

1999 SENATE BILL 57

February 24, 1999 – Introduced by Senators BURKE and RISSER, cosponsored by Representative BOCK. Referred to Committee on Agriculture, Environmental Resources and Campaign Finance Reform.

1 **AN ACT** *to renumber* 61.351 (1) (a) and 62.231 (1) (a); *to renumber and amend*
 2 23.32 (1); *to amend* 23.32 (2) (a), 23.32 (2) (b), 61.351 (1) (b), 61.351 (2), 61.351
 3 (3), 61.351 (6), 62.231 (1) (b), 62.231 (2), 62.231 (3), 62.231 (6) and 281.69 (3) (b)
 4 2.; and *to create* 23.32 (1) (ag), 61.351 (1) (ag), 61.351 (1) (am), 62.231 (1) (ag)
 5 and 62.231 (1) (am) of the statutes; **relating to:** mapping and zoning of certain
 6 wetlands.

Analysis by the Legislative Reference Bureau

Currently, the department of natural resources (DNR) is required to map all wetlands in the state that have an area of five acres or more. This bill requires that DNR map all wetlands in the state that have an area of two acres or more. The bill also requires that DNR map those wetlands that are contiguous to wetlands that are over two acres in area. The bill defines a contiguous wetland to be a wetland that is less than two acres in area, that is located in a shoreland, that is bordering or adjacent to another wetland, that is in the same wetland system as the other wetland and that has interdependent functions with the other wetland. Current law defines “shorelands” as lands within certain distances of navigable waters.

Under current law, villages and cities must enact specific zoning ordinances to regulate activities in wetlands that have an area of five acres or more and that are located in shorelands. The bill expands the wetland zoning requirement for cities and villages to cover wetlands that have an area of two acres or more and to cover the contiguous wetlands to those wetlands.

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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.** 23.32 (1) of the statutes is renumbered 23.32 (1) (intro.) and
2 amended to read:

3 23.32 (1) (intro.) In this section “wetland” :

4 (b) “Wetland” means an area where water is at, near, or above the land surface
5 long enough to be capable of supporting aquatic or hydrophytic vegetation and which
6 has soils indicative of wet conditions.

7 **SECTION 2.** 23.32 (1) (ag) of the statutes is created to read:

8 23.32 (1) (ag) “Contiguous wetland” means a wetland that is less than 2 acres
9 in area, that is located in a shoreland, as defined in s. 59.692 (1) (b), that is bordering
10 or adjacent to another wetland, that is in the same wetland system as the other
11 wetland and that has interdependent functions with the other wetland.

12 **SECTION 3.** 23.32 (2) (a) of the statutes is amended to read:

13 23.32 (2) (a) For the purpose of advancing the conservation of wetland
14 resources the department shall prepare or cause to be prepared maps that, at a
15 minimum, identify as accurately as is practicable the individual wetlands in the
16 state which have an area of ~~5~~ 2 acres or more and any contiguous wetlands to those
17 wetlands.

18 **SECTION 4.** 23.32 (2) (b) of the statutes is amended to read:

19 23.32 (2) (b) Mapping priorities, technical methods and standards to be used
20 in delineating wetlands and ~~a long-term schedule which will result in completion of~~
21 ~~the mapping effort at the earliest possible date, but not later than July 1, 1984,~~ shall

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1 be developed by the department in cooperation with those other state agencies
2 having mapping, aerial photography and comprehensive planning responsibilities.

3 **SECTION 5.** 61.351 (1) (a) of the statutes is renumbered 61.351 (1) (ar).

4 **SECTION 6.** 61.351 (1) (ag) of the statutes is created to read:

5 61.351 (1) (ag) “Contiguous wetland” has the meaning given in s. 23.32 (1) (ag).

6 **SECTION 7.** 61.351 (1) (am) of the statutes is created to read:

7 61.351 (1) (am) “Department” means the department of natural resources.

8 **SECTION 8.** 61.351 (1) (b) of the statutes is amended to read:

9 61.351 (1) (b) ~~“Wetlands”~~ “Wetland” has the meaning specified under s. 23.32
10 (1) (b).

11 **SECTION 9.** 61.351 (2) of the statutes is amended to read:

12 61.351 (2) FILLED WETLANDS. Any wetlands which are filled prior to the date
13 on which a village receives a final wetlands map from the department of natural
14 resources in a manner which affects their characteristics as wetlands are filled
15 wetlands and not subject to an ordinance adopted under this section.

16 **SECTION 10.** 61.351 (3) of the statutes is amended to read:

17 61.351 (3) ADOPTION OF ORDINANCE. To effect the purposes of s. 281.31 and to
18 promote the public health, safety and general welfare, each village shall zone by
19 ordinance all any unfilled wetlands wetland of 5 2 acres or more ~~which are~~ and any
20 contiguous wetland to that wetland that is shown on the final wetland inventory
21 maps prepared by the department of natural resources for the village under s. 23.32,
22 ~~which are~~ that is located in any shorelands and ~~which are~~ that is within its
23 incorporated area. A village may zone by ordinance any unfilled wetlands which are
24 within its incorporated area at any time.

25 **SECTION 11.** 61.351 (6) of the statutes is amended to read:

SENATE BILL 57**SECTION 11**

1 61.351 **(6)** FAILURE TO ADOPT ORDINANCE. If any village does not adopt an
2 ordinance required under sub. (3) within 6 months after receipt of final wetland
3 inventory maps prepared by the department of ~~natural resources~~ for the village
4 under s. 23.32, or if the department of ~~natural resources~~, after notice and hearing,
5 determines that a village adopted an ordinance which fails to meet reasonable
6 minimum standards in accomplishing the shoreland protection objectives of s.
7 281.31 (1), the department of ~~natural resources~~ shall adopt an ordinance for the
8 village. As far as applicable, the procedures set forth in s. 87.30 apply to this
9 subsection.

10 **SECTION 12.** 62.231 (1) (a) of the statutes is renumbered 62.231 (1) (ar).

11 **SECTION 13.** 62.231 (1) (ag) of the statutes is created to read:

12 62.231 **(1)** (ag) “Contiguous wetland” has the meaning given in s. 23.32 (1) (ag).

13 **SECTION 14.** 62.231 (1) (am) of the statutes is created to read:

14 62.231 **(1)** (am) “Department” means the department of natural resources.

15 **SECTION 15.** 62.231 (1) (b) of the statutes is amended to read:

16 62.231 **(1)** (b) ~~“Wetlands”~~ “Wetland” has the meaning specified under s. 23.32
17 (1) (b).

18 **SECTION 16.** 62.231 (2) of the statutes is amended to read:

19 62.231 **(2)** FILLED WETLANDS. Any wetlands which are filled prior to the date
20 on which a city receives a final wetlands map from the department of ~~natural~~
21 ~~resources~~ in a manner which affects their characteristics as wetlands are filled
22 wetlands and not subject to an ordinance adopted under this section.

23 **SECTION 17.** 62.231 (3) of the statutes is amended to read:

24 62.231 **(3)** ADOPTION OF ORDINANCE. To effect the purposes of s. 281.31 and to
25 promote the public health, safety and general welfare, each city shall zone by

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1 ordinance ~~all any unfilled wetlands~~ wetland of ~~5~~ 2 acres or more ~~which are~~ and any
2 contiguous wetland to that wetland that is shown on the final wetland inventory
3 maps prepared by the department of ~~natural resources~~ for the city under s. 23.32,
4 ~~which are~~ that is located in any shorelands and ~~which are~~ that is within its
5 incorporated area. A city may zone by ordinance any unfilled wetlands which are
6 within its incorporated area at any time.

7 **SECTION 18.** 62.231 (6) of the statutes is amended to read:

8 62.231 (6) FAILURE TO ADOPT ORDINANCE. If any city does not adopt an ordinance
9 required under sub. (3) within 6 months after receipt of final wetland inventory maps
10 prepared by the department of ~~natural resources~~ for the city under s. 23.32, or if the
11 department of ~~natural resources~~, after notice and hearing, determines that a city
12 adopted an ordinance which fails to meet reasonable minimum standards in
13 accomplishing the shoreland protection objectives of s. 281.31 (1), the department of
14 ~~natural resources~~ shall adopt an ordinance for the city. As far as applicable, the
15 procedures set forth in s. 87.30 apply to this subsection.

16 **SECTION 19.** 281.69 (3) (b) 2. of the statutes is amended to read:

17 281.69 (3) (b) 2. The restoration of a wetland, as defined in s. 23.32 (1) (b), if
18 the restoration will protect or improve a lake's water quality or its natural ecosystem.

19

(END)