

2001 DRAFTING REQUEST

Bill

Received: 10/04/2001

Received By: gibsom

Wanted: As time permits

Identical to LRB:

For: Barbara Gronemus (608) 266-7015

By/Representing: Bill Cross

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Wetland exemption in Trempealeau County

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> |
|--------------|----------------------|--------------------|------------------------|----------------|----------------------------|----------------------------|-----------------|
| /? | gibsom 10/04/2001 | jdye 10/04/2001 | | _____ | | | S&L |
| /1 | | | pgreensl 10/04/2001 | _____ | lrb_docadmin 10/04/2001 | lrb_docadmin 10/05/2001 | |

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Same as 01-3675

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10/4/01)

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2001 BILL

Regen

1 AN ACT *to repeal* 281.165 (2) (intro.), 281.165 (2) (a), 281.165 (2) (b) and 281.165
2 (2) (e); *to renumber* 281.165 (2) (c) and 281.165 (2) (d); *to amend* 59.692 (6m),
3 62.231 (6m), 87.30 (1) (d), 281.165 (title), 281.165 (1) and 281.165 (3) (a) (intro.);
4 *to repeal and recreate* 281.165 (3) (title); and *to create* 281.166 of the
5 statutes; **relating to:** water quality standards for wetlands for an activity at
6 a site in Trempealeau County and review of certain changes to shoreland,
7 wetland, and floodplain zoning ordinances as they relate to an activity at a site
8 in Trempealeau County.

Analysis by the Legislative Reference Bureau

Under current law, the department of natural resources (DNR) has promulgated rules that establish water quality standards for wetlands. Current law states that a certain activity at a site in a city in Trempealeau County complies with these wetland water quality standards and exempts the activity from other laws administered by DNR that relate to water quality and navigable waters if the activity meets specific criteria. These criteria include that the wetland area that will be affected is less than 15 acres and that the city in which the site is located adopt a resolution stating that the exemption is necessary to protect jobs or promote the creating of jobs in the city. Current law also prohibits DNR from reviewing and

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disapproving an amendment to a city or county shoreland or floodplain zoning ordinance if the amendment affects this activity. Under current law, DNR may enact a shoreland or a floodplain zoning ordinance that supersedes the city's or county's shoreland or floodplain zoning ordinance if the city or county ordinance fails to meet certain standards established by DNR. Under current law, similar provisions apply to a site in a city in Dunn County.

The above provisions were enacted in the 1999–2001 biennial budget act. The circuit court for Buffalo County in *Sierra Club et al. vs. Ashley Furniture, Inc. et al.*, (99 CV 178), has concluded that these provisions are unconstitutional because the provisions affect a specific locale and they were enacted as part of a multisubject bill. This type of enactment is prohibited under article IV, section 18, of the constitution.

This bill repeals the provisions that apply to the activity at a site in Trempealeau County and recreates them in a single subject bill. The bill does not affect the provisions that apply to the site in Dunn County.

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.** 59.692 (6m) of the statutes is amended to read:

2 **59.692 (6m)** For an amendment to an ordinance enacted under this section that
3 affects an activity that meets all of the requirements under s. 281.165 ~~(2)~~ or (3) (a)
4 or 281.166 (2), the department may not proceed under sub. (6) or (7) (b) or (c), or
5 otherwise review the amendment, to determine whether the ordinance, as amended,
6 fails to meet the shoreland zoning standards.

7 **SECTION 2.** 62.231 (6m) of the statutes is amended to read:

8 **62.231 (6m) CERTAIN AMENDMENTS TO ORDINANCES.** For an amendment to an
9 ordinance enacted under this section that affects an activity that meets all of the
10 requirements under s. 281.165 ~~(2)~~ or (3) (a) or 281.166 (2), the department of natural
11 resources may not proceed under sub. (6), or otherwise review the amendment, to
12 determine whether the ordinance, as amended, fails to meet reasonable minimum
13 standards.

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1 **SECTION 3.** 87.30 (1) (d) of the statutes is amended to read:

2 87.30 (1) (d) For an amendment to a floodplain zoning ordinance that affects
3 an activity that meets all of the requirements under s. 281.165 ~~(2)~~ or (3) (a) or 281.166
4 (2), the department may not proceed under this subsection, or otherwise review the
5 amendment, to determine whether the ordinance, as amended, is insufficient.

6 **SECTION 4.** 281.165 (title) of the statutes is amended to read:

7 **281.165 (title) ~~Compliance with water quality standards~~ Exemption for**
8 **wetlands; Dunn County site.**

9 **SECTION 5.** 281.165 (1) of the statutes is amended to read:

10 281.165 (1) COMPLIANCE; EXEMPTION. An activity shall be considered to comply
11 with the water quality standards that are applicable to wetlands and that are
12 promulgated as rules under s. 281.15 and is exempt from any prohibition, restriction,
13 requirement, permit, license, approval, authorization, fee, notice, hearing,
14 procedure, or penalty specified under s. 29.601 (3) or chs. 30, 31, 281, 283, 289 to 292,
15 or 299 or specified under any rule promulgated, order issued, or ordinance adopted
16 under any of those sections or chapters, if the activity meets all of the requirements
17 under either sub. ~~(2)~~ or (3).

18 **SECTION 6.** 281.165 (2) (intro.) of the statutes is repealed.

19 **SECTION 7.** 281.165 (2) (a) of the statutes is repealed.

20 **SECTION 8.** 281.165 (2) (b) of the statutes is repealed.

21 **SECTION 9.** 281.165 (2) (c) of the statutes is renumbered 281.165 (3) (a) 4.

22 **SECTION 10.** 281.165 (2) (d) of the statutes is renumbered 281.165 (3) (a) 5.

23 **SECTION 11.** 281.165 (2) (e) of the statutes is repealed.

24 **SECTION 12.** 281.165 (3) (title) of the statutes is repealed and recreated to read:

25 **281.165 (3) (title) REQUIREMENTS.**



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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STEPHEN H. MILLER
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LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 4, 2001

MEMORANDUM

To: Representative Gronemus

From: Mary Gibson-Glass, Senior Legislative Attorney

Re: LRB-3954/1 Wetland exemption in Trempealeau County

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-3215 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.