



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #466

Tipping Fee Exemption for Waste-To-Energy Facilities (Natural Resources -- Waste, Remediation, and Air)

[LFB 2021-23 Budget Summary: Page 440, #11]

CURRENT LAW

State solid waste tipping fees are assessed on most solid waste disposed of in state landfills and solid waste disposal facilities. State tipping fees total \$12.997 per ton for most municipal and non-high-volume industrial waste, which includes solid waste generated by residential, business, commercial, government facility, construction/demolition, and industrial uses that are not high-volume. This includes: (a) \$9.64 per ton deposited in the environmental management account of the segregated environmental fund; (b) \$3.20 per ton deposited in the nonpoint account of the environmental fund; (c) \$0.15 per ton landfill license surcharge fee established under administrative rule and deposited in a Department of Natural Resources (DNR) program revenue appropriation for administration of solid waste and landfill requirements; and (d) \$0.007 per ton deposited in a Department of Administration program revenue appropriation to support the Solid Waste Facility Siting Board. Certain wastes, such as high-volume industrial waste, including fly ash, bottom ash, paper mill sludge and foundry process waste, pay lower fees of \$0.497 per ton.

Other wastes are exempt from statutory tipping fees. 2013 Wisconsin Act 301 exempts certain residual non-recyclable waste from qualified materials recovery facilities (MRFs) from all state statutory tipping fees totaling \$12.847 per ton, effective with waste disposed of on or after January 1, 2015. DNR assesses this waste the \$0.15 per ton landfill license surcharge under administrative code. The exemption is subject to the following caps: (a) for a construction and demolition MRF, 30% of the total weight of material accepted by the facility; and (b) for any other MRF, 10% of the total weight of material accepted by the facility.

A qualified materials recovery facility is defined as either: (a) a facility where the recyclable materials that are banned from landfills, such as aluminum or glass containers, newspaper, and

cardboard, and that are not mixed with other solid waste, are processed for reuse or recycling, provided the operator of the MRF is self-certified under s. NR 544.16 of the administrative code, and the facility is in compliance with its approved plan of operation; or (b) a facility at which materials generated by construction, demolition, and remodeling of structures are processed for recycling if the facility is licensed under Chapter 289 of the statutes as a solid waste processing facility, the approved plan of operation for the facility requires the reporting of the volume or weight of materials processed, recycled, and discarded as residue, and the facility is in compliance with its approved plan of operation.

In calendar years 2015 (the first year of the exemption) through 2020, a total of 885,000 tons were exempt from statutory tipping fees under the provision. This includes 124,000 tons in 2019 and 129,000 tons in 2020.

DISCUSSION POINTS

1. Assembly Bill 68/Senate Bill 111 would create an exemption from the statutory tipping fees for facilities that: (a) are licensed as a municipal solid waste combustor; (b) under their approved plan of operation, must report the weight of material entering facility, the weight of material rejected by facility and where it was sent, and the weight of residue and where it was sent; and (c) are in compliance with their approved plan of operation. Facilities meeting the requirements would have an exemption from tipping fees for residual waste sent to landfills in the state, but not more than 30% of the total weight of material accepted by the facility. The exemption would not apply to ash generated by the facility. Under the bill, waste-to-energy facilities and currently exempt MRFs would become known as "qualified facilities."

2. It is expected that two facilities, one each in La Crosse and Barron Counties, would qualify for the exemption. DNR estimates a reduction in tipping fees of \$272,100 annually for the environmental fund. An additional \$200 annually in reduced program revenues would be estimated for the Solid Waste Facility Siting Board.

3. The Xcel Energy La Crosse French Island facility had a residual non-recyclable waste rate of 22% in 2019 and 26% in 2020 on incoming municipal solid waste going for combustion. This amount was 16,500 tons in 2019 and 19,100 tons in 2020. The provision would allow for up to 30% of residual waste to be tipping fee-exempt. If the La Crosse facility had used the full 30%, total residual tons would have been 22,600 in 2019 and 21,900 in 2020. If the facility were to maintain the 26% residual rate, tipping fee revenue would be reduced by \$245,300 in each year of the 2021-23 biennium. If the facility had used the full 30% residual rate, tipping fee revenue would be reduced by perhaps \$290,000 in each year of the 2021-23 biennium, based on recent incoming waste tonnages.

4. Barron County's facility had a residual non-recyclable waste rate of 3% in 2019 and 4% in 2020 on incoming municipal solid waste going for combustion. This amount was 1,100 tons in 2019 and 1,200 tons in 2020. The proposal would allow for up to 30% of residual waste to be tipping fee-exempt. If Barron County had used the full 30%, total residual tons would have been 10,900 in 2019 and 10,400 in 2020. If the facility were to maintain the 3% or 4% residual rates, tipping fee revenue would be reduced by perhaps \$15,700 in each year of the 2021-23 biennium. If the facility

had used the full 30% residual rate, tipping fee revenue would be reduced by perhaps \$140,000 in each year of the 2021-23 biennium, based on recent incoming waste tonnages.

5. Of the \$272,100 annual segregated environmental fund revenue reduction, \$204,300 would be from the environmental management account and \$67,800 would be from the nonpoint account. The environmental management account is expected to have a June 30, 2021, available balance of \$23.9 million and a June 30, 2023, balance of \$37.8 million. The nonpoint account is expected to have an available balance of \$5.4 million on June 30, 2021, and \$8.8 million on June 30, 2023.

6. The provisions in AB 68/SB 111 would be substantially similar to provisions in 2019 AB 713/SB 670. The bills would have created a tipping fee exemption to apply to the same two facilities expected to be eligible currently. The bills had bipartisan co-sponsorship and passed the Assembly on February 18, 2020 on a voice vote. It failed to pass pursuant to Senate Joint Resolution 1.

7. In addition to tipping fee exemptions for MRFs under current law, there are also full or partial tipping fee exemptions various purposes, including: (a) waste generated by clean-up from a natural disaster; (b) waste by a nonprofit that attempts to recycle or reuse materials, and that employs or provides services to persons with disabilities (Goodwill); (c) waste removed at the request of DNR to mitigate environmental issues; (d) unusable post-consumer papermaking materials, if the material cannot be further used to make pulp, paper, or paperboard; and (e) lake and river sediment contaminated with polychlorinated biphenyls (PCBs). In general, fee exemptions can provide incentives for certain desirable activities to occur, such as removal of contaminated material, or eliminate disposal costs for activities for which the Legislature has determined the imposition of fees is imprudent, such as natural disaster recovery or waste from nonprofit organizations.

8. Fee exemptions in general also reduce the base of contributing payers, resulting in relatively fewer activities that bear the imposition of fees. Further, although the volume of waste typically disposed of by the eligible facilities under the provision is a negligible amount (0.3%) of the approximately 8 million tons of waste disposed of in Wisconsin landfills annually, foregone tipping fees would reduce revenues that could be directed toward waste management and other environmental programs.

9. The tipping fee exemption could be viewed as providing equitable treatment of facilities that divert a substantial amount of material they receive from entering landfills. Further, conserving existing landfill capacity is generally seen as preferable to siting and constructing new landfills in the state. For these reasons, the Committee could provide for the exemption under AB 68/SB 111 [Alternative 1]. On the other hand, the Committee could also take no action to leave current tipping fee exemptions unchanged [Alternative 2].

ALTERNATIVES

1. Create an exemption from solid waste disposal fees (tipping fees) for facilities that incinerate solid waste for the purpose of energy recovery. Specify that the exemption applies to

facilities that: (a) are licensed as a municipal solid waste combustor for the purpose of energy recovery; (b) under their approved plan of operation, must report the weight of material entering facility, the weight of material rejected by facility and where it was sent, and the weight of residue and where it was sent; and (c) are in compliance with their approved plan of operation. Specify that qualified waste-to-energy facilities meeting the requirements would have an exemption from tipping fees for residual waste sent to landfills in the state, but not more than 30% of the total weight of material accepted by the facility. Specify that the exemption would not apply to ash generated by the facility.

ALT 1	Change to Base
SEG-REV	- \$544,200
PR-REV	- \$400

2. Take no action.

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