



Budget Briefs

from the
Wisconsin Legislative Reference Bureau

Budget Brief 99-4

November 1999

RECYCLING

The biennial state budget act (1999 Wisconsin Act 9), passed by the legislature and signed by Governor Tommy Thompson on October 27, 1999, revises the funding mechanisms that support recycling across the state.

BACKGROUND

Wisconsin's current recycling laws, largely created by 1989 Wisconsin Act 335 in Chapter 287, Wisconsin Statutes, prohibit most recyclable materials from being dumped into landfills and require local governments to operate recycling programs.

In the late 1980s, federal regulations regarding the construction of solid waste disposal facilities significantly reduced the state's available landfill capacity at a time when residents and businesses were generating increasing amounts of trash. The demand for landfill space, coupled with concerns over environmental degradation and the depletion of natural resources, led to passage of Act 335.

The legislature also attempted to reduce the volume of out-of-state waste being deposited in Wisconsin by requiring communities in other states to comply with Wisconsin's recycling rules, but these laws were invalidated by federal courts in August 1995 and January 1999 on the grounds that they unconstitutionally impeded interstate commerce.

MATERIALS BANNED FROM LANDFILLS

Wisconsin's recycling requirements were phased in, beginning January 1991, with a ban on lead acid (motor vehicle) batteries, major appliances, and waste oil from landfills, followed by yard waste in January 1993, and most other recyclables in January 1995. In addition, the state phased in requirements regarding reduction of toxic substances in packaging materials and mandates on the labeling and recyclable material content of plastic bottles.

Today, the following materials generally may not be deposited in a solid waste disposal facility: aluminum beverage cans, cardboard or corrugated paper boxes, foam polystyrene packaging, glass containers such as bottles or jars, magazine-type publications, newspapers or other publications printed on newsprint, office paper, plastic containers, steel containers such as food cans, tires, and bimetal cans made of a combination of steel and aluminum.

MUNICIPAL RECYCLING PROGRAMS

The local government that implements the local recycling program is known as the "responsible unit". There are currently about 1,080 such units operating programs, which are funded through state subsidies, user fees, and property taxes. County boards may designate the entire county as the responsible unit, although individual municipalities may opt out of the county system.

As responsible units, cities, villages, towns, and Indian tribes may choose to operate their own recycling programs, using either municipal or contracted employees, or they may conduct joint recycling efforts with other units. Some units require residents to privately contract for waste hauling and recycling.

To operate an “effective recycling program” that is eligible for state aid, the responsible unit must require single-family residences, buildings containing multiple dwelling units, and commercial, retail, industrial, and government facilities to separate recyclable materials from other waste. The unit must have a system for collecting, processing, and marketing the separated materials, along with adequate enforcement of pertinent ordinances and a public education program. Municipalities must provide, and retailers must provide or direct purchasers to, collection points for the recycling of automotive engine oil and other petroleum products.

A responsible unit that does not meet the criteria of an “effective recycling program” may be denied access to landfills and is not eligible for state financial assistance. The Department of Natural Resources (DNR) is authorized to cite violators of solid waste laws, including individuals who dump prohibited materials in landfills. Forfeitures, which may range from \$50 for a first offense to not more than \$2,000 for a third or subsequent violation, may also be imposed by municipal ordinances.

Act 9 repealed the statutory provision that, starting in 2000, if a unit recycled less than 25% of its solid waste, it would be required to charge volume-based solid waste fees to generate revenue equal to the unit’s waste management costs that were not reimbursed by the state.

SURCHARGES AND FEES

Act 9 revived and revised the tax surcharge on most businesses in the state, which had expired on April 1, 1999. The previous assessment was considered temporary and was based on gross tax liability or net profits, ranging from a minimum of \$25 to a maximum of \$9,800. (The temporary surcharge has produced over \$300 million since 1990 for program support.) The new permanent recycling surcharge, enacted by Act 9 (Subchapter VII of Chapter 77, Wisconsin Statutes), begins on January 1, 2000, and will apply to businesses with gross receipts over \$4 million. The surcharge rate is 3% of gross tax liability for corporations and 0.2% of net business income for partnerships and other types of businesses.

The second recycling funding source (Section 289.645, Wisconsin Statutes) is a landfill tipping fee of 30 cents per ton, imposed on all solid waste except high-volume industrial waste, effective January 1, 2000. In signing Act 9, the governor vetoed: 1) a general tipping fee of \$2 per ton, 2) a separate 30-cent per ton fee on high-volume industrial waste, 3) an increase to \$20,000 in the maximum surcharge, and 4) an increase of 2.3 cents per ton in the environmental fund tipping fee on all waste except high-volume industrial waste.

Based on Act 335, newspaper publishers must meet a gradually escalating target for the volume of recycled content in newsprint, reaching 40% in 2003, or pay a fee to the state. In response to a shortage of recycled newsprint, 1997 Wisconsin Act 274 created an exception whereby the DNR secretary may waive the fee in years prior to 2001 for publishers who use newsprint with at least 30% recycled content in a particular year.

FINANCIAL ASSISTANCE TO RECYCLING PROGRAMS

Act 9 continued the awards program created by Act 335 and appropriated \$24.5 million annually in 2000 and 2001, to permit the DNR to make grants to effective recycling programs in accordance with a formula based on 1999 awards. Communities that did not receive awards in 1999 will also be given an opportunity to apply for grants in 2000 or 2001.