

Committee on Environment and Natural Resources

CS/HB 733 — Brownfields

by Natural Resources & Disasters Subcommittee and Rep. Anderson and others (CS/CS/SB 736 by Appropriations Committee on Agriculture, Environment, and General Government; Environment and Natural Resources Committee; and Senators Truenow and Brodeur)

The bill removes provisions related to local governments' role in mapping institutional controls. For a brownfield site within a larger contaminated area, if cleanup criteria are met, the bill prohibits the Department of Environmental Protection (DEP) or delegated local programs from: (1) denying "No Further Action" status, or (2) refusing to issue a site rehabilitation completion order, regardless of whether the site has engineering or institutional controls.

Rather than allowing tax credit applicants to receive 25 percent of the total site rehabilitation costs in the final year once a "No Further Action" order is issued, the bill provides that applicants are eligible for this additional credit after DEP has approved the annual site rehabilitation application and issued a site rehabilitation order. The applicant must submit the claim for the additional 25 percent within two years of receiving the site rehabilitation completion order. The bill removes a provision that prohibited unpermitted sites operated for monetary compensation from claiming tax credits for the costs of solid waste removal under the brownfield program. It also changes the deadline for the annual site rehabilitation tax credit certificate award from May 1 to June 1 and extends the time DEP has to respond to a tax credit applicant's response to a notice of deficiency.

The bill allows local governmental entities, including persons organized or united with the local governmental entity for business purposes, to participate in the program, provided they did not cause or contribute to the contamination of the brownfield site after July 1, 2025.

The bill removes references to brownfield sites being commercial, industrial, or contaminated sites. Instead, the bill defines brownfield site as real property identified in a brownfield site rehabilitation agreement executed by the person responsible for brownfield site rehabilitation of the property and DEP or a delegated local pollution control program, as applicable.

The bill also provides that, for sites subject to certain federal enforcement actions or permits that would otherwise be ineligible to participate in the brownfield program, DEP must allow participation if the U.S. Environmental Protection Agency (EPA) issues a no-objection letter, and the applicant can reasonably demonstrate compliance with contamination cleanup criteria. DEP may not require as a condition of such letter that EPA forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion order.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2025.

Vote: Senate 32-0; House 116-0