

**2001 DRAFTING REQUEST****Assembly Substitute Amendment (ASA-AB215)**

Received: 03/19/2001

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Mark Miller (608) 266-5342

By/Representing:

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

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

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Wetands moratorium changes

**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 03/19/2001	gilfokm 03/19/2001	pgreensl 03/19/2001	_____	lrb_docadmin 03/19/2001	lrb_docadmin 03/19/2001	

FE Sent For:

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1?	rkite	1-3/19-01 KMG	3/19 PB	3/19 PS/CMH			

FE Sent For:

<END>

**Kite, Robin**

**From:** Miller, Mark  
**Sent:** Saturday, March 17, 2001 4:21 PM  
**To:** Gibson-Glass, Mary  
**Cc:** Kite, Robin  
**Subject:** FW: Wetlands Moratorium amendments, AB 215

Ms Gibson-Glass,

My discussions on this bill made me realize that if the Assembly concurs in SSA1 to SB54, then AB 215 no longer requires the definition portion of SB 54, since that will already be law, provided the governor signs AB 54.

The essence of the compromise I am trying to work out requires that certain provisions of SB 54 be amended, but because the Senate does not return to session until May, the normal amendment process is not available if we want the wetland moratorium in place in March. AB 215 thereby becomes a timely and germane vehicle for amending SB 5, but after SB 54 has become law.

In drafting my requested amendments #1 and #3 assume SSA1 to SB 54 (as amended and sent to the Assembly) was adopted and concurred in by the Assembly. If the Assembly does not concur with SB 54 these amendments to AB 215 become moot.

Thank you  
 Mark Miller

-----Original Message-----

**From:** Miller, Mark  
**Sent:** Saturday, March 17, 2001 1:05 PM  
**To:** Gibson-Glass, Mary  
**Subject:** Wetlands Moratorium amendments, AB 215

Dear Ms Gibson-Glass,  
 Re: AB 215

In anticipation of consideration of AB 215 and SB 54 on Tuesday's Assembly floor session, please draft the following amendments to AB 215:

1. Assuming that the Assembly concurs in SSA1 to SB 54, add language to AB 215 that nullifies paragraph 3 (page 2, Lines 1-9) of SSA1 to SB 54, and , on page 2, line 15 of AB 215, change the date to December 1, 2001.
2. On page 2, line 15, change the date to December 1, 2001.
3. A substitute amendment that incorporates the changes recommended by the DNR and requested by Rep. Kedzie, the Chair of the Assembly Environmental Protection Committee, plus the changes in amendment request #1 above.

*OK per Kedzie's office*

**Mark Miller**

48th Assembly District  
 Capitol Room 112 North  
 P.O. 8953, Madison, WI 53708  
 608-266-5342, 608-282-3648 Fax  
 Rep.Miller@legis.state.wi.us

03/19/2001



kmg

ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 2001 ASSEMBLY BILL 215

GEN. CAT.

1 AN ACT...; relating to: discharges of dredged or fill material into nonfederal  
2 wetlands.

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

Senate Bill

3 SECTION 1. 281.36 (2) of the statutes, as created by 2001 Wisconsin Act ...  
4 54), is repealed and recreated to read:

Except as provided in par. (b),

5 281.36 (2) PROHIBITION. (a) No person may discharge dredged or fill material  
6 into a nonfederal wetland.

Paragraph

7 (b) Subsection (a) does not apply to any person who discharges dredged or fill  
8 material into a nonfederal wetland if any of the following applies:

- 9 1. The person has received notification from the department that the discharge
- 10 is authorized by a permit or other approval under ss. 59.692, 61.351, 62.231, 87.30,
- 11 281.11 to ~~281.16~~, ~~281.16~~ <sup>281.35, 281.41</sup> to 281.47, or 281.49 to 281.85 or ch. 30, 31, 283, 289, 291,
- 12 292, 293, 295, or 299.

1           2. The person has received notification from the department that the discharge  
 2 is not subject to a permitting or other approval requirement under ss. 59.692, 61.351,  
 3 62.231, 87.30, 281.11 to ~~281.16~~<sup>281.35, 281.41</sup> 281.16~~4~~ to 281.47, or 281.49 to 281.85 or ch. 30, 31,  
 4 283, 289, 291, 292, 293, 295, or 299 and if the discharge would have been exempt on  
 5 January 8, 2001<sup>✓</sup>, from the water quality standards for wetlands that are set under  
 6 rules promulgated under s. 281.15 (1).<sup>✓</sup>

7           3. The person has received notification from the department that the discharge  
 8 is permitted under a permit issued by the U.S. army corps of engineers on or before  
 9 January 8, 2001, and a water quality certification required by rules promulgated by  
 10 the department to implement 33 USC 1341 (a) has been issued by the department,  
 11 on or before January 8, 2001, and the discharge is performed in compliance with that  
 12 permit.

13           4. The person has received notification from the department that the discharge  
 14 is the result of an activity that would have qualified for an exemption under 33 USC  
 15 1344 (f) on January 8, 2001, or under any other regulation, rule, memorandum of  
 16 agreement, guidance letter, or other provision established by a federal agency that  
 17 was promulgated or adopted pursuant to that subsection or that was used to  
 18 implement that subsection and that was in effect on January 8, 2001.

19           **SECTION 2.** 281.36 (3) of the statutes is repealed and recreated to read:  
 20           281.36 (3) This section does not apply on or after December 1, 2001. ✓

21           **SECTION 3.** 281.98 (1) of the statutes is amended to read:

22           281.98 (1) Except as provided in ss. 281.47 (1) (d), 281.75 (19) and 281.99 (2),  
 23 any person who violates this chapter or any rule promulgated or any plan approval,  
 24 license or special order issued under this chapter or who violates the prohibition  
 25 under s. 281.36<sup>✓</sup> shall forfeit not less than \$10 nor more than \$5,000 for each violation.

*as created by 2001 Wisconsin Act iii (SB 54), Senate Bill*

1 Each day of continued violation is a separate offense. While an order is suspended,  
2 stayed or enjoined, this penalty does not accrue.

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

3 SECTION 4. 299.95 of the statutes is amended to read:

*and shall the  
enforce the  
prohibition  
under  
s.  
281.36*

4 **299.95 Enforcement; duty of department of justice; expenses** The  
5 attorney general shall enforce chs. 281 to 285 and 289 to 295 and this chapter, except  
6 ss. 281.48, 285.57, 285.59 and 299.64, and all rules, special orders, licenses, plan  
7 approvals and permits of the department, except those promulgated or issued under  
8 ss. 281.48, 285.57, 285.59 and 299.64 and except as provided in s. 285.86. The circuit  
9 court for Dane county or for any other county where a violation occurred in whole or  
10 in part has jurisdiction to enforce chs. 281 to 285 and 289 to 295 or this chapter or  
11 the rule, special order, license, plan approval or permit by injunctive and other  
12 relief appropriate for enforcement. For purposes of this proceeding where chs. 281  
13 to 285 and 289 to 295 or this chapter or the rule, special order, license, plan approval  
14 or permit prohibits in whole or in part any pollution, a violation is considered a public  
15 nuisance. The department of natural resources may enter into agreements with the  
16 department of justice to assist with the administration of chs. 281 to 285 and 289 to  
17 295 and this chapter. Any funds paid to the department of justice under these  
18 agreements shall be credited to the 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.

19 SECTION 5. Nonstatutory provisions.

20 (1) RECONCILIATION PROVISIONS. (a) If 2001 Senate Bill 54, as shown by the  
21 engrossed bill passed by the senate, is enacted into law without change and if the  
22 creation of ~~s.~~ <sup>section</sup> 281.36 by Wisconsin Act .... (Senate Bill 54) takes effect on or before the  
23 effective date of this paragraph, then the treatment of ~~s.~~ <sup>of the statutes</sup> 281.36 (2) and (3), 281.98,  
*sections*

*(D)*

*of the statutes -4-*

1 and 299.95 by this act takes effect on the day after ~~the~~ *creation* of s. 281.36 by  
2 Wisconsin Act ... (Senate Bill 54) takes effect *publication of this act.*

3 (b) If 2001 Senate Bill 54, as shown by the engrossed bill passed by the senate,  
4 is not enacted into law without change on or before the effective date of this  
5 paragraph, then the treatment of ~~s~~ *sections* 281.36 (2) and (3), 281.98, and 299.95 by this  
6 act ~~are~~ *is* void.

7 (END)

(1)

*of the statutes*