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

**ASSEMBLY BILL 643**

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

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

13           **SECTION 4.** 289.64 (4) (c) of the statutes is created to read:

14           289.64 (4) (c) Contaminated soil removed during the cleanup of an industrial  
15 or commercial site that is abandoned, idle, or underused and that the department  
16 has assigned an activity number for the database under s. 292.31 (1) (a) is not subject  
17 to the waste facility siting board fee imposed under sub. (1).

18           **SECTION 5.** 289.64 (4) (d) of the statutes is created to read:

19           289.64 (4) (d) 1. In this paragraph, “qualified materials recovery facility”  
20 means one of the following:

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

24           b. A facility at which materials generated by construction, demolition, and  
25 remodeling of structures are processed for recycling if the facility is licensed under

**ASSEMBLY BILL 643****SECTION 5**

1 this chapter as a solid waste processing facility, the approved plan of operation for  
2 the facility requires the reporting of the volume or weight of materials processed,  
3 recycled, and discarded as residue, and the facility is in compliance with its approved  
4 plan of operation.

5 2. The following amounts of solid waste materials are not subject to the solid  
6 waste facility siting board fee imposed under sub. (1):

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

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

15 **SECTION 6.** 289.64 (8) of the statutes is created to read:

16 **289.64 (8) REPAYMENT OR WAIVER OF OVERDUE WASTE FACILITY SITING BOARD FEE.**

17 (a) 1. If a person required under sub. (1) to pay the waste facility siting board fee to  
18 a licensed solid waste or hazardous waste disposal facility fails, within 120 days after  
19 the date of disposal, to pay the waste facility siting board fee and to pay the charges  
20 imposed by the licensed solid waste or hazardous waste disposal facility, the owner  
21 or operator of the licensed solid waste or hazardous waste disposal facility may  
22 submit an affidavit to the department that includes all of the following:

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

**ASSEMBLY BILL 643**

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

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

6           2. When the department receives an affidavit that complies with subd. 1., the  
7 department shall refund to the owner or operator any amount of the overdue waste  
8 facility siting board fee paid by the owner or operator and shall grant a waiver to the  
9 owner or operator from the requirement to pay any additional amount of the overdue  
10 waste facility siting board fee. If the person later pays the overdue waste facility  
11 siting board fee to the owner or operator, the owner or operator shall pay the full  
12 amount received to the department.

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

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

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

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

**ASSEMBLY BILL 643****SECTION 6**

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

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

12           **SECTION 7.** 289.645 (2) of the statutes is amended to read:

13           289.645 (2) COLLECTION. The owner or operator of a licensed solid waste or  
14 hazardous waste disposal facility shall collect the recycling fee from the generator,  
15 a person who arranges for disposal on behalf of one or more generators or an  
16 intermediate hauler and shall pay to the department the amount of the fee required  
17 to be collected according to the amount of solid waste or hazardous waste received  
18 and disposed of at the facility during the preceding reporting period, except as  
19 provided under sub. (8).

20           **SECTION 8.** 289.645 (4) (g) of the statutes is created to read:

21           289.645 (4) (g) Contaminated soil removed during the cleanup of an industrial  
22 or commercial site that is abandoned, idle, or underused and that the department  
23 has assigned an activity number for the database under s. 292.31 (1) (a) is not subject  
24 to the recycling fee imposed under sub. (1).

25           **SECTION 9.** 289.645 (4) (h) of the statutes is created to read:



**ASSEMBLY BILL 643**

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

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

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

12           2. The following amounts of solid waste materials are not subject to the  
13 recycling fee imposed under sub. (1):

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

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

22           **SECTION 10.** 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

**ASSEMBLY BILL 643****SECTION 10**

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.

**ASSEMBLY BILL 643**

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 11.** 289.67 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32,  
15 is amended to read:

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

**ASSEMBLY BILL 643****SECTION 11**

1 disposal facility. Tonnage or equivalent volume shall be calculated in the same  
2 manner as the calculation made for tonnage fees under s. 289.62 (1).

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

4 289.67 (1) (fe) *Exemption for environmental repair fee; certain contaminated*  
5 *soils.* Contaminated soil removed during the cleanup of an industrial or commercial  
6 site that is abandoned, idle, or underused and that the department has assigned an  
7 activity number for the database under s. 292.31 (1) (a) is not subject to the  
8 environmental repair fee imposed under par. (a).

9 **SECTION 13.** 289.67 (1) (fj) of the statutes is created to read:

10 289.67 (1) (fj) *Exemption from environmental repair fee; recycling residue.* 1.

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

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

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

21 2. The following amounts of solid waste materials are not subject to the  
22 environmental repair fee imposed under par. (a):

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

**ASSEMBLY BILL 643**

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 **SECTION 14.** 289.67 (1) (j) of the statutes is created to read:

8 289.67 (1) (j) *Repayment or waiver of overdue environmental repair fee.* 1. a.  
9 If a person required under par. (a) to pay the environmental repair fee to a licensed  
10 solid waste or hazardous waste disposal facility fails, within 120 days after the date  
11 of disposal, to pay the environmental repair fee and to pay the charges imposed by  
12 the licensed solid waste or hazardous waste disposal facility, the owner or operator  
13 of the licensed solid waste or hazardous waste disposal facility may submit an  
14 affidavit to the department that includes identifying information for the person that  
15 failed to pay the environmental repair fee; a description of the efforts made to collect  
16 the environmental repair fee that is overdue; and a commitment that the owner or  
17 operator will not accept any solid waste or hazardous waste from the person that  
18 failed to pay the environmental repair fee until the overdue environmental repair fee  
19 is paid.

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

**ASSEMBLY BILL 643****SECTION 14**

1 environmental repair fee to the owner or operator, the owner or operator shall pay  
2 the full amount received to the department.

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

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

16 c. When the department receives an affidavit that complies with subd. 2. a., the  
17 department shall refund to the owner or operator any amount of the overdue  
18 environmental repair fee paid by the hauler and shall grant a waiver to the hauler  
19 from the requirement to pay any additional amount of the overdue environmental  
20 repair fee and the owner or operator shall pay any refund to the hauler. If the person  
21 later pays the overdue environmental repair fee to the hauler, the hauler shall pay  
22 the full amount received to the owner or operator and the owner or operator shall  
23 forward the payment to the department.

24 (END)