



2001 SENATE BILL 290

October 23, 2001 - Introduced by Senator MOEN, cosponsored by Representative GRONEMUS. Referred to Committee on Environmental Resources.

1 **AN ACT** *to repeal* 281.165 (2) (intro.), 281.165 (2) (a), 281.165 (2) (b) and 281.165
2 (2) (e); *to renumber* 281.165 (2) (c) and 281.165 (2) (d); *to amend* 59.692 (6m),
3 62.231 (6m), 87.30 (1) (d), 281.165 (title), 281.165 (1) and 281.165 (3) (a) (intro.);
4 *to repeal and recreate* 281.165 (3) (title); and *to create* 281.166 of the
5 statutes; **relating to:** water quality standards for wetlands for an activity at
6 a site in Trempealeau County and review of certain changes to shoreland,
7 wetland, and floodplain zoning ordinances as they relate to an activity at a site
8 in Trempealeau County.

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 states that a certain activity at a site in a city in Trempealeau County complies with these wetland water quality standards and exempts the activity from other laws administered by DNR that relate to water quality and navigable waters if the activity meets specific criteria. These criteria include that the wetland area that will be affected is less than 15 acres and that the city in which the site is located adopt a resolution stating that the exemption is necessary to protect jobs or promote the creating of jobs in the city. Current law also prohibits DNR from reviewing and

SENATE BILL 290

disapproving an amendment to a city or county shoreland or floodplain zoning ordinance if the amendment affects this activity. Under current law, DNR may enact a shoreland or a floodplain zoning ordinance that supersedes the city's or county's shoreland or floodplain zoning ordinance if the city or county ordinance fails to meet certain standards established by DNR. Under current law, similar provisions apply to a site in a city in Dunn County.

The above provisions were enacted in the 1999-2001 biennial budget act. The circuit court for Buffalo County in *Sierra Club et al. vs. Ashley Furniture, Inc. et al.*, (99 CV 178), has concluded that these provisions are unconstitutional because the provisions affect a specific locale and they were enacted as part of a multisubject bill. This type of enactment is prohibited under article IV, section 18, of the constitution.

This bill repeals the provisions that apply to the activity at a site in Trempealeau County and recreates them in a single subject bill. The bill does not affect the provisions that apply to the site in Dunn County.

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 281.166 (2), the department may not proceed under sub. (6) or (7) (b) or (c), or
5 otherwise review the amendment, to determine whether the ordinance, as amended,
6 fails to meet the shoreland zoning standards.

7 **SECTION 2.** 62.231 (6m) of the statutes is amended to read:

8 62.231 **(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 ~~(2) or~~ (3) (a) or 281.166 (2), the department of natural
11 resources may not proceed under sub. (6), or otherwise review the amendment, to
12 determine whether the ordinance, as amended, fails to meet reasonable minimum
13 standards.

SENATE BILL 290

1 **SECTION 3.** 87.30 (1) (d) of the statutes is amended to read:

2 87.30 (1) (d) For an amendment to a floodplain zoning ordinance that affects
3 an activity that meets all of the requirements under s. 281.165 ~~(2) or (3) (a)~~ or 281.166
4 (2), the department may not proceed under this subsection, or otherwise review the
5 amendment, to determine whether the ordinance, as amended, is insufficient.

6 **SECTION 4.** 281.165 (title) of the statutes is amended to read:

7 **281.165 (title) ~~Compliance with water quality standards~~ Exemption for**
8 **wetlands; Dunn County site.**

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

10 281.165 (1) COMPLIANCE; EXEMPTION. An activity shall be considered to comply
11 with the water quality standards that are applicable to wetlands and that are
12 promulgated as rules under s. 281.15 and is exempt from any prohibition, restriction,
13 requirement, permit, license, approval, authorization, fee, notice, hearing,
14 procedure, or penalty specified under s. 29.601 (3) or chs. 30, 31, 281, 283, 289 to 292,
15 or 299 or specified under any rule promulgated, order issued, or ordinance adopted
16 under any of those sections or chapters, if the activity meets all of the requirements
17 under either sub. ~~(2) or (3)~~.

18 **SECTION 6.** 281.165 (2) (intro.) of the statutes is repealed.

19 **SECTION 7.** 281.165 (2) (a) of the statutes is repealed.

20 **SECTION 8.** 281.165 (2) (b) of the statutes is repealed.

21 **SECTION 9.** 281.165 (2) (c) of the statutes is renumbered 281.165 (3) (a) 4.

22 **SECTION 10.** 281.165 (2) (d) of the statutes is renumbered 281.165 (3) (a) 5.

23 **SECTION 11.** 281.165 (2) (e) of the statutes is repealed.

24 **SECTION 12.** 281.165 (3) (title) of the statutes is repealed and recreated to read:

25 281.165 (3) (title) REQUIREMENTS.

SENATE BILL 290

1 **SECTION 13.** 281.165 (3) (a) (intro.) of the statutes is amended to read:

2 281.165 **(3)** (a) (intro.) Subsection (1) applies to an activity that meets the
3 ~~requirements under sub. (2) (c) and (d) and~~ all of the following requirements:

4 **SECTION 14.** 281.166 of the statutes is created to read:

5 **281.166 Exemption for wetlands; Trempealeau County site. (1)**

6 COMPLIANCE; EXEMPTION. An activity shall be considered to comply with the water
7 quality standards that are applicable to wetlands and that are promulgated as rules
8 under s. 281.15 and is exempt from any prohibition, restriction, requirement, permit,
9 license, approval, authorization, fee, notice, hearing, procedure, or penalty specified
10 under s. 29.601 (3) or chs. 30, 31, 281, 283, 289 to 292, or 299 or specified under any
11 rule promulgated, order issued, or ordinance adopted under any of those sections or
12 chapters, if the activity meets all of the requirements under sub. (2).

13 **(2) REQUIREMENTS.** Subsection (1) applies to an activity that meets all of the
14 following requirements:

15 (a) The wetland area that will be affected by the activity is less than 15 acres
16 in size.

17 (b) The site of the activity is zoned for industrial use and is in the vicinity of
18 a manufacturing facility.

19 (c) The site of the activity is within the corporate limits of a city on
20 January 1, 1999.

21 (d) The governing body of the city adopts a resolution stating that the
22 exemption under this section is necessary to protect jobs that exist in the city on the
23 date of the adoption of the resolution or is necessary to promote job creation.

24 (e) The site of the activity is located in Trempealeau County.

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(END)