

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB215)

Received: **03/16/2001**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Neal Kedzie (608) 266-9650**

By/Representing: **Rachel Letzing**

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

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - wet/shore/flood**

Extra Copies: **Rachel Letzing - Leg. Council**

Pre Topic:

No specific pre topic given

Topic:

Enforcement of wetlands moratorium

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>
/1	rkite 03/16/2001	jdye 03/19/2001	martykr 03/19/2001	_____	lrb_docadmin 03/19/2001	lrb_docadmin 03/19/2001	

FE Sent For:

<END>

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1/?	rkite	1 3/19 JK	km 3/19	JK 3/19			

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<END>

Rachel Setzing
AB 215 - simple amendment
also SB 54
for Kedzie

281.98(1)

after approval -
insert "prohibition under 281.165"

299.95

after approval add prohibition under 281.165

pg 3 line 10 - should be 1344

pg. 2, line 11

strike "to any of the following"
"if the project proponent has received
notification from the dept. that any
of the following conditions are met"

pg. 3 line 6

after engineers, insert "and a water quality
cert. has been issued by the dept."



D-Note

jd

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 215

discharge of dredged or fill material into a nonfederal wetland if

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 11: delete "any of the following" and substitute "a person who
3 discharges dredged or fill material into a nonfederal wetland if any of the following

4 applies
applies".

5 2. Page 2, line 12: delete the material beginning with "A" and ending with "in"
6 and substitute "The person has received notification from the department that".

7 3. Page 2, line 16: delete the material beginning with "A" and ending with "in"
8 and substitute "The person has received notification from the department that".

9 4. Page 3, line 2: delete "if".

10 5. Page 3, line 5: delete the material beginning with "A" and ending with "in"
11 and substitute "The person has received notification from the department that".

Fix component

discharge of dredged or fill material into a nonfederal wetland if

1 **6.** Page 3, line ~~5~~⁷: after "2001," insert "and a water quality ~~certificate~~^{certification} required
 2 by rules promulgated by the department to implement 33 USC 1341 (a) has been
 3 issued by the department on or before January 8, 2001," ✓

discharge of dredged or fill material into a nonfederal wetland that

4 **7.** Page 3, line 7: delete "if".

Fix component

5 **8.** Page 3, line 9: delete the material beginning with "A" and ending with "that"
 6 on page substitute "The person has received notification from the department that
 7 the discharge".

8 **9.** Page 3, line 15: after that line insert:

9 "SECTION 2. 281.98 (1) ✓ of the statutes is amended to read:

10 281.98 (1) Except as provided in ss. 281.47 (1) (d), 281.75 (19) and 281.99 (2),
 11 any person who violates this chapter or any rule promulgated or any plan approval,
 12 license or special order issued under this chapter ^{Plan} or who violates the prohibition
 13 under s. 281.163, ✓ shall forfeit not less than \$10 nor more than \$5,000 for each
 14 violation. Each day of continued violation is a separate offense. While an order is
 15 suspended, stayed or enjoined, this penalty does not accrue.

History: 1995 a. 227; 1997 a. 27; 1999 a. 147. ✓

16 **SECTION 3.** 299.95 of the statutes is amended to read:

17 **299.95 Enforcement; duty of department of justice; expenses.** The
 18 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except
 19 ss. 281.48, 285.57, 285.59 and 299.64, and all rules, special orders, licenses, plan
 20 approvals and permits of the department, except those promulgated or issued under
 21 ss. 281.48, 285.57, 285.59 and 299.64 and except as provided in s. 285.86, and shall
 22 enforce the prohibition under s. 281.163. ✓ The circuit court for Dane county or for any
 23 other county where a violation occurred in whole or in part has jurisdiction to enforce
 24 chs. 281 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan

1 approval or permit by injunctive and other relief appropriate for enforcement. For
2 purposes of this proceeding where chs. 281 to 285 and 289 to 295 or this chapter or
3 the rule, special order, license, plan approval or permit prohibits in whole or in part
4 any pollution, a violation is considered a public nuisance. The department of natural
5 resources may enter into agreements with the department of justice to assist with
6 the administration of chs. 281 to 285 and 289 to 295 and this chapter. Any funds paid
7 to the department of justice under these agreements shall be credited to the
8 appropriation account under s. 20.455 (1) (k).”

History: 1975 c. 39 s. 734; 1979 c. 34 s. 985g; 1979 c. 221; Stats. 1979 s. 144.98; 1981 c. 374; 1989 a. 284; 1993 a. 243; 1995 a. 27; 1995 a. 227 s. 829; Stats. 1995 s. 299.95; 1995 a. 290 s. 12; 1997 a. 35; 1999 a. 9.

9 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0355/1dn

RNK.....

Jld

One of the instructions for this draft was to amend s. 281.98 (1), stats., to specifically provide that the penalties in that provision apply to a person who "violates the prohibition under s. 281.163." Another instruction was to amend s. 299.95, stats., to specifically provide that the department of justice is to enforce any such prohibition. These amendments are unnecessary to accomplish these objectives because s. 281.163, stats., already specifies that the penalties in that provision apply to any person who violates ch. 281. Furthermore, under current law, s. 299.95, stats., already requires the attorney general to enforce ch. 281. The language in this draft amending these provisions may, therefore, be confusing.

Robin N. Kite
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DRAFTER'S NOTE
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LEGISLATIVE REFERENCE BUREAU

LRBa0355/1dn
RNK:jld:km

March 19, 2001

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