



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0184/1
ZDW:skw

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 99**

June 16, 2021 - Offered by Representatives SORTWELL and KITCHENS.

1 **AN ACT** *to amend* 289.54 (2); and *to create* 289.43 (8) (d), 289.63 (6) (e), 289.64
2 (4) (e), 289.645 (4) (i) and 289.67 (1) (fp) of the statutes; **relating to:**
3 requirements and exemptions relating to materials dredged from Great Lakes
4 and creating administrative rules relating to dredged materials exemptions.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Natural Resources to promulgate a rule that exempts facilities for the disposal of material dredged from Lake Michigan or Lake Superior from license and operating plan requirements.

Under current law, DNR establishes, by rule, standards for the location, design, construction, sanitation, operation, monitoring, and maintenance of solid waste facilities. These are facilities for the treatment, storage, or disposal of solid waste, which broadly includes garbage, refuse, sludge, and other discarded or salvageable materials. Current law prohibits operation of a solid waste facility without a license issued by DNR and a plan of operation approved by DNR.

The bill requires DNR to promulgate a rule exempting facilities from these requirements for purposes of disposal of material dredged by a municipality or its contractors from Lake Michigan, Lake Superior, or their bays or harbors, if DNR determines that the dredging and disposal will have a demonstrable economic public benefit, the cumulative adverse environmental impact of the dredging is

insignificant and will not result in specified harms, and the facility is in compliance with landfill performance standards established under DNR administrative rules.

The bill creates in the administrative code the exemption required by the bill and creates numerous requirements for the location and operation of a disposal facility. The bill also creates in the administrative code requirements for a municipality to apply for the exemption created by the bill.

Under current law, DNR may not approve a request by the operator of a solid waste disposal facility to accept dredged materials that contain polychlorinated biphenyls (PCBs) or heavy metals in a concentration of less than 50 parts per million unless DNR holds a public meeting in the municipality where the disposal facility is located. Under the bill, DNR may not approve a request by the operator of a solid waste disposal facility to accept dredged materials that contain PCBs or heavy metals in any concentration until after a public hearing is held. The bill also requires the public hearing to be held in the county, rather than the municipality, where the facility is located.

Finally, current law imposes several fees, commonly called tipping fees, on generators of solid waste that is disposed of at a landfill or other waste disposal facility. This bill exempts from these fees the disposal of soils and dredged sediments.

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

1 **SECTION 1.** 289.43 (8) (d) of the statutes is created to read:

2 289.43 (8) (d) 1. The department shall promulgate a rule that exempts from the
3 requirements of ss. 289.30 and 289.31 any facility for the disposal of material
4 dredged by a municipality or its contractors from Lake Michigan, Lake Superior, or
5 bays or harbors adjacent to Lake Michigan or Lake Superior, if the department
6 determines all of the following:

7 a. The dredging and disposal will have a demonstrable economic public benefit,
8 as defined under s. 281.36 (1) (am).

9 b. The cumulative adverse environmental impact of the dredging is
10 insignificant and will not injure public rights or interests, cause environmental
11 pollution, as defined in s. 299.01 (4), or result in material injury to the rights of any
12 riparian owner.

1 c. The facility is in compliance with conditions established by the department
2 by rule.

3 2. An exemption granted by the department under this paragraph shall be
4 valid for a period not to exceed 10 years and shall expire if there is a material adverse
5 change in the contamination of the dredged material that would be disposed of at the
6 facility or if there is a material change in the intended use of the dredged material.

7 **SECTION 2.** 289.54 (2) of the statutes is amended to read:

8 289.54 (2) The department may not approve a request by the operator of a solid
9 waste disposal facility to accept dredged materials that contain PCBs or heavy
10 metals in a concentration of less than 50 parts per million for disposal in the solid
11 waste disposal facility until after the department holds a public meeting in the ~~city,~~
12 ~~village or town~~ county in which the solid waste disposal facility is located. At the
13 public meeting, the department shall describe the nature of the requested disposal
14 and shall solicit public comment.

15 **SECTION 3.** 289.63 (6) (e) of the statutes is created to read:

16 289.63 (6) (e) Soils and dredged sediments are not subject to the groundwater
17 and well compensation fees imposed under sub. (1).

18 **SECTION 4.** 289.64 (4) (e) of the statutes is created to read:

19 289.64 (4) (e) Soils and dredged sediments are not subject to the solid waste
20 facility siting board fee imposed under sub. (1).

21 **SECTION 5.** 289.645 (4) (i) of the statutes is created to read:

22 289.645 (4) (i) Soils and dredged sediments are not subject to the recycling fee
23 imposed under sub. (1).

24 **SECTION 6.** 289.67 (1) (fp) of the statutes is created to read:

1 289.67 (1) (fp) *Exemption from environmental repair fee; soils and dredged*
2 *sediments.* Soils and dredged sediments are not subject to the environmental repair
3 fee imposed under par. (a).

4 **SECTION 7.** NR 500.08 (3) (d) of the administrative code is created to read:

5 NR 500.08 (3) (d) Facilities for the disposal of material dredged by a
6 municipality or its contractors from Lake Michigan, Lake Superior, or bays or
7 harbors adjacent to Lake Michigan or Lake Superior, if the department makes the
8 determinations required under s. 289.43 (8) (d) 1. and 2., Stats., if the facility
9 complies with the performance standards specified in s. NR 504.04 (4), and subject
10 to all of the following:

11 1. The facility may accept dredged material for not more than 10 years or in an
12 amount not to exceed 25,000 cubic yards, whichever occurs first, unless there is a
13 material adverse change in the contamination of the dredged material that would be
14 disposed of at the facility or if there is a material change in the intended use of the
15 dredged material.

16 2. The disposal facility may not be located within 100 feet of any wetland or
17 critical habitat area or within a floodplain. This subdivision does not apply if the
18 project is for beach nourishment above the ordinary high water mark on a public
19 beach that has already been noticeably disturbed by human activities such as the
20 construction of a parking lot, public swimming area, or other improvement and that
21 has no unique ecological value.

22 3. The disposal facility may not be located less than 100 feet from any water
23 supply well.

24 4. The facility shall confine the disposal area to as limited a geographic area
25 as is practicable.

