



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2015 Assembly Bill 600

**Assembly Substitute
Amendment 2 and Assembly
Amendment 1 to Assembly
Substitute Amendment 2**

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ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2 to 2015 Assembly Bill 600 does all of the following:

- Makes changes to areas designated as areas of special natural resource interest (ASNRI) by **removing** both of the following:
 - Waters or portions of waters that contain endangered or threatened species or aquatic elements as defined and identified in the Wisconsin Natural Heritage Inventory.
 - Waters in areas identified in a special area management plan or special inventory study.

The substitute amendment also **adds** to the list of ASNRI waters bodies of water that contain a “public rights feature” or a “sensitive area,” as defined in the substitute amendment, if approved by the Joint Committee for Review of Administrative Rules (JCRAR).

- Modifies the legal definition of a “boathouse” so that such structures need not be continuously used for the storage of watercraft, specifies that foundation repair is included under allowable maintenance and repair of these structures, and allows expansion of existing historic boathouses within certain limits.
- Provides that the special statutory procedures for certain approvals related to large utility projects are the exclusive approval methods for those approvals.

- Generally specifies that ch. 30, Stats. (navigable waters, harbors, and navigation) only applies to artificial water bodies that are not hydrologically connected to a natural navigable waterway to the extent specifically provided in the chapter.
- Specifies that the Department of Natural Resources (DNR) may not require removal of fill placed in navigable waters prior to January 1, 1975, and specifies that the area of the beds of navigable waters filled to an elevation above the ordinary high water mark (OHWM) since that time are owned by the riparian owner in whose riparian zone the filled area is located, subject to a public access easement in certain circumstances.
- Allows the placement, repair, and replacement of riprap under certain general permits to include placement of riprap up to the top of the bank or four feet above the OHWM, whichever is lower.
- Allows riprap and seawall placement, repair, or replacement in certain circumstances in ASNRIs.
- Removes statutory restrictions and limits DNR restrictions on permanent boat shelters.
- Allows fill to be placed in navigable waters to repair damage caused by illegal dredging, in certain circumstances.
- Allows “beach grooming” along the shore of outlying waters (Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyer's Harbor and the Fox River from its mouth up to the dam at De Pere), which includes the levelling of sand, removal of debris, and mowing of vegetation.
- Specifies that boat docking facilities shared by owners of different properties abutting a navigable water do not violate the general prohibition against conveying an easement interest in riparian rights.
- Allows dredging of artificial water bodies that do not connect with an existing navigable waterway without a permit.
- Allows construction of a stormwater pond in an artificial water body by a municipality in specified circumstances.
- Requires the DNR to issue a general permit allowing dredging of specified amounts of material from the beds of lakes under specified conditions.
- Requires certain factors to be taken into account by the DNR when issuing a water level determination for a dam under certain circumstances, including property and economic values and the recommendations of lake districts.
- Generally limits the DNR’s review of practicable alternatives for proposed projects that will impact wetlands, for projects involving less than two acres of wetland, to

those practicable alternatives that are located on the property owned by the applicant if the project involves one of the following:

- The construction or expansion of a single-family home and attendant features.
- The construction or expansion of a barn or farm buildings.
- The expansion of a small business project.
- Generally specifies that all practicable alternatives analyses for wetlands must be limited to those alternatives that are consistent with the overall purpose and scope of the project and requires the DNR to impose a level of scrutiny, and require an amount of information, that is commensurate with the severity of the environmental impact, as determined by the DNR.
- Allows wetland impacts associated with maintenance of roadside ditches without a permit, and specifies that this exemption, and the similar exemption under current law for drainage ditches, do not apply to drainage or roadside ditches that serve as fish spawning habitat or passages to spawning habitat.

ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Amendment 1 makes all of the following changes to Assembly Substitute Amendment 2:

- Requires each waterway listed as an ASNRI to be shown on a map published on the DNR's website.
- Changes the definition of "public rights feature" for purposes of designation of an ASNRI to mean a specific site in a body of water identified by the DNR that is necessary for fish spawning and fish egg incubation.
- Clarifies that the DNR may not identify an area of a water body as an ASNRI because it contains a public rights feature or is a sensitive area after the effective date of the ASNRI provisions in the bill unless the area was shown on a map published on the DNR's website on that date or the DNR obtains the approval of JCRAR.
- Redefines a "riparian zone" so that the definition only applies to a lake, and so that this term does not only refer to area in a lake out to the line of navigation.
- Clarifies that the transfer of ownership to certain parts of the beds of filled navigable waters only applies to lakebed areas that are owned or held in trust by the state.
- Requires a shared boat docking facility to be shared by owners of adjacent riparian properties.
- Reduces the amount of dredge material that may be removed under the general permit created in the substitute amendment from 30 cubic yards to 25 cubic yards and allows the DNR to impose any of the following additional conditions on the permit:

- That the riparian owner shall use erosion control practices to minimize erosion and the movement of suspended solids.
- That the removed material may not be discharged into a wetland.
- That the removal may not occur in an ASNRI.
- That the time during which the removal may occur is limited in order to minimize adverse impacts on fish movement, fish spawning, and fish egg incubation.
- Revises the provision related to vehicles operated below the OHWM to specify that vehicle use allowed under current law by people engaging in activities related to an individual or general permit would also be allowed for people engaged in an exempt activity, and allows vehicle use landward of a bulkhead line.
- Deletes the provisions related to lake district recommendations related to water level determinations by the DNR.
- Revises the exception to the narrower practicable alternatives review for wetlands permits that applies to developments initiated after July 1, 2012.
- Limits the exception under the substitute amendment from wetlands permitting laws related to stormwater ponds so that this provision only applies to such ponds that were not originally constructed in a wetland.
- Delays the effective date of the changes related to ASNRI until January 1, 2017.

BILL HISTORY

Assembly Substitute Amendment 2 was offered by Representative Jarchow on January 29, 2016. The Assembly Committee on Environment and Forestry recommended adoption of the substitute amendment by a vote of Ayes, 10; Noes, 3, and passage of the bill, as amended, by a vote of Ayes, 8; Noes, 5.

On February 9, 2016, Assembly Amendment 1 to Assembly Substitute Amendment 2 was offered by Representative Jarchow and the Assembly adopted the amendments by voice votes and passed the bill, as amended, by a vote of Ayes, 57; Noes, 39; and Paired, 2.

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