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STATE REPRESENTATIVE • 36<sup>TH</sup> ASSEMBLY DISTRICT

Senate Committee on Local Government, Small Business, Tourism and Workforce Development  
SB 714- Method for Establishing Financial Responsibility for Municipal Solid Waste  
Facilities

February 4, 2020

Chairman Jacque and Committee Members -

Thank you for the opportunity to testify in support of SB 714, related to establishing proof of financial responsibility for solid waste facilities owned or operated by a municipality.

Currently, municipalities with landfills need to show proof of financial responsibility to ensure the availability of funds for compliance with closure and long-term care requirements. For municipal landfills, the standard method is to obtain a bond, deposit funds with the State, establish an escrow account or obtain an irrevocable letter of credit payable to or established for the benefit of the Department of Natural Resources. This is incredibly time-consuming, burdensome and results in unnecessary costs to the municipalities.

Under a state law enacted in 1982, privately owned landfills, as well as public utilities are able to establish proof of financial responsibility using a net worth test. Electric cooperatives were added to statute in 1991. Generally, the net worth test requires a certain level of net worth, liabilities to net worth ratio, and credit worthiness. Presumably, public landfills were initially excluded because there wasn't a good way to measure a municipality's net worth in 1981. However, times have changed.

Under this bill, a municipality could use an alternative method to ensure compliance with closure and long-term care requirements similar to that allowed for local governments under federal law. The municipality may prove financial responsibility by either:

- 1) Meeting a certain rating establish by Moody (at least "Baa") or Standard & Poor's (at least "BBB")
- 2) Ratio of cash plus marketable securities to total expenditures is greater than 0.05 and its ratio of annual debt service to total expenditures is 0.20 or lower

Additionally, if a facility is owned or operated by more than one municipality, any municipality may establish proof of financial responsibility on behalf of itself and the other owners or operators.

Once again, thank you for holding a public hearing on this important piece of legislation. I am happy to answer any questions you may have.

**Public Hearing**  
**Committee on Local Government, Small Business, Tourism**  
**and Workforce Development.**

**Testimony on SB 714 Proof of Financial Responsibility for Solid Waste Facilities owned or operated by a Municipality.**

I thank you for the opportunity to speak in support of Senate Bill 714 Related to the method for establishing proof of financial responsibility for solid waste facilities owned and operated by municipalities. Let me introduce myself. I'm John Lefebvre, County Administrator for Marinette County. Prior to becoming County Administrator I served for over three decades as the Landfill Director for a small municipal landfill called the Mar-Oco Landfill which is jointly owned by **Marinette** and **Oconto** Counties.

Financial Responsibility for solid waste facilities is required for two reasons: The first being Closure - A landfill owner must ensure that they have the financial capacity to fund the closure activities which consists of installation of a gas collection system, composite final cover system and seeding and mulching of all disturbed areas. The second requirement is for long-term care which consists of all activities that will take place in the 40 years after closure. This includes but is not limited to maintenance/replacement of all equipment, maintaining site vegetation, operation of the gas collection and leachate collection systems, leachate hauling and disposal costs, environmental monitoring and record keeping/reporting.

The Problem: An inequity exists. A net worth test method of providing financial responsibility for long-term care and/or closure exists for any for-profit business or public utility which holds a license for any solid or hazardous waste facility. However no such opportunity exists for municipalities who are fiscally responsible and good stewards of the taxpayer's funds.

Failure to provide some type of option for municipalities which is similar to for-profit business and public utilities is unnecessarily burdensome for the municipality, causes additional work for municipal staff and is a waste of taxpayer dollars.

Federal law allows municipalities to demonstrate their fiscal responsibility in the same fashion as what is being proposed in SB714. If the municipality is able to utilize a fiscal responsibility test the municipality would not need to spend countless hours updating cost estimates, providing the WDNR with updated account balances and annually increasing the account balances as determined by the WDNR. In addition, the municipality would be free to invest landfill funds as they determine appropriate.

So why is this freedom to invest without WDNR regulations and oversight important? Since being licensed in 1985 Mar-Oco has utilized a letter of credit in the amount of \$900,000 to satisfy the financial responsibility requirement for closure. This estimated closure amount is reviewed annual by the WDNR. In 2019 and the previous 34 years the Mar-Oco Landfill paid a local lending institution \$4,500 per year to provide a \$900,000 letter of credit and in mid-2019 the WDNR notified the Mar-Oco that the \$900,000 was no longer sufficient and needed to be increased. In 2020 Mar-Oco obtained a new letter with a face value of 1 million dollars at a cost of \$5,500 per year. By utilizing a letter of credit as Mar-Oco's form of financial responsibility it allows Mar-Oco to invest their funds without WDNR involvement and allows the Mar-Oco to use the funds it has set aside for closure when the time comes without the need to borrow funds for closure. It's important to understand that the WDNR will only release the closure funds after the closure work has been completed and approved by the WDNR which is 3-6 months after the work has been completed. The estimated cost of maintaining this letter of credit throughout the entire site life of the Mar-Oco Landfill is over \$200,000.

As for long-term care Mar-Oco utilizes a deposit with the WDNR and escrow account(s). The combined balance in these long-term care accounts totals approximately \$1.65 million. When comparing the rate of return on these long-term care investments to other investments held by Marinette County the annual percentage yield of the long-term care investments is approximately 1% lower than other Marinette County's investments. So assuming, on the conservative side, an average balance in the long-term care account of \$1.5 million over the anticipated 80 years (40 years of site life and 40 year long-term care period) these long-term care investments will yield an estimated \$1.8 million less in revenue.

It is my belief that unless this law is changed it will cost Mar-Oco over 2 million dollars in combined lost investment revenue and unnecessary letter of credit fees. One has to ask why municipal landfills are held to a higher standard than the for-profit businesses and/or utilities. It is much less likely that a municipality will ever be in a position where it defaults on a landfill closure or long-term care obligation than a for-profit business or utility. I urge you to support Senate Bill 714 which provides municipalities with an option that has no negative fiscal impact.



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February 4, 2020

Senator Jacque (Chair)  
Senator Bernier (Vice-Chair)  
Senator Tiffany  
Senator Schachtner  
Senator Miller

RE: ***Senate Bill 714: Relating to Proof of Financial Responsibility for Solid Waste Facilities Owned or Operated by a Municipality***

Chair Jacque and Members of the Senate Committee on Local Government, Small Business, Tourism and Workforce Development:

On behalf of the City of Superior, I want to express our support for Senate Bill 714 which would provide a qualified alternative and effectively ease the City's financial responsibility as we work toward closing our municipal landfill.

Superior has operated its own landfill since the 1950's and currently it sees roughly a million pounds of garbage each day or approximately 140,000 tons annually. The steady stream of waste is managed by a lean staff of 5-6 people, all employees of the Superior Public Works Department. A modern solid waste landfill, with its specialized equipment, safety and environmental protections and highly-engineered systems, is an expensive operation for a city with a tax base of 27,000 people. Expenses and revenue for Superior's landfill hover around \$6 to 7 million annually, roughly equivalent to 80% of the entire public works budget. However the landfill is managed as an enterprise fund, meaning its operating budget and long-term expenses are covered by fees charged to users. Thanks to local control, efficient operations and a healthy customer base outside the city, residents of Superior enjoy lower garbage fees than their neighbors across the border in Duluth, Minnesota.

The City of Superior's landfill is anticipated to reach capacity in 2025. At that time, the city expects to pay \$5 to 7 million to effectively cap the landfill. The city will then begin long-term monitoring and maintenance of the closed landfill for a period of 40 years per Wisconsin State Statute. Until that time comes, the city is required to maintain a minimum balance of funds that are sufficient to cover the cost of capping plus the 40 years of long-term care in the event that the city does not follow through on its obligation to do so. This minimum balance amount in 2018 was \$8,066,303. As a small municipality, Superior isn't able to set aside a sum this large all at once.

We have a plan in place to become fully funded by 2025 when the landfill closes, but in the meantime we are required to make up for the difference in funding through a line of credit. This currently costs

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Superior taxpayers around \$30,000 per year. The concept of an alternative financial assurance mechanism for landfill closure and long-term care that is specified in Senate Bill 714 will eliminate those carrying costs for the landfill. So, instead of spending money on a line of credit we don't intend to use, we could use the savings to help fund the costs of capping and long-term maintenance.

I want to thank all of you for bringing Senate Bill 714 forward and applaud you for looking out for municipalities that are doing what they can to provide public services effectively and efficiently.

Thank you for your time and please do not hesitate to contact my offices with any questions or comments.

Sincerely,



Jim Paine  
Mayor

- c: **Senator Janet Bewley**
- Representative Nick Milroy**
- Jason Serck, City of Superior**
- Ashley Puetz, City of Superior**
- Darienne McNamara, City of Superior**