



## 1997 ASSEMBLY BILL 599

November 11, 1997 - Introduced by Representative BLACK. Referred to Committee on Land Use.

1     **AN ACT to create** 59.692 (1) (d), 59.692 (1) (e), 59.692 (8), 61.351 (1) (ag), 61.351  
2           (1) (bm), 61.351 (7), 62.231 (1) (ag), 62.231 (1) (bm) and 62.231 (7) of the  
3           statutes; **relating to:** zoning of shorelands by counties and zoning of wetlands  
4           in shorelands by cities and villages.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a county must enact specific zoning ordinances to regulate activities in any shorelands located within its boundaries. Current law defines "shorelands" as lands within certain distances of navigable waters. Under rules promulgated by the department of natural resources (DNR) that establish standards for these ordinances, more specific and restrictive standards apply to wetlands that are located in shorelands. Also under current law, villages and cities must enact specific zoning ordinances to regulate activities in wetlands that have an area of 5 acres or more and that are located in shorelands.

This bill prohibits a county, village or city from rezoning any area, from enacting any amendment to one of these specific zoning ordinances affecting wetlands or from granting a special zoning permission in order to validate an activity that occurs in any wetland that is subject to one of these specific zoning ordinances and that is in violation of any of these zoning ordinances at the time that the activity occurs. An exception to this prohibition applies if the county, city or village had the authority under its zoning powers to approve the activity before it occurred. Under the bill, "special zoning permission" includes a zoning variance, a special or conditional permit, a special exception or a conditional use.

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Also, under the bill, if the activity that violates the zoning ordinance has a significant adverse impact on the functional values of the wetlands, the person committing the violation must undertake reasonable efforts to restore the wetlands in the manner required under a wetlands restoration plan as approved by DNR.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 59.692 (1) (d) of the statutes is created to read:

2           59.692 (1) (d) "Special zoning permission" has the meaning given in s. 59.69  
3 (15) (g).

4           **SECTION 2.** 59.692 (1) (e) of the statutes is created to read:

5           59.692 (1) (e) "Wetland" has the meaning given in s. 23.32 (1).

6           **SECTION 3.** 59.692 (8) of the statutes is created to read:

7           59.692 (8) (a) A county may not rezone shorelands, enact an amendment to a  
8 county ordinance enacted under this section or grant special zoning permission  
9 under such an ordinance in order to validate any activity that is in a wetland located  
10 on shorelands and that is in violation of the county zoning ordinance at the time that  
11 the activity occurs, unless the county had the authority by rezoning or by granting  
12 a special zoning permission under such an ordinance to approve the activity before  
13 it occurred.

14           (b) If a county determines that an activity to which par. (a) applies has a  
15 significant adverse impact on the functional values of the wetlands, the county shall  
16 require the person committing the violation to undertake reasonable efforts to  
17 restore the wetlands in the manner required under a wetlands restoration plan as  
18 approved by the department.

19           **SECTION 4.** 61.351 (1) (ag) of the statutes is created to read:

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1           61.351 (1) (ag) “Special zoning permission” has the meaning given in s. 62.23  
2 (7) (i) 7.

3           **SECTION 5.** 61.351 (1) (bm) of the statutes is created to read:

4           61.351 (1) (bm) “Wetland zoning ordinance” means an ordinance enacted under  
5 this section by a village or an ordinance enacted under s. 59.692 (7) that applies to  
6 a wetland in an area annexed by the village.

7           **SECTION 6.** 61.351 (7) of the statutes is created to read:

8           61.351 (7) REZONING OF WETLANDS. (a) A village may not rezone wetlands, enact  
9 an amendment to a wetland zoning ordinance or grant special zoning permission  
10 under a wetland zoning ordinance in order to validate any activity that is subject to  
11 a wetland zoning ordinance and that is in violation of the wetland zoning ordinance  
12 at the time that the activity occurs, unless the village had the authority by rezoning  
13 or by granting a special zoning permission under the wetland zoning ordinance to  
14 approve the activity before it occurred.

15           (b) If a village determines that an activity to which par. (a) applies has a  
16 significant adverse impact on the functional values of the wetlands, the village shall  
17 require the person committing the violation to undertake reasonable efforts to  
18 restore the wetlands in the manner required under a wetlands restoration plan as  
19 approved by the department.

20           **SECTION 7.** 62.231 (1) (ag) of the statutes is created to read:

21           62.231 (1) (ag) “Special zoning permission” has the meaning given in s. 62.23  
22 (7) (i) 7.

23           **SECTION 8.** 62.231 (1) (bm) of the statutes is created to read:

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1           62.231 (1) (bm) “Wetland zoning ordinance” means an ordinance enacted under  
2 this section by a city or an ordinance enacted under s. 59.692 (7) that applies to a  
3 wetland in an area annexed by the city.

4           **SECTION 9.** 62.231 (7) of the statutes is created to read:

5           62.231 (7) REZONING OF WETLANDS. (a) A city may not rezone a wetland, enact  
6 an amendment to a wetland zoning ordinance or grant special zoning permission  
7 under a wetland zoning ordinance in order to validate any activity that is subject to  
8 a wetland zoning ordinance and that is in violation of the wetland zoning ordinance  
9 at the time that the activity occurs, unless the city had the authority by rezoning or  
10 by granting a special zoning permission under the wetland zoning ordinance to  
11 approve the activity before it occurred.

12           (b) If a city determines that an activity to which par. (a) applies has a significant  
13 adverse impact on the functional values of the wetlands, the city shall require the  
14 person committing the violation to undertake reasonable efforts to restore the  
15 wetlands in the manner required under a wetlands restoration plan as approved by  
16 the department.

17           **SECTION 10. Initial applicability.**

18           (1) This act first applies to procedures for rezoning that are initiated on the  
19 effective date of this subsection.

20           (2) This act first applies to petitions for amendments to zoning ordinances and  
21 requests or appeals for special zoning permission that are filed on the effective date  
22 of this subsection.

23   **(END)**