



1997 ASSEMBLY BILL 819

February 24, 1998 - Introduced by Representatives HARSDORF, AINSWORTH, GRONEMUS, MUSSER, BRANDEMUEHL, GROTHMAN, SCHAFFER, SYKORA, GOETSCH, SERATTI, TURNER, ALBERS and PLALE, cosponsored by Senators DRZEWIECKI and FARROW. Referred to Committee on Natural Resources.

1 **AN ACT to amend** 87.30 (1) (a); and **to create** 87.30 (1) (am) of the statutes;
2 **relating to:** standards for floodplain zoning ordinances and requiring the
3 exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Current law requires that counties, cities and villages enact floodplain zoning ordinances. The requirements for these ordinances are promulgated as rules by the department of natural resources (DNR). If a city, village or county fails to enact an ordinance, DNR must adopt an ordinance, by rule, for the city, village or county. The current rules impose some state requirements that are stricter than those under the national flood insurance program administered by the federal emergency management agency. Under current statutory law, for nonconforming buildings that are damaged or destroyed by fire or a natural disaster other than flooding and that are located in floodplains, and for floodproofed residential basements, the only limitations that a local floodplain zoning ordinance may impose are those that are minimally required by the national flood insurance program. Under this bill, any requirement promulgated by DNR for floodplain zoning ordinances may not be stricter than those required by the national flood insurance program.

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:

4 **SECTION 1.** 87.30 (1) (a) of the statutes is amended to read:
5 87.30 (1) (a) If any county, city or village does not adopt a reasonable and
6 effective have in effect a floodplain zoning ordinance within one year after hydraulic

1 and engineering data adequate to formulate the ordinance becomes available, the
2 department shall, upon petition of an interested state agency or a municipality or
3 upon its own motion as soon as practicable and after public hearing, determine and
4 fix by order the limits of any or all floodplains within a county, city or village within
5 which serious damage may occur. Thereafter the department shall as soon as
6 practicable after public hearing adopt a floodplain zoning ordinance applicable to a
7 county, city or village, except that no floodplain zoning ordinance may be enacted
8 unless the hydraulic and engineering studies necessary to determine the floodway
9 or floodplain limits, or both, if both limits are deemed necessary by the department,
10 have been made at state or federal expense. If the department utilizes hydraulic and
11 engineering studies previously completed, the department shall be responsible for
12 ensuring that the studies are reasonable and accurate. Thirty days' notice of all
13 hearings on floodplain determination or zoning before the department shall be given
14 to the county, city or village clerk, the clerks of all towns where lands may be affected
15 and to the department of transportation. Exhibits and testimony shall be a part of
16 the official record. Failure of a county, city or village to adopt a floodplain zoning
17 ordinance for an area where appreciable damage from floods is likely to occur or to
18 adopt an ordinance which will result in a practical minimum of flood damage in an
19 area shall be prima facie proof of the necessity for action specified under this
20 paragraph by the department. The department shall make a decision in writing of
21 insufficiency of any county, city or village floodplain zoning ordinance before
22 adopting an ordinance superseding a county, village or city ordinance. All orders of
23 the department under this subsection which either fix the limits of floodplains or
24 enact local floodplain zoning ordinances shall, when they are in final draft form and
25 before they are issued, be referred to the appropriate committees of the legislature,

1 where the procedure under s. 227.19 shall apply. Section 227.15 does not apply to
2 the orders of the department under this section. Orders of the department under this
3 section shall, after becoming effective, be deemed rules for purposes of s. 227.26, and
4 may be suspended by the joint committee for review of administrative rules. A
5 floodplain zoning ordinance shall meet the standards for floodplain zoning
6 ordinances established by rule by the department under par. (am).

7 **SECTION 2.** 87.30 (1) (am) of the statutes is created to read:

8 87.30 (1) (am) The department shall by rule establish standards for floodplain
9 zoning ordinances. These rules shall contain the limitations in subs. (1d) (c) and (1g)
10 and may not contain provisions that are stricter than any of the other minimum
11 requirements applicable to structures that are required under 42 USC 4001 to 4129
12 or the regulations promulgated thereunder.

13 **SECTION 3. Nonstatutory provisions.**

14 (1) The department of natural resources shall submit in proposed form the
15 rules required under section 87.30 (1) (am) of the statutes, as created by this act, to
16 the legislative council staff under section 227.15 (1) of the statutes no later than
17 February 1, 1998.

18 **SECTION 4. Effective dates.** This act takes effect on June 1, 1998, except as
19 follows:

20 (1) SECTION (3) takes effect on the day after publication.

21 (END)