



2003 ASSEMBLY BILL 780

January 29, 2004 - Introduced by Representatives UNDERHEIM, AINSWORTH, MUSSER, STONE, J. WOOD and TOWNSEND. Referred to Committee on Natural Resources.

1 **AN ACT to amend** 59.692 (6m), 62.231 (6m), 87.30 (1) (d) and 281.165 (1); and **to**
2 **create** 61.351 (6m) and 281.165 (4) of the statutes; **relating to:** activities
3 exempt from water quality standards that are applicable to wetlands and that
4 are exempt from certain other approvals, fees, notices, hearings, procedures,
5 and penalties.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Natural Resources (DNR) has promulgated rules that establish water quality standards for wetlands. Current law provides that activities that meet certain conditions are exempt from these rules if the activities meet certain criteria. The activities are also exempt from various other requirements, licenses, and procedures existing under current law, including those related to navigable waters, dams and bridges, pollution discharge elimination, and solid waste facilities. The activities that are exempt under current law are located at two separate sites in the state. The criteria for the activity at one of the sites include requirements that the wetland area that will be affected be less than 15 acres, that the site of the activity be in a city in Trempealeau County, and that the city adopt a resolution stating that the exemption is necessary to protect jobs or promote the creation of jobs in the city. The criteria for the activity at the other site include requirements that the wetland area that will be affected be less than 4.2 acres, that the site of the activity be in Dunn County, and that the site of the activity be zoned for technology park use.

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Under the current law popularly known as the “Smart Growth” statute, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a development plan or a master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit’s comprehensive plan. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

This bill creates a new wetlands compliance exemption. Under the bill, an activity is entitled to the exemption if it is located in a city, village, town, or county that has adopted a comprehensive plan under Smart Growth, if the wetland area that will be affected by the activity has negligible functional values, and if the activity incorporates a plan to create at least 1.5 acres of wetland for each acre of wetland affected by the activity.

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.** 59.692 (6m) of the statutes is amended to read:

2 59.692 **(6m)** For an amendment to an ordinance enacted under this section that
3 affects an activity that meets all of the requirements under s. 281.165 (2) ~~or~~, (3) (a),
4 or (4), the department may not proceed under sub. (6) or (7) (b) or (c), or otherwise
5 review the amendment, to determine whether the ordinance, as amended, fails to
6 meet the shoreland zoning standards.

7 **SECTION 2.** 61.351 (6m) of the statutes is created to read:

8 61.351 **(6m)** CERTAIN AMENDMENTS TO ORDINANCES. For an amendment to an
9 ordinance enacted under this section that affects an activity that meets all of the
10 requirements under s. 281.165 (4), the department of natural resources may not
11 proceed under sub. (6), or otherwise review the amendment, to determine whether
12 the ordinance, as amended, fails to meet reasonable minimum standards.

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1 **SECTION 3.** 62.231 (6m) of the statutes is amended to read:

2 62.231 **(6m)** CERTAIN AMENDMENTS TO ORDINANCES. For an amendment to an
3 ordinance enacted under this section that affects an activity that meets all of the
4 requirements under s. 281.165 (2) ~~or~~, (3) (a), or (4), the department of natural
5 resources may not proceed under sub. (6), or otherwise review the amendment, to
6 determine whether the ordinance, as amended, fails to meet reasonable minimum
7 standards.

8 **SECTION 4.** 87.30 (1) (d) of the statutes is amended to read:

9 87.30 **(1)** (d) For an amendment to a floodplain zoning ordinance that affects
10 an activity that meets all of the requirements under s. 281.165 (2) ~~or~~, (3) (a), or (4),
11 the department may not proceed under this subsection, or otherwise review the
12 amendment, to determine whether the ordinance, as amended, is insufficient.

13 **SECTION 5.** 281.165 (1) of the statutes is amended to read:

14 281.165 **(1)** COMPLIANCE; EXEMPTION. An activity shall be considered to comply
15 with the water quality standards that are applicable to wetlands and that are
16 promulgated as rules under s. 281.15 and is exempt from any prohibition, restriction,
17 requirement, permit, license, approval, authorization, fee, notice, hearing,
18 procedure or penalty specified under s. 29.601 (3) or chs. 30, 31, 281, 283, 289 to 292
19 or 299 or specified under any rule promulgated, order issued or ordinance adopted
20 under any of those sections or chapters, if the activity meets all of the requirements
21 under ~~either~~ sub. (2) ~~or~~, or (4).

22 **SECTION 6.** 281.165 (4) of the statutes is created to read:

23 281.165 **(4)** ACTIVITIES COVERED BY COMPREHENSIVE PLANNING. Subsection (1)
24 applies to an activity that meets all of the following requirements:

