



2007 SENATE BILL 553

February 29, 2008 - Introduced by Senators MILLER, WIRCH, COWLES, ROBSON, A. LASEE, RISSER and LEHMAN, cosponsored by Representatives BIES, HEBL, A. OTT, TOWNSEND, OWENS and SOLETSKI. Referred to Committee on Environment and Natural Resources.

1 **AN ACT** *to amend* 20.370 (4) (bi); and *to create* 23.321, 23.323, 59.691, 60.625,
2 61.352, 62.232 and 101.02 (23) of the statutes; **relating to:** notices concerning
3 construction near or on lakes, streams, or wetlands that are given to applicants
4 for building permits and other construction approvals, requiring the
5 Department of Natural Resources to furnish informational brochures about
6 wetlands laws, requiring the Department of Natural Resources to provide
7 evaluations and statements about whether certain land contains wetlands, and
8 making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Natural Resources (DNR) to provide certain services relating to wetlands to persons who own or lease land. Under the bill, a wetland is an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and that has soils indicative of wet conditions. The bill requires DNR to provide, for a fee, a wetland map review, a wetland identification, or a wetland confirmation upon request by a person who owns or leases land.

Under the bill, a wetland map review consists of a written evaluation, based upon a review of wetland maps prepared by DNR or other information available to

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DNR, of whether a parcel of land is likely to contain a wetland. A wetland identification consists of a written evaluation, based upon an on-site inspection of the land by DNR, of whether a parcel of land contains a wetland. A wetland confirmation consists of a written statement, based upon an on-site inspection of the land by DNR, of whether DNR concurs with the boundaries of a wetland as delineated by a 3rd person. The bill establishes deadlines under which DNR must provide these services after a person files a request for the service. The bill specifies that if adverse weather conditions prevent DNR from conducting an accurate on-site inspection for a wetland identification or a wetland confirmation, DNR may provide the service as soon as possible after weather conditions allow DNR to conduct an accurate on-site inspection.

The bill also requires that each county, city, village, and town (municipality) that issues a building permit or other approval for construction activity must give the applicant a written notice that contains information about construction near or on wetlands including a statement that advises the applicant that the applicant is responsible for complying with state and federal laws concerning construction near or on wetlands, lakes, and streams. The bill requires the Department of Commerce (Commerce) to include this notice on every standard building permit form that it prescribes. The bill provides that a municipality is not required to give the notice if it issues a building permit on a standard building permit form prescribed by Commerce. If the municipality is required to give the notice, the bill provides that the municipality must require the applicant for the building permit to sign a statement acknowledging that the person has received the notice.

The bill also requires DNR to furnish an informational brochure to municipalities for distribution to the public that describes the laws that apply to wetlands.

For further information see the *state* 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 (4) (bi) of the statutes is amended to read:

2 20.370 (4) (bi) *Water regulation and zoning — fees.* From the general fund, all
3 moneys received under ss. 23.32 (3), 23.321, 30.28, 31.39 and 281.22 for activities
4 relating to permits and approvals issued under chs. 30 and 31, water quality
5 standards under subch. II of ch. 281 and for wetland mapping under s. 23.32 and
6 wetlands services under s. 23.321.

7 **SECTION 2.** 23.321 of the statutes is created to read:

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1 **23.321 Wetland map review, identification, and confirmation.** (1) In
2 this section, “wetland” has the meaning given in s. 23.32 (1).

3 (2) Any person who owns or leases land may request that the department
4 provide any of the following services for the fee specified in sub. (3):

5 (a) A wetland map review that consists of a written evaluation, based upon a
6 review of wetland maps prepared by the department under s. 23.32 or other
7 information available to the department, of whether a parcel of land is likely to
8 contain a wetland. The evaluation shall describe the method used by the department
9 to review the wetland maps.

10 (b) A wetland identification that consists of a written evaluation, based upon
11 an on-site inspection of the land by the department, of whether a parcel of land
12 contains a wetland. The department shall provide a wetland identification only for
13 a parcel of land, or a part of a parcel of land, that does not exceed 5 acres.

14 (c) A wetland confirmation that consists of a written statement, based upon an
15 on-site inspection of the land by the department, of whether the department concurs
16 with the boundaries of a wetland as delineated by a 3rd person.

17 (3) The department shall charge the following fee for services provided under
18 sub. (2):

19 (a) For a wetland map review under sub. (2) (a), \$50.

20 (b) For a wetland identification under sub. (2) (b), \$300 for each acre inspected
21 by the department.

22 (c) For a wetland confirmation under sub. (2) (c), \$300 for each 20 acres
23 inspected by the department.

24 (4) (a) Except as provided under par. (b), the department shall do all of the
25 following:

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1 1. Provide a wetland map review not later than 15 days after a person files a
2 request, in the manner and form required by the department, for a wetland map
3 review.

4 2. Provide a wetland identification not later than 30 days after a person files
5 a request, in the manner and form required by the department, for a wetland
6 identification.

7 3. Provide a wetland confirmation not later than 30 days after a person files
8 a request, in the manner and form required by the department, for a wetland
9 confirmation.

10 (b) If adverse weather conditions prevent the department from conducting an
11 accurate on-site inspection under sub. (2) (b) or (c) in sufficient time to comply with
12 the deadline under par. (a), the department shall provide a wetland identification
13 under sub. (2) (b) or a wetland confirmation under sub. (2) (c) as soon as possible after
14 weather conditions allow the department to conduct an accurate on-site inspection.
15 Within 30 days after determining that adverse weather conditions will prevent the
16 department from complying with the deadline under par. (a), the department shall
17 give notice to the person requesting the wetland identification or wetland
18 confirmation that adverse weather conditions will prevent the department from
19 complying with the deadline and giving notice to the person that the department will
20 provide the wetland identification or wetland confirmation as soon as possible after
21 weather conditions allow the department to conduct an accurate on-site inspection.

22 **SECTION 3.** 23.323 of the statutes is created to read:

23 **23.323 Wetlands informational brochure.** The department shall furnish
24 an informational brochure to cities, villages, towns, and counties for distribution to
25 the public that describes the laws that apply to wetlands.

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1 **SECTION 4.** 59.691 of the statutes is created to read:

2 **59.691 Required notice on certain approvals. (1)** In this section,
3 “wetland” has the meaning given in s. 23.32 (1).

4 **(2)** (a) Except as provided in par. (b), a county that issues a building permit or
5 other approval for construction activity, shall give the applicant a written notice as
6 specified in subs. (3) and (4) at the time the building permit is issued.

7 (b) 1. A county is not required to give the notice under par. (a) at the time that
8 it issues a building permit if the county issues the building permit on a standard
9 building permit form prescribed by the department of commerce.

10 2. A county is not required to give the notice under par. (a) at the time that it
11 issues a building permit or other approval if the building permit or other approval
12 is for construction activity that does not involve any land disturbing activity
13 including removing protective ground cover or vegetation, or excavating, filling,
14 covering, or grading land.

15 **(3)** Each notice shall contain the following language: “YOU ARE
16 RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS
17 CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND
18 STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER
19 CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN
20 REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE
21 LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT
22 THE DEPARTMENT OF NATURAL RESOURCES WETLANDS
23 IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL
24 RESOURCES SERVICE CENTER.”

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1 (4) The notice required in sub. (2) (a) shall contain the electronic Web site
2 address that gives the recipient of the notice direct contact with that Web site.

3 (5) A county in issuing a notice under this section shall require that the
4 applicant for the building permit sign a statement acknowledging that the person
5 has received the notice.

6 **SECTION 5.** 60.625 of the statutes is created to read:

7 **60.625 Required notice on certain approvals.** (1) In this section,
8 “wetland” has the meaning given in s. 23.32 (1).

9 (2) (a) Except as provided in par. (b), a town that issues a building permit or
10 other approval for construction activity, shall give the applicant a written notice as
11 specified in subs. (3) and (4) at the time the building permit is issued.

12 (b) 1. A town is not required to give the notice under par. (a) at the time that
13 it issues a building permit if the county issues the building permit on a standard
14 building permit form prescribed by the department of commerce.

15 2. A town is not required to give the notice under par. (a) at the time that it
16 issues a building permit or other approval if the building permit or other approval
17 is for construction activity that does not involve any land disturbing activity
18 including removing protective ground cover or vegetation, or excavating, filling,
19 covering, or grading land.

20 (3) Each notice shall contain the following language: “YOU ARE
21 RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS
22 CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND
23 STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER
24 CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN
25 REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE

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1 LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT
2 THE DEPARTMENT OF NATURAL RESOURCES WETLANDS
3 IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL
4 RESOURCES SERVICE CENTER.”

5 (4) The notice required in sub. (2) (a) shall contain the electronic Web site
6 address that gives the recipient of the notice direct contact with that Web site.

7 (5) A town in issuing a notice under this section shall require that the applicant
8 for the building permit sign a statement acknowledging that the person has received
9 the notice.

10 **SECTION 6.** 61.352 of the statutes is created to read:

11 **61.352 Required notice on certain approvals.** (1) In this section,
12 “wetland” has the meaning given in s. 23.32 (1).

13 (2) (a) Except as provided in par. (b), a village that issues a building permit or
14 other approval for construction activity, shall give the applicant a written notice as
15 specified in subs. (3) and (4) at the time the building permit is issued.

16 (b) 1. A village is not required to give the notice under par. (a) at the time that
17 it issues a building permit if the county issues the building permit on a standard
18 building permit form prescribed by the department of commerce.

19 2. A village is not required to give the notice under par. (a) at the time that it
20 issues a building permit or other approval if the building permit or other approval
21 is for construction activity that does not involve any land disturbing activity
22 including removing protective ground cover or vegetation, or excavating, filling,
23 covering, or grading land.

24 (3) Each notice shall contain the following language: “YOU ARE
25 RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS

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1 CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND
2 STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER
3 CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN
4 REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE
5 LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT
6 THE DEPARTMENT OF NATURAL RESOURCES WETLANDS
7 IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL
8 RESOURCES SERVICE CENTER.”

9 (4) The notice required in sub. (2) (a) shall contain the electronic Web site
10 address that gives the recipient of the notice direct contact with that Web site.

11 (5) A village in issuing a notice under this section shall require that the
12 applicant for the building permit sign a statement acknowledging that the person
13 has received the notice.

14 **SECTION 7.** 62.232 of the statutes is created to read:

15 **62.232 Required notice on certain approvals.** (1) In this section,
16 “wetland” has the meaning given in s. 23.32 (1).

17 (2) (a) Except as provided in par. (b), a city that issues a building permit or other
18 approval for construction activity, shall give the applicant a written notice as
19 specified in subs. (3) and (4) at the time the building permit is issued.

20 (b) 1. A city is not required to give the notice under par. (a) at the time that it
21 issues a building permit if the county issues the building permit on a standard
22 building permit form prescribed by the department of commerce.

23 2. A city is not required to give the notice under par. (a) at the time that it issues
24 a building permit or other approval if the building permit or other approval is for
25 construction activity that does not involve any land disturbing activity including

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1 removing protective ground cover or vegetation, or excavating, filling, covering, or
2 grading land.

3 (3) Each notice shall contain the following language: "YOU ARE
4 RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS
5 CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND
6 STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER
7 CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN
8 REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE
9 LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT
10 THE DEPARTMENT OF NATURAL RESOURCES WETLANDS
11 IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF NATURAL
12 RESOURCES SERVICE CENTER."

13 (4) The notice required in sub. (2) (a) shall contain the electronic Web site
14 address that gives the recipient of the notice direct contact with that Web site.

15 (5) A city in issuing a notice under this section shall require that the applicant
16 for the building permit sign a statement acknowledging that the person has received
17 the notice.

18 **SECTION 8.** 101.02 (23) of the statutes is created to read:

19 101.02 (23) The department shall include the following language on every
20 standard building permit form prescribed by the department under this chapter:
21 "YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL
22 LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES,
23 AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN
24 WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY
25 RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT

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1 VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE
2 INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES
3 WETLANDS IDENTIFICATION WEB PAGE OR CONTACT A DEPARTMENT OF
4 NATURAL RESOURCES SERVICE CENTER.”

5 **SECTION 9. Nonstatutory provisions.**

6 (1) POSITION AUTHORIZATIONS. The authorized FTE positions for the department
7 of natural resources are increased by 3.0 PR project positions for the period ending
8 on June 30, 2012 and 1.0 PR position, to be funded from the appropriation under
9 section 20.370 (4) (bi) of the statutes, for the purpose of providing wetland map
10 review, identification, and confirmation services under section 23.321 of the statutes,
11 as created by this act.

12 **SECTION 10. Initial applicability.**

13 (1) BUILDING PERMITS. The treatment of section 59.691, 60.625, 61.352, and
14 62.232 of the statutes first applies to applications for building permits that are
15 submitted on the effective date of this subsection.

16 **SECTION 11. Effective date.**

17 (1) This act takes effect on the first day of the 7th month beginning after
18 publication.

19 (END)