



State of Wisconsin
2011 - 2012 LEGISLATURE

0379/P1



LR# 4045/1

RCT/MGG/RK/JK:kl/nn/cs:rs

Today

Senate Substitute Amendment

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to 2011 SENATE BILL 488

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February 16, 2012 - Introduced by Senators GALLOWAY, ~~VUKMIR~~, ZIPPERER, WANGGAARD, DARLING, S. FITZGERALD, LASEE, LAZICH, LEIBHAM, KEDZIE and GROTHMAN, cosponsored by Representatives J. FITZGERALD, SUDER, WILLIAMS, TIFFANY, HONADEL, AUGUST, BALLWEG, BERNIER, BIES, BROOKS, CRAIG, ENDSLEY, FARROW, JACQUE, KAPENGA, KAUFERT, KERKMAN, KESTELL, KLEEFISCH, KLENKE, KNILANS, KNODL, KNUDSON, KOOYENGA, KRAMER, KRUG, KUGLITSCH, T. LARSON, LEMAHIEU, LITJENS, LOUDENBECK, MARKLEIN, MEYER, MURSAU, MURTHA, NASS, NERISON, NYGREN, A. OTT, J. OTT, PETERSEN, PETROWSKI, PETRYK, PRIDEMORE, RIPP, RIVARD, SEVERSON, SPANBAUER, STEINEKE, STONE, STRACHOTA, STROEBEL, TAUCHEN, THIESFELDT, TRANEL, VAN ROY, VOS, WEININGER and WYNN. Referred to Joint Committee on Finance.

1 AN ACT to repeal 30.025 (1e) (title) and (a), 107.001 (2) and 293.01 (8); to
2 renumber and amend 30.025 (1e) (b), 30.123 (8) (c) and 87.30 (2); to amend
3 20.370 (2) (gh), 20.455 (1) (gh), 20.566 (7) (e), 20.566 (7) (v), 25.46 (7), 29.604 (4)
4 (intro.), 29.604 (4) (c) (intro.), 30.025 (1m) (intro.), 30.025 (1m) (c), 30.025 (1s)
5 (a), 30.025 (2), 30.025 (2g) (b) (intro.), 30.025 (4), 30.12 (3m) (c) (intro.), 30.133
6 (2), 30.19 (4) (c) (intro.), 30.195 (2) (c) (intro.), 44.40 (5), 70.375 (1) (as), 70.375
7 (1) (bm), 70.38 (2), 70.395 (1e), 70.395 (2) (dc) 1., 70.395 (2) (dc) 4., 70.395 (2)
8 (fm), 70.395 (2) (h) 1., 107.001 (1), 107.01 (intro.), 107.01 (2), 107.02, 107.03,
9 107.04, 107.11, 107.12, 107.20 (1), 107.20 (2), 107.30 (8), 107.30 (15), 107.30
10 (16), 160.19 (12), 196.491 (3) (a) 3. b., 196.491 (4) (b) 2., 281.65 (2) (a), 281.75
11 (17) (b), 287.13 (5) (e), 289.35, 289.62 (2) (g) 2. and 6., 292.01 (1m), chapter 293
12 (title), 293.01 (5), 293.01 (7), 293.01 (9), 293.01 (12), 293.01 (18), 293.01 (25),
13 293.21 (1) (a), 293.25 (2) (a), 293.25 (4), 293.37 (4) (b), 293.47 (1) (b), 293.50 (1)
14 (b), 293.50 (2) (intro.), 293.50 (2) (a), 293.50 (2) (b), 293.51 (1), 293.65 (3) (a),

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1 293.65 (3) (b), 293.86, chapter 295 (title), 295.16 (4) (f), 299.85 (7) (a) 2. and 4.,
2 299.95, 323.60 (5) (d) 3. and 710.02 (2) (d); and *to create* 20.370 (2) (gi), 29.604
3 (7m), 30.025 (4m), 31.23 (3) (e), 87.30 (2) (b), 293.01 (12m), subchapter III of
4 chapter 295 [precedes 295.40] and 323.60 (1) (gm) of the statutes; **relating to:**
5 regulation of ferrous metallic mining and related activities, procedures for
6 obtaining approvals from the Department of Natural Resources for the
7 construction of utility facilities, making an appropriation, and providing
8 penalties.

Analysis by the Legislative Reference Bureau**OVERVIEW**

This bill makes changes in the laws relating to the regulation of iron mining and procedures for utility facility approvals.

PROCEDURES FOR UTILITY FACILITY APPROVALS

Under current law, with certain exceptions, a person may not begin the construction of certain utility facilities before the Public Service Commission (PSC) has issued to the person either a certificate of public convenience and necessity (CPCN) or a certificate authorizing the person to transact public utility business (PSC certificate). Current law also provides that a utility facility that is required to obtain a PSC certificate and that is required to obtain one or more permits from the Department of Natural Resources (DNR), such as a permit allowing the placement of a structure in navigable waters, must use a procedure that requires the utility facility to submit only one application to DNR for all of the required DNR permits (combined permit procedure) rather than submitting separate applications to DNR for each permit. Current law also specifies that the applicant under the combined permit procedure must submit the combined application for permits to DNR at the same time that the applicant files an application for a PSC certificate.

This bill makes the combined permit procedure optional and allows a utility facility to submit separate applications to DNR for each required permit. Under the bill, if the utility facility does not use the combined permit procedure, it is not required to file a DNR permit application at the same time that it files an application for a PSC certificate.

Current law requires a person proposing to construct a large electric generating facility or high-voltage transmission line (facility) to provide DNR with an engineering plan or project plan for the facility at least 60 days before filing an application with PSC for a CPCN. Within 30 days thereafter, DNR must provide the person with a listing of each DNR approval that appears to be required for the

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construction or operation of the facility. Current law requires the person to file the application for these approvals within 20 days after receiving the listing from DNR. This bill eliminates this 20-day deadline and also specifies that the person must only apply for those approvals identified in the listing that are applicable.

IRON MINING, GENERALLY

Under current law, DNR regulates mining for metallic minerals. The laws under which DNR regulates metallic mining apply to mining for ferrous minerals (iron) and mining for nonferrous minerals, such as copper or zinc.

This bill creates new statutes for regulating iron mining and modifies the current laws regulating metallic mining so that they cover only mining for nonferrous minerals.

Under current law, a person who proposes to mine for metallic minerals must obtain a mining permit and any other permit, license, certification, or other authorization (approval) that is required under the environmental and natural resources laws, other than the mining laws, for example, wastewater discharge permits, high capacity well approvals, and water quality certifications for wetlands.

Under the bill, a person who proposes to mine for iron ore must obtain an iron mining permit. The person must obtain some of the approvals under other environmental and natural resources laws, for example, wastewater discharge permits, but the bill provides new approvals in lieu of some current approvals, for example, high capacity well approvals and water quality certifications for wetlands. The standards and procedures for granting, and the requirements related to, an iron mining permit and the other new approvals differ in some respects from the standards, procedures, and requirements under current law, as described below.

Current law requires DNR to promulgate rules specifying standards for metallic mining and for the reclamation of mining sites. The rules relating to mining must contain standards for grading and stabilization, backfilling, vegetative cover, prevention of pollution resulting from leaching of waste materials, and prevention of significant environmental pollution. The rules relating to reclamation must contain provisions for disposal of wastes in disposal facilities licensed under the solid waste laws or otherwise in an environmentally sound manner, for management of runoff so as to prevent soil erosion, flooding, and water pollution, and for minimization of disturbance to wetlands. DNR has promulgated rules on these matters.

The bill places standards for iron mining and for the reclamation of iron mining sites in the statutes, rather than requiring rule-making. The standards in the bill are similar in many respects to DNR's current rules and are less stringent in other respects.

APPLICATION FOR MINING PERMIT

Under current law, a person who intends to apply for a permit for mining for metallic ore must notify DNR before collecting data intended to be used to support the application. DNR is required to provide public notice when it receives such a notification. After considering public comments, DNR must tell the person who filed the notice of intent what information DNR believes is needed to support an

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application for a mining permit. The person must submit the information as soon as it is in final form.

This bill requires a person who is contemplating a mining project to provide DNR with a general description of the proposed mining project. The description must include a description of the mining site, including the nature, extent, and final configuration of the proposed excavation and mining site and certain other information including a map showing the boundaries of the area of land that will be affected by the mining project and the names of each owner of the mining site. The bill requires the person to include this information with the bulk sampling plan, described below, or if the person does not file a bulk sampling plan, with the person's notification to DNR of the person's intent to apply for an iron mining permit. The bill requires DNR to conduct a public informational hearing on a proposed mining project after receiving the general description, either as part of the hearing on approvals required for bulk sampling or, if there is no such hearing, as a separate hearing.

This bill requires a person who intends to apply for an iron mining permit to notify DNR of the intention to file the application and requires DNR to meet with the applicant to make a preliminary assessment of the project's scope, to make an analysis of alternatives, to identify potential interested persons, and to ensure that the person intending to apply for an iron mining permit is aware of the approvals that the person may be required to obtain. DNR must also ensure that the person is aware of the requirements for submission of an environmental impact report and about the information DNR will require to enable it to process the application for the mining permit in a timely manner.

After the meeting, DNR must provide to the applicant any available information relevant to the potential impact of the project on threatened or endangered species and historic or cultural resources and any other information relevant to impacts that are required to be considered in the environmental impact statement.

Under current law, a person who wishes to obtain a permit for metallic mining must submit an application to DNR that includes a mining plan, a reclamation plan, information about the owners of the mining site, and information related to the failure to reclaim mining sites and to any criminal convictions for violations of environmental laws in the course of mining by persons involved in the proposed mining. The application must also include evidence that the applicant has applied for necessary approvals under applicable zoning ordinances and for any approvals issued by DNR that are necessary to conduct the mining, such as air pollution permits and wastewater discharge permits.

This bill includes similar provisions for the application for an iron mining permit, except that the applicant may provide evidence that the applicant will apply, rather than has applied, for necessary zoning approvals and other approvals issued by DNR.

The required content of the mining plan for iron mining under the bill is similar to that required under current statutes and DNR rules. The required content of the reclamation plan for iron mining is also similar to that required under current law.

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DNR's current rules require the applicant for a metallic mining permit to show that the mining and reclamation will comply with specified minimum standards. The bill requires showings by the applicant for an iron mining permit that differ in some ways from DNR's rules. For example, the rules require a demonstration that water runoff from the mining site will be managed so as to prevent soil erosion to the extent practicable, flooding, damage to agricultural lands or livestock, damage to wild animals, pollution of ground or surface waters, damage to public health, and threats to public safety. The bill requires a showing that water runoff from an iron mining site will be managed in compliance with any approval that regulates construction site erosion control or storm water management.

PERMITTING PROCESS***Environmental impact statement***

Current law requires DNR to prepare an environmental impact statement (EIS) for every proposed metallic mine. An EIS contains detailed information about the environmental impact of a proposed project, including any adverse environmental effects that cannot be avoided if the proposal is implemented, alternatives to the proposed project, the beneficial aspects of the proposal, and the economic advantages and disadvantages of the proposal. For a metallic mining project, current law requires a description of significant long-term and short-term impacts, including impacts after the mining has ended, on tourism, employment, schools, social services, the tax base, the local economy, and "other significant factors."

This bill requires DNR to prepare an EIS for every proposed iron mine. The bill requires DNR to include a description of significant impacts on most of the same matters as under current metallic mining law.

Under current law, when a person applies for a permit or other approval for which DNR is required to complete an EIS, DNR is generally authorized to require the applicant to prepare an environmental impact report (EIR) that discloses environmental impacts of the proposed project to assist DNR in preparing the EIS. Current law authorizes DNR to enter into an agreement with a person considering applying to DNR for approval of a project that is large, complex, or environmentally sensitive to provide preapplication services necessary to evaluate the environmental impact of the project and to expedite the anticipated preparation of an EIS for the project.

The bill requires the applicant for a mining permit to prepare an EIR.

The bill requires the applicant for a mining permit to submit the EIR with the application for the mining permit.

Current law authorizes DNR to conduct the processes related to an EIS jointly with other agencies who have responsibilities related to a proposed project.

The bill requires DNR to conduct its environmental review process for a proposed iron mine jointly with other state agencies and requires the preparation of one joint EIS. The bill requires DNR to conduct its environmental review process jointly with any federal or local agency that consents to a joint process.

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Current law requires DNR to hold at least one informational meeting on a preliminary environmental report for a mining project before it issues the EIS. This bill does not require such an informational meeting.

Mining hearing

Current law requires DNR to hold a hearing on an application for a metallic mining permit. The hearing includes both a contested case hearing, with testimony under oath and the opportunity for cross-examination, and a public informational hearing. The law requires that the hearing cover the EIS and cover all other approvals issued by DNR that are required for the mining project, to the extent possible. Under current law, the provisions related to notice, hearing, and comment in the metallic mining law apply to any other needed approval, unless the applicant fails to make an application for an approval in time for it to be considered at the hearing on the mining permit.

This bill requires DNR to hold a public informational hearing for a proposed iron mining project. The hearing does not include a contested case hearing. The hearing must cover the mining permit, the EIS, and all other approvals issued by DNR that are required for the mining project, unless the application for an approval is filed too late to allow the approval to be considered at the mining hearing. Under the bill, the provisions related to notice, hearing, and comment in the iron mining law apply to any other needed approval.

Deadlines; automatic approval

Current law does not specify a time after the application for a mining permit is filed, within which DNR must act on a metallic mining permit application. It does require the mining hearing to be held between 120 days and 180 days after DNR issues the EIS and requires DNR to act on the permit within 90 days after the completion of the record for the public hearing.

The bill requires DNR to act on an application for an iron mining permit no more than 360 days after the application is considered to be complete. Under the bill, if the applicant submits the application for another approval within 60 days after the application for the mining permit is considered to be complete, DNR must also act on the application for that approval by the 360-day deadline. If the applicant files the application for another approval more than 60 days after the application for the mining permit is considered to be complete, the deadline for DNR's action on the approval is extended by the number of days the application is late.

If DNR does not act within the deadline for acting on the application for an iron mining permit, the application is automatically approved.

Under the bill, the application for a mining permit is considered to be complete on the 30th day after DNR receives it, unless, before that day DNR provides the applicant with written notification that the application does not include a mining plan, reclamation plan, or waste site feasibility study and plan of operation that contain the types of information required under the bill or that the applicant has not submitted an EIR. DNR may not consider the quality of the information provided in determining whether the application is complete.

The bill authorizes DNR to request additional information needed to process the application for a mining permit after the application is considered to be complete,

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but it may not delay the determination that the application is complete based on a request for additional information.

GRANT OR DENIAL OF MINING PERMIT***Grounds for denial***

Current law requires DNR to deny an application for a metallic mining permit for a proposed surface mine if the site is unsuitable for surface mining. A site is unsuitable for surface mining if the surface mining may reasonably be expected to destroy or damage either: 1) habitats required for the survival of endangered species of vegetation or wildlife that cannot be firmly reestablished elsewhere; or 2) unique features of the land, as determined by state or federal designation, as, for example, wilderness areas, national or state parks, archaeological areas, and other lands of a type specified by DNR by rule, as unique or unsuitable for surface mining. DNR has designated more than 150 specific scientific areas for the purposes of the determination of unsuitability.

This bill requires DNR to deny an application for an iron mining permit under the same standards for unsuitability as under current law, except that archaeological areas and other areas designated by DNR as being unique or unsuitable for surface mining are not considered for the purposes of determining unsuitability.

Current law requires DNR to deny an application for a mining permit if the mining operation is reasonably expected to cause any of the following: 1) hazards resulting in irreparable damage to specified kinds of structures, such as residences, schools, or commercial buildings, to public roads, or to other public property designated by DNR by rule, if the damage cannot be prevented under the mining laws, avoided by removal from the area of hazard, or mitigated by purchase or by obtaining the consent of the owner; 2) irreparable environmental damage to lake or stream bodies despite adherence to the metallic mining laws, unless DNR has authorized the activity that causes the damage; 3) landslides or substantial deposition in stream or lake beds that cannot be feasibly prevented; or 4) the destruction or filling in of a lake bed.

The bill requires DNR to deny an application for an iron mining permit if the mining operation is reasonably expected to cause any of the following: 1) hazards resulting in irreparable damage to specified kinds of structures, such as residences, schools, or commercial buildings, or to public roads, but not to other public property designated by DNR by rule, if the damage cannot be prevented under the mining laws, avoided by removal from the area of hazard, or mitigated by purchase or by obtaining the consent of the owner; or 2) irreparable environmental damage to lake or stream bodies despite adherence to the metallic mining laws, unless DNR has authorized the activity that causes the damage. As to the bases described in 3) or 4) above the bill requires DNR to deny the application unless the activity or occurrence is authorized by DNR under an applicable approval such as a wetland water quality certification, or a permit for a navigable water activity.

As under the current metallic mining laws, the bill requires DNR to deny a mining permit if the applicant has violated and continues to fail to comply with this state's mining laws. As also provided under current metallic mining law, the bill

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contains requirements for the denial of an iron mining permit based on the failure to reclaim mining sites and based on criminal convictions for violations of environmental laws in the course of mining in the United States by persons involved in the proposed iron mining.

Standards for approval

Under current law, if none of the grounds for denial of the application for a metallic mining permit apply, DNR must issue the mining permit if it finds the following: 1) the mining plan and reclamation plan are reasonably certain to result in reclamation of the mining site as required by current law and DNR has approved the mining plan; 2) the proposed mining operation will comply with all applicable air, groundwater, surface water, and solid and hazardous waste management statutes and rules; 3) the proposed mine will not endanger public health, safety, or welfare; 4) the proposed mine will result in a net positive economic impact in the area expected to be most impacted by the mine; and 5) the proposed mining operation conforms with all applicable zoning ordinances.

Under this bill, the standards for approval of an iron mining permit differ in some respects from the standards under current law. Under the bill, if none of the grounds for denial of the application for an iron mining permit apply, DNR must issue an iron mining permit if it finds the following: 1) the mining plan and reclamation plan are reasonably certain to result in reclamation of the mining site as required by the provisions of this bill; 2) the applicant has committed to conducting the proposed iron mining in compliance with the mining permit and any other approvals issued by DNR; 3) the proposed iron mining is not likely to result in substantial adverse impacts to public health, safety, or welfare; 4) the proposed iron mine will result in a net positive economic impact in the area expected to be most impacted by the mine; 5) the applicant will obtain all applicable zoning approvals; and 6) the waste site feasibility study and plan of operation comply with the provisions of this bill.

REVIEW OF DNR DECISIONS

Generally, under current law, any person aggrieved by a decision of a state agency may obtain a contested case administrative hearing under this state's administrative procedure laws.

Under this bill, no person is entitled to a contested case hearing on a decision by the DNR under the iron mining laws or a decision by DNR on any environmental approval needed for iron mining or bulk sampling. Judicial review of such a decision, on the administrative record before DNR, is the exclusive method for challenging the decision.

Current law authorizes citizen suits against a person alleged to be in violation of the metallic mining laws and against DNR when there is alleged to be a failure of DNR to perform a duty under those laws.

The bill does not provide for citizen suits related to iron mining.

WETLANDS

This bill makes various changes in current law relating to iron mining and impacts to wetlands and establishes different requirements than those found under

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current law. All of the changes explained below regarding wetlands apply to wetlands that are impacted by iron mining.

Wetland water quality certification

Under the current permitting process there are two permitting procedures for discharging dredged or fill material into a wetland depending on whether the wetland is subjected to federal jurisdiction. Under federal law, activities involving the discharge of dredged or fill material into waters subject to federal jurisdiction must comply with certain guidelines contained in regulations promulgated by the federal Environmental Protection Agency in order for a federal permit to be issued by the U.S. Army Corps of Engineers (ACE). Wetlands are usually the type of waters involved (federal wetlands). Wetlands that are exempt from federal jurisdiction are those that are nonnavigable and isolated, intrastate waters. Current state law regulates discharges and other activities in these wetlands (nonfederal wetlands).

Current law relating to wetlands also makes a distinction between wetlands that are in, or in close proximity to, an area of special natural resource interest (ASNRI wetlands) and wetlands that are outside these areas. Current law defines "an area of special natural resource interest" as being an area that has significant ecological, cultural, aesthetic, educational, recreational, or scientific values and specifically lists certain areas, including Lake Michigan and Lake Superior, state forests, and state parks.

Under current law, before ACE may issue a federal permit, DNR must issue a water quality certification that certifies that the discharge complies with state water quality standards applicable to wetlands. For a discharge into nonfederal wetlands, DNR must issue a water quality certification that certifies that the discharge complies with these water quality standards. In issuing water quality certification for both federal wetlands and nonfederal wetlands, DNR may impose conditions that must be met as part of the water quality certification.

This bill limits DNR's authority in imposing conditions for federal permits as part of the water quality certification. If DNR determines that implementation of the federal compensatory mitigation requirements will offset any significant adverse impact to the wetlands or if for federal ASNRI wetlands avoidance and minimization of adverse impacts has occurred to the extent practicable and any remaining significant adverse impacts are offset by compensation or mitigation, DNR may not impose any additional conditions. If DNR does not make this determination, DNR may impose only the conditions necessary to offset significant adverse impacts that are not offset by the federal compensatory mitigation requirements. The bill also provides that DNR may not increase the number of acres to be mitigated under the federal compensatory mitigation requirements.

For issuing a wetland water quality certification for nonfederal wetlands, if DNR determines that impacts to the wetland will be avoided or minimized to the extent practicable, any remaining impacts to nonfederal wetlands or an area of special natural resource interest, may not be used as a basis for denying certification if any remaining significant adverse impacts to the wetland or an area of special natural resource interest will be offset by compensation or mitigation. Under the bill, DNR must issue water quality certification for nonfederal wetlands if DNR

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determines that all practicable measures will be taken to minimize the adverse impacts to wetlands and any remaining significant adverse impacts are offset through compensation or mitigation.

The bill requires that an applicant for a wetland water quality certification for a nonfederal wetland submit a siting analysis as to various configurations for the iron mining site to DNR for review. These are limited to configurations associated with the proposed areas of iron deposits to be mined and areas contiguous to these deposits. In reviewing the analysis, DNR must recognize limitations associated with the proposed locations for iron mining, the need for waste sites and processing facilities to be contiguous to the location of the iron deposits, and the presumption that nonfederal wetlands will be impacted. If it is impracticable to avoid an impact or use of a nonfederal wetland, the applicant shall identify in the analysis the configurations that would result in impacts to the fewest acres. DNR then determines which configuration will affect the fewest acres and evaluates how that configuration will impact the functional values and water quality of the nonfederal wetland.

Wetland water quality standards

Under rules promulgated by DNR, the state wetland water quality standards require that various functional values of the wetlands be protected from adverse impacts. These functional values include providing protection from flooding, recharging groundwaters, providing habitat for wildlife, and providing protection to shorelines from erosion. Current law also sets forth criteria to be used to assure the maintenance or enhancement of these functional values. These criteria include requiring that certain solids, debris, or toxic substances be absent. This bill incorporates all of the functional values and criteria that are contained in the DNR rules for water quality certifications for wetlands. The wetland water quality standards under the bill require that the impacts must be minimized and that any remaining significant impacts be offset by compensation or mitigation. The bill also requires that in evaluating the significant adverse impacts, DNR must compare the functional values of the wetlands that will be impacted by the mining site with other wetlands and water bodies in the region.

Mitigation and compensation

Under current law, DNR is authorized, but is not required, to consider mitigation in determining whether to grant a water quality certification or other permit or approval affecting wetlands. Under current law, wetland mitigation consists of a project that restores, enhances, or creates (improves) a wetland to offset adverse impacts to other wetlands or that uses credits from a wetlands mitigation bank. A wetlands mitigation bank is a system of accounting for wetland loss that includes one or more sites where wetlands are improved to provide transferable credits to be subsequently applied to offset adverse impacts to other wetlands. Mitigation is based on a ratio of acres improved compared to the number of acres adversely impacted. The bill requires DNR to consider mitigation or compensation when issuing water quality certifications for both federal and nonfederal wetlands.

Under the bill, compensation allows for the offsetting of adverse impacts to other water quality functions besides those in wetlands. Compensation may include

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projects such as riparian restoration projects and shoreline stabilization projects if such projects are at locations that are more than one-half mile from the mining site.

Under current law, the ratio of acres for purposes of mitigation requires that 1.5 acres of wetlands be improved to every one acre that is adversely impacted with limited exception allowing the ratio to be one acre to one acre. The bill specifies that the ratio for mitigation may not exceed 1.5 acres. Under current law, in calculating the number of credits a person will receive in implementing mitigation, each acre restored receives one credit, the range of credits for each acre enhanced is from no credits to one credit, and each acre created receives one-half credit with a limited exception. Under the bill, each acre restored, enhanced, or created receives at least one credit.

Current law prohibits DNR from considering wetlands mitigation in reviewing whether to grant a permit or other approval for a project that adversely affects an area of special natural resource interest or an ASNRI wetland. Under the bill, mitigation and compensation to offset significant adverse impacts to these areas and ASNRI wetlands are allowed.

Under current law, mitigation must occur within one-half mile of the impacted wetland (on-site). If DNR determines that it is not practicable or ecologically preferable that the mitigation occur on-site, DNR shall allow mitigation to be preformed as near as practicable to the location of the adversely impacted wetland. Under the bill, if it is not practicable or ecologically preferable to conduct compensation or mitigation at an on-site location or if there is insufficient wetland acreage on-site, off-site compensation or mitigation may be performed. This may include purchases of credits from a mitigation bank located anywhere in the state. The bill also authorizes other persons to perform compensation or mitigation, subject to DNR approval.

Exemptions

Under current law, artificial wetlands are exempt from the wetland water quality standards unless DNR determines significant functional values are present. This bill exempts these same artificial wetlands from the wetland water quality standards and eliminates the exception to the exemption for wetlands with certain significant functional values.

Under current law, certain activities in nonfederal wetlands are exempt from the water quality certification requirements for wetlands. These include maintenance of drainage and irrigation ditches, damaged parts of structures that are in bodies of waters, and maintenance of certain temporary mining roads. Under current law, these activities lose their exemption under certain circumstances, such as using a wetland for a use for which it was not previous used, or conducting an activity that may impair the flow of a body of water. Under the bill, very similar exemptions apply to iron mining activities. However, the provision regarding losing the exemption does not apply. Instead, the exemptions only apply if the person conducting the activity minimizes the adverse effect to the environment.

Other provisions

Under current law, for purposes of delineating the boundary of a wetland, DNR shall use the procedures contained in the wetlands delineation manual published by

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the ACE. The bill provides that if the applicant has provided information to DNR that is identified in the manual as being sufficient for determining where a wetland is or for delineating a wetland's boundaries, DNR may visit the site to conduct surveys or gather site-specific data provided that DNR does not discontinue processing the application to do so.

Current law requires a permit holder to grant DNR an easement to ensure that an improved wetland is not destroyed or substantially degraded by subsequent owners. This bill imposes this requirement on persons who receive a water quality certification and requires DNR to suspend the certification if the permit holder fails to grant the easement within the time limit set forth in the mining permit.

GROUNDWATER QUALITY***Groundwater quality standards***

Under current law, DNR and the Department of Health Services (DHS) establish groundwater quality standards, consisting of enforcement standards and preventive action limits, for substances that contaminate groundwater. The preventive action limit for a substance is 10 percent, 20 percent, or 50 percent of the enforcement limit depending on the type of substance.

Under this bill, the enforcement standards and preventive action limits established by DNR and DHS continue to apply to iron mining operations.

Point of standards application

Current law generally requires each state regulatory agency, including DNR, to promulgate rules containing design and operational criteria for facilities and activities affecting groundwater that are designed, to the extent technically and economically feasible, to minimize the level of substances in groundwater and to maintain compliance with preventive action limits, unless compliance with the preventive action limits is not technically and economically feasible. Current law requires each regulatory agency to promulgate rules that specify the range of responses that the regulatory agency may take or that it may require the person controlling a facility or activity to take if a preventive action limit is attained or exceeded at what is called a point of standards application. Under current law and under this bill, any point at which groundwater is monitored is a point of standards application to determine whether a preventive action limit has been attained or exceeded.

Current law generally prohibits a regulatory agency from promulgating rules containing design and operational criteria that allow an enforcement standard to be exceeded at a point of standards application. Under current law and under this bill, for determining whether an enforcement standard has been attained or exceeded, a point of standards application is any point beyond the boundary of the property on which the regulated facility or activity is located, any point of present groundwater use, and, for certain facilities, such as waste disposal facilities, any point beyond a three-dimensional design management zone (DMZ) established by DNR by rule.

Design management zone

Under DNR's rules, the horizontal dimensions of a DMZ vary depending on the type of facility. For a metallic mining waste site, the horizontal distance to the

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boundary of the DMZ is generally 1,200 feet from the outer waste boundary or at the boundary of the property owned or leased by the applicant, whichever distance is less. For a metallic surface mine, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the edge of the mining excavation or at the property boundary, whichever distance is less. Generally, the smaller the DMZ, the more likely that a preventive action limit or enforcement standard will be attained or exceeded at the boundary and the more likely that the operator will be required to implement a response.

Under this bill, for an iron mining site, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the engineered structures of a mining waste site, including any wastewater and sludge storage or treatment lagoon, the edge of the mine and adjacent mine mill and ferrous mineral processing and other facilities or at the property boundary, whichever distance is less.

Under current rules, DNR may reduce the horizontal distance to the boundary of the DMZ on a metallic mining site if certain conditions are met, but may not expand it.

Under the bill, DNR may not reduce the horizontal distance to the boundary of the DMZ on a metallic mining site but may expand it by an additional 1,200 feet in any direction if DNR determines that preventive action limits and enforcement standards will be met at the boundary of the expanded DMZ and that preventive action limits and enforcement standards cannot be met at the boundary of the DMZ if it is not expanded.

Under DNR's rules, a DMZ extends vertically from the land surface through all saturated geological formations. Under the bill, the vertical distance to the boundary of the DMZ on an iron mining site extends no deeper than 1,000 feet into the Precambrian bedrock or than the final depth of the mining excavation, whichever is greater.

Mandatory intervention boundary

Currently, for metallic mining waste sites and metallic mines, in addition to the DMZ, DNR's rules provide for a mandatory intervention boundary that is 150 feet from the outer waste boundary or the edge of the mine. Under the rules, if a preventive action limit or an enforcement standard is exceeded beyond the mandatory intervention boundary, DNR must require a response by the operator.

The bill does not provide a mandatory intervention boundary for an iron mining site.

Response when preventive action limit is attained or exceeded

Under DNR's groundwater rules, when a preventive action limit is attained or exceeded at a point of standards application, DNR must determine the appropriate response, taking into consideration the response proposed by the operator. The response must be designed and implemented to minimize the concentration of the substance in groundwater at the point of standards application to the extent feasible, to regain and maintain compliance with the preventive action limit, and to ensure that the enforcement standard is not attained or exceeded at the point of standards application. DNR's rules specify a range of responses for when a preventive action limit is attained or exceeded at a point of standards application, including requiring

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a revision of operational procedures and requiring remedial action to restore groundwater quality.

Under the bill, when a preventive action limit is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the range of responses proposed by the operator, including alternate responses to the responses specified in DNR's rules, and designate the appropriate response. DNR may determine that no response is necessary if it determines that the preventive action limit will not be attained or exceeded at any point outside the DMZ or, in some cases, if the natural concentration of the substance is above the preventive action limit.

Response when enforcement standard is attained or exceeded

Under DNR's groundwater rules, when an enforcement standard is attained or exceeded at a point of standards application for a solid or hazardous waste facility, DNR must require responses as necessary to prevent any new releases of the substance from traveling beyond the DMZ and to restore the contaminated groundwater within a reasonable period. When an enforcement standard is attained or exceeded at a point of standards application for a facility that is not a solid or hazardous waste facility, DNR must generally prohibit the activity that uses or produces the substance and require remedial actions, unless it can be shown that an alternative response will achieve compliance with the enforcement standard at the point of standards application.

Under the bill, when an enforcement standard is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the operator's proposed range of responses and designate an appropriate response. DNR may not prohibit an activity or require closure of a mining waste site unless DNR determines that no other remedial action would prevent the violation of the enforcement standard at the point of standards application.

DISPOSAL OF MINING WASTE***Approval of facility***

Under current law, no person may construct or operate a solid waste disposal facility, such as a landfill, without the approval of DNR under the solid waste statutes and rules. The rules under which metallic mining waste facilities are regulated differ in some ways from the rules for other solid waste facilities.

Under this bill, the current solid waste laws do not apply to iron mining waste facilities. Instead, the standards for an iron mining waste facility are specified in the iron mining laws and the process for approving an iron mining waste facility is part of the process for approving the iron mining permit. Under the bill, if a mining site will include a disposal facility for waste that is not mining waste, such as trash from an office or cafeteria, the current solid waste laws apply to that disposal facility.

SENATE BILL 488***Location of facility***

Current law requires DNR to promulgate rules for the location of solid waste facilities. Unless DNR grants an exemption, as described below (in the section on exemptions), the rules prohibit the location of a mining waste site in any of the following areas: 1) within 1,000 feet of a state trunk highway, a state park or scenic easement or overlook, a scenic or wild river, or a hiking or bike trail, unless the proposed waste site is visually inconspicuous or is screened; 2) within an area designated in the statutes as being unsuitable for surface mining, such as a wilderness area, a wildlife refuge, or a state or national park; 3) within 200 feet of the property boundary; 4) within a floodplain; 5) within 300 feet of a navigable river or stream; 6) within 1,000 feet of a lake; or 6) within 1,200 feet of a private or public water supply well.

Under this bill, the limits on the location of a mining waste site do not apply to the portion of an iron mine that is backfilled with mining waste. Otherwise, the bill includes the prohibitions on locating an iron mining waste site in a floodplain or within 1,200 feet of a private or public water supply well. The bill does not prohibit locating an iron mining waste site in an area designated in the statutes as being unsuitable for surface mining. Also, the bill allows an activity associated with an iron mining waste site to be located within 300 feet of a navigable river or stream or within 1,000 feet of a lake if DNR approves the activity under the provisions of the bill related to wetlands, water withdrawals, or navigable waters.

Waste site feasibility study and plan of operation

The current solid waste statutes require an applicant for the approval of a solid waste disposal facility to submit a waste site feasibility study that demonstrates the suitability of the site for the disposal of solid waste and a plan of operation for the facility. DNR's rules concerning metallic mining waste facilities contain extensive requirements for the waste site feasibility study and plan of operation.

This bill requires an applicant for an iron mining permit to submit a waste site feasibility study and plan of operation as part of the application for the mining permit. The bill contains extensive requirements for the waste site feasibility study and plan of operation, many of which are similar to the requirements in DNR's current rules. Some of the technical requirements in the bill differ from the current rules.

The bill requires the applicant to perform analyses to assess the potential environmental impact of mining waste handling, storage, and disposal. The applicant must conduct investigations on the proposed waste site and in the laboratory to determine the characteristics of the site through measures such as soil borings and tests and determining groundwater levels and flow patterns and premining groundwater quality. The applicant must provide information about the ecosystems and climatology in the vicinity of the proposed mining waste site and about the geology, zoning, and land use in the area.

Under the bill, the applicant must submit a proposed waste site design that includes proposed methods for controlling water that has been contaminated by dissolved materials (leachate) and for controlling access to the facility and

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engineering plans and must submit a description of typical daily operations of the iron mining waste facility.

Proof of financial responsibility

Under current law and under this bill, the operator of a mine must furnish to DNR a bond or other security in an amount sufficient to cover the cost of reclamation of the mining site.

Current law also requires the operator of a mining waste facility to provide proof of financial responsibility for the costs of the care, maintenance, and monitoring of the facility after it is closed (long-term care). The obligation to provide proof of financial responsibility for long-term care continues until DNR terminates that requirement, which it may not do until at least 40 years after closure of the mine.

Under this bill, the operator of an iron mining waste facility is also required to provide proof of financial responsibility for the costs of the long-term care of the facility. Under the bill, the operator of an iron mine may apply to DNR for termination of its obligation to provide proof of financial responsibility for long-term care of the mining waste facility after the facility has been closed for at least 20 years by submitting an application that demonstrates that proof of financial responsibility for long-term care is no longer necessary for adequate protection of public health or the environment. If DNR decides that additional proof of financial responsibility for long-term care is still needed, the operator may not submit another application for five years.

WATER WITHDRAWALS

Under current law, no person may withdraw water from a stream or lake without a permit (surface water withdrawal permit) issued by DNR. Current law also regulates withdrawals of groundwater. That law prohibits a property owner from withdrawing water from or constructing a well that, together with other wells on the same property, has a capacity of more than 100,000 gallons per day without an approval from DNR (high capacity well approval). DNR must review, using an environmental review process specified in DNR's rules, every application for an approval of a high capacity well that has a water loss of more than 95 percent of the amount of water withdrawn, that may have a significant environmental impact on a spring, or that is located in a groundwater protection area. A groundwater protection area is an area within 1,200 feet of certain outstanding or exceptional resource waters or certain trout streams. Current law also provides that if DNR determines that a proposed high capacity well may impair the water supply of a public utility, then DNR may not approve the well unless it includes certain approval conditions that will ensure that the water supply of the public utility will not be impaired and if DNR determines that a proposed high capacity well that has a water loss of 95 percent of the amount of water withdrawn, may have a significant impact on a spring or is located in a groundwater protection area, then DNR generally may not approve the well unless it includes certain approval conditions that will ensure that the high capacity well will not cause significant adverse environmental impact.

Current law also provides that if a person to whom DNR has issued a surface water withdrawal permit or a high capacity well approval proposes to begin a new withdrawal or increase an existing withdrawal that will result in a water loss beyond

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a specified threshold amount, then that person must apply for a new or modified surface water withdrawal permit or high capacity well approval (water loss application). A water loss is a loss of water from the basin from which it is withdrawn as a result of interbasin diversion or consumptive use. The water loss application must contain certain information including the place and source of the proposed withdrawal, the estimated average volumes and rates of water loss, the anticipated costs of any proposed construction, and a description of the conservation practices that the applicant intends to follow. If DNR approves the water loss application then DNR must modify the applicant's existing surface water withdrawal permit or high capacity well approval or issue a new permit or approval that specifies certain conditions with regard to the water withdrawal.

This bill establishes different requirements for surface water and groundwater withdrawals relating to iron mining. In lieu of a surface water withdrawal permit, a high capacity well approval, and a water loss application, a person who, as part of an iron mining operation or bulk sampling (explained below), engages in a surface water withdrawal or withdrawal of groundwater or the dewatering of mines that exceeds 100,000 gallons a day, must obtain a water withdrawal permit from DNR (mining water withdrawal permit). The bill specifies that a person who applies for a mining water withdrawal permit need not be a riparian (waterfront) property owner. If the withdrawal of water will involve one or more high capacity wells, DNR must require the applicant to submit a siting analysis that includes alternate proposed locations for each well. In evaluating the siting analysis, DNR must recognize that there is a need for mining waste sites and processing facilities to be contiguous to the location of the ferrous mineral deposits and must allow any high capacity well to be located so that need will be met. DNR must approve the location of each well as part of the process for issuing a mining water withdrawal permit.

The bill requires DNR to issue a mining water withdrawal permit if the withdrawal meets certain requirements (general requirements). Among those requirements is that the proposed withdrawal and use of the water is substantially consistent with the protection of public health, safety, and welfare; that it will not be significantly detrimental to the quantity or quality of the waters of this state; that it will not significantly impair the rights of riparian owners or the applicant obtains the consent of riparian owners; and that it will not result in significant injury to public rights in navigable waters. As part of its determination about whether a mining water withdrawal meets the general requirements, DNR must consider whether the public benefits resulting from the iron mining operation exceed any injury to public rights and interests in a body of water that is affected by the iron mining operation. The bill also requires DNR to recognize that the withdrawal of waters of the state in connection with mining is in the public's interest and fulfills a public purpose and further requires DNR to consider certain additional factors including the public benefits that may be provided by increased employment, economic activity, and tax revenues from the iron mining operation and the direct and indirect social benefits and costs that will result from the iron mining operation. The bill requires that the applicant submit a plan to DNR that contains proposed conservation measures, such as mitigation, compensation, or offsetting of significant

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impacts to navigable waters by restoring or enlarging up to 1.5 acres of a natural navigable water in exchange for each acre of a natural navigable water that is significantly impacted (offsetting impacts to navigable waters). After DNR reviews the application and plan, DNR must issue a permit if it finds that the general requirements will be met by implementing some or all of the conservation measures.

The bill authorizes DNR to impose certain reasonable conditions in the mining water withdrawal permit, but the conditions may not interfere with, or limit the amount of water needed for, the iron mining operation or bulk sampling. The bill also allows an iron mining operator to request a modification of any condition in the mining water withdrawal permit and establishes certain deadlines under which DNR must approve or deny the request for modification. The bill specifies that if a request for modification results in an existing withdrawal resulting in a water loss averaging more than a specified number of gallons per day in a 30-day period, then DNR must determine whether, under its rules, it is required to prepare an environmental assessment or environmental impact statement. If so, then DNR must prepare the environmental assessment or environmental impact statement.

NAVIGABLE WATERS

Under current law, DNR regulates certain activities that occur in or near navigable waterways. In order for a person to conduct such an activity, the person may be required to obtain one or more permits from DNR. Among the permits that DNR issues are permits to place structures or deposits in navigable waters, permits to construct or maintain bridges and culverts, permits to enlarge or connect waterways, permits to change the courses of streams and rivers, and permits to remove material from beds of navigable waterways. Current law also requires that DNR have in place general permits for some of these activities. Under current law, some activities are exempt from these requirements.

In order to receive an individual permit for the navigable waters activities regulated by DNR, the activity must meet certain requirements. These requirements vary depending on the type of permit issued, and may include requirements that address possible obstruction to navigation, reduction to flood flow capacity, and interference with the rights of other riparian owners. The bill modifies the requirements for the purpose of issuing individual permits associated with iron mining and provides that the same requirements apply to all of these permits. Under the bill, a navigable waters permit will be issued if it will not significantly impair the public's rights and interests in navigable waters, will not significantly reduce flood flow capacity, will not significantly affect riparian rights, and will not significantly degrade water quality. The bill requires that the applicant submit a plan to DNR that contains proposed measures, such as improving public rights in navigable waters, conducting mitigation or compensation, or offsetting impacts to navigable waters. After DNR reviews the application and plan, DNR must issue a permit or enter into a contract if it finds that the requirements will be met by implementing some or all of the measures.

Under current law, to qualify for some of the individual or general permits or to conduct activities under certain permit exemptions, the person must be an owner

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of riparian property. Under the bill for purposes of iron mining, the requirement of being a riparian owner does not apply.

EXEMPTIONS

Current law authorizes DNR to promulgate rules under which it may grant to an applicant for a metallic mining permit an exemption to a rule promulgated under the solid waste, hazardous waste, or metallic mining laws if the exemption does not result in a violation of any federal or state environmental statute or endanger public health, safety, or welfare or the environment.

This bill authorizes an applicant for an iron mining permit to request an exemption from any requirement in the iron mining laws applicable to a mining permit application, a mining permit, or any other approval issued by DNR that is needed to conduct the iron mining. DNR must grant or deny the exemption within 15 days. DNR must grant the exemption if it is consistent with the purposes of the iron mining laws; it does not violate other applicable environmental laws; and either: 1) it will not result in significant adverse environmental impacts, or 2) it will result in significant adverse environmental impacts but the applicant will offset those impacts through compensation, mitigation, or conservation measures, except that DNR may not grant the exemption or variance if granting it would violate federal law.

RELATION TO OTHER LAWS

Current law provides that if there is a standard under other state or federal statutes or rules that specifically regulates in whole an activity also regulated under the metallic mining law, the standard under the other statutes or rules is the controlling standard. If the other federal or state statute or rule only specifically regulates the activity in part, it is controlling as to that part.

Under this bill, if there is a conflict between a provision of the iron mining laws and a provision in another state environmental law, other than the law related to the Great Lakes Water Resources Compact, the provision in the iron mining laws controls.

EXPLORATION

Current law requires a person who intends to engage in exploration to be licensed by DNR. Exploration is drilling to search for minerals or to establish the nature of a known mineral deposit. The law requires DNR to promulgate rules containing minimum standards for exploration and for the reclamation of exploration sites.

This bill also requires a person who intends to engage in exploration for iron ore to be licensed by DNR. The bill requires an applicant for an exploration license to file an exploration plan and a reclamation plan that include provisions related to the matters for which DNR is required to establish standards under current law. The bill contains requirements for filling drillholes once exploration has been completed that are similar to the requirements in DNR's current rules.

Under the current rules, DNR must deny the application for an exploration license if it finds that the exploration will not comply with the standards for exploration and reclamation or if the explorer is in violation of the rules.

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Under the bill, DNR must deny the application for an exploration license if it concludes that, after the reclamation plan has been completed, the exploration will have a substantial and irreparable adverse impact on the environment or present a substantial risk of injury to public health and welfare. If DNR intends to deny a license, it must notify the applicant of that intent and the reasons for the intended denial and give the applicant ten days to correct the problems with its application.

As under current DNR rules, the bill generally requires DNR to issue or deny an application for an exploration license within ten business days of receipt of the application. Under the bill, however, if DNR does not comply with that deadline, the exploration license is automatically issued.

BULK SAMPLING

Under current law, a person may not prospect for metallic ore without a prospecting permit from DNR. Prospecting is examining an area to determine the quantity and quality of metallic minerals by means other than drilling, for example, by excavating.

Under the bill, a person intending to examine an area to determine the quantity and quality of iron ore by means other than drilling is not required to obtain a prospecting license.

The bill does authorize a person who intends to engage in bulk sampling to file a bulk sampling plan with DNR. Bulk sampling is excavating in a potential mining site to assess the quality and quantity of iron ore deposits and to collect and analyze data to prepare the application for a mining permit or other approval. A person who files a bulk sampling plan must do all of the following:

1. Describe the bulk sampling site and the methods to be used for bulk sampling.
2. Submit a plan for controlling surface erosion that identifies how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.
3. Submit a plan for revegetation that describes how adverse environmental impacts will be avoided or minimized to the extent practicable, how the site will be revegetated and stabilized, and how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.
4. Describe any known adverse environmental impacts that are likely to be caused by bulk sampling and how those impacts will be avoided or minimized to the extent practicable.

The bill requires DNR, within 14 days of receipt of a bulk sampling plan, to identify in writing any kind of approval that DNR issues that is needed to conduct the proposed bulk sampling, such as a wastewater discharge permit or a wetland water quality certification, and any waivers, exemptions, or exceptions to those approvals that may be available.

The bill requires a person who has submitted a bulk sampling plan to submit all applications for approvals and for waivers, exemptions, or exceptions to approvals for the bulk sampling at one time.

The bill specifies deadlines for DNR to act on approvals needed to conduct bulk sampling that would not otherwise apply to those types of approvals. When a person

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who files a bulk sampling plan applies for an approval or a waiver, exemption, or exception to an approval, the application is considered to be complete on the 30th day after DNR receives the application, unless before that day DNR informs the person that the application is not complete. Once an application is considered to be complete, DNR must act within 30 days on an application for a waiver, exemption, or exception to an approval, for a determination that an activity is below the threshold that requires an approval, or for a determination of eligibility for coverage under a general permit or a registration permit. For other approvals, DNR must act within 60 days after the application is considered to be complete, except that if it is not possible for DNR to act on approval for an individual permit, such as a wastewater discharge permit, for which federal law requires an opportunity for public comment or the ability to request a hearing before issuance of the permit within 60 days, it must act within 180 days.

Under current law, if a proposed state agency action, such as the issuance of a permit, authorization, or exception, will affect any site that is significant in the history, prehistory, architecture, archaeology, or culture of this state (historic property), the state agency must notify the director of the State Historical Society (SHS) or his or her designee (state historic preservation officer). If the state historic preservation officer determines that the proposed agency action will have an adverse effect on a historic property that is listed on the national or state register of historic places, the Wisconsin inventory of historic places, or SHS's list of locally designated historic places, that officer may require negotiations with the state agency to reduce that adverse effect.

The bill requires a bulk sampling plan to include: 1) a description of any adverse effects that the bulk sampling might have on any historic property or on any scenic or recreational areas; and 2) plans to avoid or minimize those adverse effects to the extent practicable. The bill also provides that if DNR determines that an applicant has taken measures to minimize the adverse effects of proposed bulk sampling on a historic property, DNR is not required to notify the state historic preservation officer, and the state historic preservation officer may not require negotiations to reduce that adverse effect. If that adverse effect cannot practicably be minimized, any negotiations between DNR and the state historic preservation officer must be completed within 60 days.

DNR is not required to prepare an environmental impact statement for proposed bulk sampling. Also, the bill requires DNR to act on any required construction site erosion control or storm water management approval, even if DNR has authorized a local program to issue approvals for construction site erosion control or stormwater management.

FEEES

Under current law, a person who gives notice of intent to apply for a metallic mining permit must pay a fee established by DNR by rule designed to cover the costs incurred by DNR in connection with the proposed mining during the year following receipt of the proposed notice. The person must also pay fees for any approvals other than the mining permit that are needed to conduct the mining. The law requires DNR to annually compare the fees paid by an applicant with the costs incurred by

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DNR in connection with the proposed mining. If the costs incurred by DNR exceed the fees paid, the person must pay a fee equal to the difference.

Under this bill, an applicant is required to pay a mining permit application fee, but is not required to pay an application or filing fee for any other approval, except for an application fee for an approval for a water diversion for which review by the other parties to the Great Lakes Water Resources Compact is required. The bill requires DNR to assess a mining permit application fee equal to its costs for evaluating a mining project or \$2,000,000, whichever is less. An applicant must pay \$100,000 with the bulk sampling plan or, if no bulk sampling plan is filed, with the notice of intent to file a mining permit application and then must make \$250,000 payments when DNR shows that the previous payments have been fully allocated against actual costs.

Current law imposes fees on the disposal of solid waste that are called tonnage fees or tipping fees. Under the bill, the operator of a mining waste site must pay the groundwater fee, the environmental repair fee, and the waste facility siting board fee but is not subject to the recycling fee.

NET PROCEEDS OCCUPATION TAX

Under current law, the state imposes a net proceeds occupation tax on the mining of metallic minerals in this state. The tax is based, generally, on a percentage of net income from the sale of ore or minerals after certain mining processes have been applied to the ore or minerals.

Under current law, the revenue collected from the net proceeds occupation tax is deposited into the investment and local impact fund. The fund is managed by the local impact fund board. The revenue is then, generally, distributed to the counties and municipalities in which metallic minerals are being mined.

Under the bill, 60 percent of the revenue collected from the net proceeds occupation tax on extracting ferrous metallic minerals in this state is deposited into the investment and local impact fund and 40 percent of the revenue is deposited into the general fund.

OTHER***Shoreland and floodplain zoning***

Current law prohibits locating a solid waste facility in an area that is covered by a shoreland or floodplain zoning ordinance unless the facility is authorized under a permit issued by DNR. This bill requires DNR to specify in the permit the authorized location, height, or size of the facility that may be located in the area. This bill also specifies that DNR may not prohibit a waste site, structure, building, fill, or other development or construction activity (activity) to be located in an area that would otherwise be prohibited under a shoreland or floodplain zoning ordinance if the activity is authorized by DNR as part of a mining operation covered by an iron mining permit.

Current law provides that a structure, building, fill, or development (structure) that is placed or maintained in a floodplain in violation of a floodplain zoning ordinance is a public nuisance and provides that any person placing or maintaining the structure may be subject to a fine. The bill specifies that these provisions do not

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apply to a structure placed or maintained as part of a mining operation covered by an iron mining permit issued by DNR.

Local impact committees

Current law authorizes a local or tribal government likely to be substantially affected by proposed metallic mining to establish a local impact committee for purposes that include facilitating communications with the mining company, reviewing and commenting on reclamation plans, and negotiating an agreement between the local or tribal government and the mining company. The law requires the mining company to appoint a person to be the liaison with the local impact committee and requires the mining company to make reasonable efforts to design and carry out mining operations in harmony with community development objectives. Under some circumstances, a local impact committee may receive funding from the investment and local impact fund board.

This bill provides for local impact committees for proposed iron mines in a manner similar to the manner in which those committees are established under current law.

Rights and conditions relating to mining contracts and leases

Current law establishes certain rights and imposes certain conditions with respect to contracts or leases that authorize a person to dig for ores and minerals, including the conditions under which a miner may retain ore and minerals discovered on the land, a miner's obligation to keep and to provide certain records concerning mine operations, and the consequences to a miner who conceals or disposes of any ores or minerals for the purpose of defrauding a lessor. Current law also establishes a maximum term for exploration mining leases with regard to minerals that contain metals.

This bill limits these current law provisions to mining activities relating to nonferrous metallic mining.

For further information see the *state and local* 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. 20.370 (2) (gh) of the statutes is amended to read:
- 2 20.370 (2) (gh) *Mining— Nonferrous metallic mining regulation and*
- 3 *administration.* The amounts in the schedule for the administration, regulation and
- 4 enforcement of nonferrous metallic mining exploration, prospecting, mining and
- 5 mine reclamation activities under ch. 293. All moneys received under ch. 293 shall
- 6 be credited to this appropriation.

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SECTION 2

SECTION 2. 20.370 (2) (gi) of the statutes is created to read:

20.370 (2) (gi) *Ferrous metallic mining operations*. All moneys received under subch. III of ch. 295 for the department of natural resource's operations related to ferrous metallic exploration and mining.

SECTION 3. 20.455 (1) (gh) of the statutes is amended to read:

20.455 (1) (gh) *Investigation and prosecution*. Moneys received under ss. 23.22 (9) (c), 49.49 (6), 100.263, 133.16, 281.98 (2), 283.91 (5), 289.96 (3) (b), 291.97 (3), 292.99 (2), 293.87 (4) (b), 295.19 (3) (b) 2., 295.79 (4) (b), and 299.97 (2), for the expenses of investigation and prosecution of violations, including attorney fees.

SECTION 4. 20.566 (7) (e) of the statutes is amended to read:

20.566 (7) (e) *Investment and local impact fund supplement*. The amounts in the schedule to supplement par. (v) for the purposes of ss. 70.395, 293.33 (4) and, 293.65 (5) (a), and 295.443, ~~and 295.61 (9) (a)~~

SECTION 5. 20.566 (7) (v) of the statutes is amended to read:

20.566 (7) (v) *Investment and local impact fund*. From the investment and local impact fund, all moneys received under s. 70.395 (1e) and (2) (dc) and (dg), less the moneys appropriated under s. 20.370 (2) (gr), to be disbursed under ss. 70.395 (2) (d) to (g), 293.33 (4) and, 293.65 (5) (a), and 295.443, ~~and 295.61 (9) (a)~~

SECTION 6. 25.46 (7) of the statutes is amended to read:

25.46 (7) The fees imposed under s. 289.67 (1) for environmental management, except that ~~for each ton of waste~~, of the fees imposed under s. 289.67 (1) (cp) or (cv), \$3.20 for each ton of waste is for nonpoint source water pollution abatement.

SECTION 7. 29.604 (4) (intro.) of the statutes is amended to read:

29.604 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) and (7m) or as permitted by departmental rule or permit:

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1 SECTION 8. 29.604 (4) (c) (intro.) of the statutes is amended to read:

2 29.604 (4) (c) (intro.) No person may do any of the following to any wild plant
3 of an endangered or threatened species that is on public property or on property that
4 he or she does not own or lease, except in the course of forestry or agricultural
5 practices ~~or~~, in the construction, operation, or maintenance of a utility facility, or as
6 part of bulk sampling activities under s. 295.45:

7 SECTION 9. 29.604 (7m) of the statutes is created to read:

8 29.604 (7m) BULK SAMPLING ACTIVITIES. A person may take, transport, or
9 possess a wild animal on the department's endangered and threatened species list
10 without a permit under this section if the person avoids and minimizes adverse
11 impacts to the wild animal to the extent practicable, if the taking, transporting, or
12 possession does not result in wounding or killing the wild animal, and if the person
13 takes, transports, or possesses the wild animal for the purpose of bulk sampling
14 activities under s. 295.45.

15 SECTION 10. 30.025 (1e) (title) and (a) of the statutes are repealed.

16 SECTION 11. 30.025 (1e) (b) of the statutes is renumbered 30.025 (4m) (b) and
17 amended to read:

18 30.025 (4m) (b) ~~This section subsection~~ does not apply to a proposal to construct
19 a utility facility if the only permit that the utility facility is required to obtain from
20 the department is a storm water discharge permit under s. 283.33 (1) (a).

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21 SECTION 12. 30.025 (1m) (intro.) of the statutes is amended to read:

22 30.025 (1m) PREAPPLICATION PROCESS. (intro.) Before filing ~~an~~ a combined
23 application under this section for permits under sub. (1s) with the department in lieu
24 of separate applications, a person proposing to construct a utility facility shall notify
25 the department of the intention to file ~~an~~ a combined application under sub. (1s).

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1 After receiving such notice, the department shall confer with the person, in
2 cooperation with the commission, to make a preliminary assessment of the project's
3 scope, to make an analysis of alternatives, to identify potential interested persons,
4 and to ensure that the person making the proposal is aware of all of the following:

5 SECTION 13. 30.025 (1m) (c) of the statutes is amended to read:

6 30.025 (1m) (c) The timing of information submissions that the person will be
7 required to provide in order to enable the department to participate in commission
8 review procedures and to process the combined application for permits in a timely
9 manner.

10 SECTION 14. 30.025 (1s) (a) of the statutes is amended to read:

11 *plain* 30.025 (1s) (a) Any person proposing to construct a utility facility *plain* to which this
12 section applies shall ~~may~~ in lieu of separate application for permits, submit one
13 combined application for permits together with any additional information required
14 by the department. The combined application for permits shall be filed with the
15 department at the same time that an application for a certificate is filed with the
16 commission under s. 196.49 or in a manner consistent with s. 196.491 (3) and shall
17 include the detailed information that the department requires to determine whether
18 an a combined application for permits is complete and to carry out its obligations
19 under sub. (4). The department may require supplemental information to be
20 furnished thereafter.

21 SECTION 15. 30.025 (2) of the statutes is amended to read:

22 30.025 (2) HEARING. Once the applicant meets the requirements of sub. (1s) (a),
23 the department may schedule the matter for a public hearing. Notice of the hearing
24 shall be given to the applicant and shall be published as a class 1 notice under ch.
25 985. The department may give such further notice as it deems proper, and shall give

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1 notice to persons requesting same. One copy of the combined application for permits
2 shall be available for public inspection at the office of the department, at least one
3 copy in the regional office of the department, and at least one copy at the main public
4 library, of the area affected. Notwithstanding s. 227.42, the hearing shall be an
5 informational hearing and may not be treated as a contested case hearing nor
6 converted to a contested case hearing.

7 **SECTION 16.** 30.025 (2g) (b) (intro.) of the statutes is amended to read:

8 30.025 **(2g)** (b) (intro.) The department shall participate in commission
9 investigations or proceedings under s. 196.49 or 196.491 (3) with regard to any
10 proposed utility facility that is subject to this section for which a combined
11 application for permits is filed under sub. (1s). In order to ensure that the
12 commission's decision is consistent with the department's responsibilities, the
13 department shall provide the commission with information that is relevant to only
14 the following:

15 **SECTION 17.** 30.025 (4) of the statutes is amended to read:

16 30.025 **(4)** PERMIT CONDITIONS. The permit may be issued, or the authority to
17 proceed under a permit may be granted, upon stated conditions deemed necessary
18 to assure compliance with the criteria designated under sub. (3). The department
19 shall grant or deny the combined application for ~~a permit~~ permits for the utility
20 facility within 30 days of the date on which the commission issues its decision under
21 s. 196.49 or 196.491 (3).

22 **SECTION 18.** 30.025 (4m) of the statutes is created to read:

23 30.025 **(4m)** PROCEDURE FOR A SINGLE PERMIT APPLICATION. (a) A person
24 proposing to construct a utility facility for which not more than one permit is required,
25 may submit an application for that single permit with the department in the same

that is related to mining, as defined in
s. 295.41(2b), and

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SECTION 18

1 manner as a combined application for permits may be submitted under sub. (1s). If
2 the applicant elects to submit the application in the same manner as a combined
3 application for permits, the procedures under this section that apply to a combined
4 application for permits shall apply to that application for a single permit.

5 SECTION 19. 30.12 (3m) (c) (intro.) of the statutes is amended to read:

6 30.12 (3m) (c) (intro.) The department shall issue an individual permit to a
7 riparian owner for a structure or a deposit pursuant to an application under par. (a)
8 if the department finds that all of the following apply requirements are met:

9 SECTION 20. 30.123 (8) (c) of the statutes is renumbered 30.123 (8) (c) (intro.)
10 and amended to read:

11 30.123 (8) (c) (intro.) The department shall issue an individual permit
12 pursuant to an application under par. (a) if the department finds that the all of the
13 following requirements are met:

14 1. The bridge or culvert will not materially obstruct navigation,

15 2. The bridge or culvert will not materially reduce the effective flood flow
16 capacity of a stream, and,

17 3. The bridge or culvert will not be detrimental to the public interest.

18 SECTION 21. 30.133 (2) of the statutes is amended to read:

19 30.133 (2) This section does not apply to riparian land located within the
20 boundary of any hydroelectric project licensed or exempted by the federal
21 government, if the conveyance is authorized under any license, rule or order issued
22 by the federal agency having jurisdiction over the project. This section does not apply
23 to riparian land that is associated with an approval required for bulk sampling or
24 mining that is required under subch. III of ch. 295.

25 SECTION 22. 30.19 (4) (c) (intro.) of the statutes is amended to read:

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1 30.19 (4) (c) (intro.) The department shall issue an individual permit pursuant
2 to an application under par. (a) if the department finds that all of the following apply
3 requirements are met:

4 **SECTION 23.** 30.195 (2) (c) (intro.) of the statutes is amended to read:

5 30.195 (2) (c) (intro.) The department shall issue an individual permit applied
6 for under this section to a riparian owner if the department determines that all of the
7 following apply requirements are met:

8 **SECTION 24.** 31.23 (3) (e) of the statutes is created to read:

9 31.23 (3) (e) This subsection does not apply to a bridge that is constructed,
10 maintained, or operated in association with mining or bulk sampling that is subject
11 to subch. III of ch. 295.

12 **SECTION 25.** 44.40 (5) of the statutes is amended to read:

13 44.40 (5) This section does not apply as provided in s. 295.45 (6) or to any state
14 agency action which is subject to 16 USC 461 to 470mm.

15 **SECTION 26.** 70.375 (1) (as) of the statutes is amended to read:

16 70.375 (1) (as) "Mine" means an excavation in or at the earth's surface made
17 to extract metalliferous minerals for which a permit has been issued under s. 293.49
18 or 295.58.

19 **SECTION 27.** 70.375 (1) (bm) of the statutes is amended to read:

20 70.375 (1) (bm) "Mining-related purposes" means activities which are directly
21 in response to the application for a mining permit under s. 293.37 or 295.47; directly
22 in response to construction, operation, curtailment of operation or cessation of
23 operation of a metalliferous mine site; or directly in response to conditions at a
24 metalliferous mine site which is not in operation. "Mining-related purposes" also
25 includes activities which anticipate the economic and social consequences of the

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1 cessation of mining. “Mining-related purposes” also includes the purposes under s.
2 70.395 (2) (g).

3 **SECTION 28.** 70.38 (2) of the statutes is amended to read:

4 70.38 (2) COMBINED REPORTING. If the same person extracts metalliferous
5 minerals from different sites in this state, the net proceeds for each site for which a
6 permit has been issued under s. 293.49 or 295.58 shall be reported separately for the
7 purposes of computing the amount of the tax under s. 70.375 (5).

8 **SECTION 29.** 70.395 (1e) of the statutes is amended to read:

9 70.395 (1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss.
10 70.38 to 70.39, the department of administration, upon certification of the
11 department of revenue, shall transfer the amount collected in respect to mines not
12 in operation on November 28, 1981, to the investment and local impact fund, except
13 that the department of administration shall transfer 60 percent of the amount
14 collected from each person extracting ferrous metallic minerals to the investment
15 and local impact fund and the department of revenue shall deposit 40 percent of the
16 amount collected from any such person into the general fund.

17 **SECTION 30.** 70.395 (2) (dc) 1. of the statutes is amended to read:

18 70.395 (2) (dc) 1. Each person intending to submit an application for a mining
19 permit under s. 293.49 or 295.47 shall pay \$50,000 to the department of revenue for
20 deposit in the investment and local impact fund at the time that the person notifies
21 the department of natural resources under s. 293.31 (1) or 295.465 of that intent.

22 **SECTION 31.** 70.395 (2) (dc) 4. of the statutes is amended to read:

23 70.395 (2) (dc) 4. Six months after the signing of a local agreement under s.
24 293.41 or 295.443 for the proposed mine for which the payment is made, the board
25 shall refund any funds paid under this paragraph but not distributed under par. (fm)

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1 from the investment and local impact fund to the person making the payment under
2 this paragraph.

3 SECTION 32. 70.395 (2) (fm) of the statutes is amended to read:

4 70.395 (2) (fm) The board may distribute a payment received under par. (dc)
5 to a county, town, village, city, tribal government or local impact committee
6 authorized under s. 293.41 (3) or 295.443 only for legal counsel, qualified technical
7 experts in the areas of transportation, utilities, economic and social impacts,
8 environmental impacts and municipal services and other reasonable and necessary
9 expenses incurred by the recipient that directly relate to the good faith negotiation
10 of a local agreement under s. 293.41 or 295.443 for the proposed mine for which the
11 payment is made.

12 SECTION 33. 70.395 (2) (h) 1. of the statutes is amended to read:

13 70.395 (2) (h) 1. Distribution shall first be made to those municipalities in
14 which metalliferous minerals are extracted or were extracted within 3 years
15 previous to December 31 of the current year, or in which a permit has been issued
16 under s. 293.49 or 295.58 to commence mining;

17 SECTION 34. 87.30 (2) of the statutes is renumbered 87.30 (2) (a) and amended
18 to read:

19 87.30 (2) (a) ~~Every~~ Except as provided in par. (b), every structure, building, fill,
20 or development placed or maintained within any floodplain in violation of a zoning
21 ordinance adopted under this section, or s. 59.69, 61.35 or 62.23 is a public nuisance
22 and the creation thereof may be enjoined and maintenance thereof may be abated by
23 action at suit of any municipality, the state or any citizen thereof. Any person who
24 places or maintains any structure, building, fill or development within any
25 floodplain in violation of a zoning ordinance adopted under this section, or s. 59.69,

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1 61.35 or 62.23 may be fined not more than \$50 for each offense. Each day during
2 which such violation exists is a separate offense.

3 SECTION 35. 87.30 (2) (b) of the statutes is created to read:

4 87.30 (2) (b) Paragraph (a) does not apply to a structure, building, fill, or
5 development placed or maintained as part of a mining operation covered by a mining
6 permit under s. 295.58. *except as provided under s 295.607* (C) (2) (3) (b)

7 SECTION 36. 107.001 (1) of the statutes is amended to read:

8 107.001 (1) "Exploration mining lease" means any lease, option to lease, option
9 to purchase or similar conveyance entered into for the purpose of determining the
10 presence, location, quality or quantity of ~~metalliferous~~ nonferrous metallic minerals
11 or for the purpose of mining, developing or extracting ~~metalliferous~~ nonferrous
12 metallic minerals, or both under ch. 293. Any lease, option to lease, option to
13 purchase or similar conveyance entered into by a mining company is rebuttably
14 presumed to be an exploration mining lease.

15 SECTION 37. 107.001 (2) of the statutes is repealed.

16 SECTION 38. 107.01 (intro.) of the statutes is amended to read:

17 **107.01 Rules governing mining rights.** (intro.) Where there is no contract
18 between the parties or terms established by the landlord to the contrary the following
19 rules and regulations shall be applied to mining contracts and leases for the digging
20 of ~~ores and~~ nonferrous metallic minerals:

21 SECTION 39. 107.01 (2) of the statutes is amended to read:

22 107.01 (2) The discovery of a crevice or range containing ~~ores or minerals~~
23 nonferrous metallic minerals shall entitle the discoverer to the ores or minerals
24 pertaining thereto, subject to the rent due the discoverer's landlord, before as well
25 as after the ~~ores or minerals~~ nonferrous metallic minerals are separated from the

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1 freehold; but such miner shall not be entitled to recover any ~~ores or minerals~~
2 nonferrous metallic minerals or the value thereof from the person digging on the
3 miner's range in good faith and known to be mining thereon until the miner shall
4 have given notice of the miner's claim; and the miner shall be entitled to the ~~ores or~~
5 minerals nonferrous metallic minerals dug after such notice.

6 SECTION 40. 107.02 of the statutes is amended to read:

7 **107.02 Mining statement; penalty.** When there is no agreement between the
8 parties to any mining lease, license or permit, to mine or remove ~~ore~~ nonferrous
9 metallic minerals from any lands in this state, regulating the method of reporting
10 the amount of ~~ore~~ nonferrous metallic minerals taken, the person mining and
11 removing the ~~ore or ores~~ nonferrous metallic minerals shall keep proper and correct
12 books, and therefrom to make and deliver by or before the fifteenth day of each month
13 to the lessor, owner or person entitled thereto, a detailed statement covering the
14 operations of the preceding month. The statement shall show the total amount of
15 tons or pounds of each kind of ~~ore~~ nonferrous metallic minerals produced; if sold, then
16 to whom sold, giving the date of sale, date of delivery to any railroad company,
17 naming the company, and the station where delivered or billed for shipment; the
18 name and address of the purchaser; the price per ton at which sold and the total value
19 of each kind of ~~ore~~ nonferrous metallic minerals so sold. The books shall be always
20 open to any owner, lessor, licensor or stockholder, if the owner, lessor or licensor is
21 a corporation, and to any person or stockholder interested in any such mining
22 operations, for the purpose of inspection and taking copies thereof or abstracts
23 therefrom. Any person and every officer, agent or employee of any thereof, who
24 violates this section, or who makes any false or incomplete entries on any such books

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1 or statements, shall be fined not less than \$100 or imprisoned in the county jail for
2 not more than 3 months or both.

3 **SECTION 41.** 107.03 of the statutes is amended to read:

4 **107.03 Conflicting claims.** In case of conflicting claims to a crevice or range
5 bearing ~~ores or~~ nonferrous metallic minerals the court may continue any action to
6 enforce a claim or grant any necessary time for the purpose of allowing parties to
7 prove up their mines or diggings if it satisfactorily appears necessary to the ends of
8 justice. In such case the court or judge may appoint a receiver and provide that the
9 mines or diggings be worked under the receiver's direction, subject to the order of the
10 court, in such manner as best ascertains the respective rights of the parties. The ~~ores~~
11 ~~or~~ nonferrous metallic minerals raised by either party pending the dispute shall be
12 delivered to the receiver, who may, by order of the court or judge, pay any rent or other
13 necessary expenses therefrom.

14 **SECTION 42.** 107.04 of the statutes is amended to read:

15 **107.04 Lessee's fraud; failure to work mine.** Any miner who conceals or
16 disposes of any ~~ores or~~ nonferrous metallic minerals or mines or diggings for the
17 purpose of defrauding the lessor of rent or who neglects to pay any rent on ~~ores or~~
18 nonferrous metallic minerals raised by the miner for 3 days after the notice thereof
19 and claim of the rent, shall forfeit all right to his or her mines, diggings or range; and
20 the landlord after the concealment or after 3 days have expired from the time of
21 demanding rent, may proceed against the miner to recover possession of the mines
22 or diggings in circuit court as in the case of a tenant holding over after the
23 termination of the lease. If a miner neglects to work his or her mines or diggings
24 according to the usages of miners, without reasonable excuse, he or she shall likewise

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1 forfeit the mines or diggings and the landlord may proceed against the miner in like
2 manner to recover possession of the mines or diggings.

3 **SECTION 43.** 107.11 of the statutes is amended to read:

4 **107.11 Account of ~~ore~~ nonferrous metallic minerals received.** Every
5 person operating a metal recovery system and every purchaser of ~~ores and~~
6 nonferrous metallic minerals shall keep a substantially bound book, ruled into
7 suitable columns, in which shall be entered from day to day, as ~~ores or~~ nonferrous
8 metallic minerals are received, the following items: the day, month and year when
9 received; the name of the person from whom purchased; the name of the person by
10 whom hauled and delivered; name of the owner of the land from which the ~~ores or~~
11 nonferrous metallic minerals were obtained, or if not known, the name of the
12 diggings or some distinct description of the land. The bound book shall be kept at the
13 furnace or at the usual place of business of such person or purchaser or his or her
14 agent in this state, and shall be open to authorized representatives of the department
15 of revenue at reasonable times for inspection and taking extracts.

16 **SECTION 44.** 107.12 of the statutes is amended to read:

17 **107.12 Penalty.** If any person operating a metal recovery system or purchaser
18 of ~~ores and~~ nonferrous metallic minerals or the agent of any such person or purchaser
19 doing business fails to keep such a book or to make such entries as required under
20 s. 107.11 or unreasonably refuses to show the book for inspection or taking extracts
21 or makes false entries in the book he or she shall forfeit \$10 for each offense, one-half
22 to the use of the prosecutor; and each day such failure or refusal continues shall be
23 deemed a distinct and separate offense.

24 **SECTION 45.** 107.20 (1) of the statutes is amended to read:

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1 107.20 (1) Any provision of an exploration mining lease entered into after April
2 25, 1978, granting an option or right to determine the presence, location, quality or
3 quantity of ~~metalliferous~~ nonferrous metallic minerals shall be limited to a term not
4 exceeding 10 years from the date on which the exploration mining lease is recorded
5 in the office of the register of deeds of the county where the property is located, except
6 that any provision of an exploration mining lease entered into after April 25, 1978,
7 granting an option or right to determine the quality and quantity of ~~metalliferous~~
8 nonferrous metallic minerals under a prospecting permit shall be limited to a term
9 not exceeding 10 years from the date that the lessee applies for a prospecting permit
10 under s. 293.35, if the lessee applies for the prospecting permit within 10 years from
11 the date on which the exploration mining lease is recorded in the office of the register
12 of deeds of the county where the property is located.

13 SECTION 46. 107.20 (2) of the statutes is amended to read:

14 107.20 (2) Any provision of an exploration mining lease entered into after April
15 25, 1978, granting an option or right to develop or extract ~~metalliferous~~ nonferrous
16 metallic minerals shall be limited to a term not exceeding 50 years from the date on
17 which the exploration mining lease is recorded in the office of the register of deeds
18 of the county where the property is located.

19 SECTION 47. 107.30 (8) of the statutes is amended to read:

20 107.30 (8) "Mining" or "mining operation" ~~has the meaning set forth in s. 293.01~~
21 (9) means all or part of the process involved in the mining of metallic minerals, other
22 than for exploration or prospecting, including commercial extraction,
23 agglomeration, beneficiation, construction of roads, removal of overburden, and the
24 production of refuse.

25 SECTION 48. 107.30 (15) of the statutes is amended to read:

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1 107.30 (15) "Prospecting" ~~has the meaning set forth in s. 293.01 (18)~~ means
2 engaging in the examination of an area for the purpose of determining the quality
3 and quantity of minerals, other than for exploration but including the obtaining of
4 an ore sample, by such physical means as excavating, trenching, construction of
5 shafts, ramps, and tunnels and other means, other than for exploration, which the
6 department of natural resources, by rule, identifies, and the production of
7 prospecting refuse and other associated activities. "Prospecting" does not include
8 such activities when the activities are, by themselves, intended for and capable of
9 commercial exploitation of the underlying ore body. The fact that prospecting
10 activities and construction may have use ultimately in mining, if approved, does not
11 mean that prospecting activities and construction constitute mining within the
12 meaning of sub. (8), provided such activities and construction are reasonably related
13 to prospecting requirements.

14 SECTION 49. 107.30 (16) of the statutes is amended to read:

15 107.30 (16) "Prospecting site" ~~has the meaning set forth in s. 293.01 (21)~~ means
16 the lands on which prospecting is actually conducted as well as those lands on which
17 physical disturbance will occur as a result of such activity.

18 SECTION 50. 160.19 (12) of the statutes is amended to read:

19 160.19 (12) The requirements in this section shall not apply to rules governing
20 an activity regulated under ch. 293 or subch. III of ch. 295, or to a solid waste facility
21 regulated under subch. III of ch. 289 which is part of an activity regulated under ch.
22 293 or subch. III of ch. 295, except that the department may promulgate new rules
23 or amend rules governing this type of activity, practice or facility if the department
24 determines that the amendment or promulgation of rules is necessary to protect
25 public health, safety or welfare.