



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #499

### **Brownfields Site Assessment and Green Space Grants (DNR -- Air, Waste, and Contaminated Land)**

[LFB 2011-13 Budget Summary: Page 333, #8]

#### **CURRENT LAW**

The brownfield site assessment grant program was created in 1999 Act 9 to provide grants to local governments to perform the initial investigation of contaminated properties, demolition of certain structures on a contaminated site, asbestos abatement that is part of the demolition activity, and removal and proper disposal of abandoned containers, underground petroleum product storage tank systems or underground hazardous substance storage tank systems. Eligible sites or facilities are defined as "one or more contiguous industrial or commercial facilities or sites with common or multiple ownership that are abandoned, idle, or underused, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination." The local government applicant cannot be the party that caused the contamination. The local government does not have to own the property, but must have access to the site within 60 days of receiving the grant to carry out the grant activities. The program is appropriated \$1,595,700 SEG annually from the environmental management account of the environmental fund.

The brownfields green space grant program was created in 2001 Act 16 to provide grants to local governments for brownfields remediation projects that have a long-term public benefit, including the preservation of green space, development of recreational areas, or the use of a property by the local government. It is appropriated \$469,300 SEG annually from the environmental management account.

#### **GOVERNOR**

Repeal the appropriations for the brownfields site assessment and green space grant programs. Decrease funding by \$2,065,000 SEG annually from the environmental management account of the environmental fund. Retain the statutory requirements that DNR administer a site

assessment grant program under s. 292.75 of the statutes and a green space grant program under s. 292.79. (A technical correction would be needed to delete a cross-reference to the repealed appropriation for site assessment grants.)

## **DISCUSSION POINTS**

1. Administration officials indicate the Governor intended to repeal the program statutes for both DNR programs. The Executive Budget Book states the bill would transfer the DNR authority to issue grants and related funding to the Wisconsin Economic Development Corporation (WEDC), but the bill does not do so.

2. WEDC could choose whether or not to award brownfields site assessment and green space grants, determine the amount it will spend, decide who to award grants to, and establish program criteria and procedures. Commerce officials indicated they are studying how brownfields site assessment and green space grants might fit into the mission of WEDC. They indicated the two programs align well with the community development functions of Commerce and the mission of WEDC to promote and foster economic development in the state. They have not provided any specific information about how they might administer such programs. Commerce officials recently indicated they will work with DNR leadership to develop a memorandum of understanding with the goal "to ensure the benefits of DNR's existing relationships and management experience are retained, while allowing the WEDC to incorporate all brownfields activities from site assessment through development in its overall economic development strategies."

3. If the Committee wishes to repeal DNR authority for the two programs without providing the same specific program authority to WEDC, the bill could be amended to repeal the s. 292.75 and s. 292.79 program statutes [Alternative #2a].

4. It could be argued that to accomplish the administration's intent that WEDC administer brownfields grant programs deleted under DNR, the programs should be transferred to WEDC in the same manner as the Commerce brownfields grant program statute is transferred to WEDC. Transferring the statutory provisions for the two DNR brownfields grant programs to WEDC would require that WEDC continue the programs at some level [Alternative #2b]. However, similar to the Commerce brownfields grant provisions transferred to WEDC under the bill, no specific level of support would be required. This would allow WEDC discretion in determining the appropriate level of resources to commit to the program from year to year as it deems necessary.

5. Eliminating the site assessment and green space grant programs, rather than transferring them to WEDC, would provide maximum flexibility to the Corporation's community development efforts. Rather than link WEDC responsibilities to specific statutory requirements to administer the two current DNR programs, WEDC could provide assistance to local governments for brownfields site assessment activities based on how it perceives those activities would promote economic development in the state. Under this option, transferring the statutes to WEDC would not be necessary to continue state efforts for these programs, and might restrict the Corporation's flexibility in providing funding for economic development [Alternative #2a].

6. Whether the two programs are deleted, transferred to WEDC, or maintained in DNR, local governments and other parties who take responsibility for site assessment and cleanup of contamination at brownfields sites will have to meet environmental cleanup standards established in statutes and rules administered by DNR. If WEDC provides funding for contaminated site cleanup, DNR would maintain its current role in reviewing and approving cleanup methods at the site, and determining when the site has met the cleanup standard.

7. Since the first site assessment grant funding cycle in 2000-01, DNR has held annual competitive grant funding cycles and awarded 464 grants totaling \$16.7 million to 205 municipalities. The attachment shows the cumulative number of municipal site assessment grant recipients in every county, number of grant awards, and amount of awarded funds. DNR awarded a cumulative total of 21 green space grants totaling \$2.1 million to 17 municipalities.

8. Since the beginning of the program, DNR site assessment grants have paid for 825 site assessments and site investigations, the removal of 710 storage tanks and containers containing petroleum products or hazardous substances, and the demolition of 629 structures and buildings.

9. One of the original purposes of the site assessment grant program was to assist local governments to assess or investigate potential contamination at sites where the economic development potential of the property was not known. The program provides seed money to encourage local governments to take ownership of tax delinquent property or obtain access to the property to determine the extent of contamination, and hopefully, encourage the cleanup and reuse or redevelopment of the site by determining the scope of contamination at the site. The site assessment grant program has provided sufficient information about the status of contamination at several sites for the municipalities taking action at the sites to subsequently access cleanup funds under the Commerce brownfields grant program. Several sites have been sufficiently cleaned up for businesses to be able to locate on former brownfields sites.

10. In November, 2010, DNR received 55 applications from 31 communities requesting \$2.6 million in site assessment grants from the 2010-11 funding cycle. On April 21, 2011, DNR provided written notice to those applicants that the Department would not award any site assessment grants in 2010-11. DNR plans to transfer the \$1,595,700 appropriation amount to the general fund as part of DNR's obligation to transfer funds under deficit reduction requirements of 2009-11 legislation. DNR also plans to transfer the \$469,300 appropriated for green space grants in 2010-11 to the general fund.

11. DNR awarded \$1.6 million for the two programs in 2009-10, and \$1.8 million in 2008-09. Of the \$3.4 million awarded in the two years, \$119,000 was for green space grants. In 2009-10, DNR received 87 site assessment grant applications totaling \$4.0 million from 43 communities. In 2008-09, DNR received 78 applications totaling \$3.4 million from 35 communities. In the two years combined, DNR awarded grants for approximately 45% of requested funds.

12. Under the bill, DNR will have no state funds for brownfields grants for local governments. DNR officials indicate they may have a small amount of federal brownfields grant or loan funds to assist in site assessment or cleanup, and will continue to offer technical assistance to

local governments that are trying to investigate or cleanup brownfields properties.

13. Under the bill, authorized expenditures in the environmental management account will substantially exceed estimated revenue during the 2011-13 biennium.

14. If the bill is amended to maintain some level of funding for the site assessment and/or green space grant programs in DNR, either additional revenue would need to be provided to the environmental management account, other expenditures from the account would need to be decreased, or a combination of both would be needed.

15. Maintaining a site assessment and green space grant program in DNR could be justified based on the following points: (a) continuing a program in DNR would maintain the relationships that have developed between DNR and local governments over the last 14 years regarding how to determine the extent of contamination at a sites; (b) it would maintain a financial resource for DNR to offer municipalities that are trying to address potential contamination at a site before it is known what the economic development potential might be; (c) it would maintain an emphasis on the environmental cleanup aspects of moving contaminated sites towards cleanup when the economic development potential of the site is unknown; (d) it would provide a certain funding allocation for the programs; and (e) a separate program may provide greater incentive and certainty for local governments to take ownership of tax delinquent properties as the first step in moving them towards a completed cleanup.

16. Deleting the programs in DNR could be justified based on the following points: (a) consolidating the programs in WEDC would increase the focus on the economic development aspects of cleaning up contaminated brownfields sites; (b) deleting the specific amounts appropriated for the program would provide flexibility to determine what priority should be provided to site assessment and green space grants in relation to grants funded under the current Commerce brownfields grant program and other activities that might promote economic development; (c) during a time of a potential deficit in the environmental management account, other activities related to contaminated land cleanup may have a higher priority than state funding for local government site assessment and green space grants; and (d) if it was a high priority to maintain the programs, DNR would have awarded some level of grants during 2010-11 rather than transfer all program funding to the general fund.

17. If the Committee wishes to maintain the brownfields site assessment and/or green space grant programs in DNR, this could be done by: (a) maintaining the separate current appropriations for the two programs [Alternative #3a or #5]; (b) combining the two programs into one appropriation, which would allow DNR to determine the amount of any appropriated funding that would be allocated to the two programs [Alternative #3b or #3c]; or (c) maintaining the appropriation for the brownfields site assessment grant program, but not the green space grant program, which would reflect the higher total cumulative funding and number of grants provided for site assessment grants [Alternative #4a or #4b].

18. If the Committee chooses to maintain the separate programs in DNR, the amount of funding provided for the programs would depend on other decisions made by the Committee about the level of revenues to and appropriations from the environmental management account.

19. The current programs provide total funding of \$2,065,000 annually. DNR administers a competitive application funding cycle and Department staff spent many hours accepting, scoring, and ranking applications. DNR staff indicate a competitive funding cycle would be most effective if at least \$1 million of funding is available annually. Some examples of funding amounts include: (a) \$1,000,000 annually for site assessment grants and \$250,000 for green space grants [Alternative #3a]; (b) \$1,000,000 or \$1,500,000 annually for a combined program [Alternative #3b or #3c]; (c) \$1,000,000 or \$1,440,000 annually (base level funding less an approximately 10% reduction) to continue the site assessment grant program but not the green space grant program [Alternative #4a or #4b]; or (d) current law funding of \$1,595,700 annually for site assessment grants and \$469,300 for green space grants [Alternative #5].

20. If the Committee chooses to transfer the program statutes to WEDC [Alternative #2b] or restores some version of one or both of the programs in DNR [Alternatives 3 to 5], site assessment grant applicants who would have been on the 2010-11 funding award list, but did not receive an award because DNR transferred program funding to the general fund could apply for funding from WEDC under whatever procedures the Corporation chooses to establish, or could compete for funding from DNR. The Committee could choose to require WEDC or DNR to give funding priority in 2011-12 to site assessment grant applicants who would have been on the 2010-11 funding award list, but did not receive an award because DNR transferred program funding to the general fund [Alternative 6].

21. Currently, the site assessment grant statutes require the local government grant recipient to contribute matching funds equal to 20% of the grant amount (less than 17% of project costs), which may be in the form of cash, or an in-kind contribution, or both. The green space grant statutes do not specify a match requirement, but DNR rules for the program require the local government grant recipient to contribute matching funds as follows: (a) at least 20% of the grant request for grants \$50,000 or less; (b) at least 35% of the grant request for grants of greater than \$50,000 and less than \$100,000; and (c) at least 50% of the grant request (one-third of project costs) for grants of at least \$100,000, up to \$200,000. Given the historical demand for program grants, if the Committee chooses to maintain statutory requirements for one or both of the programs, the Committee could also consider increasing the program match requirements for the site assessment grant program, and specifying minimum match requirements for the green space grant program. Grant matches are intended to ensure a recipient has a substantial financial stake in a project, which may help to contain costs. A higher local match also allows a wider distribution of state funding to multiple project applicants, which may result in greater benefits to the state. The Committee could consider specifying the programs may cover no greater than one of the following percentages of project funding: (a) 75% [Alternative #7a]; (b) 67% [Alternative #7b]; or (c) 50% [Alternative #7c].

## **ALTERNATIVES**

1. Approve the Governor's recommendations to: (a) delete \$2,065,000 environmental management account SEG annually; (b) repeal the brownfields site assessment grant appropriation; and (c) repeal the brownfields green space grant appropriation.

2. Approve the Governor's recommendation. In addition, approve one of the

following:

a. Repeal the brownfields site assessment grant program statute in s. 292.75 and the brownfields green space grant program statute in s. 292.79.

b. Transfer the brownfields site assessment and green space grant program statutes to the WEDC statutes to require WEDC to administer the programs. Delete the requirement that rules be promulgated for the brownfields site assessment grant program.

3. Approve one of the following alternatives to restore both the brownfields site assessment and green space grant programs in DNR with environmental fund SEG:

a. Restore the separate appropriations for the two grant programs, and provide \$1,000,000 annually for brownfields site assessment grants and \$250,000 annually for green space grants.

<b>ALT 3a</b>	<b>Change to Bill Funding</b>
SEG	\$2,500,000

b. Provide one appropriation for brownfields site assessment and green space grants and provide \$1,000,000 annually for the grant program. (DNR would determine the amount to be awarded for each program.)

<b>ALT 3b</b>	<b>Change to Bill Funding</b>
SEG	\$2,000,000

c. Provide one appropriation for brownfields site assessment and green space grants and provide \$1,500,000 annually for the grant program. (DNR would determine the amount to be awarded for each program.)

<b>ALT 3c</b>	<b>Change to Bill Funding</b>
SEG	\$3,000,000

4. Approve the Governor's recommendation to repeal the brownfields green space grant program appropriation. Repeal the green space grant program appropriation in s. 292.79. Restore the brownfields site assessment grant appropriation in DNR and provide one of the following amounts from the environmental fund annually for brownfields site assessment grants:

a. \$1,000,000

<b>ALT 4a</b>	<b>Change to Bill Funding</b>
SEG	\$2,000,000

- b. \$1,440,000 (an approximately 10% base level reduction)

<b>ALT 4b</b>	<b>Change to Bill Funding</b>
SEG	\$2,880,000

5. Delete provision. This would maintain \$2,065,000 annually for the current DNR programs, including \$1,595,700 SEG annually for the brownfields site assessment grant program and \$469,300 SEG annually for the brownfields green space grant program.

<b>ALT 5</b>	<b>Change to Bill Funding</b>
SEG	\$4,130,000

6. In addition to approving any of Alternatives 2b through 5, require the administering entity (WEDC or DNR) to give funding priority in 2011-12 to site assessment grant applicants who would have been on the 2010-11 funding award list.

7. In addition to approving any of Alternatives 2b through 6, specify state grants may not exceed one of the following levels of eligible project costs:

- a. 75% (the recipient must cover at least 25% of a project's cost).
- b. 67% (the recipient must cover at least 33% of a project's cost).
- c. 50% (the recipient must cover at least 50% of a project's cost).

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Attachment





## ATTACHMENT

### DNR Brownfield Site Assessment Grant Program Cumulative Grants as of May 1, 2011

<u>County</u>	<u>Number of Municipal Recipients</u>	<u>Number of Grants</u>	<u>Total Grant Amount</u>	<u>County</u>	<u>Municipal Recipients</u>	<u>Number of Grants</u>	<u>Total Grant Amount</u>
Adams	1	2	\$129,990	Manitowoc	2	5	\$134,989
Ashland	3	6	320,000	Marathon	7	10	322,638
Barron	4	4	290,190	Marinette	4	11	516,363
Bayfield	1	1	2,100	Marquette	3	3	86,000
Brown	7	9	384,965	Menominee	0	0	0
Buffalo	0	0	0	Milwaukee	16	130	4,347,786
Burnett	1	2	32,275	Monroe	0	0	0
Calumet	1	7	178,450	Oconto	6	12	490,837
Chippewa	3	6	242,500	Oneida	2	2	71,065
Clark	4	4	176,000	Outagamie	6	14	477,947
Columbia	5	9	317,669	Ozaukee	5	7	186,775
Crawford	3	7	370,000	Pepin	0	0	0
Dane	12	20	706,494	Pierce	0	0	0
Dodge	4	7	315,840	Polk	3	3	85,675
Door	3	3	212,750	Portage	2	3	126,667
Douglas	3	7	158,034	Price	1	1	100,000
Dunn	1	3	57,800	Racine	3	7	251,610
Eau Claire	1	2	200,000	Richland	3	10	302,771
Florence	1	1	100,000	Rock	5	13	327,866
Fond du Lac	4	5	193,350	Rusk	1	3	73,500
Forest	1	1	25,250	St. Croix	3	5	149,350
Grant	5	7	173,860	Sauk	2	2	52,600
Green	2	3	123,975	Sawyer	2	3	72,190
Green Lake	2	2	104,800	Shawano	1	1	30,000
Iowa	3	3	78,989	Sheboygan	3	7	249,188
Iron	2	3	57,790	Taylor	1	1	25,000
Jackson	1	4	120,000	Trempealeau	1	1	26,950
Jefferson	4	4	120,000	Vernon	3	4	45,054
Juneau	1	2	116,000	Vilas	0	0	0
Kenosha	1	12	385,200	Walworth	6	19	709,844
Kewaunee	2	3	135,000	Washburn	2	2	44,428
La Crosse	2	3	97,001	Washington	1	1	100,000
Lafayette	1	1	29,000	Waukesha	6	6	275,481
Langlade	1	3	77,000	Waupaca	4	5	202,799
Lincoln	1	1	30,000	Waushara	0	0	0
				Winnebago	6	11	538,500
				Wood	<u>4</u>	<u>5</u>	<u>210,000</u>
				Total	205	464	\$16,696,146