



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.

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.

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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.

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,

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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.

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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.

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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

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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.

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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.

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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:

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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

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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.

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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

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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

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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

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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)