



Legislative Fiscal Bureau

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February 22, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 943/Senate Bill 890: Electronics Waste Cleanup

2021 Assembly Bill 943 and Senate Bill 890 are companion bills, hereafter referred to as "the bill," to provide funding for cleanup of electronics wastes in Rusk, Price and Washington Counties. Assembly Bill 943 was introduced on February 2, 2022, and referred to the Assembly Committee on Environment. AB 943 was re-referred to the Assembly Committee on State Affairs on February 7, and a public hearing was held on February 9. On February 16, 2022, the Committee on State Affairs recommended the bill for passage by a vote of 13 to 0.

Senate Bill 890 was introduced January 24, 2022, and referred to the Senate Committee on Natural Resources and Energy. A public hearing was held January 31. On February 10, 2022, the Committee on Natural Resources and Energy recommended the bill for passage by a vote of 5 to 0.

CURRENT LAW AND BACKGROUND

State Solid Waste and Contaminated Land Programs

The state's solid waste management policy, established by 1989 Wisconsin Act 335 in s. 287.05 of the statutes, declares that maximum solid waste reduction, reuse, recycling, and resource recovery is in the best interest of the state to protect public health, to protect the quality of the natural environment and to conserve resources and energy. The policy states that implementation of solid waste reduction, reuse, recycling, and resource recovery systems and operations should involve and encourage the cooperation of individuals, state and local governments, tribes, schools, private organizations, and businesses. The statutes also prohibit the landfilling and incineration of specified materials as a means of encouraging their recycling or reducing their generation. These landfill bans include appliances and most electronic devices, which may contain substances that are hazardous to human health and the environment if released or improperly discarded.

Additionally, the Department of Natural Resources (DNR) is responsible for administration of the state electronics recycling program, known as E-Cycle Wisconsin, under which registered collectors and recyclers process used electronic devices for the reuse or disposal of components. Not

all entities who collect or process electronics for recycling are registered in E-Cycle Wisconsin, but waste processors are subject to other statutory and rule provisions for the handling of solid and hazardous waste. DNR annually conducts on-site inspections of electronics waste processors regardless of registration status under E-Cycle Wisconsin.

DNR is also the primary state agency responsible for overseeing the state's direct-response hazardous substances cleanup programs. State law requires that a person who possesses or controls a hazardous substance that is discharged, or who causes the discharge, must take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the pollution. As a result, the majority of hazardous substance cleanups underway in Wisconsin are financed by the owner of a contaminated property or the party who caused the contamination.

DNR has funding available to respond to spills or contamination, including containers that have been abandoned with hazardous substances, and conduct cleanup activities in the event a responsible party is not identifiable, or the party is unable or unwilling to finance the cleanup of environmental contamination. State emergency responses are primarily funded by a continuing appropriation from the environmental management account of the segregated (SEG) environmental fund. The appropriation is provided \$2,292,700 each year of the 2021-23 biennium, and had an available balance of \$2,312,200 on July 1, 2021. If DNR identifies responsible parties at a later date, it can seek court-ordered recovery of its cleanup costs from the responsible parties. Federal funding also may be available for site remediation under certain circumstances.

5R Processors

5R Processors operated as an electronics and appliance recycling firm with several sites in Wisconsin, including Ladysmith (Rusk County), Glen Flora (Rusk County), Catawba (Price County) and West Bend (Washington County). The company also maintained operations in Tennessee. According to the U.S. Attorney's Office for the Western District of Wisconsin, several former 5R Processors executives have since late 2019 been found guilty in U.S. District Court on charges that include concealing the illegal storage and transport of glass from cathode ray tubes recovered from recycled devices but that contained hazardous amounts of lead. The court proceedings followed investigations by DNR and other state and federal entities, which led to additional tax-related and other charges.

DNR indicates that up to 1.3 million pounds of leaded glass from cathode ray tubes had been abandoned at 5R Processors facilities in Wisconsin. One site has been partially restored to use by a lessee who used private financing to dispose of the leaded glass. However, the Department's testimony on the bill indicates that there is no realistic possibility of recovering cleanup costs from the responsible parties for the remaining sites, nor are cleanup actions eligible for federal funding.

SUMMARY OF BILL

The bill would provide \$2,500,000 environmental management SEG in 2021-22 in a new continuing appropriation to DNR. Further, the bill would require DNR to contract with one or more parties to perform any necessary site assessments, collection, transport, and disposal of cathode ray

tubes generated by activities of 5R Processors and located in Rusk, Price, or Washington Counties that are not owned by 5R Processors or its successors. The bill would limit costs under the contracts to \$2,500,000. The one-time funding would be available to DNR until exhausted.

The table below lists the locations and estimated cost of cleanup for electronics waste contamination caused by 5R Processors, according to documents filed in January 2021, in U.S. District Court. DNR reports that although total site cleanup costs were estimated at \$2.0 million, several factors could contribute to increased costs, including the weather and on-site conditions at the time of cleanup, potential fluctuations in the price of disposal, and whether recovered material has any salvage value. DNR reports that the additional \$544,400 in contingency funding would enable accommodation of potential increases, for a total estimated cost of \$2.5 million.

Locations and Estimated Cleanup Costs of 5R Processors Electronics Waste

<u>Location</u>	<u>Waste Storage Unit</u>	<u>Estimated Cleanup Cost</u>
1100 Barnett Road, Ladysmith	Five semi-trailers	\$44,700
W. 8th Street, Ladysmith	One semi-trailer	8,940
600 Gates Avenue, Ladysmith	Three semi-trailers	26,820
W3620 Artisans Drive, Glen Flora	Warehouse	829,200
N4421 Main Street, Catawba	Warehouse	506,288
133 Oak Street, West Bend	Multi-use facility	539,618
Contingency Funding		<u>544,434</u>
Total		\$2,500,000

FISCAL EFFECT

The bill would provide \$2.5 million environmental management SEG on a one-time basis for cleanup activities. The environmental management account had an available balance of \$30.7 million on July 1, 2021, and the account is anticipated to collect revenues in excess of expenditures during the biennium. Thus, sufficient funding is expected to be available to support the \$2.5 million provided under the bill.

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