

11/16/2023
Committee on Local Government
Assembly Bill 492
Testimony in Support

John Welch, representing:
Dane County
Solid Waste Association of North America - Wisconsin Badger Chapter
Wisconsin Counties Solid Waste Management Association

Mr. Chairman and members of the Committee, thank you for the opportunity to speak with you today about Assembly Bill 492. My name is John Welch. I am the Director of the Dane County Department of Waste and Renewables, and I have over 15 years of experience in the waste and recycling industry. I am also representing a couple of other organizations today, as I am the President of the Wisconsin Badger Chapter of the Solid Waste Association of North America and Vice-Chair of the Wisconsin Counties Solid Waste Management Association. My testimony today is on behalf of Dane County and the hundreds of members of SWANA and WCSWMA throughout this state.

This Bill is a common sense measure aimed at leveling the playing field for municipal waste facilities. As part of current Statutes and WDNR code, most waste facilities in Wisconsin are required to provide proof of Owner Financial Responsibility, or OFR. In simple terms, OFR are funds or proof of funds, which are sufficient for the State to properly close and maintain a landfill or other waste facility, if the owner of that facility were to walk away. OFR helps ensure the State and its citizens are not left holding the bag if a waste facility owner fails to meet their obligations.

There are several ways that a facility owner can meet OFR requirements. For example, they can have money sitting in designated accounts, they can have a surety bond, or they can obtain a letter of credit. Under current Statutes, a facility operator can also use the net worth test method, but only if they are a company that meets the definition in s. [289.41 \(1\) \(b\)](#).

In practice, this means that privately owned landfills are allowed to use the net worth test method, but municipally owned facilities are not allowed to use that same method to meet OFR obligations. The net worth test method allows a facility owner to use their organization's net worth to meet their OFR obligations without having to actually set aside funds or pay for one of the other expensive OFR mechanisms.

I would like to take just another minute or two to highlight how the current statutes provide a competitive disadvantage to municipalities and unnecessarily cost municipalities and their residents very real money each year.

At my current landfill, we have \$14.7 million in OFR accounts. This is money that is sitting there, unable to be invested or used for other business needs. Over the last several years, despite strong stock market performance, these accounts have actually lost money or barely broken even each year. Due to inflationary pressure, this has resulted in us needing to make cash payments of hundreds of thousands of dollars per year into these accounts. In 2023 alone, we had to make a payment of over \$2.3 million. This was due to the way the formula is calculated, which assumes inflation will stay the same for the next 30+ years. These payments would not have been necessary if we were allowed to use the net worth method for meeting OFR requirements. Additionally, once we start to close a portion of a landfill, we not only have funds sitting unused in an OFR account, we also have to actually fund the upfront closure costs with other monies, to the tune of several million dollars. Only after the work is completed and the proper documentation report is submitted and approved, can OFR funds be released as reimbursement. This means that we have millions of dollars tied up for several months after having to front the costs of construction.

Allowing private landfills to use the net worth methodology while denying municipal landfills from doing the same is a clear disadvantage to Wisconsin's municipalities. I ask you to consider which is a greater risk to the State - a private LLC that can sell off their assets, file bankruptcy, and walk away from a waste facility or a municipality which is not going anywhere and has bonding and taxing authority. This Bill is a common sense measure that introduces virtually no risk to the State. Municipally owned waste facilities will continue to meet our requirements to provide environmentally responsible waste solutions. We ask that we are not asked to do so with one hand tied behind our back. On behalf of Dane County, the Wisconsin Badger Chapter of the Solid Waste Association of North America, and the Wisconsin Counties Solid Waste Management Association, I ask you to support this Bill. Thank you for your time, and I am available to answer any questions you may have.