

2001 ASSEMBLY BILL 602

October 29, 2001 – Introduced by Representatives GUNDERSON, LADWIG, MUSSER, DUFF, GRONEMUS, AINSWORTH, ALBERS, KAUFERT, GROTHMAN, KRAWCZYK, WIECKERT, SERATTI, PLALE, JESKEWITZ and SKINDRUD, cosponsored by Senators SCHULTZ, DARLING, ELLIS, ROESSLER and WELCH. Referred to Committee on Natural Resources.

1 **AN ACT** *to amend* 30.13 (4) (a) and 30.13 (4) (b); and *to create* 30.12 (2m), 30.12
2 (3m), 30.121 (6m), 30.13 (1p), 30.13 (7), 30.131 (3) and 30.131 (4) of the statutes;
3 **relating to:** the regulation of piers and boat shelters and requiring the exercise
4 of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, no person may deposit any material or place any structure upon the bed of any navigable water where no bulkhead line has been established or, if a bulkhead line has been established, beyond that established line unless the person is granted a permit by the department of natural resources (DNR) pursuant to statute or unless otherwise authorized by the legislature. A bulkhead line is a line established by a municipality in the public interest that conforms as nearly as practicable to an existing shore. Among the kinds of structures for which current law authorizes DNR to issue a permit are structures that are built or maintained by a riparian owner for his or her own use, provided they do not materially obstruct navigation or reduce the effective flood flow capacity of a stream and are not detrimental to the public interest. Additionally, a riparian owner may construct a wharf or pier without a permit if, among other things, the wharf or pier does not interfere with public rights in navigable waters and allows the free movement of water underneath. Current law also provides that a nonriparian owner is also exempt from the permit requirement if the wharf or pier would not require a permit if placed by a riparian owner and if the wharf or pier meets certain other requirements.

ASSEMBLY BILL 602

This bill provides that DNR may not take any enforcement action under these current law provisions if the enforcement would require the owner of a pier or boat shelter that was in place on January 1, 2001, or that was seasonally placed in the same location in each of the years beginning with 1996 and ending with 2000 to repair or remove the pier or boat shelter. The bill specifies that an owner is not entitled to this exemption if he or she reconstructed or materially altered the pier or boat shelter after January 1, 2001. The bill also makes those rules promulgated by the department that relate to the regulation of piers or boat shelters under these provisions in current law void. The bill requires DNR to promulgate new rules to supersede the rules made void under the bill.

For further information see the *state* 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.** 30.12 (2m) of the statutes is created to read:

2 **30.12 (2m)** PIERS AND BOAT SHELTERS EXEMPT FROM ENFORCEMENT ACTION. A pier
3 or boat shelter that was in place on January 1, 2001, or that was seasonally placed
4 in the same location in each of the years beginning with 1996 and ending with 2000,
5 is exempt from any enforcement action by the department under this section that
6 requires a riparian owner to repair, renovate, modify, or remove the pier or boat
7 shelter, unless the riparian owner reconstructed or materially altered the pier or
8 boat shelter after January 1, 2001.

9 **SECTION 2.** 30.12 (3m) of the statutes is created to read:

10 **30.12 (3m)** APPLICATION AND PROMULGATION OF RULES. Every rule promulgated
11 by the department under this section that relates to the regulation of piers or boat
12 shelters under sub. (2) and that is in effect on the day before the effective date of this
13 subsection [revisor inserts date], shall be void. The department shall promulgate
14 rules regulating piers and boat shelters under sub. (2) that shall supersede the rules

ASSEMBLY BILL 602

1 promulgated by the department under sub. (2) that were in effect on the day before
2 the effective date of this subsection [revisor inserts date].

3 **SECTION 3.** 30.121 (6m) of the statutes is created to read:

4 30.121 **(6m)** APPLICATION AND PROMULGATION OF RULES. Notwithstanding sub.
5 (6), every rule promulgated by the department under this section that relates to the
6 regulation of boathouses under this section and that is in effect on the day before the
7 effective date of this subsection [revisor inserts date], shall be void. The
8 department shall promulgate rules regulating boathouses under this section that
9 shall supersede the rules promulgated by the department under this section that
10 were in effect on the day before the effective date of this subsection [revisor inserts
11 date].

12 **SECTION 4.** 30.13 (1p) of the statutes is created to read:

13 30.13 **(1p)** PIERS EXEMPT FROM ENFORCEMENT ACTION. A pier that was in place
14 on January 1, 2001, or that was seasonally placed in the same location in each of the
15 years beginning with 1996 and ending with 2000, is exempt from any enforcement
16 action by the department or by the governing body of a city, village, or town, or a
17 designated officer, that requires a riparian proprietor to repair, renovate, modify, or
18 remove the pier, unless the riparian proprietor reconstructs or materially alters the
19 pier after January 1, 2001.

20 **SECTION 5.** 30.13 (4) (a) of the statutes is amended to read:

21 30.13 **(4)** (a) *Interferes with public rights.* A wharf ~~or pier~~ which that interferes
22 with public rights in navigable waters constitutes an unlawful obstruction of
23 navigable waters unless a permit is issued for the wharf ~~or pier~~ under s. 30.12 or
24 unless authorization for the wharf ~~or pier~~ is expressly provided. A pier that
25 interferes with public rights in navigable waters constitutes an unlawful obstruction

ASSEMBLY BILL 602

1 of navigable waters unless a permit is issued for the pier under s. 30.12,
2 authorization for the pier is expressly provided, or the pier is exempt from any
3 enforcement action under sub. (1p) or s. 30.12 (2m) or 30.131 (4).

4 **SECTION 6.** 30.13 (4) (b) of the statutes is amended to read:

5 30.13 **(4)** (b) *Interferes with riparian rights.* A wharf ~~or pier~~ which that
6 interferes with rights of other riparian proprietors constitutes an unlawful
7 obstruction of navigable waters unless a permit is issued for the wharf ~~or pier~~ under
8 s. 30.12 or unless authorization for the wharf or pier is expressly provided. A pier
9 that interferes with the rights of other riparian proprietors constitutes an unlawful
10 obstruction of navigable waters unless a permit is issued for the pier under s. 30.12,
11 authorization for the pier is expressly provided, or the pier is exempt from any
12 enforcement action under sub. (1p) or s. 30.12 (2m) or 30.131 (4).

13 **SECTION 7.** 30.13 (7) of the statutes is created to read:

14 30.13 **(7)** APPLICATION AND PROMULGATION OF RULES. Every rule promulgated by
15 the department that relates to the regulation of piers under this section and that is
16 in effect on the day before the effective date of this subsection ... [revisor inserts
17 date], shall be void. The department shall promulgate rules regulating piers under
18 this section that shall supersede the rules promulgated by the department under this
19 section that were in effect on January 1, 2001.

20 **SECTION 8.** 30.131 (3) of the statutes is created to read:

21 30.131 **(3)** A pier that was in place on January 1, 2001, or that was seasonally
22 placed in the same location in each of the years beginning with 1996 and ending with
23 2000, is exempt from any enforcement action by the department that requires the
24 person who placed the pier or the owner of riparian land that abuts the pier to repair,

ASSEMBLY BILL 602

1 renovate, modify, or remove the pier, unless the person who placed the pier, or the
2 riparian owner, reconstructs or materially alters the pier after January 1, 2001.

3 **SECTION 9.** 30.131 (4) of the statutes is created to read:

4 30.131 (4) Every rule promulgated by the department that relates to the
5 regulation of piers under this section and that is in effect on the day before the
6 effective date of this subsection [revisor inserts date], shall be void. The
7 department shall promulgate rules regulating piers under this section that shall
8 supersede the rules promulgated by the department under this section that were in
9 effect on the day before the effective date of this subsection [revisor inserts date].

10 **SECTION 10. Nonstatutory provisions.**

11 (1) The department of natural resources shall submit in proposed form the
12 rules required under sections 30.12 (3m), 30.121 (6m), 30.13 (7), and 30.131 (4) of the
13 statutes, as created by this act, to the legislative council staff under section 227.15
14 (1) of the statutes no later than the first day of the 13th month beginning after the
15 effective date of this subsection.

16 (2) The department of natural resources may use the procedures under section
17 227.24 of the statutes to promulgate emergency rules under sections 30.12 (3m),
18 30.121 (6m), 30.13 (7), and 30.131 (4) of the statutes, as created by this act.
19 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules
20 may remain in effect until the date on which permanent rules take effect.
21 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not
22 required to provide evidence that promulgating a rule under this subsection as an
23 emergency rule is necessary for the preservation of public peace, health, safety, or

ASSEMBLY BILL 602

1 welfare and is not required to provide a finding of emergency for a rule promulgated
2 under this subsection.

3 (END)