



1997 ASSEMBLY BILL 636

December 2, 1997 - Introduced by Representatives LA FAVE, DUFF, F. LASEE, RILEY, SYKORA, GRONEMUS, MUSSER, GREEN, WALKER, GROTHMAN, SKINDRUD, HARS DORF, OTTE, AINSWORTH, HANDRICK, WARD, PORTER, POWERS, LADWIG, OLSEN, SCHA FER, JESKEWITZ, KEDZIE, LORGE, ZUKOWSKI and RYBA, cosponsored by Senators SHIBILSKI, DARLING, WELCH, FARROW, FITZGERALD and HUELSMAN. Referred to Committee on Environment.

1 **AN ACT to create** 299.05 (3) and 299.052 of the statutes; **relating to:** establishing
2 a time period for review by the department of natural resources of applications
3 for certain permits, licenses and approvals and requiring the exercise of
4 rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, no person may engage in certain activities affecting navigable waters or the bed of a lake or stream unless the person first obtains a permit or approval from the department of natural resources (DNR) authorizing the activity. Current law also requires DNR to establish time limits for completing review of certain applications and to refund application fees if the application is not reviewed within the time limit.

This bill requires DNR to complete its review of applications for certain licenses, permits or approvals and take action on the application within a specified time or the application is considered granted. The bill requires DNR to establish a time limit to complete its review of applications seeking authorization of specified activities, including the following:

1. Placing a dam, bridge or other obstruction in or over a navigable water.
2. Constructing new residential, commercial and industrial structures along the banks, bluffs and bluff tops of the lower St. Croix River.
3. Engaging in minor dredging projects on the Wolf River.
4. Use of the bed of a Great Lake by a public utility or neighboring municipality.
5. Municipalities establishing bulkhead lines within a navigable water, or enclosing navigable water by use of a drain, storm sewer or similar conduit.
6. Placing any material or structure upon the bed of a navigable water.
7. Placing a boathouse or fixed houseboat beyond the ordinary high water mark of a navigable water.
8. Placing a fishing raft in a navigable water.

9. Diverting water from a lake or stream.

10. Changing the course of a navigable water, or constructing, dredging or enlarging an artificial waterway.

11. Grading or removing topsoil from the bank of a navigable water.

12. Removing material from the bed of a lake or stream.

13. Constructing, maintaining or operating a water resource development project under an agreement between this state and a federal agency.

14. Constructing or operating a high-capacity well.

15. Discharging pollutants in storm water from industrial activity or municipal storm sewers into the waters of this state.

Under the bill, DNR must complete its review and take action on the application within the specified review period or, if the applicant refuses a required refund of the application fee, the application is considered granted. The review period may be extended by agreement between DNR and the applicant.

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.** 299.05 (3) of the statutes is created to read:

2 299.05 (3) An applicant entitled to a refund of fees under this section may
3 refuse to accept the refund and proceed as provided in s. 299.052.

4 **SECTION 2.** 299.052 of the statutes is created to read:

5 **299.052 Deadlines for reviewing certain applications.** (1) (a) The
6 department by rule shall establish time periods within which the department
7 intends to approve or disapprove an application for any of the following licenses,
8 permits or approvals:

9 1. Permits and approvals under ss. 30.10 to 30.123, 30.126, 30.18 to 30.20,
10 30.205, 30.21, 30.25 and 30.27.

11 2. Approvals under s. 281.17 (1).

12 3. Permits under s. 283.33.

13 (b) The rules required under par. (a) may establish any of the following:

1 1. Methods for determining the commencement of the time period established
2 under par. (a) and for determining when the application for a license, permit or
3 approval is complete.

4 2. A method for the department to extend the time period established under
5 par. (a) for good cause, including criteria for determining whether good cause exists.
6 Good cause does not exist for any reason that is within the control of the department.

7 3. Extensions of the time period established under par. (a) if the applicant
8 modifies the application.

9 4. Contingencies if information needed by the department to complete its
10 review of an application for a license, permit or approval is unknown or cannot be
11 determined with certainty when the department receives the application.

12 5. Deadlines for the department to complete intermediate steps in the process
13 of completing its review of an application.

14 (c) Any time period established under par. (a) shall be consistent with any time
15 limit or deadline that is in effect on the effective date of this paragraph [revisor
16 inserts date], for the permit, license or approval.

17 **(2)** Upon receiving an application for a license, permit or approval specified in
18 sub. (1) (a), the department shall inform the applicant of the time period established
19 under sub. (1) for the license, permit or approval.

20 **(3)** During the time period established under sub. (1), the department and the
21 applicant may jointly agree to a different time period for acting on an application for
22 a license, permit or approval than that specified under sub. (1).

23 **(4)** (a) Subject to subs. (1) (b) 2. and 3. and (3), if the department does not
24 disapprove of an application for a license, permit or approval before the expiration
25 of the time period established under sub. (1) for the license, permit or approval, the

1 application is considered approved. A license, permit or approval considered
2 approved under this paragraph is subject to any terms or conditions specified by
3 statute or rule for the license, permit or approval. This paragraph does not apply if
4 the applicant accepts a refund of fees under s. 299.05.

5 (b) The department may not disapprove an application for a license, permit or
6 approval solely because the department is unable to complete its review of the
7 application within the time period established under sub. (1).

8 **SECTION 3. Nonstatutory provisions.**

9 (1) RULES ESTABLISHING DEADLINE FOR REVIEWING CERTAIN APPLICATIONS. The
10 department of natural resources shall submit in proposed form the rules required
11 under section 299.052 (1) of the statutes, as created by this act, to the legislative
12 council staff under section 227.15 (1) of the statutes no later than the first day of the
13 3rd month beginning after the effective date of this subsection.

14 **SECTION 4. Initial applicability.**

15 (1) This act first applies to an application for a license, permit or approval
16 submitted on the effective date of this subsection.

17 **SECTION 5. Effective dates.** This act takes effect on the day after publication,
18 except as follows:

19 (1) The treatment of section 299.05 (3) of the statutes takes effect on November
20 1, 1998.

21 (2) The treatment of section 299.052 (2) and (4) of the statutes and SECTION 3
22 of this act take effect on the first day of the 3rd month beginning after publication.

23 (END)