



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3542/1
RCT:cjs:jm

2011 ASSEMBLY BILL 627

February 24, 2012 – Introduced by Representatives KNILANS, ENDSLEY, SPANBAUER and LEMAHIEU. Referred to Committee on Natural Resources.

1 **AN ACT to repeal** 283.84 (1m) (c), 283.84 (2) and (3) and 283.84 (5); **to amend**
2 20.370 (4) (ag), 20.370 (4) (as), 283.84 (1), 283.84 (1m) (intro.), (a) and (b), 283.84
3 (3m) and 283.84 (4); and **to create** 283.84 (1) (d), 283.84 (1) (e), 283.84 (1m) (d),
4 283.84 (3r) and 283.84 (6) of the statutes; **relating to:** trading of water
5 pollution credits, granting rule-making authority, and making an
6 appropriation.

Analysis by the Legislative Reference Bureau

Generally, under current law, a person may not discharge pollutants into the waters of this state from a point source (such as a pipe) without a permit from the Department of Natural Resources (DNR) that specifies limits on the discharge of water pollutants. Current law requires DNR to administer at least one pilot project to evaluate the trading of water pollution credits. Under a pilot project, a person who is required to obtain a water pollution permit may be authorized to discharge more pollutants than would otherwise be allowed if the person reaches an agreement under which another person agrees to reduce the amount of water pollution that the other person causes or if the person reaches an agreement to provide money that DNR or a local government uses to reduce water pollution.

This bill requires DNR to administer a program, rather than at least one pilot project, for the trading of water pollution credits. In addition to providing for agreements as under current law, the bill provides that DNR may authorize a person

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who is required to obtain two water pollution permits to discharge more pollutants than would otherwise be allowed under one permit if the person agrees to reduce the amount of water pollution below what would otherwise be allowed under the second permit. The bill also provides that DNR may authorize a person to discharge more pollutants than would otherwise be allowed if the person agrees to construct a project or implement a plan that results in reducing water pollution from sources other than the permitted source.

Under current law and under the bill, a water pollution credit trading agreement is only allowed if it results in an improvement in water quality and if the increase and the reduction involve the same pollutant or the same water quality standard. Under current law, a water pollution trading project may only be conducted within a project area that meets specified criteria. This bill eliminates the requirement concerning a project area, but requires that the increase and the reduction in pollution occur within the same water basin or portion of a water basin, as determined by DNR. Under current law, the term of a water pollution trading agreement may not exceed five years. This bill eliminates the restriction on the term of an agreement. Both current law and the bill require that trading of water pollution credits be conducted in accordance with the federal Water Pollution Control Act.

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.** 20.370 (4) (ag) of the statutes is amended to read:

2 20.370 (4) (ag) *Water resources — pollution credits.* From the general fund, all
3 moneys received under s. 283.84 (1) (c) for activities to reduce water pollution in pilot
4 project areas, as provided in agreements under s. 283.84 (1) (c).

5 **SECTION 2.** 20.370 (4) (as) of the statutes is amended to read:

6 20.370 (4) (as) *Water resources — trading water pollution credits.* As a
7 continuing appropriation, from the environmental fund, the amounts in the schedule
8 for the water pollution credit trading pilot projects program under s. 283.84.

9 **SECTION 3.** 283.84 (1) of the statutes is amended to read:

10 283.84 (1) The department shall administer ~~at least one pilot project to~~
11 ~~evaluate~~ a program for the trading of water pollution credits. ~~The department may~~

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1 ~~only administer a pilot project if the pilot project that~~ is consistent with the federal
2 Water Pollution Control Act, 33 USC 1251 to 1387. Subject to sub. (1m), ~~a pilot project~~
3 under the program the department may authorize a person required to obtain a
4 permit to increase the discharge of pollutants above levels that would otherwise be
5 authorized in the permit if the person does one of the following:

6 (a) Reaches ~~an~~ a binding, written agreement with another person who is
7 required to obtain a permit under which the other person agrees to reduce the
8 discharge of pollutants ~~in the project area~~ below the levels that would otherwise be
9 authorized in the other person's permit.

10 (b) Reaches ~~an~~ a binding, written agreement with another person who is not
11 required to obtain a permit under which the other person agrees to reduce the
12 amount of water pollution that it causes ~~in the project area~~ below the levels of water
13 pollution that it causes ~~in the project area~~ when the agreement is reached.

14 (c) Reaches ~~an~~ a binding, written agreement with the department or a local
15 governmental unit, as defined in s. 16.97 (7), under which the person pays money to
16 the department or local governmental unit and the department or local
17 governmental unit uses the money to reduce water pollution ~~in the project area~~ or
18 to provide cost-sharing, for the purposes of s. 281.16 (3) (e) or (4), for projects to
19 reduce water pollution.

20 **SECTION 4.** 283.84 (1) (d) of the statutes is created to read:

21 283.84 (1) (d) Reaches a binding, written agreement with the department
22 under which the person reduces the discharge of pollutants under another permit
23 that the person holds below the levels that would otherwise be authorized in the
24 other permit.

25 **SECTION 5.** 283.84 (1) (e) of the statutes is created to read:

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1 283.84 (1) (e) Reaches a binding, written agreement with the department
2 under which the person constructs a project or implements a plan that results in
3 reducing the amount of water pollution from sources other than the source covered
4 by the permit.

5 **SECTION 6.** 283.84 (1m) (intro.), (a) and (b) of the statutes are amended to read:

6 283.84 (1m) (intro.) ~~A pilot project~~ Under the program, the department may
7 authorize a person to increase a discharge of pollutants above levels that would
8 otherwise be authorized in the permit only if all of the following apply:

9 (a) The agreement under sub. (1) ~~(a), (b) or (c)~~ results in an improvement in
10 water quality.

11 (b) The ~~authorized~~ increase in pollutants and the reduction in ~~pollution~~
12 pollutants provided for in the agreement under sub. (1) ~~(a), (b) or (c)~~ involve the same
13 pollutant or the same water quality standard.

14 **SECTION 7.** 283.84 (1m) (c) of the statutes is repealed.

15 **SECTION 8.** 283.84 (1m) (d) of the statutes is created to read:

16 283.84 (1m) (d) The increase in pollutants and the reduction in pollutants
17 occur within the same basin or portion of a basin, as determined by the department.

18 **SECTION 9.** 283.84 (2) and (3) of the statutes are repealed.

19 **SECTION 10.** 283.84 (3m) of the statutes is amended to read:

20 283.84 (3m) A person engaged in mining, as defined in s. 293.01 (9),
21 prospecting, as defined in s. 293.01 (18), or nonmetallic mining, as defined in s.
22 295.11 (3), may not enter into an agreement under sub. (1) ~~(a), (b) or (c)~~.

23 **SECTION 11.** 283.84 (3r) of the statutes is created to read:

24 283.84 (3r) The department shall include terms and conditions related to
25 agreements under sub. (1) in new and reissued permits.

