

1999 DRAFTING REQUEST

Bill

Received: **09/29/1998**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Diane**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters: **shoveme**

Subject: **Nat. Res. - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Zoning of upland environmental corridors

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gibsom 11/06/1998	gilfokm 12/31/1998	lpaasch 01/08/1999	_____	lrb_docadmin 01/08/1999		
	gibsom 10/27/1999	gilfokm 11/01/1999		_____			
/P2			hhagen 11/02/1999	_____			S&L
/1	gibsom 11/30/1999	wjackson 12/01/1999	mclark 12/01/1999	_____	lrb_docadmin 12/01/1999	lrb_docadminS&L 02/09/2000	

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Page 2

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King

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12/1 MRC/KJF

MRC 12/1

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1?	gibsom	1/1-12-31 KMG	LSLP.	1-8-98 JP	Please Submit		

FE Sent For:

<END>

Don Dyke
60292



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: January 13, 1998
TO: SENATOR FRED A. RISSER
FROM: Don Dyke and Mark C. Patronsky, Senior Staff Attorneys
SUBJECT: Draft Proposal for Protecting Environmental Corridors

This is in response to your request for an outline of possible legislation for protecting environmental corridors in the state from incompatible land use. In very general terms, environmental corridors are those areas of the state consisting of significant concentrations of natural resources.

The proposal outlined below is based on a recommendation made by Attorney Richard W. Cutler to the Wisconsin Strategic Growth Task Force. Mr. Cutler's written comments to the Task Force are set forth in Attachment 1 to this memorandum. Mr. Cutler's recommendation originated in a report of the Southeastern Wisconsin Regional Planning Commission. See *Regional Land Use Plan Implementation in Southeastern Wisconsin*, Memorandum Report #68, published by Southeastern Wisconsin Regional Planning Commission, Waukesha, Wisconsin (1992). Pertinent portions of the report are set forth in Attachment 2.

The proposal outlined below is an extension of, but would replace, the current state and local zoning scheme that applies to floodplains and shorelands (and wetlands within shorelands). The attached background materials contend that the current floodplain and shoreland zoning regulations provide land use protection for a substantial portion of the state's environmental corridors, but fail to protect the upland portions of the corridors. The upland portions consist primarily of woodlands, wildlife habitat areas and steeply sloped lands. The materials note that development continues to destroy these upland areas, threatening flora and fauna habitat, the quality and quantity of groundwater and the scenic qualities of the state's woodlands. Extending zoning regulations to all the territory within an environmental corridor, it is contended, will not only provide new protection to the upland portions of the corridors but will provide additional protection to the floodplain and shoreland portions of the corridors.

A general outline of the proposal to protect environmental corridors is set forth below.

PROTECTION OF ENVIRONMENTAL CORRIDORS

I. PURPOSE

Extend the current programs that protect environmental corridors from incompatible land uses to include all remaining portions of environmental corridors that currently are not subject to such protection.

II. ENVIRONMENTAL CORRIDOR DEFINED

A. Generally.

Environmental corridors are those areas that have significant concentrations of natural resources, including lakes, rivers and streams and associated floodplains and shorelands; wetlands; woodlands; wildlife habitat; and areas of steep slope and rough topography.

B. Development of Standards for Delineating Environmental Corridors.

Require the Department of Natural Resources (DNR) to establish standards for delineating environmental corridors. In addition to specifying the natural features of the corridors, the standards would include minimum area, length and width criteria.

III. MAPPING OF ENVIRONMENTAL CORRIDORS BY REGIONAL PLANNING COMMISSIONS (RPCS) AND COUNTIES

A. Local Mapping.

Require RPCs to map environmental corridors within their region by a date certain. If a county is not included within an RPC, require the county to contract with an RPC or require the county on its own to map environmental corridors within the county.

B. State Mapping.

If an RPC or county fails to delineate environmental corridors within the requisite time, require the DNR to complete.

C. Certification.

Require DNR review and certification of environmental corridor mapping done by RPCs and counties.

IV. Zoning of Environmental Corridors.

A. Minimum Standards.

Require DNR to establish minimum standards for the zoning of upland areas of environmental corridors (floodplain and shoreland zoning standards already apply to remaining areas of environmental corridors). The purpose of the standards is to protect the areas from incompatible land use. A key standard is maximum density, e.g., one home for every four or five acres.

B. Local Zoning.

Require local zoning authorities to zone the entire area within the environmental corridors consistent with the minimum state standards established by the DNR.

C. State Zoning.

Require the DNR to enact zoning for the entire area within the environmental corridors if local zoning authorities fail to act.

The above outline and the accompanying background materials provide, as you requested, the general features of possible legislation to protect the state's environmental corridors from incompatible land use. The outline can serve as a means of eliciting comments from interested parties, both on the general features of the proposal and on what details need to be addressed.

Please contact us at the Legislative Council Staff offices if you have any questions or need additional information.

DD:MCP:rv:wu;kjf

Attachments

ATTACHMENT I

RICHARD W. CUTLER
Suite 2811
411 East Wisconsin Avenue
Milwaukee, WI 53202-4409
(414/277-5811)

September 29, 1995

David Cieslewicz
Strategic Growth Task Force
c/o The Nature Conservancy
P.O. Box 1642
Madison, WI 53701-1642

Dear Mr. Cieslewicz,

Enclosed in response to your letter of August 28, 1995, is my paper recommending a needed concept in the coordination of state, regional and local land use planning, namely:

Preserving the Upland Portion of Environmental Corridors through Shared State and Local Zoning as in the Floodlands.

You will note that this recommendation originated in a twenty five person task force financed by the Wisconsin Department of Transportation. See *Regional Land Use Plan Implementation in Southeastern Wisconsin*, Memorandum Report No. 68 (140 pp), published by Southeastern Wisconsin Regional Planning Commission, Waukesha, Wisconsin, 1992. As such it has previously come to the attention of the Secretaries of Transportation, Department of Natural Resources but no action was taken, probably because attention was then primarily focusing on the upcoming creation of your Strategic Growth Task Force, as recommended in a 1992 Statewide Task Force also financed by the Department of Transportation.

Very truly yours,



Enclosures

cc: Charles H. Thompson
Secretary of Transportation

George E. Meyer
Secretary of Department of
Natural Resources

PRESERVING THE UPLAND PORTION OF ENVIRONMENTAL CORRIDORS
THROUGH JOINT STATE-LOCAL ACTION¹

A Proposal for Coordinating State and Local Activities
to Protect Resources Which Cross Local Boundaries

Over 25 years ago, the Wisconsin Legislature recognized that the overriding public interest in protecting floodplains and shorelands from destructive development required joint State-local action. Flood damages along a river coursing through many municipalities could not be reduced in one local community if the other communities along the river took no action to preserve and protect natural floodplains. If, for example, an upstream community permitted natural floodplains to be filled and homes constructed, the downstream communities would suffer even higher levels of flooding owing to the loss of storage areas which nature intended for temporary use to hold excess waters.

To address this problem, the State wisely established standards for determining the location and extent of the floodplain, and then required local governments to enact floodplain zoning meeting certain minimum standards. If the local government declined to act, the State would zone in its stead. The Statute has worked well and has had wide public acceptance. A companion statute protected resource-valuable shorelands from over-cutting and excessive development and from the loss of wetlands.

While floodlands and wetlands are valuable resources for flood control, they also provide in part the natural habitat essential to create and maintain wild animal and plant life. Together with wooded, hilly lands, the floodlands and wetlands comprise what planners have called "environmental corridors." While the State has taken steps to protect the lowlands within these corridors, overdevelopment of the upland wooded areas threatens the maintenance of the natural habitat for flora and fauna, but also threatens the quality and supply of groundwater and also the natural beauty of our scenic woodlands--a prime factor in Wisconsin's quality of life. If one or two municipalities permit excessive residential development that destroys woodlands, environmental corridors can be severed and plant and animal life disrupted to the point where some species may become extinct. Both the wetland and upland portions of these corridors need protection.

The Southeastern Wisconsin Regional Planning Commission has mapped the environmental corridors in its seven county area.² It has recommended that residential development without sewers in the wooded, hilly areas be limited to

¹Executive Order No. 236 of Governor Tommy G. Thompson created a Wisconsin Strategic Growth Task Force to recommend processes for coordinating land use activities and issues between state and local public and private interests.

²Other regional planning commissions and some local governments throughout Wisconsin have undertaken similar mapping activities.

one home per five acres (perhaps four acres would suffice). The market demand for "rural" lots has persuaded many developers, and receptive towns, to permit development on one acre, or even half acre lots. On the other hand, at least one far-sighted developer has found a way to protect the natural resource base from overdevelopment and still enable the landowner to realize substantial value from his land. He used the cluster subdivision approach, siting the homes on one acre lots at the foot of the hills and around wetlands and floodlands, dedicating as common land the attractive natural areas, thereby permitting the animals and plants to survive and providing an attractive open space setting for the residential development.

As noted, one or more communities can destroy an environmental corridor by allowing destructive development in a part of the corridor. If the public wishes the corridors preserved, there is need for state guidelines and joint state-local zoning, just as in the precedent setting floodplain and shoreland state-local zoning.

Incidentally, in Southeastern Wisconsin about three-fourths of the corridors have been protected by floodplain and shoreland-wetland zoning, but the upland one-fourth is vulnerable to destruction so long as the state remains inactive and the local governments are unaware of how, or indifferent as to how, they can both protect the environment and still permit the landowners to realize substantial value from their land.

A desirable state policy to jointly address this matter would:

1. Define how environmental corridors are to be delineated and why the public interest requires that they be protected from excessive development.
2. Authorize a state agency to encourage, or mandate, that regional planning agencies, or counties where no regional agency exists, delineate the boundaries of such corridors, subject to review and certification by the state agency.
3. Authorize the state agency to draft minimum standards to be included in local zoning ordinances so as to protect the upland areas, the key standard being the density of development allowed.
4. Encourage or require local zoning authorities to zone the upland portions of the corridors against excessive development consistent with state established minimum standards.
5. Authorize or require the state agency to enact the recommended zoning if the local zoning authority failed to act (just as in floodplain cases today).

There are major issues which should be examined, debated, and resolved before legislation is drafted. They would include:

- a. Possible standards for delineating corridors - so they are defined in readily understandable terms.

- b. The type of planning training required for staff to delineate corridors and draft minimum standards for their protection.
- c. Whether all of Wisconsin includes regional planning commissions having the required competence and will to delineate corridors within its region.
- d. If not, what alternate form of local government would or should have responsibility for delineating the boundaries of corridors extending across the jurisdictions of many local zoning authorities.
- e. The cost of the above steps.
- f. Whether it is feasible to promote local protective zoning by giving state incentives to those local authorities who so do, or whether it is deemed necessary to mandate compliance, as was done in the floodplain and shoreland instances.

To develop sound answers to the above questions, it is desirable that a single purpose task force be selected to study the important issues involved. It should be composed of persons representing the various interests involved, such as landowners, developers, and state, county, and local officials, as well as experts in planning already familiar with the technical considerations and alternative methods for dealing with them. Desirably, the membership of the committee should not have over-representation by any interest, nor by persons having little or no familiarity with the subject. On the other hand, the appointing authority and the composition of the committee should inspire confidence by the public and legislature that it was both fair and knowledgeable.

The foregoing concept and detailed reasons why action is needed to implement it can be found in a report of a committee of the Southeastern Wisconsin Regional Planning Commission. See SEWRPC Memorandum Report No. 68, Regional Land Use Plan Implementation in Southeastern Wisconsin, May 1993, 140 pp. See particularly pages 121-123.

Attached are maps showing environmental corridors in Southeastern Wisconsin and a cluster subdivision on a 270-acre site in Waukesha County reflecting a wise balance between protecting the natural resource and developing the land. The subdivision created 41 lots, resulting in a density of 6.6 acres per lot.

Richard W. Cutler, former Chairman of the Committee which guided the preparation of the above-cited report; Member, Southeastern Wisconsin Regional Planning Commission 1960-1984; author, Zoning Law and Practice in Wisconsin, University of Wisconsin Press, 1967, rev. 1974; American Planning Association's 1992 National Award for Distinguished Leadership.

* * *

RWC/PCE/rj
Cutler.art
9/28/95

PROTECTION AND PRESERVATION OF UPLAND PORTIONS OF PRIMARY ENVIRONMENTAL CORRIDORS

Statement of the Problem

The regional land use plan recommends that the primary environmental corridors of the Region be protected and preserved. The Advisory Committee concluded that the current set of public land use control regulations, particularly including the state-local partnership zoning efforts attendant to floodlands, shorelands, and wetlands, combined with the integration of state and regional water quality management planning and the link between that planning and state regulatory decision making regarding sanitary sewer extensions, effectively operates to protect about three-quarters of the primary environmental corridor lands.

The Committee also found, however, that about one-quarter of the corridor lands are vulnerable to development and destruction, particularly through urban residential development utilizing onsite sewage disposal systems. The vulnerable corridor lands are upland in nature, consisting largely of woodlands, significant wildlife habitat areas, and, particularly outside of planned sanitary sewer service areas, steeply sloped lands.

Destruction of these upland corridor areas continues to occur outside planned sewer service areas where urban residential development projects supported by septic tanks and private wells are approved with no local zoning to the contrary. Some of the vulnerable lands lie within planned sanitary sewer service areas in locations where the Wisconsin Department of Natural Resources is unable to buttress a denial of a sewer extension with a finding of adverse water quality impacts related to a proposed development project.

This particular regional land use plan recommendation is underlain by ecological considerations which dictate that the upland, as well as lowland, portions of environmental corridors be protected and preserved. The upland areas are as essential as the lowland areas to providing corridor continuity and biological diversity in terms of plant and animal life. The problem, then, is one of failure to take all of the steps necessary to provide the proper protection to these environmentally sensitive areas. While the regional land use and companion park and open space plans identify certain primary environmental corridors for public acquisition, it is recognized in those plans that there are insufficient funds available to acquire all such corridor lands. In many cases, then, the plan calls for the imposition of public land use regulations that would permit truly rural, low-density residential development within the upland corridors which would not destroy the resource base. That development, however, should not exceed a density of one unit per five acres of corridor land.

Major Factors Believed to Be Contributing to the Problem

The Advisory Committee concluded that there are a number of factors which appear to contribute to the problem of continued loss of upland primary environmental corridors. These factors are summarized as follows:

1. Market Demand for Wooded Lots

Wooded terrain has long been viewed as desirable locations for residential development. This is true both within urban areas, where wooded single-family lots typically command higher market prices than open lots, and in rural areas, where the upland wooded portions of primary environmental corridors are frequently targeted for conversion to urban use before adjacent farmland.

2. Maximum Economic Return to Developers
Given a strong urban residential land market demand, some developers have long sought to maximize their economic return on a parcel by creating as many individual building sites as possible that can be marketed as wooded lots. This is true both in sewerred urban areas and in unsewerred rural areas. The typical lot size in a sewerred urban area is one-half acre, while in unsewerred areas it is one acre, far from the five-acre minimum called for in the regional plan.

3. Historic Approach to Local Zoning of Upland Wooded Areas
Historically, local zoning jurisdictions have tended to reflect the urban land market demands for wooded lots by placing upland wooded areas in zoning districts that respond to the desires of land developers to create as many wooded lots as possible. The local zoning ordinances tend to be oriented toward achieving the narrow public objective of establishing as much high-value residential tax base within such wooded areas as possible, rather than achieving the broader public objective of preserving and protecting the upland woods as important parts of the natural resource base.

4. Fragmented Approach to State Environmental Legislation
Efforts at the state level of government to address the failure of local governments adequately to protect environmentally sensitive lands through zoning have been fragmentary rather than comprehensive in nature. Thus, over time, Wisconsin enacted legislation that protected as individual components of the resource base floodplains, shorelands, and most recently, wetlands within shorelands, rather than comprehensively addressing all the resources, both upland and lowland, that make up environmental corridors. Moreover, it is often difficult in local zoning jurisdictions to create the political will necessary to enact protective zoning regulations to address the upland-resource portions of the environmental corridors because the state-mandated efforts are typically viewed as all that is necessary to protect the resources adequately. Thus, the regulatory extent

of the state-mandated zoning efforts tends to become the lowest common denominator upon which most zoning ordinances are based. This categorical approach to the state-mandated protection of natural resources is fundamentally contrary to the ecological considerations that would view the whole of the resource base as having greater value than the sum of its individual parts.

Actions Proposed to Be Taken to Help Resolve the Problem

After carefully considering this problem and the factors that contribute to the problem, the Advisory Committee suggests that consideration be given to the following:

1. Broadening of Existing State-Local Floodland and Shoreland Zoning Partnership to Address Environmental Corridors
The Committee recommends that consideration be given to changing the existing state-local zoning partnership regarding floodlands and shorelands into one that is based not on the individual resource base elements of floodlands and shoreland, but more broadly on environmental corridors as a whole. This would require abandoning the current statutory relationship between shoreland zoning and navigable waters, a relationship that historically has been difficult to operationalize properly given the lack of definition of navigable waters, and establishing a new relationship based upon defined and delineated environmental corridors. In essence, this new relationship would require the preparation and adoption of plans that identify environmental corridors based upon sound criteria, a basic step already completed in southeastern Wisconsin. The relationship would also require that county and local zoning jurisdictions, subject to the same type of state oversight that exists today relative to floodplain and shoreland zoning, adopt and enforce zoning ordinances fully consistent with the corridor preservation and protection recommendations. As is the case with the current approach to floodplain and shoreland zoning, the State would adopt zoning standards. These standards, however, would be consistent

with the plan recommendations and not be the basis upon which plans are formulated. One such standard, for example, would be the five-acre residential development density recommended in the upland portions of primary environmental corridors. Local zoning regulations would be required to meet this standard either through a five-acre residential lot size minimum or, as already noted, through a cluster design that would permit smaller than five-acre building sites combined with deed-restricted private open space so that the overall density standard is met.

D-N pgt
0388/pldn
MGG: pgt, Kmg:

1. This ^{preliminary} draft is based on the memo prepared by Don Dyke and Mark Patonsky and S. 59.692, which is the ~~the~~ statutory provisions regulating the zoning of shorelands by counties. Please review this ~~preliminary~~ draft and let me know about any changes. I shall then be ready to redraft it for introduction.

← INS DN-1
DN-2



4.2. ~~These~~ Section 59.691(5) applies only to annexations and not ^{to incorporations} ~~incorporations~~ by towns into ^{cities} ~~city~~ and villages. OK?

← INS DN-3

MGG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0388/P1dn
MGG.....

Inserts to DN

2. ~~1.~~ I arbitrarily selected the dates and time frames in this draft. Please let me know how you wish them to read.

*INS
DN-1*

3. ~~2.~~ I have made the annexation provisions as straightforward as possible. You may wish to look at the current procedure under s. 59.692 (7) for annexation in shorelands or the prior statute, s. 59.971 (7) ~~1991 statute~~ if you want a different procedure.

*INS
DN-2*

5. ~~3.~~ Please review the treatment of the sections in other parts of the statutes that are amended to include s. 59.691 to make sure these amendments comply with your intent.

*INS
DN-3*

that

~~Mary Gibson-Glass
Senior Legislative Attorney
267-3215~~



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0388/S, P1

MGG. & MES. f. j. t. & King:

SOEN

D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{Sum. CAT.} relating to: zoning of upland environmental corridors, granting
2 rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 20.370 (3) (ma) of the statutes is amended to read:
4 20.370 (3) (ma) *General program operations — state funds.* From the general
5 fund, the amounts in the schedule for regulatory and enforcement operations under
6 chs. 30, 31 and 280 to 299, except s. 281.48, and ss. 44.47, 59.691, 59.692, 59.693,
7 61.351, 61.354, 62.231, 62.234 and 87.30, for reimbursement of the conservation
8 fund for expenses incurred for actions taken under s. 166.04; for review of
9 environmental impact requirements under ss. 1.11 and 23.40; and for enforcement

1 of the treaty-based, off-reservation rights to fish, hunt and gather held by members
2 of federally recognized American Indian tribes or bands.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248.

3 **SECTION 2.** 30.12 (4) (a) of the statutes is amended to read:

4 30.12 (4) (a) Activities affecting waters of the state as defined in s. 281.01 (18)
5 that are carried out under the direction and supervision of the department of
6 transportation in connection with highway and bridge design, location, construction,
7 reconstruction, maintenance and repair are not subject to the prohibitions or permit
8 or approval requirements specified under this section or s. 29.601, 30.11, 30.123,
9 30.195, 30.20, ~~59.691~~^{59.691}, 59.692, 61.351, 62.231 or 87.30 or chs. 281 to 285 or 289 to 299,
10 except s. 281.48. However, at the earliest practical time prior to the commencement
11 of these activities, the department of transportation shall notify the department of
12 the location, nature and extent of the proposed work that may affect the waters of
13 the state.

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248.

14 **SECTION 3.** 30.202 (3) of the statutes is amended to read:

15 30.202 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
16 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
17 permit, license, approval, authorization, fee, notice, hearing, procedure or penalty
18 specified under s. 29.601, 30.01 to 30.20, 30.21 to 30.99, ~~59.961~~^{59.691}, 59.692 or 87.30 or
19 chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any rule promulgated,
20 order issued or ordinance adopted under those sections or chapters.

History: 1981 c. 240; 1995 a. 201, 227; 1997 a. 35, 248.

21 **SECTION 4.** 30.204 (5) of the statutes is amended to read:

1 30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
 2 department in conducting the lake acidification experiment are exempt from any
 3 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
 4 notice, hearing, procedure or penalty specified under s. 29.601 (3), 30.01 to 30.03,
 5 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, ~~59.961~~ 59.692, 87.30, 287.81, 299.15 ✓
 6 to 299.23, 299.91, 299.95 or 299.97 or chs. 281, 283 or 289 to 292 or specified in any
 7 rule promulgated, order issued or ordinance adopted under any of those sections or
 8 chapters.

History: 1983 a. 421; 1985 a. 135 s. 85; 1989 a. 335; 1991 a. 39; 1995 a. 201, 227, 258; 1997 a. 35, 248.

9 **SECTION 5. 41.41 (8) of the statutes is amended to read:**

10 41.41 (8) ZONING. Notwithstanding ss. 13.48 (13) (a), 59.69 (4), 60.61 (2), 60.62
 11 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning
 12 ordinance of any county or municipality, except that any ordinance enacted under s.
 13 ~~59.961~~ 59.692, 61.351, 62.231 or 87.30 governing the zoning of floodplains, upland
 14 environmental corridors, shorelands or wetlands in shorelands and any ordinance
 15 that is required by law under s. 59.693, 61.354 or 62.234 governing construction site
 16 erosion control or storm water management applies in the reserve.

History: 1993 a. 349; 1995 a. 27 ss. 279, 911 (5); Stats. 1995 s. 41.41; 1995 a. 201, 216, 225; 1997 a. 194.

17 **SECTION 6. 59.691 of the statutes is created to read:**

18 **59.691 Zoning of upland environmental corridors. (1) DEFINITIONS.** In
 19 this section:

20 ^{NOT BOLD} (a) "Department" means the department of natural resources.

21 (b) "Upland environmental corridor" means an area that meets ^{the} ~~the~~ minimum
 22 size requirements, promulgated ^{for values} ~~under~~ under sub. (3) (b) and that consists of an upland
 23 natural area. ^{established}

[Handwritten scribbles and signatures at the bottom of the page]

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1 (c) "Upland natural area" means an area that is specified by rule under sub.
2 (3) (a).

3 (2) MAPPING. (a) Each regional planning commission shall map the upland
4 environmental corridors within its region. ^{any part of} If a county is not under the jurisdiction
5 of a regional planning commission, the county shall either map the upland
6 environmental corridors within the county or shall contract with a regional planning
7 commission to perform the mapping. The mapping required under this paragraph
8 shall be completed before January 1, 2001.

9 (b) If a regional planning commission or a county fails to complete the mapping
10 before January 1, 2001, the department shall complete the mapping before January
11 1, 2002.

12 (c) The department shall promulgate rules to be used by ^{the} department to review
13 and certify the mapping performed by regional planning commissions and counties
14 under this subsection.

15 (3) DETERMINATION OF UPLAND AREAS; MINIMUM STANDARDS. (a) The department
16 shall promulgate rules specifying which types of undeveloped areas will be mapped
17 and subject to ordinances under this section. The areas may not include areas that
18 are subject to zoning under s. 59.692, 61.351, 62.231 or 87.30. The types of areas may
19 include:

- 20 1. An area with a natural value that is enhanced by a lake, river or stream.
- 21 2. A wetland, as defined in s. 23.32 (1).
- 22 3. Wildlife habitat.
- 23 4. A forested area.
- 24 5. Areas of steep slope or rough topography.

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1 (b) The department shall promulgate rules to establish standards for upland
2 environmental corridors. The rules shall include minimum requirements for the
3 sizes of environmental corridors, limitations to protect upland environmental
4 corridors from land use practices that reduce ~~their~~ scenic, ecological or
5 environmental value and limitations on the amount of development that may occur
6 in upland environmental corridors.

7 (4) ORDINANCES; REQUIREMENTS; EFFECT; PROCEDURE. (a) Each county that has
8 an upland environmental corridor within ~~the~~ ^{the county's} unincorporated area shall enact an
9 ordinance that complies with the rules promulgated by the department under sub.

10 (3) (b). An ordinance enacted under this section may be enacted separately from
11 ordinances enacted under s. 59.69.

12 (b) Except as otherwise provided in ~~the~~ ^{this} section, ~~the provisions of s. 59.69 apply~~ ^{STET.}
13 ~~to ordinances and their amendments enacted under this section, but the ordinance~~ ^{any} ~~and amendments shall not require approval or be subject to disapproval by~~ ^{that it be}
14 ~~or town board.~~ ^{an ordinance} ~~any~~ ^{exempt from the requirement of being approved by} ~~any~~ ^{town} ~~board.~~ ^{and that relates}
15 ~~or town board.~~ ^{to} ~~any~~ ^{upland} ~~land~~ ^{located in an} ~~located in an~~ ^{upland} ~~upland~~ ^{environmental} ~~environmental~~ ^{corridor} ~~corridor~~

16 (c) If ~~an~~ ^{this} ordinance relating to environmental corridors that is in effect on
17 the effective date of ~~the~~ ^{the} paragraph ... [revisor inserts date] is more restrictive than
18 an ordinance enacted under this section affecting the same upland environmental
19 ~~land~~ ^{land} ~~corridor,~~ ^{corridor,} it continues as a town ordinance in all respects to the extent of the greater
20 restrictions, but not otherwise.

21 (d) ~~Ordinances that are enacted under this section shall accord and be~~
22 ~~consistent with any comprehensive zoning plan or general zoning ordinance~~
23 ~~applicable to the enacting counties, so far as practicable.~~

1 ~~(e)~~ All powers granted to a county under s. 236.45 may be exercised by it with
2 respect to upland environmental corridors, but the county must have or provide a
3 planning agency as defined in s. 236.02 (3).

4 (f) Section 66.30 applies to this section, except that for the purposes of this
5 section an agreement under s. 66.30 shall be effected by ordinance.

6 ~~(d)~~ ~~(g)~~ Variances and appeals regarding upland environmental corridors within a
7 county are for the board of adjustment for that county under s. 59.694, and the
8 procedures of that section apply.

9 ~~(e)~~ ~~(h)~~ An ordinance enacted under this section supersedes all provisions of an
10 ordinance enacted under s. 59.69 that relate to upland environmental corridors.

11 ~~(f)~~ ~~(i)~~ If a county does not enact an ordinance within ^{one year} ~~300 days~~ after the mapping
12 for the county is completed under sub. (1) or if the department, after notice and 2
13 hearing, determines that a county has enacted an ordinance that fails to meet the

14 ~~zoning~~ standards ~~promulgated~~ ^{established} under sub. (2) the department shall enact such an
15 ordinance for the county. ~~(3)~~ (3)

16 (5) ANNEXATION. Provisions of ^{an} ~~a~~ upland zoning ordinance that are enacted
17 under this section ^{and} that were applicable, prior to annexation, to any upland
18 environmental corridor area annexed by a city or village after the county has enacted
19 the ordinance under this section shall continue in effect and shall be enforced after
20 annexation by the annexing city or village

21 SECTION 7. 66.023 (3) (e) of the statutes is amended to read:

22 66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative
23 plan shall describe how the plan is consistent with current state and federal laws,

← IN S 6-20

1 county ~~shoreland~~ zoning ordinances under s. ss. 59.691 and 59.692, municipal
2 regulations and administrative rules that apply to the territory affected by the plan.

3 History: 1991 a. 269; 1993 a. 213, 301, 329, 399; 1995 a. 35, 201, 216, 227; 1997 a. 27, 35.

3 SECTION 8. 66.023 (7m) of the statutes is amended to read:

that are

4 66.023 (7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative plan
5 with a city or village, the town and city or village may agree, as part of the cooperative
6 plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61,
7 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The
8 exercise of zoning authority by a town under this subsection is not subject to s. 60.61
9 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered
10 by the plan, that ordinance and amendments to it continue until a zoning ordinance
11 is adopted under this subsection. If a zoning ordinance is adopted under this
12 subsection, that zoning ordinance continues in effect after the planning period ceases
13 until a different zoning ordinance for the territory is adopted under other applicable
14 law. This subsection does not affect zoning ordinances adopted in effect under ss.
15 59.691, 59.692, 87.30 or 91.71 to 91.78.

16 History: 1991 a. 269; 1993 a. 213, 301, 329, 399; 1995 a. 35, 201, 216, 227; 1997 a. 27, 35.

16 SECTION 9. 66.024 (5m) of the statutes is amended to read:

17 66.024 (5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim
18 zoning ordinance to become effective only upon approval of the annexation at the
19 referendum election ~~may~~ be enacted by the governing body of the city or village.
20 Subject to ~~s. 59.692 (7)~~ ss. 59.691(5) and the ordinance may temporarily designate the classification
21 of the annexed area for zoning purposes until the zoning ordinance is amended as
22 prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred
23 to and recommended by the plan commission prior to introduction. Authority to
24 make such temporary classification shall not be effective when the county zoning

1 ordinance prevails during litigation as provided in s. 59.69 (7). ~~This subsection does~~
2 ~~not affect zoning ordinances enacted under s. 59.691.~~

History: 1979 c. 89; 1987 a. 391; 1991 a. 269; 1993 a. 301, 329; 1995 a. 201.

3 SECTION 10. 66.025 of the statutes is amended to read:

4 **66.025 Annexation of owned territory.** In addition to other methods
5 provided by law and subject to ss. ^{59.691(5),} 59.692 (7) and 66.023 (7), territory owned by and
6 lying near but not necessarily contiguous to a village or city may be annexed to a
7 village or city by ordinance enacted by the board of trustees of the village or the
8 common council of the city, provided that in the case of noncontiguous territory the
9 use of the territory by the city or village is not contrary to any town or county zoning
10 regulation. The ordinance shall contain the exact description of the territory
11 annexed and the names of the towns from which detached, and shall operate to
12 attach the territory to the village or city upon the filing of 6 certified copies thereof
13 in the office of the secretary of state, together with 6 copies of a plat showing the
14 boundaries of the territory attached. Two copies of the ordinance and plat shall be
15 forwarded by the secretary of state to the department of transportation, one copy to
16 the department of natural resources, one copy to the department of revenue and one
17 copy to the department of public instruction. ~~This subsection does not affect zoning~~
18 ~~ordinances enacted under s. 59.691.~~

History: 1973 c. 90; 1977 c. 29 s. 1654 (8) (c); 1991 a. 269; 1993 a. 329; 1995 a. 27 s. 9145 (1); 1995 a. 201; 1997 a. 27.

19 SECTION 11. 70.32 (1g) of the statutes is amended to read:

20 70.32 (1g) In addition to the factors set out in sub. (1), the assessor shall
21 consider the effect on the value of the property of any zoning ordinance under s.
22 59.691, 59.692, 61.351 or 62.231, any conservation easement under s. 700.40, any

1 conservation restriction under an agreement with the federal government and any
2 restrictions under ch. 91.

History: 1973 c. 90; 1977 c. 29, 418; 1979 c. 34; 1981 c. 20, 390; 1983 a. 36; 1983 a. 275 s. 15 (8); 1983 a. 410; 1985 a. 54, 153; 1991 a. 39, 316; 1993 a. 337; 1995 a. 27, 201, 227.

3 **SECTION 12. 91.73 (1) of the statutes is amended to read:**

4 **91.73 (1)** Except as otherwise provided, exclusive agricultural zoning
5 ordinances shall be adopted and administered in accordance with ss. **59.69, 59.691,**
6 **59.692, 59.693 and 59.694, 61.35 or 62.23** or subch. VIII of ch. 60. *{Check with RCTD}*

History: 1977 c. 29, 169; 1979 c. 34; 1979 c. 233; 1983 a. 532 s. 36; 1987 a. 399; 1995 a. 201; 1997 a. 35.

7 **SECTION 13. 289.33 (3) (d) of the statutes is amended to read:**

8 **289.33 (3) (d)** "Local approval" includes any requirement for a permit, license,
9 authorization, approval, variance or exception or any restriction, condition of
10 approval or other restriction, regulation, requirement or prohibition imposed by a
11 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
12 a town, city, village, county or special purpose district, including without limitation
13 because of enumeration any ordinance, resolution or regulation adopted under s.
14 **59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9),**
15 **(11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27),**
16 **59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23),**
17 **59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16),**
18 **(17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56**
19 **(1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and**
20 **(5), 59.62, 59.69, 59.691, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5),**
21 **(7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10)**
22 **and (11), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354,**

1 62.11, 62.23, 62.231, 62.234, 66.01, 66.052, 66.24 (8), 87.30, 91.73, 196.58, 236.45,
2 281.43 or 349.16 or subch. VIII of ch. 60.

~~History: 1981 c. 374; 1983 a. 128; 1983 a. 282 ss. 6 to 32, 34; 1983 a. 416 s. 19; 1983 a. 532 s. 36; 1983 a. 538; 1985 a. 182 s. 57; 1987 a. 27, 204, 399; 1987 a. 403 s. 256; 1991 a. 39; 1995 a. 201; 1995 a. 227 s. 626; Stats. 1995 s. 289.33, 1997 s. 35, 241~~

3 SECTION 14. 289.35 of the statutes is amended to read:

4 289.35 ~~title~~ Shoreland, upland and floodplain zoning. Solid waste
5 facilities are prohibited within areas under the jurisdiction of shoreland and
6 floodplain zoning regulations adopted zoning ordinances in effect under ss. 59.691,
7 59.692, 61.351, 62.231 and 87.30, except that the department may issue permits
8 authorizing facilities in such areas. *that are*

History: 1981 c. 374 s. 148; 1983 a. 416 s. 19; 1995 a. 201; 1995 a. 227 s. 638; Stats. 1995 s. 289.35.

9 SECTION 15. 289.43 (7) (c) of the statutes is amended to read:

10 289.43 (7) (c) The department shall approve the requester's exemption
11 proposal if the department finds that the proposal, as approved, will comply with this
12 chapter and chs. 30, 31, 160 and 280 to 299 and ss. 1.11, 23.40, 59.691, 59.692, 59.693,
13 60.627, 61.351, 61.354, 62.231, 62.234 and 87.30. If the proposal does not comply
14 with one or more of the requirements specified in this paragraph, the department
15 shall provide a written statement describing how the proposal fails to comply with
16 those requirements. The department shall respond to an application for an
17 exemption under this subsection within 90 days.

History: 1995 a. 227 ss. 574, 577 to 580; 1997 a. 27, 35

18 (END)

Section #. 66.021 (7) (a) of the statutes is amended to read:

66.021 (7) (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate the petition and not later than 120 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (11) the governing body shall first review the reasons given by the department of administration that the proposed annexation is against the public interest. Subject to ~~ss. 59.692 (7)~~ ^{ss. 59.692(5) and}, such an ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.69 (7).

History: 1973 c. 37, 90, 143, 333; 1977 c. 29 ss. 698, 1654 (8) (c); 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112; 1983 a. 29, 189, 219; 1985 a. 225; 1987 a. 391; 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225; 1997 a. 27.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0388/P1dn
MGG:pgt&kmg:lp

January 8, 1999

1. This preliminary draft is based on the memo prepared by Don Dyke and Mark Patronsky and s. 59.692, the statutory provisions regulating the zoning of shorelands by counties. Please review this draft and let me know about any changes. I shall then be ready to redraft it for introduction.

2. I arbitrarily selected the dates and time frames in this draft. Please let me know how you wish them to read.

3. I have made the annexation provisions as straightforward as possible. You may wish to look at the current procedure under s. 59.692 (7) for annexation in shorelands or the prior statute, s. 59.971 (7), 1991 stats., if you want a different procedure.

4. Section 59.691 (5) applies only to annexations and not to incorporations by towns into cities and villages. OK?

5. Please review the treatment of the sections in other parts of the statutes that are amended to include s. 59.691 to make sure that these amendments comply with your intent.

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

9/29

Mary -

Can you make the changes
noted on the attached draft?
Call me if you have any questions.
Thanks,

Don Dyke

6-0292

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Section 1. **Legislative findings; purpose.** (1) The legislature finds all of the following:

(a) That current law relating to the zoning of shorelands and floodplains has served to protect the lowland areas of this state's environmental corridors;

(b) That the protections afforded by the shoreland and floodplain zoning law does not extend to the environmental corridors' upland areas, which consist of significant concentrations of natural resources, including woodlands, prairies, wildlife habitat and areas of steep slope and rough topography;

(c) That the upland areas of this state's environmental corridors need and deserve protections similar to those currently afforded lowland areas, both to protect the upland areas themselves and to provide additional protection to lowland areas, which are affected adversely by destruction of upland areas;

(d) That current law relating to the zoning of shorelands and floodplains provides a proven model for protecting the upland areas of environmental corridors from incompatible land uses and that making similar provisions applicable to the upland areas will allow a coordinated, integrated approach to the protection of environmental corridors in the state.

(2) It is the purpose of this act to extend the current programs that protect environmental corridors from incompatible land uses through zoning of shorelands and floodplains to include remaining portions of environmental corridors in this state that currently are not subject to such protection.

the citizens of this state will derive substantial benefit from

*see DD
and island areas located in incorporated territory*

(d) That the current exemption of shoreland zoning law from incorporated territory is no longer supportable on fairness or environmental grounds.

insert 5A

(c) In promulgating rules under this subsection, the department shall consult with counties and regional planning commissions. The department shall promulgate rules under this subsection within 2 years after the effective date of this subsection [revisor inserts date]. The department shall coordinate and integrate the implementation and administration of this section with programs relating to shoreland zoning and flood plain zoning.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0388/P1
MGG&MES:pgt&kmg:lp

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*Add parallel provision for upland areas
in incorporated territory.*

Mary - pls. do this

stet

1 **AN ACT to amend** 20.370 (3) (ma), 30.12 (4) (a), 30.202 (3), 30.204 (5), 41.41 (8),
2 66.021 (7) (a), 66.023 (3) (e), 66.023 (7m), 66.024 (5m), 66.025, 70.32 (1g), 91.73
3 (1), 289.33 (3) (d), 289.35 and 289.43 (7) (c); and **to create** 59.691 of the statutes;
4 **relating to:** zoning of upland environmental corridors, granting rule-making
5 authority and making an appropriation.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 ^{IM}
SECTION X. 20.370 (3) (ma) of the statutes is amended to read:

7 20.370 (3) (ma) *General program operations — state funds.* From the general
8 fund, the amounts in the schedule for regulatory and enforcement operations under
9 chs. 30, 31 and 280 to 299, except s. 281.48, and ss. 44.47, 59.691, 59.692, 59.693,
10 61.351, 61.354, 62.231, 62.234 and 87.30, for reimbursement of the conservation

insert 1

SECTION 1

1 fund for expenses incurred for actions taken under s. 166.04; for review of
2 environmental impact requirements under ss. 1.11 and 23.40; and for enforcement
3 of the treaty-based, off-reservation rights to fish, hunt and gather held by members
4 of federally recognized American Indian tribes or bands.

5 **SECTION 2.** 30.12 (4) (a) of the statutes is amended to read:

6 30.12 (4) (a) Activities affecting waters of the state as defined in s. 281.01 (18)
7 that are carried out under the direction and supervision of the department of
8 transportation in connection with highway and bridge design, location, construction,
9 reconstruction, maintenance and repair are not subject to the prohibitions or permit
10 or approval requirements specified under this section or s. 29.601, 30.11, 30.123,
11 30.195, 30.20, 59.691, 59.692, 61.351, 62.231 or 87.30 or chs. 281 to 285 or 289 to 299,
12 except s. 281.48. However, at the earliest practical time prior to the commencement
13 of these activities, the department of transportation shall notify the department of
14 the location, nature and extent of the proposed work that may affect the waters of
15 the state.

16 **SECTION 3.** 30.202 (3) of the statutes is amended to read:

17 30.202 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
18 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
19 permit, license, approval, authorization, fee, notice, hearing, procedure or penalty
20 specified under s. 29.601, 30.01 to 30.20, 30.21 to 30.99, 59.691, 59.692 or 87.30 or
21 chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any rule promulgated,
22 order issued or ordinance adopted under those sections or chapters.

23 **SECTION 4.** 30.204 (5) of the statutes is amended to read:

24 30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
25 department in conducting the lake acidification experiment are exempt from any

1 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
2 notice, hearing, procedure or penalty specified under s. 29.601 (3), 30.01 to 30.03,
3 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.691, 59.692, 87.30, 287.81, 299.15
4 to 299.23, 299.91, 299.95 or 299.97 or chs. 281, 283 or 289 to 292 or specified in any
5 rule promulgated, order issued or ordinance adopted under any of those sections or
6 chapters.

7 **SECTION 5.** 41.41 (8) of the statutes is amended to read:

8 41.41 (8) ZONING. Notwithstanding ss. 13.48 (13) (a), 59.69 (4), 60.61 (2), 60.62
9 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning
10 ordinance of any county or municipality, except that any ordinance enacted under s.
11 59.691, 59.692, 61.351, 62.231 or 87.30 governing the zoning of floodplains, upland
12 environmental corridors, shorelands or wetlands in shorelands and any ordinance
13 that is required by law under s. 59.693, 61.354 or 62.234 governing construction site
14 erosion control or storm water management applies in the reserve.

15 **SECTION 6.** 59.691 of the statutes is created to read:

16 **59.691 Zoning of upland environmental corridors.** (1) DEFINITIONS. In
17 this section:

18 (a) "Department" means the department of natural resources.

19 (b) "Upland environmental corridor" means an area that meets the minimum
20 size requirements established under sub. (3) (b), ~~and that consists of an upland~~

21 ~~natural area.~~ *resource*

22 ~~(c) "Upland natural area" means an area that is specified by rule under sub.~~

23 ~~(3) (2)~~

24 (2) MAPPING. (a) Each regional planning commission shall map the upland
25 environmental corridors within its region. If any part of a county is not under the

1 jurisdiction of a regional planning commission, the county shall either map the
2 upland environmental corridors within the county or shall contract with a regional
3 planning commission to perform the mapping. The mapping required under this
4 paragraph shall be completed before January 1, 200⁵7.

5 (b) If a regional planning commission or a county fails to complete the mapping
6 before January 1, 200⁵7, the department shall complete the mapping before January
7 1, 200⁶7.

8 (c) The department shall promulgate rules to be used by the department to
9 review and certify the mapping performed by regional planning commissions and
10 counties under this subsection.

11 ^{CRITERIA FOR ENVIRONMENTAL CORRIDORS}
(3) ~~DETERMINATION OF UPLAND AREAS~~; MINIMUM STANDARDS. (a) The department
12 shall promulgate rules specifying ^{criteria for the} which types of ~~undeveloped~~ ^{to be included on maps} areas ~~will be mapped~~
13 and subject to ordinances under this section. ^{that are} The areas may not include areas that
14 are subject to zoning under s. 59.692, 61.351, 62.231 or 87.30. ^{objectives may not duplicate regulations in} The types of areas may

15 include:

- 16 1. Woodlands
- 17 2. ~~An area with a natural value that is enhanced by a lake, river or stream.~~
^{Non-shoreland} A wetland, ^{as defined in s. 23.32(1).}
- 18 3. Wildlife habitat ^{areas}
- 19 4. A forested area.
- 20 4. 5. Areas of steep slope or rough topography.
- 21 5. ~~Prairies.~~

21 (b) The department shall promulgate rules to establish standards for upland
22 environmental corridors, ^{including} ~~The rules shall include~~ minimum requirements for the
23 sizes of upland environmental corridors, ~~limitations to protect~~ upland
24 environmental corridors from land use practices that reduce the upland

The department shall promulgate rules to establish objectives for protecting

*to A.S.
The identification and delineation of*

1 environmental corridors' scenic, ecological or ~~environmental~~ ^{natural} value ~~and limitations~~ ^{-s, including objectives}
2 on the amount ^{and type} of development that may occur in upland environmental corridors.

insert
5A

3 (4) ORDINANCES; REQUIREMENTS; EFFECT; PROCEDURE. (a) Each county that has
4 an upland environmental corridor within the county's unincorporated area shall
5 enact an ordinance that ~~complies with~~ ^{meets the objectives of} the rules promulgated by the department
6 under sub. (3) (b). An ordinance enacted under this section may be enacted
7 separately from ordinances enacted under s. 59.69.

8 (b) Except as otherwise provided in this section, the provisions of s. 59.69 apply
9 to an ordinance enacted under this section, but the ordinance is exempt from any
10 requirement that it be approved by a town or town board.

11 (c) If a town ordinance that is in effect on the effective date of this paragraph
12 [revisor inserts date], and that relates to land located in an upland environmental
13 corridor is more restrictive than an ordinance enacted under this section affecting
14 the same land, it continues as a town ordinance in all respects to the extent of the
15 greater restrictions, but not otherwise.

16 (d) Variances and appeals regarding upland environmental corridors within a
17 county are for the board of adjustment for that county under s. 59.694, and the
18 procedures of that section apply.

19 (e) An ordinance enacted under this section supersedes all provisions of an
20 ordinance enacted under s. 59.69 that relate to upland environmental corridors.

21 (f) If a county does not enact an ordinance within one year after the mapping
22 for the county is completed under sub. (2) or if the department, after notice and
23 hearing, determines that a county has enacted an ordinance that fails to meet the
24 standards established under sub. (3), the department shall enact such an ordinance
25 for the county.

1 (5) ANNEXATION. Provisions of an upland zoning ordinance that are enacted
2 under this section and that were applicable, prior to annexation, to any upland
3 environmental corridor area annexed by a city or village after the county has enacted
4 the ordinance under this section shall continue in effect and shall be enforced after
5 annexation by the annexing city or village.

6 **SECTION 7.** 66.021 (7) (a) of the statutes is amended to read:

7 66.021 (7) (a) An ordinance for the annexation of the territory described in the
8 annexation petition may be enacted by a two-thirds vote of the elected members of
9 the governing body not less than 20 days after the publication of the notice of
10 intention to circulate the petition and not later than 120 days after the date of filing
11 with the city or village clerk of the petition for annexation or of the referendum
12 election if favorable to the annexation. If the annexation is subject to sub. (11) the
13 governing body shall first review the reasons given by the department of
14 administration that the proposed annexation is against the public interest. Subject
15 to ~~s. 59.691 (5) and 59.692 (7)~~, such an ordinance may temporarily designate the
16 classification of the annexed area for zoning purposes until the zoning ordinance is
17 amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance
18 containing such temporary classification, the proposed classification shall be
19 referred to and recommended by the plan commission. The authority to make such
20 temporary classification shall not be effective when the county ordinance prevails
21 during litigation as provided in s. 59.69 (7).

22 **SECTION 8.** 66.023 (3) (e) of the statutes is amended to read:

23 66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative
24 plan shall describe how the plan is consistent with current state and federal laws,

1 county ~~shoreland~~ zoning ordinances under ~~s.~~ ss. 59.691 and 59.692, municipal
2 regulations and administrative rules that apply to the territory affected by the plan.

3 **SECTION 9.** 66.023 (7m) of the statutes is amended to read:

4 **66.023 (7m) ZONING IN TOWN TERRITORY.** If a town is a party to a cooperative plan
5 with a city or village, the town and city or village may agree, as part of the cooperative
6 plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61,
7 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The
8 exercise of zoning authority by a town under this subsection is not subject to s. 60.61
9 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered
10 by the plan, that ordinance and amendments to it continue until a zoning ordinance
11 is adopted under this subsection. If a zoning ordinance is adopted under this
12 subsection, that zoning ordinance continues in effect after the planning period ceases
13 until a different zoning ordinance for the territory is adopted under other applicable
14 law. This subsection does not affect zoning ordinances adopted that are in effect
15 under ss. 59.691, 59.692, 87.30 or 91.71 to 91.78.

16 **SECTION 10.** 66.024 (5m) of the statutes is amended to read:

17 **66.024 (5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED.** An interim
18 zoning ordinance to become effective only upon approval of the annexation at the
19 referendum election may be enacted by the governing body of the city or village.
20 Subject to ~~s.~~ ss. 59.691 (5) and 59.692 (7), the ordinance may temporarily designate
21 the classification of the annexed area for zoning purposes until the zoning ordinance
22 is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance
23 shall be referred to and recommended by the plan commission prior to introduction.
24 Authority to make such temporary classification shall not be effective when the
25 county zoning ordinance prevails during litigation as provided in s. 59.69 (7).

1 **SECTION 11.** 66.025 of the statutes is amended to read:

2 **66.025 Annexation of owned territory.** In addition to other methods
3 provided by law and subject to ss. 59.691 (5), 59.692 (7) and 66.023 (7), territory
4 owned by and lying near but not necessarily contiguous to a village or city may be
5 annexed to a village or city by ordinance enacted by the board of trustees of the village
6 or the common council of the city, provided that in the case of noncontiguous territory
7 the use of the territory by the city or village is not contrary to any town or county
8 zoning regulation. The ordinance shall contain the exact description of the territory
9 annexed and the names of the towns from which detached, and shall operate to
10 attach the territory to the village or city upon the filing of 6 certified copies thereof
11 in the office of the secretary of state, together with 6 copies of a plat showing the
12 boundaries of the territory attached. Two copies of the ordinance and plat shall be
13 forwarded by the secretary of state to the department of transportation, one copy to
14 the department of natural resources, one copy to the department of revenue and one
15 copy to the department of public instruction.

16 **SECTION 12.** 70.32 (1g) of the statutes is amended to read:

17 70.32 (1g) In addition to the factors set out in sub. (1), the assessor shall
18 consider the effect on the value of the property of any zoning ordinance under s.
19 59.691, 59.692, 61.351 or 62.231, any conservation easement under s. 700.40, any
20 conservation restriction under an agreement with the federal government and any
21 restrictions under ch. 91.

22 **SECTION 13.** 91.73 (1) of the statutes is amended to read:

23 91.73 (1) Except as otherwise provided, exclusive agricultural zoning
24 ordinances shall be adopted and administered in accordance with ss. 59.69, 59.691,
25 59.692, 59.693 and 59.694, 61.35 or 62.23 or subch. VIII of ch. 60.

1 **SECTION 14.** 289.33 (3) (d) of the statutes is amended to read:

2 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
3 authorization, approval, variance or exception or any restriction, condition of
4 approval or other restriction, regulation, requirement or prohibition imposed by a
5 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
6 a town, city, village, county or special purpose district, including without limitation
7 because of enumeration any ordinance, resolution or regulation adopted under s.
8 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9),
9 (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27),
10 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23),
11 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16),
12 (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56
13 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and
14 (5), 59.62, 59.69, 59.691, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5),
15 (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
16 and (11), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354,
17 62.11, 62.23, 62.231, 62.234, 66.01, 66.052, 66.24 (8), 87.30, 91.73, 196.58, 236.45,
18 281.43 or 349.16 or subch. VIII of ch. 60.

19 **SECTION 15.** 289.35 of the statutes is amended to read:

20 **289.35 Shoreland, upland and floodplain zoning.** Solid waste facilities
21 are prohibited within areas under the jurisdiction of ~~shoreland and floodplain zoning~~
22 ~~regulations adopted~~ zoning ordinances that are in effect under ss. 59.691, 59.692,
23 61.351, 62.231 and 87.30, except that the department may issue permits authorizing
24 facilities in such areas.

25 **SECTION 16.** 289.43 (7) (c) of the statutes is amended to read:

MGG says this to day
doesn't have done
LRB-0388/P1
MGG&MES:pgt&kmg:lp

Due Mon D-Note

WPO
Can this be rolled back to P2
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-29-99 WPO: There is a / in the electronic file. It most likely should be a /p2 as shown on the paper copy. See MGG.

Sen. Cant.

1 AN ACT to amend 20.370 (3) (ma), 30.12 (4) (a), 30.202 (3), 30.204 (5), 41.41 (8),
2 66.021 (7) (a), 66.023 (3) (e), 66.023 (7m), 66.024 (5m), 66.025, 70.32 (1g), 91.73
3 (1), 289.33 (3) (d), 289.35 and 289.43 (7) (c); and to create 59.691 of the statutes;
4 relating to: zoning of upland environmental corridors, ~~granting~~ requiring the exercise of rule-making
5 authority and making an appropriation.

Analysis by the Legislative Reference Bureau _____ INSERT AML

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 20.370 (3) (ma) of the statutes is amended to read:
7 20.370 (3) (ma) General program operations — state funds. From the general
8 fund, the amounts in the schedule for regulatory and enforcement operations under
9 chs. 30, 31 and 280 to 299, except s. 281.48, and ss. 44.47, ~~59.691~~, 59.692, 59.693,
10 61.351, 61.354, 62.231, 62.234 and 87.30, for reimbursement of the conservation

↳, 66.427 ✓

1 fund for expenses incurred for actions taken under s. 166.04; for review of
2 environmental impact requirements under ss. 1.11 and 23.40; and for enforcement
3 of the treaty-based, off-reservation rights to fish, hunt and gather held by members
4 of federally recognized American Indian tribes or bands.

5 SECTION 2. 30.12 (4) (a) of the statutes is amended to read:

6 30.12 (4) (a) Activities affecting waters of the state as defined in s. 281.01 (18)
7 that are carried out under the direction and supervision of the department of
8 transportation in connection with highway and bridge design, location, construction,
9 reconstruction, maintenance and repair are not subject to the prohibitions or permit
10 or approval requirements specified under this section or s. 29.601, 30.11, 30.123,
11 30.195, 30.20, ~~59.691~~, 59.692, 61.351, 62.231, ~~66.427~~ or 87.30 or chs. 281 to 285 or 289 to 299,
12 except s. 281.48. However, at the earliest practical time prior to the commencement
13 of these activities, the department of transportation shall notify the department of
14 the location, nature and extent of the proposed work that may affect the waters of
15 the state.

16 SECTION 3. 30.202 (3) of the statutes is amended to read:

17 30.202 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
18 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
19 permit, license, approval, authorization, fee, notice, hearing, procedure or penalty
20 specified under s. 29.601, 30.01 to 30.20, 30.21 to 30.99, ~~59.691~~, 59.692, or 87.30 or
21 chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any rule promulgated,
22 order issued or ordinance adopted under those sections or chapters.

23 SECTION 4. 30.204 (5) of the statutes is amended to read:

24 30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
25 department in conducting the lake acidification experiment are exempt from any

Handwritten: Amend Act.

Handwritten: 2, 66.427

1 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
2 notice, hearing, procedure or penalty specified under s. 29.601 (3), 30.01 to 30.03,
3 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, ~~59.691~~, 59.692, 87.30, 287.81, 299.15
4 to 299.23, 299.91, 299.95 or 299.97 or chs. 281, 283 or 289 to 292 or specified in any
5 rule promulgated, order issued or ordinance adopted under any of those sections or
6 chapters.

7 SECTION 5. 41.41 (8) of the statutes is amended to read:

8 41.41 (8) ZONING. Notwithstanding ss. 13.48 (13) (a), 59.69 (4), 60.61 (2), 60.62
9 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning
10 ordinance of any county or municipality, except that any ordinance enacted under s.
11 ~~59.691~~, 59.692, 61.351, 62.231 ^{66.427} or 87.30 governing the zoning of floodplains, upland
12 environmental corridors, shorelands or wetlands in shorelands and any ordinance
13 that is required by law under s. 59.693, 61.354 or 62.234 governing construction site
14 erosion control or storm water management applies in the reserve.

15 SECTION 6. ~~66.427~~ of the statutes is created to read:

16 ~~66.427~~ **Zoning of upland environmental corridors.** (1) DEFINITIONS. In
17 this section:

18 (a) "Department" means the department of natural resources.

19 (b) "Upland environmental corridor" means an area that meets the minimum
20 size requirements established under sub. (3) (b) and that consists of an upland
21 natural area.

22 (c) "Upland natural area" means an area that is specified by rule under sub.

23 (3) (a).

← INSERT 3-23

24 (3) ~~66.427~~ MAPPING. (a) Each regional planning commission shall map the upland
25 environmental corridors within its region. If any part of a ~~county~~ is not under the

local unit of govern-
ment

WFO: sent
draft

(3)

(3)

66.427

66.427
59.691

66.427

66.427

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66.427

local governmental unit of government
LRB-0388/P1
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SECTION 6
STET

boundaries of the local unit of government

1 jurisdiction of a regional planning commission, the county shall either map the
2 upland environmental corridors within the county or shall contract with a regional
3 planning commission to perform the mapping. The mapping required under this
4 paragraph shall be completed before January 1, 2001.

5 (b) If a regional planning commission or a county fails to complete the mapping
6 before January 1, 2001, the department shall complete the mapping before January
7 1, 2002.

8 (c) The department shall promulgate rules to be used by the department to
9 review and certify the mapping performed by regional planning commissions and
10 local units of government counties under this subsection.

11 (3) DETERMINATION OF UPLAND AREAS; MINIMUM STANDARDS. (a) The department
12 shall promulgate rules specifying which types of undeveloped areas will be mapped
13 and subject to ordinances under this section. The areas may not include areas that
14 are subject to zoning under s. 59.692, 61.351, 62.231 or 87.30. The types of areas may
15 include:

- 16 1. An area with a natural value that is enhanced by a lake, river or stream.
- 17 2. A wetland, as defined in s. 23.32(1).
- 18 3. Wildlife habitat areas
- 19 4. A forested area. Areas containing prairie communities.
- 20 5. Areas of steep slope or rough topography.

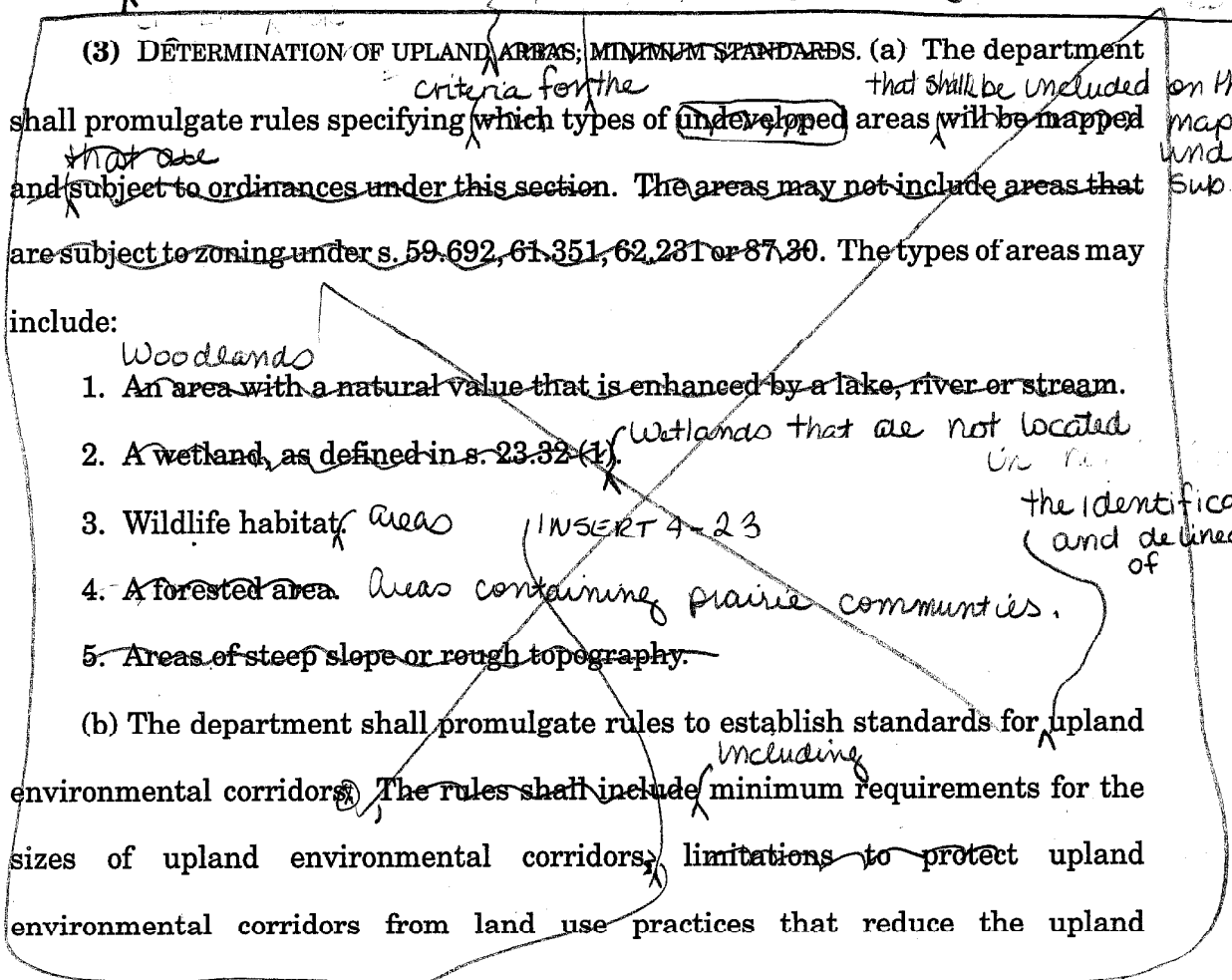
21 (b) The department shall promulgate rules to establish standards for upland
22 environmental corridors. The rules shall include minimum requirements for the
23 sizes of upland environmental corridors, limitations to protect upland
24 environmental corridors from land use practices that reduce the upland

The department shall promulgate rules to establishing objectives for protecting

on the maps under Sub (1)
the identification and delineation of

INSERT 4-23

Wetlands that are not located on the



an type
environmental corridors' scenic, ecological or environmental value and limitations

as to
on the amount of development that may occur in upland environmental corridors.

INS
~~(5) ORDINANCES, REQUIREMENTS, EFFECT, PROCEDURE~~ (a) Each county that has
country ordinances
an upland environmental corridor within the county's unincorporated area shall
meets the objectives established
enact an ordinance that complies with the rules promulgated by the department

4
(6) under sub. (3). An ordinance enacted under this section may be enacted
separately from ordinances enacted under s. 59.69.

24
(b) Except as otherwise provided in this section, the provisions of s. 59.69 apply
to an ordinance enacted under this section, but the ordinance is exempt from any
requirement that it be approved by a town or town board.

3
(c) If a town ordinance that is in effect on the effective date of this *subdivision* paragraph
... [revisor inserts date], and that relates to land located in an upland environmental
corridor is more restrictive than an ordinance enacted under this section affecting
the same land, it continues as a town ordinance in all respects to the extent of the
greater restrictions, but not otherwise.

4
4. Variances and appeals regarding upland environmental corridors within a
county are for the board of adjustment for that county under s. 59.694, and the
procedures of that section apply.

(c) Ordinances in general. 1.
(c) An ordinance enacted under this section supersedes all provisions of an
ordinance enacted under s. 59.69 that relate to upland environmental corridors.
(s. 35 and 62.23(7))

local unit of government

(2) If a ~~county~~ *local unit of government* does not enact an ordinance within one year after the mapping
for the ~~county~~ *local unit of government* is completed under sub. (2) or if the department, after notice and
hearing, determines that a ~~county~~ *local unit of government* has enacted an ordinance that fails to meet the
objectives
standards established under sub. (4), the department shall enact such an ordinance

for the ~~county~~ *local unit of government*.
by the department
local unit of government
(3)(b)
INSERT
5-25

5-18A

move to page 5, after line 18 5-18A

1 ~~(5) ANNEXATION~~ ^{5.} Provisions of an upland zoning ordinance that are enacted
 2 under this section and that were applicable, prior to annexation, to any upland
 3 environmental corridor area annexed by a city or village after the county has enacted
 4 the ordinance under this section shall continue in effect and shall be enforced after
 5 annexation by the annexing city or village.

6 SECTION 7. 66.021 (7) (a) of the statutes is amended to read:

7 66.021 (7) (a) An ordinance for the annexation of the territory described in the
 8 annexation petition may be enacted by a two-thirds vote of the elected members of
 9 the governing body not less than 20 days after the publication of the notice of
 10 intention to circulate the petition and not later than 120 days after the date of filing
 11 with the city or village clerk of the petition for annexation or of the referendum
 12 election if favorable to the annexation. If the annexation is subject to sub. (11) the
 13 governing body shall first review the reasons given by the department of
 14 administration that the proposed annexation is against the public interest. Subject
 15 to s. ss. ~~59.691 (1)~~ and 59.692 (7) ^{and 66.427 (5) (a) 5. De} such an ordinance may temporarily designate the
 16 classification of the annexed area for zoning purposes until the zoning ordinance is
 17 amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance
 18 containing such temporary classification, the proposed classification shall be
 19 referred to and recommended by the plan commission. The authority to make such
 20 temporary classification shall not be effective when the county ordinance prevails
 21 during litigation as provided in s. 59.69 (7).

22 SECTION 8. 66.023 (3) (e) of the statutes is amended to read:

23 66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative
 24 plan shall describe how the plan is consistent with current state and federal laws,

section

^{CS} (b) (6) RULES. In promulgating rules under this subsection, the department shall consult with local units of government and regional planning commissions.

and 66.427

1 county shoreland zoning ordinances under s. ss. ~~59.691 and~~ 59.692, municipal
2 regulations and administrative rules that apply to the territory affected by the plan.

3 SECTION 9. 66.023 (7m) of the statutes is amended to read:

4 66.023 (7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative plan
5 with a city or village, the town and city or village may agree, as part of the cooperative
6 plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61,
7 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The
8 exercise of zoning authority by a town under this subsection is not subject to s. 60.61
9 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered
10 by the plan, that ordinance and amendments to it continue until a zoning ordinance
11 is adopted under this subsection. If a zoning ordinance is adopted under this
12 subsection, that zoning ordinance continues in effect after the planning period ceases
13 until a different zoning ordinance for the territory is adopted under other applicable
14 law. This subsection does not affect zoning ordinances adopted that are in effect
15 under ss. ~~59.691~~ 59.692, ^(66.427) 87.30 or 91.71 to 91.78.

16 SECTION 10. 66.024 (5m) of the statutes is amended to read:

17 66.024 (5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim
18 zoning ordinance to become effective only upon approval of the annexation at the
19 referendum election may be enacted by the governing body of the city or village.
20 Subject to s. ss. ~~59.691 (5) and~~ 59.692 (7), ^{and 66.427 (5)(a) 5.6} the ordinance may temporarily designate
21 the classification of the annexed area for zoning purposes until the zoning ordinance
22 is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance
23 shall be referred to and recommended by the plan commission prior to introduction.
24 Authority to make such temporary classification shall not be effective when the
25 county zoning ordinance prevails during litigation as provided in s. 59.69 (7).

SECTION 11. 66.025 of the statutes is amended to read: *and 66.427(5)(a)5. or*

66.025 Annexation of owned territory. In addition to other methods provided by law and subject to ss. ~~59.691 (5)~~, 59.692 (7) and ~~66.023 (7)~~, territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the city or village is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached, and shall operate to attach the territory to the village or city upon the filing of 6 certified copies thereof in the office of the secretary of state, together with 6 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of public instruction.

SECTION 12. 70.32 (1g) of the statutes is amended to read:

70.32 (1g) In addition to the factors set out in sub. (1), the assessor shall consider the effect on the value of the property of any zoning ordinance under s. ~~59.691~~ 59.692, 61.351 or ~~62.231~~ *or 66.427*, any conservation easement under s. 700.40, any conservation restriction under an agreement with the federal government and any restrictions under ch. 91. *any applicable provisions under*

SECTION 13. 91.73 (1) of the statutes is amended to read:

91.73 (1) Except as otherwise provided, exclusive agricultural zoning ordinances shall be adopted and administered in accordance with ss. 59.69, ~~59.691~~, 59.692, 59.693 and ~~59.694~~, 61.35 or ~~62.23~~ *and 66.427* or subch. VIII of ch. 60. *and 66.427 and under*

Stat. Not
(23)
Ab

and 66.427
and 66.427 and under

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2 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
3 authorization, approval, variance or exception or any restriction, condition of
4 approval or other restriction, regulation, requirement or prohibition imposed by a
5 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
6 a town, city, village, county or special purpose district, including without limitation
7 because of enumeration any ordinance, resolution or regulation adopted under s.
8 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9),
9 (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27),
10 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23),
11 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16),
12 (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56
13 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and
14 (5), 59.62, 59.69, ~~59.691~~ 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5),
15 (7), (8), (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10)
16 and (11), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354,
17 62.11, 62.23, 62.231, 62.234, 66.01, 66.052, 66.24 (8), ^{law. 427,} 87.30, 91.73, 196.58, 236.45,
18 281.43 or 349.16 or subch. VIII of ch. 60.

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20 **289.35 Shoreland, upland and floodplain zoning.** Solid waste facilities
21 are prohibited within areas under the jurisdiction of shoreland and floodplain zoning
22 regulations adopted zoning ordinances that are in effect under ss. ~~59.691~~, 59.692,
23 61.351, 62.231 ^{law. 427} and 87.30, except that the department may issue permits authorizing
24 facilities in such areas.

25 **SECTION 16.** 289.43 (7) (c) of the statutes is amended to read:

1 289.43 (7) (c) The department shall approve the requester's exemption
 2 proposal if the department finds that the proposal, as approved, will comply with this
 3 chapter and chs. 30, 31, 160 and 280 to 299 and ss. 1.11, 23.40, ~~59.691~~, 59.692, 59.693,
 4 60.627, 61.351, 61.354, 62.231, 62.234^{comma → 66.427} and 87.30. If the proposal does not comply
 5 with one or more of the requirements specified in this paragraph, the department
 6 shall provide a written statement describing how the proposal fails to comply with
 7 those requirements. The department shall respond to an application for an
 8 exemption under this subsection within 90 days.

9

(END)

~~¶~~ SECTION . NONSTATUTORY PROVISIONS.

¶ (#) The department of natural resources shall submit in proposed form the rules required under section 66.427 of the statutes, as created by this act, to the legislative council staff no later than the first day of the 19th month beginning after the effective date of this subsection.

under section 227.15(1) of the statutes

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

Saved under P2 UNO
LRB-0388/lms
MGG:.....

Insert ANL

Under current law, a county must enact specific zoning ordinances to regulate activities in any shorelands that are in unincorporated areas of the county and a village or city must enact specific zoning ordinances to regulate activities in wetlands that are ^{five} acres or more in size and that are located in shorelands. These zoning ordinances must comply with standards established by the department of natural resources (DNR). Current law defines "shorelands" as lands within certain distances of navigable waters.

This bill creates similar requirements for upland environmental corridors. Under the bill, DNR must promulgate rules to establish criteria for determining what are to be considered upland environmental corridors. ~~The department~~ ^{DNR} must also promulgate rules to establish standards for identifying these corridors, including a minimum size requirement.

Once DNR identifies these corridors, ^{must} the regional planning commission for the area in which each corridor is located ~~shall~~ map the corridor. If a corridor is not under the jurisdiction of such a planning commission, the county, city or village (local unit of government) in which the corridor is located must either map the corridor or ^a contract with ~~another~~ regional planning commission to perform the mapping.

The bill requires DNR to promulgate rules to establish objectives for protecting these corridors from land use practices that reduce the upland environmental corridors' natural values, including objectives as to the amount and type of development that may occur in upland environmental corridors. Each local unit of government in which a upland environmental corridor is located must then enact an ordinance that meets these objectives. If a local unit of government fails to do so within one year after the mapping is completed, DNR must then enact an ordinance for the local unit of government.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Insert 3-23 ✓

(b) "Local unit of government" means a county, city or village.

(c) "Shorelands" has the meaning given in s. 59.692 (1) (b). ✓

(2) DETERMINATION OF UPLAND ENVIRONMENTAL CORRIDORS. (a) ^ΔThe department shall promulgate rules that specify criteria for determining the types of areas that shall be included as upland environmental corridors on the maps under sub. (3). ✓ The types of areas may include:

1. Woodlands.

2. Wetlands that are not located in shorelands.

3. Wildlife habitat areas ✓

4. Areas consisting of prairie communities.

5. Areas of steep slope or rough topography.

(b) The department shall promulgate rules that establish standards for identifying and delineating upland environmental corridors, including minimum requirements for the sizes of these corridors.

(c) Upland environmental corridors that meet the criteria and standards established by rule under this subsection shall be mapped as required under sub. (3) and are subject to the ordinances required under sub. (5).

Insert 5-3 ✓

(4) OBJECTIVES FOR UPLAND ENVIRONMENTAL CORRIDORS. The department shall promulgate rules that establish objectives for protecting upland environmental corridors from land use practices that reduce the upland environmental corridors' natural values, including objectives as to the amount and type of development that may occur in upland environmental corridors.

Insert 5-18 ✓

(b) *City and village ordinances.* [*****] (b) *City and village ordinances.* [MES to draft this. *****]

Insert 5-25 ✓

3. Ordinances enacted under this section may not result in duplicate zoning restrictions for areas that are subject to zoning under s. ~~61.351~~, 61.351, 62.231 or 87.30.

59.692

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

Saved under p2.drw

LRB-0388/10m

MGG:.....

Kmg

1. I have not included the intent statement that I was provided. The LRB has a policy of not including legislative intent statements in our drafts except in certain situations that do not apply here. The reasons for excluding these are numerous and include the following:

a. Because each draft should include all provisions that are necessary to carry out legislative intent in the substantive text of the draft, a statement of intent that mirrors the substantive text is redundant and thus unnecessary.

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2. There are 3 different types of requirements referred to in this draft: "criteria", "standards" and "objectives". I have restructured the draft to make it clearer as to how these 3 references fit together. Note that I have dropped the definition of "upland environmental area" because it is substantive in nature; that concept is now contained in s. 66.427 (c).

3. Note that to be a "upland environmental area" ^{is established by rule} subject to the ordinances, an area must meet all the standards ^{on} promulgated by DNR, not just the size requirements. Otherwise, it is unclear what purpose the nonsize standards were to serve. Please review this ^{carefully} to ensure it complies with your intent.

4. Do you want any penalties for violating these ordinances?

5. Note that the types of areas for which rules must be promulgated may include the the 4 enumerated types. DNR, therefore, does not have to include these, and the bill imposes no other restrictions or conditions on the types of areas for which criteria must be established. OK?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0388/P2

MGG&MES:pgt&kmg:hmh

EWLj

very soon

RUR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 **AN ACT** ^{Reger} ~~to amend~~ 20.370 (3) (ma), 30.12 (4) (a), 30.202 (3), 30.204 (5), 41.41 (8),
2 66.021 (7) (a), 66.023 (3) (e), 66.023 (7m), 66.024 (5m), 66.025, 70.32 (1g), 91.73
3 (1), 289.33 (3) (d), 289.35 and 289.43 (7) (c); and **to create** 66.427 of the statutes;
4 **relating to:** zoning of upland environmental corridors, requiring the exercise
5 of rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a county must enact specific zoning ordinances to regulate activities in any shorelands that are in unincorporated areas of the county and a village or city must enact specific zoning ordinances to regulate activities in wetlands that are five acres or more in size and that are located in shorelands. These zoning ordinances must comply with standards established by the department of natural resources (DNR). Current law defines "shorelands" as lands within certain distances of navigable waters.

This bill creates similar requirements for upland environmental corridors. Under the bill, DNR must promulgate rules to establish criteria for determining what are to be considered upland environmental corridors. DNR must also promulgate rules to establish standards for identifying these corridors, including a minimum size requirement.

Once DNR identifies these corridors, the regional planning commission for the area in which each corridor is located must map the corridor. If a corridor is not under the jurisdiction of such a planning commission, the county, city or village (local unit

of government) in which the corridor is located must either map the corridor or contract with a regional planning commission to perform the mapping.

The bill requires DNR to promulgate rules to establish objectives for protecting these corridors from land use practices that reduce the upland environmental corridors' natural values, including objectives as to the amount and type of development that may occur in upland environmental corridors. Each local unit of government in which a upland environmental corridor is located must then enact an ordinance that meets these objectives. If a local unit of government fails to do so within one year after the mapping is completed, DNR must then enact an ordinance for the local unit of government.

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 (3) (ma) of the statutes is amended to read:

2 20.370 (3) (ma) *General program operations — state funds.* From the general
3 fund, the amounts in the schedule for regulatory and enforcement operations under
4 chs. 30, 31 and 280 to 299, except s. 281.48, and ss. 44.47, 59.692, 59.693, 61.351,
5 61.354, 62.231, 62.234, 66.427 and 87.30, for reimbursement of the conservation
6 fund for expenses incurred for actions taken under s. 166.04; for review of
7 environmental impact requirements under ss. 1.11 and 23.40; and for enforcement
8 of the treaty-based, off-reservation rights to fish, hunt and gather held by members
9 of federally recognized American Indian tribes or bands.

10 **SECTION 2.** 30.12 (4) (a) of the statutes ^{as affected by 1999 Wisconsin Act 9,} is amended to read:

11 30.12 (4) (a) Activities affecting waters of the state as defined in s. 281.01 (18)
12 that are carried out under the direction and supervision of the department of
13 transportation in connection with highway ^{or other transportation project} and bridge design, location, construction,
14 reconstruction, maintenance and repair are not subject to the prohibitions or permit
15 or approval requirements specified under this section or s. 29.601, 30.11, 30.123,

① ^{30.19,} 30.195, 30.20, 59.692, 61.351, 62.231, 66.427 or 87.30 or chs. 281 to 285 or 289 to 299,
2 except s. 281.48. However, at the earliest practical time prior to the commencement
3 of these activities, the department of transportation shall notify the department of
4 the location, nature and extent of the proposed work that may affect the waters of
5 the state.

6 **SECTION 3.** 30.202 (3) of the statutes is amended to read:

7 30.202 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
8 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
9 permit, license, approval, authorization, fee, notice, hearing, procedure or penalty
10 specified under s. 29.601, 30.01 to 30.20, 30.21 to 30.99, 59.692, 66.427 or 87.30 or
11 chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any rule promulgated,
12 order issued or ordinance adopted under those sections or chapters.

13 **SECTION 4.** 30.204 (5) of the statutes is amended to read:

14 30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
15 department in conducting the lake acidification experiment are exempt from any
16 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
17 notice, hearing, procedure or penalty specified under s. 29.601 (3), 30.01 to 30.03,
18 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.692, 66.427, 87.30, 287.81, 299.15
19 to 299.23, 299.91, 299.95 or 299.97 or chs. 281, 283 or 289 to 292 or specified in any
20 rule promulgated, order issued or ordinance adopted under any of those sections or
21 chapters.

22 **SECTION 5.** 41.41 (8) of the statutes is amended to read:

23 41.41 (8) ZONING. Notwithstanding ss. 13.48 (13) (a), 59.69 (4), 60.61 (2), 60.62
24 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning
25 ordinance of any county or municipality, except that any ordinance enacted under s.

1 59.692, 61.351, 62.231, 66.427 87.30 governing the zoning of floodplains, upland
2 environmental corridors, shorelands or wetlands in shorelands and any ordinance
3 that is required by law under s. 59.693, 61.354 or 62.234 governing construction site
4 erosion control or storm water management applies in the reserve.

5 **SECTION 6.** 66.021 (7) (a) of the statutes is amended to read:

6 66.021 (7) (a) An ordinance for the annexation of the territory described in the
7 annexation petition may be enacted by a two-thirds vote of the elected members of
8 the governing body not less than 20 days after the publication of the notice of
9 intention to circulate the petition and not later than 120 days after the date of filing
10 with the city or village clerk of the petition for annexation or of the referendum
11 election if favorable to the annexation. If the annexation is subject to sub. (11) the
12 governing body shall first review the reasons given by the department of
13 administration that the proposed annexation is against the public interest. Subject
14 to ~~s. ss.~~ 59.692 (7) and 66.427 (5) (a) 5., such an ordinance may temporarily designate
15 the classification of the annexed area for zoning purposes until the zoning ordinance
16 is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance
17 containing such temporary classification, the proposed classification shall be
18 referred to and recommended by the plan commission. The authority to make such
19 temporary classification shall not be effective when the county ordinance prevails
20 during litigation as provided in s. 59.69 (7).

21 **SECTION 7.** 66.023 (3) (e) of the statutes is amended to read:

22 66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative
23 plan shall describe how the plan is consistent with current state and federal laws,
24 ~~county shoreland zoning ordinances under s. ss.~~ 59.692 and 66.427, municipal
25 regulations and administrative rules that apply to the territory affected by the plan.

1 **SECTION 8.** 66.023 (7m) of the statutes is amended to read:

2 **66.023 (7m) ZONING IN TOWN TERRITORY.** If a town is a party to a cooperative plan
3 with a city or village, the town and city or village may agree, as part of the cooperative
4 plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61,
5 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The
6 exercise of zoning authority by a town under this subsection is not subject to s. 60.61
7 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered
8 by the plan, that ordinance and amendments to it continue until a zoning ordinance
9 is adopted under this subsection. If a zoning ordinance is adopted under this
10 subsection, that zoning ordinance continues in effect after the planning period ceases
11 until a different zoning ordinance for the territory is adopted under other applicable
12 law. This subsection does not affect zoning ordinances adopted that are in effect
13 under ss. 59.692, 66.427, 87.30 or 91.71 to 91.78.

14 **SECTION 9.** 66.024 (5m) of the statutes is amended to read:

15 **66.024 (5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED.** An interim
16 zoning ordinance to become effective only upon approval of the annexation at the
17 referendum election may be enacted by the governing body of the city or village.
18 Subject to s. ss. 59.692 (7) and 66.427 (5) (a) 5., the ordinance may temporarily
19 designate the classification of the annexed area for zoning purposes until the zoning
20 ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning
21 ordinance shall be referred to and recommended by the plan commission prior to
22 introduction. Authority to make such temporary classification shall not be effective
23 when the county zoning ordinance prevails during litigation as provided in s. 59.69
24 (7).

25 **SECTION 10.** 66.025 of the statutes is amended to read:

1 **66.025 Annexation of owned territory.** In addition to other methods
2 provided by law and subject to ss. 59.692 (7) and, 66.023 (7) and 66.427 (5) (a) 5.
3 territory owned by and lying near but not necessarily contiguous to a village or city
4 may be annexed to a village or city by ordinance enacted by the board of trustees of
5 the village or the common council of the city, provided that in the case of
6 noncontiguous territory the use of the territory by the city or village is not contrary
7 to any town or county zoning regulation. The ordinance shall contain the exact
8 description of the territory annexed and the names of the towns from which
9 detached, and shall operate to attach the territory to the village or city upon the filing
10 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies
11 of a plat showing the boundaries of the territory attached. Two copies of the
12 ordinance and plat shall be forwarded by the secretary of state to the department of
13 transportation, one copy to the department of natural resources, one copy to the
14 department of revenue and one copy to the department of public instruction.

15 **SECTION 11.** 66.427 of the statutes is created to read:

16 **66.427 Zoning of upland environmental corridors. (1) DEFINITIONS.** In
17 this section:

18 (a) "Department" means the department of natural resources.

19 (b) "Local unit of government" means a ~~county, city, or village.~~ *OR county*

20 (c) "Shorelands" has the meaning given in s. 59.692 (1) (b).

21 **(2) DETERMINATION OF UPLAND ENVIRONMENTAL CORRIDORS.** (a) The department
22 shall promulgate rules that specify criteria for determining the types of areas that
23 shall be included as upland environmental corridors on the maps under sub. (3). The
24 types of areas may include:

25 1. Woodlands.

1 2. Wetlands that are not located in shorelands.

2 3. Wildlife habitat areas.

3 4. Areas consisting of prairie communities.

4 5. Areas of steep slope or rough topography.

5 (b) The department shall promulgate rules that establish standards for
6 identifying and delineating upland environmental corridors, including minimum
7 requirements for the sizes of these corridors.

8 (c) Upland environmental corridors that meet the criteria and standards
9 established by rule under this subsection shall be mapped as required under sub. (3)
10 and are subject to the ordinances required under sub. (5).

11 **(3) MAPPING.** (a) Each regional planning commission shall map the upland
12 environmental corridors within its region. If any part of a local unit of government
13 is not under the jurisdiction of a regional planning commission, the local unit of
14 government shall either map the upland environmental corridors within the
15 boundaries of the local unit of government or shall contract with a regional planning
16 commission to perform the mapping. The mapping required under this paragraph
17 shall be completed before January 1, 2005.

18 (b) If a regional planning commission or a local unit of government fails to
19 complete the mapping before January 1, 2005, the department shall complete the
20 mapping before January 1, 2006.

21 (c) The department shall promulgate rules to be used by the department to
22 review and certify the mapping performed by regional planning commissions and
23 local units of government under this subsection.

24 **(4) OBJECTIVES FOR UPLAND ENVIRONMENTAL CORRIDORS.** The department shall
25 promulgate rules that establish objectives for protecting upland environmental

SECTION 11

1 corridors from land use practices that reduce the upland environmental corridors'
2 natural values, including objectives as to the amount and type of development that
3 may occur in upland environmental corridors.

4 (5) ORDINANCES. (a) *County ordinances.* 1. Each county that has an upland
5 environmental corridor within the county's unincorporated area shall enact an
6 ordinance that meets the objectives established by the department under sub. (4).
7 An ordinance enacted under this section may be enacted separately from ordinances
8 enacted under s. 59.69.

9 2. Except as otherwise provided in this section, the provisions of s. 59.69 apply
10 to an ordinance enacted under this section, but the ordinance is exempt from any
11 requirement that it be approved by a town or a town board.

12 3. If a town ordinance that is in effect on the effective date of this subdivision
13 [revisor inserts date], and that relates to land located in an upland environmental
14 corridor is more restrictive than an ordinance enacted under this section affecting
15 the same land, it continues as a town ordinance in all respects to the extent of the
16 greater restrictions, but not otherwise.

*Compare to
my
(10)*

17 4. ^{Requests for} Variances and appeals regarding upland environmental corridors within a
18 county ~~are for~~ ^{shall be decided by} the board of adjustment for that county under s. 59.694, and the
19 procedures of that section apply ^{to such requests and appeals.}

20 5. Provisions of an upland zoning ordinance that are enacted under this section
21 and that were applicable, prior to annexation, to any upland environmental corridor
22 area annexed by a city or village after the county has enacted the ordinance under
23 this section shall continue in effect and shall be enforced after annexation by the
24 annexing city or village.

25 (b) *City and village ordinances.* [**** MES to draft this. ****]

INS ✓

1 (c) *Ordinances in general.* 1. An ordinance enacted under this section
2 supersedes all provisions of an ordinance enacted under ss. 59.69, 61.35 and 62.23
3 (7) that relate to upland environmental corridors. Xleft
OK

4 2. If a local unit of government does not enact an ordinance within one year
5 after the mapping for the local unit of government is completed under sub. (2) or if
6 the department, after notice and hearing, determines that a local unit of government
7 has enacted an ordinance that fails to meet the objectives established by the
8 department under sub. (4), the department shall enact such an ordinance for the
9 local unit of government.

10 3. Ordinances enacted under this section may not result in duplicate zoning
11 restrictions for areas that are subject to zoning under s. 59.692, 61.351, 62.231 or
12 87.30.

13 (6) RULES. In promulgating rules under this section, the department shall
14 consult with local units of government and regional planning commissions.

15 SECTION 12. 70.32 (1g) of the statutes ^{as affected by 1999 Wisconsin Act 9,} is amended to read:

16 70.32 (1g) In addition to the factors set out in sub. (1), the assessor shall
17 consider the effect on the value of the property of any zoning ordinance under s.
18 59.692, 61.351 or 62.231 or 66.427, any conservation easement under s. 700.40, any
19 conservation restriction under an agreement with the federal government and any

20 restrictions under ch. 91. ^{Beginning with the property tax assessments as of January 1,}
^{2000, the assessor may not consider the effect on the value of the property of any federal income}
^{tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.}
21 SECTION 13. 91.73 (1) of the statutes is amended to read:

22 91.73 (1) Except as otherwise provided, exclusive agricultural zoning
23 ordinances shall be adopted and administered in accordance with any applicable
24 provisions under ss. 59.69, 59.692, 59.693 and, 59.694, 61.35 or 62.23 or and 66.427
25 and under subch. VIII of ch. 60.

1 **SECTION 14.** 289.33 (3) (d) of the statutes is amended to read:

2 289.33 (3) (d) "Local approval" includes any requirement for a permit, license,
3 authorization, approval, variance or exception or any restriction, condition of
4 approval or other restriction, regulation, requirement or prohibition imposed by a
5 charter ordinance, general ordinance, zoning ordinance, resolution or regulation by
6 a town, city, village, county or special purpose district, including without limitation
7 because of enumeration any ordinance, resolution or regulation adopted under s.
8 59.03 (2), 59.11 (5), 59.42 (1), 59.48, 59.51 (1) and (2), 59.52 (2), (5), (6), (7), (8), (9),
9 (11), (12), (13), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26) and (27),
10 59.53 (1), (2), (3), (4), (5), (7), (8), (9), (11), (12), (13), (14), (15), (19), (20) and (23),
11 59.535 (2), (3) and (4), 59.54 (1), (2), (3), (4), (4m), (5), (6), (7), (8), (10), (11), (12), (16),
12 (17), (18), (19), (20), (21), (22), (23), (24), (25) and (26), 59.55 (3), (4), (5) and (6), 59.56
13 (1), (2), (4), (5), (6), (7), (9), (10), (11), (12), (12m), (13) and (16), 59.57 (1), 59.58 (1) and
14 (5), 59.62, 59.69, 59.692, 59.693, 59.696, 59.697, 59.698, 59.70 (1), (2), (3), (5), (7), (8),
15 (9), (10), (11), (21), (22) and (23), 59.79 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) and
16 (11), 59.80, 59.82, 60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 61.351, 61.354,
17 62.11, 62.23, 62.231, 62.234, 66.01, 66.052, 66.24 (8), 66.427, 87.30, 91.73, 196.58,
18 236.45, 281.43 or 349.16 or subch. VIII of ch. 60.

19 **SECTION 15.** 289.35 of the statutes is amended to read:

20 **289.35 Shoreland, upland and floodplain zoning.** Solid waste facilities
21 are prohibited within areas under the jurisdiction of ~~shoreland and floodplain zoning~~
22 ~~regulations adopted zoning ordinances that are in effect~~ under ss. 59.692, 61.351,
23 62.231, 66.427 and 87.30, except that the department may issue permits authorizing
24 facilities in such areas.

25 **SECTION 16.** 289.43 (7) (c) of the statutes is amended to read:

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0388/¹ins
MGG&MES:pgt&kmg:hmh

8-25

1 ^{No 4} ~~(b)(1)~~ 1. Each city or village that has an upland environmental corridor within
2 its borders shall enact an ordinance that meets the objectives established by the
3 department under sub. (4). An ordinance enacted under this section may be enacted
4 separately from ordinances enacted under s. 62.23 (7).[✓]

5 2. Except as otherwise provided in this section, the provisions of s. 62.23 (7)[✓]
6 apply to an ordinance enacted under this section.

7 3. Requests for variances and appeals regarding upland environmental
8 corridors within a city or village shall be decided by the board of adjustment for that
9 city or village under s. 62.23 (7) (e),[✓] and the procedures of that paragraph apply

to such requests
and appeals

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

1
LRB-0388/P2dn
MGG:kmg:hmh

November 1, 1999

1. I have not included the intent statement that I was provided. The LRB has a policy of not including legislative intent statements in our drafts except in certain situations that do not apply here. The reasons for excluding these are numerous and include the following:

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3. Note that, to be an "upland environmental area" subject to the ordinances, an area must meet all of the standards established by rule by DNR, not just the size requirements. Otherwise, it is unclear what purpose the nonsize standards were to serve. Please review this carefully to ensure that it complies with your intent.

4. Note that the types of areas for which rules must be promulgated may include the the 4 enumerated types. DNR, therefore, does not have to include these, and the bill imposes no other restrictions or conditions on the types of areas for which criteria must be established. OK?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0388/1dn
MGG:kmg&wlj:mrc

December 1, 1999

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Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

**SUBMITTAL
FORM**

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

DEC 02 1999

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/01/1999

To: Senator Risser

Relating to LRB drafting number: LRB-0388

Topic

Zoning of upland environmental corridors

Subject(s)

Nat. Res. - miscellaneous

1. **JACKET** the draft for introduction _____
in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mary Gibson-Glass, Senior Legislative Attorney
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