



2013 ASSEMBLY BILL 804

February 20, 2014 – Introduced by Representative NYGREN, cosponsored by Senator HANSEN. Referred to Committee on Environment and Forestry.

- 1 **AN ACT to create** 30.12 (1g) (am), 30.125 and 30.20 (1g) (b) 3. of the statutes;
2 **relating to:** shoreline maintenance activities in outlying waters.

Analysis by the Legislative Reference Bureau

In order for a person to conduct an activity in or near a navigable water, the person may be required to obtain one or more permits from, or enter a contract with, the Department of Natural Resources (DNR). These requirements include permits to place structures or deposit material on the beds of navigable waters and contracts or permits to remove material from the beds of navigable waters (permitting requirements). The bed of a navigable water includes the area between the water's edge and the ordinary high-water mark (shoreline area).

Under current law, some activities are exempt from these permitting requirements, some activities require that the person be issued an individual permit for the activity, and some activities are authorized under statewide general permits. If a general permit covers an activity, the person proposing to conduct the activity must notify DNR that the person wishes to proceed with the activity. If DNR does not request additional information or notify the person that an individual permit will be required within 30 days after receipt of the notification, the person may proceed with the activity.

Activities that are currently exempt from these individual and general permitting requirements include the placement of riprap and shoreline erosion control structures under certain circumstances and the removal of nonhazardous material by hand or manual devices in areas that are not areas of special natural resource interest. These include state natural areas and surface waters identified by DNR as being outstanding or exceptional resource waters.

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This bill creates an exemption from these permitting requirements for certain shoreline maintenance activities that are conducted in a shoreline area. The activities exempt from the permitting requirements are the leveling of sand, the grooming of soil, the mowing of vegetation, and the removal of debris. The activity must be authorized by the owner of the riparian land that abuts the shoreline area. The exemption is limited to shoreline areas on Lake Superior and Lake Michigan and on other navigable waters that are part of or connect to these lakes.

Under current law, a person may request from DNR a determination regarding whether an exemption applies to a proposed activity. Within 15 days after receiving the request, DNR must inspect the site of the proposed activity if DNR determines that is necessary and must make a determination as to whether the activity is exempt. If DNR fails to make the determination within the 15-day period, DNR may not subsequently require the person to apply for an individual permit or to seek authorization under a general permit. This exemption determination procedure applies to the exemptions created in this bill

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.** 30.12 (1g) (am) of the statutes is created to read:

2 30.12 (1g) (am) A deposit of sand, gravel, or stone that is necessary to perform
3 an activity authorized under s. 30.125 (2) (a).

4 **SECTION 2.** 30.125 of the statutes is created to read:

5 **30.125 Shoreline maintenance in outlying waters.** (1) In this section:

6 (a) "Outlying waters" has the meaning given in s. 29.001 (63).

7 (b) "Shoreline area" means the area that is located between the ordinary
8 high-water mark and water's edge.

9 (2) The permitting requirements under s. 30.12 and the contract and
10 permitting requirements under s. 30.20 do not apply to any of the following
11 maintenance activities conducted in a shoreline area of an outlying water:

12 (a) The leveling of sand or the grooming of soil if the leveling or grooming will
13 occur in an area of unconsolidated material predominately composed of sand, rock,

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1 and pebble that is authorized by the owner of the riparian land that abuts the
2 shoreline area.

3 (b) The removal of debris or the mowing of vegetation that is authorized by the
4 owner of the riparian land that abuts the shoreline area.

5 **SECTION 3.** 30.20 (1g) (b) 3. of the statutes is created to read:

6 30.20 (1g) (b) 3. The removal is necessary to perform an activity authorized
7 under s. 30.125 (2).

8 (END)