



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.

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***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.

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***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.

5. At least 60 days prior to beginning disposal under this paragraph, a municipality shall submit to the department all of the following:

- a. The address or location of the disposal site.
- b. The name of the person or entity accepting the dredged material.
- c. A map or aerial image showing the disposal location.
- d. The coordinates for the center of the disposal location.
- e. The dates when dredged material is to be received at the disposal location.
- f. The approximate volume of material to be disposed.
- g. The intended uses of the dredged material.
- h. The available laboratory analytical data for samples collected from the dredged material to determine environmental impact.

6. The department shall determine whether a received application is complete and, if the department determines it is necessary, provide a written objection to the application within 30 days of receipt by the department. An application may not be reviewed until the department has determined the application is complete. One application may authorize disposal of dredged material from one dredging location at multiple disposal sites.

**SECTION 8. Effective date.**

(1) This act takes effect on the first day of the 7th month beginning after publication.

**(END)**