



2023 SENATE BILL 1071

February 26, 2024 - Introduced by Senators SMITH and SPREITZER, cosponsored by Representatives MADISON, JOERS, ANDRACA, BALDEH, CLANCY, CONLEY, DRAKE, EMERSON, MOORE OMOKUNDE, MYERS, OHNSTAD, PALMERI, RATCLIFF, SHANKLAND, SINICKI, STUBBS and TRANEL. Referred to Committee on Natural Resources and Energy.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 15.347 (2), 20.370 (4) (eq), 20.370 (6) (eq), 20.370 (9) (nq), 25.17
2 (1) (d) and 25.48; **to amend** 20.566 (1) (r), 25.46 (2m), 77.9964 (3) and 292.65
3 (14); **to repeal and recreate** 25.43 (2s); and **to create** 20.370 (6) (et), 20.370
4 (6) (eu), 25.46 (1) (s) and 292.66 of the statutes; **relating to:** repealing the dry
5 cleaner environmental response program and creating the revitalize Wisconsin
6 program.

Analysis by the Legislative Reference Bureau

This bill eliminates the existing dry cleaner environmental response program and its associated fund and council and creates the revitalize Wisconsin program, which is administered by the Department of Natural Resources.

The revitalize Wisconsin program created under the bill provides aid, in the form of grants or direct services to local governments, dry cleaners, and private parties, to address the discharge of a hazardous substance or the existence of environmental pollution on the government's or person's property. Aid may be provided for sites for which the site's owner or operator applied for assistance under the dry cleaner environmental response program before its repeal; brownfields; sites that are exempt from the state's hazardous substance remediation laws (often called the "spill law"); and sites that are subject to the spill law but that are owned by private parties. The bill defines "private party" to include a bank, trust company, savings bank, or credit union; a developer; a nongovernmental organization; and an

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innocent landowner. The bill defines an “innocent landowner” as a property owner that either 1) acquired the property prior to November 1, 2006, has continuously owned the property since the date of acquisition, and can demonstrate, through documentation, that the discharge or environmental pollution being addressed was caused by another person and that the property owner did not know and had no reason to know of the discharge or pollution when the owner acquired the property; or 2) acquired the property on or after November 1, 2006, meets all of the previously stated requirements, and can demonstrate, through documentation, that the property owner conducted all appropriate inquiries in compliance with the federal All Appropriate Inquiries rule under 40 CFR part 312 prior to acquiring the property.

The bill provides that DNR may not award aid to an applicant under the revitalize Wisconsin program if the applicant caused the discharge or environmental pollution unless the applicant is a dry cleaner that applied for assistance under the dry cleaner environmental response program before its repeal. The bill also provides that DNR may require an applicant to provide a match, either in cash or in-kind, for any aid that is awarded under the program.

Activities for which aid may be provided under the program include removing hazardous substances from contaminated media such as surface waters, groundwater, or soil; investigating and assessing the discharge or environmental pollution; removing abandoned containers; asbestos abatement; and restoring or replacing a private potable water supply.

The bill also allows DNR to inspect any document in the possession of an applicant or any other person if the document is relevant to an application for financial assistance under the program.

For further information see the state 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.** 15.347 (2) of the statutes is repealed.

2 **SECTION 2.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
3 the following amounts for the purposes indicated:

2023-24 2024-25

4 **20.370 Natural resources, department of**

5 (6) ENVIRONMENTAL AIDS

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1	(et) Environmental aids — revitalize				
2	Wisconsin program	SEG	B	3,000,000	3,000,000
3	(eu) Environmental aids — waste				
4	removal and sampling	SEG	B	3,000,000	500,000

5 **SECTION 3.** 20.370 (4) (eq) of the statutes is repealed.

6 **SECTION 4.** 20.370 (6) (eq) of the statutes is repealed.

7 **SECTION 5.** 20.370 (6) (et) of the statutes is created to read:

8 20.370 (6) (et) *Environmental aids —revitalize Wisconsin program.* Biennially,
9 from the environmental fund, the amounts in the schedule for aid awards under s.
10 292.66 and to make any required payments under s. 25.43 (2s).

11 **SECTION 6.** 20.370 (6) (eu) of the statutes is created to read:

12 20.370 (6) (eu) *Environmental aids —waste removal and sampling.* Biennially,
13 from the environmental fund, the amounts in the schedule to provide financial
14 assistance for the purpose of removing waste materials that have accumulated or
15 been dumped on abandoned properties and to conduct sampling and testing to
16 determine if those properties pose a risk to public health and safety or the
17 environment.

18 **SECTION 7.** 20.370 (9) (nq) of the statutes is repealed.

19 **SECTION 8.** 20.566 (1) (r) of the statutes is amended to read:

20 20.566 (1) (r) *Administration of dry cleaner fees.* From the ~~dry cleaner~~
21 ~~environmental response~~ environmental fund, the amounts in the schedule for the
22 purpose of administering the fees under subch. XII of ch. 77.

23 **SECTION 9.** 25.17 (1) (d) of the statutes is repealed.

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1 **SECTION 10.** 25.43 (2s) of the statutes, as affected by 2023 Wisconsin Act 6, is
2 repealed and recreated to read:

3 25.43 **(2s)** The secretary of administration and the secretary of natural
4 resources shall ensure that any moneys required to be repaid to the environmental
5 improvement fund as a result of a transfer under s. 25.43 (2s), 2021 stats., shall be
6 paid from the environmental fund to the environmental improvement fund.

7 **SECTION 11.** 25.46 (1) (s) of the statutes is created to read:

8 25.46 **(1)** (s) All moneys received under s. 77.9964 (3) for environmental
9 management.

10 **SECTION 12.** 25.46 (2m) of the statutes is amended to read:

11 25.46 **(2m)** Of the moneys described in sub. (1) that are received for the purpose
12 of environmental management, except the moneys described in sub. (1) (ej), (ek),
13 (hm), (j), (jj), (s), (t), and (u), \$6,150,000 shall, in each fiscal year, be considered to
14 have been received for the purpose of nonpoint source water pollution abatement.

15 **SECTION 13.** 25.48 of the statutes is repealed.

16 **SECTION 14.** 77.9964 (3) of the statutes is amended to read:

17 77.9964 **(3)** The department shall deposit all of the revenue that it collects
18 under this subchapter in the environmental fund ~~under s. 25.48.~~

19 **SECTION 15.** 292.65 (14) of the statutes is amended to read:

20 292.65 **(14)** SUNSET. This section does not apply after ~~June 30, 2032~~ the
21 effective date of this subsection [LRB inserts date].

22 **SECTION 16.** 292.66 of the statutes is created to read:

23 **292.66 Revitalize Wisconsin program.** **(1) DEFINITIONS.** In this section:

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1 (a) “Brownfield” means a property that is abandoned, idle, or underused, the
2 expansion or redevelopment of which is adversely affected by actual or perceived
3 discharge or environmental pollution.

4 (b) “Discharge” has the meaning given in s. 292.01 (3).

5 (c) “Innocent landowner” means any of the following:

6 1. A property owner that acquired the property prior to November 1, 2006, has
7 continuously owned the property since the date of acquisition, and can demonstrate,
8 through documentation, that the discharge or environmental pollution on the
9 property was caused by another person and that the property owner did not know
10 and had no reason to know of the discharge or environmental pollution when the
11 owner acquired the property.

12 2. A property owner that acquired the property on or after November 1, 2006,
13 has continuously owned the property since the date of acquisition, and can
14 demonstrate, through documentation, that the property owner conducted all
15 appropriate inquiries in compliance with 40 CFR part 312 prior to acquisition, that
16 the discharge or environmental pollution on the property was caused by another
17 person, and that the property owner did not know and had no reason to know of the
18 discharge or environmental pollution when the owner acquired the property.

19 (d) “Interim action” means a response action that is taken to contain or stabilize
20 a discharge or environmental pollution at a site or facility, in order to minimize any
21 threats to public health, safety, or welfare or to the environment, while other
22 response actions are being taken or planned for the site or facility.

23 (e) “Local governmental unit” has the meaning given under s. 292.11 (9) (e) 1.

24 (f) “Private party” means any of the following:

25 1. A bank, trust company, savings bank, or credit union.

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1 2. A developer, as defined in s. 66.0617 (1) (b).

2 3. An organization or enterprise, other than a sole proprietorship, that is
3 operated for profit or that is nonprofit and nongovernmental, including an
4 association, business trust, corporation, joint venture, limited liability company,
5 limited liability partnership, partnership, or syndicate.

6 4. An innocent landowner.

7 (g) "Remedial action" has the meaning given in s. 292.12 (1) (d).

8 **(2) POWERS AND DUTIES OF THE DEPARTMENT.** (a) The department shall
9 administer a program to award aids from the appropriation under s. 20.370 (6) (et)
10 to eligible entities under sub. (5).

11 (b) The department may not award aid to an entity under this section if that
12 entity caused the discharge or environmental pollution at the site or facility for which
13 aid is awarded, except to eligible entities for sites or facilities under sub. (4) (a).

14 (c) The department may award aid to eligible entities in the form of grants or
15 direct services or, for sites or facilities under sub. (4) (a), in the form of
16 reimbursements.

17 (d) The department may require a match from an eligible entity for an awarded
18 aid in the form of cash or in-kind services, except from an eligible entity for a site or
19 facility for which funds are designated under sub. (3) (a).

20 **(3) ALLOCATION OF FUNDS.** (a) In any fiscal year, if there remain any sites or
21 facilities under sub. (4) (a) for which a claim for reimbursement was submitted before
22 the effective date of this paragraph ... [LRB inserts date], but for which the claim has
23 not been paid, the department shall designate \$1,000,000 of the funds appropriated
24 under s. 20.370 (6) (et), or the total amount of such unpaid claims, whichever is less,
25 to the payment of those claims.

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1 (b) In any fiscal year, if there remain any sites or facilities under sub. (4) (a) for
2 which an application for eligibility was submitted before the effective date of this
3 paragraph [LRB inserts date], but for which a claim has not been made to the
4 department, the department shall designate \$450,000 of the funds appropriated
5 under s. 20.370 (6) (et) to the payment of claims for such sites or facilities, until all
6 such sites or facilities have received a case closure letter under s. 292.12.

7 (c) The department shall designate 15 percent of the funds appropriated under
8 s. 20.370 (6) (et) to provide aid in small or disadvantaged communities.

9 (d) The department may not provide more than one award of aid for a site or
10 facility in a single fiscal year, except for sites or facilities under sub. (4) (a).

11 **(4) ELIGIBLE SITES AND FACILITIES.** An eligible applicant under sub. (5) may
12 receive aid under this section for any the following sites or facilities:

13 (a) Sites or facilities for which an application for eligibility was submitted
14 under the dry cleaner environmental response program under s. 292.65, 2021 stats.,
15 and that were deemed eligible for that program before the effective date of this
16 paragraph [LRB inserts date].

17 (b) Brownfields.

18 (c) Sites or facilities regulated under s. 292.11 that are owned by entities that
19 are exempt from s. 292.11 (3), (4), and (7) (b) and (c) as provided under s. 292.11 (9)
20 (e), 292.13, or 292.21.

21 (d) Sites or facilities regulated under s. 292.11 that are owned by private
22 parties.

23 **(5) ELIGIBLE ENTITIES.** The following entities are eligible for an award under
24 this section.

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1 (a) Local governmental units that did not cause the discharge or environmental
2 pollution.

3 (b) Owners or operators of dry cleaning facilities that own or operate an eligible
4 site or facility under sub. (4) (a).

5 (c) Private parties, other than a dry cleaning facility under par. (b), that did not
6 cause the discharge or environmental pollution and can demonstrate that the party's
7 property was fairly acquired through an arm's-length transaction.

8 **(6) ELIGIBLE ACTIVITIES; INELIGIBLE COSTS.** (a) All activities for which aid is
9 provided under this section shall comply with all state and federal laws and rules
10 promulgated by the department, unless otherwise provided under this section or
11 rules promulgated under this section.

12 (b) The department may award aid under this section to cover the costs of any
13 of the following activities:

- 14 1. Assessment and investigation of a discharge or environmental pollution.
- 15 2. Interim and remedial actions to remove hazardous substances from
16 contaminated media.
- 17 3. Treatment and disposal of contaminated media.
- 18 4. Vapor intrusion assessment and mitigation.
- 19 5. Removal of abandoned containers, as defined in s. 292.41 (1).
- 20 6. Asbestos abatement activities, as defined in s. 254.11 (2), conducted as part
21 of redevelopment activities.
- 22 7. Environmental monitoring.
- 23 8. Restoration or replacement of a private potable water supply, if eligible for
24 temporary emergency water supplies under rules promulgated by the department.

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1 9. The removal of underground hazardous substance or petroleum product
2 storage tanks.

3 10. Preparation of documentation to apply for case closure under s. 292.11.

4 11. Other costs identified by the department as reasonable and necessary for
5 proper investigation, analysis of remedial action options, remedial action planning,
6 and remedial action to meet the requirements of s. 292.11.

7 (c) The department may not award aid under this section to cover any of the
8 following costs:

9 1. The cost of activities conducted prior to the award of aid under this section,
10 except for activities conducted at a site or facility under sub. (4) (a).

11 2. The cost of activities that the department determines are not integral to the
12 investigation and remediation of a discharge or environmental pollution.

13 3. Legal fees.

14 4. The cost of investigations or remedial action conducted outside this state.

15 5. Costs for financing eligible activities.

16 **(7) APPLICATION FOR AID.** Eligible applicants shall submit an application on a
17 form prescribed by the department and shall include any information the
18 department finds necessary to evaluate the eligibility of the project and amount of
19 aid to be awarded.

20 **(8) RULES; RECORDS.** The department shall promulgate rules to administer the
21 program under this section, including rules prescribing the criteria for determining
22 the amount of aid to be awarded, the records that must be maintained by an
23 applicant, and the periods for which those records must be retained. The department
24 may inspect any document in the possession of an applicant or any other person if
25 the document is relevant to an application for aid under this section.

SENATE BILL 1071**SECTION 17****1 SECTION 17. Fiscal changes.**

2 (1) DRY CLEANER ENVIRONMENTAL RESPONSE FUND TRANSFER. The unencumbered
3 balance in the dry cleaner environmental response fund under s. 25.48, 2021 stats.,
4 is transferred to the environmental fund under s. 25.46.

5 SECTION 18. Nonstatutory provisions.

6 (1) AUTHORIZED POSITIONS; REVITALIZE WISCONSIN PROGRAM. The authorized FTE
7 positions for the department of natural resources are increased by 5.0 SEG positions,
8 to be funded from the appropriation under s. 20.370 (6) (et), for the purpose of
9 administering the revitalize Wisconsin program under s. 292.66 and making any
10 required payments under s. 25.43 (2s).

11 (2) AUTHORIZED POSITIONS; FINANCIAL ASSISTANCE FOR WASTE REMOVAL AND
12 SAMPLING. The authorized FTE positions for the department of natural resources are
13 increased by 5.0 SEG positions, to be funded from the appropriation under s. 20.370
14 (6) (eu), for the purpose of providing financial assistance for the purpose described
15 under s. 20.370 (6) (eu).

16 (END)