



State of Wisconsin  
1997 - 1998 LEGISLATURE

LRBs0552/1  
RCT:kmg:ijs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1997 ASSEMBLY BILL 861**

March 2, 1998 – Offered by Representative JOHNSRUD.

1     **AN ACT to amend** 25.47, 101.143 (3) (cm), 101.143 (4) (b) (intro.) and 101.143 (4)  
2           (cm); and **to create** 20.143 (3) (s), 20.143 (3) (t), 101.143 (1) (cq), 101.143 (3) (cp),  
3           101.143 (4) (c) 11. and 12., 101.143 (4s) and 101.143 (11) of the statutes;  
4           **relating to:** reimbursement for costs incurred because of discharges from  
5           certain petroleum product storage tanks, authorizing revenue obligations to be  
6           contracted and making appropriations.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

7           **SECTION 1.** 20.143 (3) (s) of the statutes is created to read:  
8           20.143 (3) (s) *Petroleum storage environmental remedial action revenue*  
9           *obligation repayment.* From the fund created under s. 101.143 (11) (b), all moneys  
10          received by the fund and not transferred under s. 101.143 (11) (c) to the petroleum  
11          inspection fund, for the purpose of the retirement of revenue obligations, providing  
12          for reserves and for operations relating to the management and retirement of

1 revenue obligations issued under s. 101.143 (11). All moneys received are irrevocably  
2 appropriated in accordance with subch. II of ch. 18 and further established in  
3 resolutions authorizing the issuance of the revenue obligations and setting forth the  
4 distribution of funds to be received thereafter. Estimated disbursements under this  
5 paragraph shall not be included in the schedule under s. 20.005.

6 **SECTION 2.** 20.143 (3) (t) of the statutes is created to read:

7 20.143 (3) (t) *Petroleum storage environmental remedial action revenue*  
8 *obligation funding.* As a continuing appropriation, all proceeds from revenue  
9 obligations issued under s. 101.143 (11) and deposited into the fund in the state  
10 treasury created under s. 18.57 (1), for paying awards under s. 101.143 (4), providing  
11 for reserves and for expenses of issuance and management of the revenue  
12 obligations. Estimated disbursements under this paragraph shall not be included in  
13 the schedule under s. 20.005.

14 **SECTION 3.** 25.47 of the statutes, as affected by 1997 Wisconsin Act 27, is  
15 amended to read:

16 **25.47 Petroleum inspection fund.** There is established a separate  
17 nonlapsible trust fund designated as the petroleum inspection fund, to consist of the  
18 ~~fees imposed~~ any revenues derived under s. 168.12 (1) that are not pledged to the  
19 fund created under s. 101.143 (11) (b), the moneys transferred under s. 101.143 (11)  
20 (c), the payments under s. 101.143 (4) (h) 1m., the payments under s. 101.143 (5) (a)  
21 and the net recoveries under s. 101.143 (5) (c).

22 **SECTION 4.** 101.143 (1) (cq) of the statutes is created to read:

23 101.143 (1) (cq) "Natural attenuation" means the reduction in the  
24 concentration and mass of a substance, and the products into which a substance

1 breaks down, in groundwater due to naturally occurring physical, chemical and  
2 biological processes without human intervention.

3 **SECTION 5.** 101.143 (3) (cm) of the statutes is amended to read:

4 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person  
5 owning a home oil tank system may, with the approval of the department of natural  
6 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of  
7 commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and  
8 implementing monitoring to ensure the effectiveness of the natural process of  
9 degradation of petroleum product contamination in soil or of natural attenuation in  
10 groundwater, or both, if none of the environmental factors in par. (cp) is present.

11 **SECTION 6.** 101.143 (3) (cp) of the statutes is created to read:

12 101.143 (3) (cp) *Sites with environmental factors.* 1. This paragraph applies  
13 if at least one of the following environmental factors exists in connection with a  
14 petroleum product discharge:

15 a. The concentration of contaminants within the area of contamination is  
16 increasing or the boundaries of the area of concentration are expanding or  
17 advancing.

18 b. It is confirmed that the discharge has resulted in a concentration of  
19 contaminants in a private or public potable well that exceeds a preventive action  
20 limit established under s. 160.15.

21 c. Contamination exists in bedrock or within one meter of bedrock.

22 d. Petroleum product that is not in the dissolved phase is present with a  
23 thickness of 0.01 feet or more, as shown by more than one measurement.

24 e. Surface water or a wetland has been contaminated.

1           2. If a site has an environmental factor, the owner or operator or person owning  
2 a home oil tank system shall complete an analysis of alternative remedial actions,  
3 in accordance with rules promulgated by the department of natural resources under  
4 s. 292.11, to address the contamination caused by the discharge. The analysis shall  
5 include estimates of the costs of implementing each alternative. The owner or  
6 operator or person owning a home oil tank system shall submit the analysis to the  
7 department of commerce and the department of natural resources. The owner or  
8 operator or person owning a home oil tank system may not begin the remedial action  
9 until the department of commerce has approved the cost estimates and the  
10 department of natural resources has approved the remedial action.

11           3. When the department receives an analysis under subd. 2., the department  
12 may do one of the following:

13           a. Establish a maximum reimbursable cost for the remedial action.

14           b. Require the owner or operator or person owning a home oil tank system to  
15 use specified service providers or to conduct the remedial action in conjunction with  
16 the remedial action for another discharge.

17           c. Require the owner or operator or person owning a home oil tank system to  
18 use a competitive public bidding process to select service providers.

19           **SECTION 7.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

20           101.143 (4) (b) *Eligible costs.* (intro.) ~~Eligible~~ Except as provided in par. (c),  
21 eligible costs for an award under par. (a) include actual costs or, if the department  
22 establishes a schedule usual and customary cost under par. (cm) for an item, usual  
23 and customary costs for the following items only:

24           **SECTION 8.** 101.143 (4) (c) 11. and 12. of the statutes are created to read:

1           101.143 (4) (c) 11. Costs of excavating soils if the level of contamination in the  
2           soils is less than numerical residual contaminant levels developed in accordance  
3           with rules promulgated by the department of natural resources under s. 292.11 and  
4           approved by the department of natural resources or, if the discharge is covered under  
5           s. 101.144 (2) (b), by the department of commerce.

6           12. Costs in excess of maximum reimbursable costs established by the  
7           department under sub. (3) (cp) 3. a. or (4s) (b) 1.

8           **SECTION 9.** 101.143 (4) (cm) of the statutes is amended to read:

9           101.143 (4) (cm) *Usual and customary costs.* The department ~~may~~ shall  
10          establish a schedule of usual and customary costs for ~~any~~ some or all of the items  
11          under par. (b) and may use that schedule to determine the amount of a claimant's  
12          eligible costs.

13          **SECTION 10.** 101.143 (4s) of the statutes is created to read:

14          101.143 (4s) REMEDIAL ACTION REVIEW. (a) The department of commerce or the  
15          department of natural resources may review remedial actions being conducted for  
16          which claims have been or will be filed under sub. (3) to determine the efficacy and  
17          cost-effectiveness of the remedial action. The department of commerce may review  
18          remedial actions to determine whether ineligible costs are being incurred.

19          (b) Following a review under par. (a) of a remedial action, the department of  
20          commerce may do one or more of the following:

21                1. Establish a maximum reimbursable cost for the remedial action if the  
22                department has not already done so.

23                2. Require the owner or operator or person owning a home oil tank system to  
24                use specified service providers or to conduct the remainder of the remedial action in  
25                conjunction with the remedial action for another discharge.

1           3. Require the owner or operator or person owning a home oil tank system to  
2 develop an analysis of alternative remedial actions, one of which shall be  
3 implemented following approval by the department of natural resources or, if the  
4 discharge is covered under s. 101.144 (2) (b), by the department of commerce.

5           (c) The department may not reimburse an owner or operator or person owning  
6 a home oil tank system for any costs incurred in connection with a discharge after  
7 the owner or operator or person owning a home oil tank system, or the consultant  
8 retained by the owner or operator or person owning a home oil tank system, fails to  
9 provide information needed for a review under par. (a) or for any costs incurred after  
10 the owner or operator or person owning a home oil tank system fails to comply with  
11 requirements imposed under par. (b) 2. or 3.

12           **SECTION 11.** 101.143 (11) of the statutes is created to read:

13           101.143 (11) REVENUE OBLIGATIONS. Awards under sub. (4) may be funded with  
14 the proceeds of revenue obligations issued subject to and in accordance with subch.  
15 II of ch. 18.

16           (b) The department may, under s. 18.56 (5), direct the department of revenue  
17 to deposit in a separate fund in the state treasury revenues derived under s. 168.12  
18 (1).

19           (c) The building commission may pledge revenues received or to be received in  
20 the fund established in par. (b) to secure revenue obligations issued under this  
21 subsection. The pledge shall provide for the transfer to the petroleum inspection  
22 fund of all pledged revenues, including any interest earned on the revenues, that are  
23 in excess of the amounts required to be paid under s. 20.143 (3) (s). The pledge shall  
24 provide that the transfers be made at least quarterly and that the transferred  
25 amounts are free of any prior pledge.

1 (d) The department shall have all other powers necessary and convenient to  
2 distribute the pledged revenues and to distribute the proceeds of the revenue  
3 obligations in accordance with subch. II of ch. 18.

4 (e) The department may enter into agreements with the federal government  
5 or its agencies, political subdivisions of this state or private individuals or entities  
6 to insure or in any other manner provide additional security for the revenue  
7 obligations issued under this subsection.

8 (f) Revenue obligations may be contracted by the building commission when it  
9 reasonably appears to the building commission that all obligations incurred under  
10 this subsection can be fully paid from moneys received or anticipated and pledged to  
11 be received on a timely basis. If the building commission proposes to contract  
12 revenue obligations under this subsection, the building commission shall notify the  
13 joint committee on finance in writing of the proposed action. If the cochairpersons  
14 of the committee do not notify the building commission that the committee has  
15 scheduled a meeting for the purpose of reviewing the proposed action within 14  
16 working days after the date of the building commission's notification, the building  
17 commission may contract the revenue obligations as proposed. If, within 14 working  
18 days after the date of the building commission's notification, the cochairpersons of  
19 the committee notify the building commission that the committee has scheduled a  
20 meeting for the purpose of reviewing the proposed action, the building commission  
21 may contract the revenue obligations only upon the approval of the committee.  
22 Revenue obligations issued under this subsection shall not exceed \$400,000,000 in  
23 principal amount, excluding obligations issued to refund outstanding revenue  
24 obligations.

