

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 361**

January 29, 2002 – Offered by COMMITTEE ON ENVIRONMENTAL RESOURCES.

1 **AN ACT** *to repeal* 281.37 (3) (g); *to amend* 281.37 (2) (d); and *to create* 281.37
2 (3c) and 281.37 (3g) of the statutes; **relating to:** the amount of compensatory
3 mitigation required for wetland mitigation projects.

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

4 **SECTION 1.** 281.37 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 6,
5 is amended to read:
6 281.37 (2) (d) If the department determines that the conditions of a permit or
7 other authorization issued by the U.S. Army Corps of Engineers for an activity that
8 affects a wetland do not meet the requirements of any guidelines established in the
9 memorandum of agreement under sub. (4), the department may impose additional
10 conditions to ensure that the requirements are met. The In calculating the amount
11 of compensatory mitigation required under this section, the department may not
12 require that the acreage of a mitigation project considered under par. (a) exceed the

1 acreage that is required for the project under the guidelines established in the
2 memorandum of agreement under sub. (4).

3 **SECTION 2.** 281.37 (3) (g) of the statutes, as affected by 2001 Wisconsin Act 6,
4 is repealed.

5 **SECTION 3.** 281.37 (3c) of the statutes is created to read:

6 **281.37 (3c) AMOUNT OF COMPENSATORY MITIGATION REQUIRED.** (a) Except as
7 provided in sub. (3g), in approving a mitigation project, the department shall
8 determine the amount of compensatory mitigation required by using a compensation
9 ratio of at least 1.5 acres of compensation for each acre of adversely affected
10 wetlands.

11 (b) For purposes of this subsection and sub. (3g), the rules promulgated by the
12 department under this section shall include a rule defining or otherwise specifying
13 the criteria to be used in determining what qualifies for the compensation ratios
14 under par. (a) and sub. (3g).

15 **SECTION 4.** 281.37 (3g) of the statutes is created to read:

16 **281.37 (3g) AMOUNT OF COMPENSATORY MITIGATION REQUIRED; EXCEPTION.** The
17 department shall determine the required amount of compensatory mitigation for a
18 mitigation project by using a compensation ratio of at least one acre of compensation
19 for each acre of adversely affected wetlands if all of the following apply:

20 (a) Credits from a mitigation bank that has been approved by the department
21 are being used for the mitigation project.

22 (b) The permitted activity for which the mitigation project is being authorized
23 will not impact any of the following:

24 1. A deep marsh.

25 2. A ridge and swale complex.

