

**2001 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB361)**

Received: **01/15/2002**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Jim Baumgart (608) 266-2056**

By/Representing: **Patrick Henderson**

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

Drafter: **gibsom**

May Contact: **See attached**

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Change in size provisions for wetlands mitigation

---

**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>
/P1	gibsom 01/17/2002	gilfokm 01/18/2002	jfrantze 01/18/2002	_____	lrb_docadmin 01/18/2002		
/1	gibsom 01/24/2002	gilfokm 01/24/2002	pgreensl 01/24/2002	_____	lrb_docadmin 01/24/2002	lrb_docadmin 01/24/2002	
/2	rkite 01/25/2002	gilfokm 01/25/2002	kfollet 01/25/2002	_____	lrb_docadmin 01/25/2002	lrb_docadmin 01/25/2002	

FE Sent For:

<END>

**2001 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB361)**

Received: 01/15/2002

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Jim Baumgart (608) 266-2056

By/Representing: Patrick Henderson

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact: See attached

Addl. Drafters:

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

Extra Copies:

Submit via email: NO

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Change in size provisions for wetlands mitigation

---

**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>
/P1	gibsom 01/17/2002	gilfokm 01/18/2002	jfrantze 01/18/2002	_____	lrb_docadmin 01/18/2002		
/1	gibsom 01/24/2002	gilfokm 01/24/2002	pgreensl 01/24/2002	_____	lrb_docadmin 01/24/2002	lrb_docadmin 01/24/2002	

FE Sent For:

12-1/25  
 KMP  
 1/25  
 SLIF  
 1/25  
 <END>

**2001 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB361)**

Received: 01/15/2002

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Jim Baumgart (608) 266-2056

By/Representing: Patrick Henderson

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact: See attached

Addl. Drafters:

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

Extra Copies:

Submit via email: NO

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Change in size provisions for wetlands mitigation

---

**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>
/P1	gibsom 01/17/2002	gilfokm 01/18/2002	jfrantze 01/18/2002	1 1/24	lrb_docadmin 01/18/2002		
FE Sent For:		1-1/24 Krug	1/24 Dg	Dg/JP <END>	→ only		

**2001 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB361)**

Received: **01/15/2002**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Jim Baumgart (608) 266-2056**

By/Representing: **Patrick Henderson**

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

Drafter: **gibsom**

May Contact: **See attached**

Addl. Drafters:

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

Extra Copies:

Submit via email: **NO**

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Change in size provisions for wetlands mitigation

---

**Instructions:**

See Attached

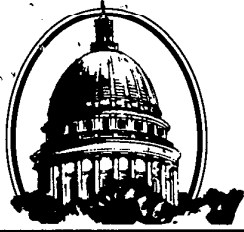
---

**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	pl-1/17 kmg	1/18	1/18			

FE Sent For:

<END>



State Senator  
**James R. Baumgart**

State Capitol: P. O. Box 7882, Madison, WI 53707-7882 • Telephone (608) 266-2056  
Toll-free: 1-888-295-8750 • E-Mail: sen.baumgart@legis.state.wi.us

---

**M E M O**

January 15, 2002

TO: Mary Gibson Glass  
FROM: Senator Baumgart  
RE: Drafting instructions for substitute amendment for SB 361

---

---

Enclosed you will find suggested changes to Senate Bill 361. These changes have been worked on in conjunction with Dave Seibert of the Department of Natural Resources. If you have any questions, please feel free to contact Dave at 264-6048 or Pat of my staff at 266-2056. Thank you for your continued efforts on this bill and the many other wetlands issues that have come up during this session.

*Pat H*

**BILL**

*76796*

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

3           SECTION 2. 281.37 (3c) of the statutes is created to read:

X 4           281.37 (3c) <sup>AMOUNT OF COMPENSATION</sup> ~~SIZE REQUIREMENT~~. (a) In approving a mitigation project, the  
X 5 department shall determine the ~~size of the wetlands to be restored, enhanced, or~~  
X 6 ~~created.~~ *amount of compensatory mitigation required.*

7           (b) Except as provided in sub. (3g), ~~and subject to sub. (3j),~~ <sup>amount of compensation</sup> the size of the  
X 8 ~~wetlands that are restored, enhanced, or created as part of a mitigation project shall~~  
9 be at least 150% of the <sup>amount</sup> ~~size~~ of the wetlands that are adversely impacted.

10          SECTION 3. 281.37 (3g) of the statutes is created to read:

11          281.37 (3g) <sup>EXEMPTION TO 150% REQUIREMENT</sup> ~~SIZE REQUIREMENT, SPECIFIC AREAS~~. Subject to sub. (3j), the size of  
X 12 ~~the wetlands that are restored, enhanced, or created as part of a mitigation project~~  
X 13 ~~shall be at least 100% of the size of the wetlands that are adversely impacted if all~~  
14 of the following apply:

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

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

- 19           1. A deep marsh.
- 20           2. A ridge and swale complex.

BILL

1 3. A wet prairie that is not dominated by reed canary grass to the exclusion of  
2 a significant population of native species.

3 4. An ephemeral pond in a wooded area.

4 5. A sedge meadow or fresh wet meadow that is not dominated by reed canary  
5 grass to the exclusion of a significant population of native species and that is located  
6 south of <sup>US highway</sup> STH 10.

7 6. A bog located south of <sup>US highway</sup> STH 10.

8 7. A hardwood, ~~swamp~~, or conifer swamp located south of <sup>highway</sup> STH 10.

9 <sup>8. A cedar swamp located north of highway 10.</sup>

~~SECTION 4. 281.37 (3) of the statutes is created to read:~~

~~10 281.37 (3j) SIZE REQUIREMENT; ADJUSTMENT. If the size of the wetlands to be  
11 restored, enhanced, or created as part of a mitigation project, as calculated under  
12 sub. (3c) or (3g), exceeds the acreage that is required for the mitigation project under  
13 the guidelines establish in the memorandum of agreement under sub. (4), the size  
14 of the wetlands shall be reduced to equal the maximum acreage allowed under the  
15 guidelines.~~

*already covered by (2)d*

(END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBs0285  
MGG: /...

PL

King

Fri DN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,

TO 2001 SENATE BILL 361

Cannot  
print  
with  
line #s

Print  
w/line  
#15

GEN. CAT.

AN ACT ~~...~~; relating to: the amount of mitigation required for wetland mitigation

projects, and requiring the exercise of rule-making authority

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

as affected by 2001 Wisconsin Act 6,

SECTION 1. 281.37 (2) (d) of the statutes is amended to read:

281.37 (2) (d) If the department determines that the conditions of a permit or other authorization issued by the U.S. Army Corps of Engineers for an activity that affects a wetland do not meet the requirements of any guidelines established in the memorandum of agreement under sub. (4), the department may impose additional conditions to ensure that the requirements are met. The In calculating the amount of mitigation required under this section, the department may not require that the acreage of a mitigation project considered under par. (a) exceed the acreage that is



required for the project under the guidelines established in the memorandum of agreement under sub. (4).

NOTE: NOTE: Sub. (2) is created eff. 8-1-01 by 1999 Wis. Act 147, s. 2. NOTE:  
History: 1999 a. 147; 2001 a. 6 ss. 1 to 5; Stats. 2001 s. 281.37.

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

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

281.37 (3c) AMOUNT OF MITIGATION REQUIRED. (a) In this subsection, "improved wetland" means a restored, enhanced, or created wetland.

(b) Except as provided in sub. (3g), in approving a mitigation project, the department shall determine the amount of mitigation required by using a compensation ratio of improved wetlands to adversely affected wetlands of at least 1.5 to 1.

(c) For purposes of this subsection and sub. (3g), the department shall by rule define or otherwise by rule specify the criteria to be used in determining what qualifies for a compensation ratio of 1.5 to 1 and what qualifies for a compensation ratio of 1 to 1.

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

281.37 (3g) AMOUNT OF MITIGATION REQUIRED EXCEPTION. The department shall determine the required amount of mitigation for a mitigation project by using a compensation ratio of improved wetlands to adversely affected wetlands of at least 1 to 1 if all of the following apply:

(END)

← INS 2-A

**SENATE BILL 361**

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

3           SECTION 2. 281.37 (3c) of the statutes is created to read:

4           281.37 (3c) SIZE REQUIREMENT. (a) In approving a mitigation project, the  
5 department shall determine the size of the wetlands to be restored, enhanced, or  
6 created.

7           (b) Except as provided in sub. (3g), and subject to sub. (3j), the size of the  
8 wetlands that are restored, enhanced, or created as part of a mitigation project shall  
9 be at least 150% of the size of the wetlands that are adversely impacted.

10          SECTION 3. 281.37 (3g) of the statutes is created to read:

11          281.37 (3g) SIZE REQUIREMENT; SPECIFIC AREAS. Subject to sub. (3j), the size of  
12 the wetlands that are restored, enhanced, or created as part of a mitigation project  
13 shall be at least 100% of the size of the wetlands that are adversely impacted if all  
14 of the following apply:

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

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

- 19           1. A deep marsh.
- 20           2. A ridge and swale complex.

IN-  
SECT  
2-A



SENATE BILL 361

SECTION 3

INS  
2-A

1 3. A wet prairie that is not dominated by reed canary grass to the exclusion of  
2 a significant population of native species.

3 4. An ephemeral pond in a wooded area.

4 5. A sedge meadow or fresh wet meadow that is not dominated by reed canary  
5 grass to the exclusion of a significant population of native species and that is located  
6 south of STH 10.

7 6. A bog located south of <sup>USH</sup> STH 10.

8 7. A hardwood <sup>USH</sup> cedar, or conifer swamp located south of <sup>USH</sup> STH 10.

9 SECTION 4. 281.37 (3j) of the statutes is created to read:

10 ~~281.37 (3j) SIZE REQUIREMENT, ADJUSTMENT. If the size of the wetlands to be~~  
11 ~~restored, enhanced, or created as part of a mitigation project, as calculated under~~  
12 ~~sub. (3c) or (3g), exceeds the acreage that is required for the mitigation project under~~  
13 ~~the guidelines established in the memorandum of agreement under sub. (4), the size~~  
14 ~~of the wetlands shall be reduced to equal the maximum acreage allowed under the~~  
15 ~~guidelines.~~

~~(END)~~

8.

A cedar swamp located north of USH 10.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0285/3dn

MGG:.....

21  
KMG

Note that the ratio requirements are minimum and not absolute requirements. I made them minimum requirements in the bill because I did not think it would be possible to restore, enhance, or create a wetland that is an exact size. However, since this substitute amendment is no longer using such a specific measurement, DNR may want to make the ratios absolute.

I feel that it is necessary to reconcile s. 281.37 (2) (d), or alternatively s. 281.37 (4), with s. 281.37 (3c) and (3g). I have done this differently in this <sup>substitute</sup> amendment than it was done in the bill in an attempt to state it more clearly. If DNR disagrees that this reconciliation is necessary, please have Dave Seibert or someone else knowledgeable on these issues call me.

I did this substitute amendment as a preliminary draft so that if any changes are needed, we will not have to deal with stripes until the draft is finalized.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0285/P1dn  
MGG:kmg:jf

January 18, 2002

Note that the ratio requirements are minimum and not absolute requirements. I made them minimum requirements in the bill because I did not think it would be possible to restore, enhance, or create a wetland that is an exact size. However, since this substitute amendment is no longer using such a specific measurement, DNR may want to make the ratios absolute.

I feel that it is necessary to reconcile s. 281.37 (2) (d), or alternatively s. 281.37 (4), with s. 281.37 (3c) and (3g). I have done this differently in this substitute amendment than it was done in the bill in an attempt to state it more clearly. If DNR disagrees that this reconciliation is necessary, please have Dave Seibert or someone else knowledgeable on these issues call me.

I did this substitute amendment as a preliminary draft so that if any changes are needed we will not have to deal with stripes until the draft is finalized.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

January 24, 2002

Dear Mary,

Enclosed are some suggested changes that Dave Seibert, DNR, gave me on your preliminary draft. The draft looks good and we seem to be getting closer. Please take a look at these suggested changes and if they make sense we'd like to make the changes.

If you have any questions, please feel free to contact Dave at 4-6048 or myself. Thank you for your continued efforts on our behalf. Also, it may be useful to include a message on your cover letter that explains that this sub. Amendment accomplishes the same goals as the original bill but is consistent with current rule language.

Thanks,

Pat  
Sen. Baumgart's Office  
6-2056

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0285/P1dn  
MGG:kmg:jf

January 18, 2002

Post-It* Fax Note	7671	Date	1/18	# of pages	2
To	Dave Seibert	From	Pat		
Co./Dept.		Co.	Sen. Bennett		
Phone #		Phone #			
Fax #	7-5231	Fax #			

OK as is

Note that the ratio requirements are minimum and not absolute requirements. I made them minimum requirements in the bill because I did not think it would be possible to restore, enhance, or create a wetland that is an exact size. However, since this substitute amendment is no longer using such a specific measurement, DNR may want to make the ratios absolute.

OK  
I feel that it is necessary to reconcile s. 281.37 (2) (d), or alternatively s. 281.37 (4), with s. 281.37 (3c) and (3g). I have done this differently in this substitute amendment than it was done in the bill in an attempt to state it more clearly. If DNR disagrees that this reconciliation is necessary, please have Dave Seibert or someone else knowledgeable on these issues call me.

I did this substitute amendment as a preliminary draft so that if any changes are needed we will not have to deal with stripes until the draft is finalized.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBs0285/P1  
MGG:kmgjf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE SUBSTITUTE AMENDMENT,  
TO 2001 SENATE BILL 361

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 <sup>compensatory</sup> mitigation  
3 required for wetland mitigation projects and requiring the exercise of  
4 rule-making authority.

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

5 SECTION 1. 281.37 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 6,  
6 is amended to read:

7 281.37 (2) (d) If the department determines that the conditions of a permit or  
8 other authorization issued by the U.S. Army Corps of Engineers for an activity that  
9 affects a wetland do not meet the requirements of any guidelines established in the  
10 memorandum of agreement under sub. (4), the department may impose additional  
11 conditions to ensure that the requirements are met. The In calculating the amount



*Compensatory*  
 X 1 ~~of mitigation required under this section, the department may not require that the~~  
 2 acreage of a mitigation project considered under par. (a) exceed the acreage that is  
 3 required for the project under the guidelines established in the memorandum of  
 4 agreement under sub. (4).

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

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

X 8 281.37 (3c) AMOUNT OF <sup>Compensatory</sup> MITIGATION REQUIRED. (a) ~~In this subsection, "improved~~  
 9 ~~wetland" means a restored, enhanced, or created wetland.~~

X 10 ~~(b) Except as provided in sub. (3g), in approving a mitigation project, the~~  
 X 11 department shall determine the amount of <sup>Compensatory</sup> mitigation required by using a  
 X 12 compensation ratio of ~~improved wetlands~~ <sup>at least 1.5 acres of compensation for each acre</sup> to adversely affected wetlands of at least  
 13 ~~1.5 to 1.~~ <sup>Compensation acres acres of</sup>

14 (c) For purposes of this subsection and sub. (3g), the department shall by rule  
 15 <sup>not needed?</sup> ~~define or otherwise by rule specify the criteria to be used in determining what~~  
 16 ~~qualifies for a compensation ratio of 1.5 to 1 and what qualifies for a compensation~~  
 17 ~~ratio of 1 to 1.~~

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

X 19 281.37 (3g) AMOUNT OF <sup>Compensatory</sup> MITIGATION REQUIRED; EXCEPTION. The department shall  
 X 20 determine the required amount of <sup>Compensatory</sup> mitigation for a mitigation project by using a  
 21 compensation ratio of ~~improved wetlands~~ <sup>Compensation acres</sup> to adversely affected wetlands of at least  
 22 1 to 1 if all of the following apply:

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

*already in proposed rule want to delete language of rule required*

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

3 1. A deep marsh.

4 2. A ridge and swale complex.

5 3. A wet prairie that is not dominated by reed canary grass to the exclusion of  
6 a significant population of native species.

7 4. An ephemeral pond in a wooded area.

8 5. A sedge meadow or fresh wet meadow that is not dominated by reed canary  
9 grass to the exclusion of a significant population of native species and that is located  
10 south of <sup>USH</sup>STH 10.

11 6. A bog located south of USH 10.

12 7. A hardwood or conifer swamp located south of USH 10.

13 8. A cedar swamp located north of USH 10.

14 (END)



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBs0285/Pm 1  
MGG:kmg:jf

Today

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,  
TO 2001 SENATE BILL 361

Sen. Cat

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 <sup>compensatory</sup> mitigation  
3 required for wetland mitigation projects and ~~requiring the exercise of~~  
4 ~~rule-making authority.~~

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

5 SECTION 1. 281.37 (2) (d) of the statutes, as affected by 2001 Wisconsin Act 6,  
6 is amended to read:

7 281.37 (2) (d) If the department determines that the conditions of a permit or  
8 other authorization issued by the U.S. Army Corps of Engineers for an activity that  
9 affects a wetland do not meet the requirements of any guidelines established in the  
10 memorandum of agreement under sub. (4), the department may impose additional  
11 conditions to ensure that the requirements are met. The In calculating the amount

<sup>compensatory</sup>  
 1 ~~of mitigation required under this section~~, the department may not require that the  
 2 acreage of a mitigation project considered under par. (a) exceed the acreage that is  
 3 required for the project under the guidelines established in the memorandum of  
 4 agreement under sub. (4).

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

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

COMPENSATORY

8 281.37 (3c) AMOUNT OF ~~MITIGATION REQUIRED~~. (a) In this subsection, "improved  
 9 wetland" means a restored, enhanced, or created wetland.

10 (b) Except as provided in sub. (3g), in approving a mitigation project, the  
 11 department shall determine the amount of <sup>compensatory</sup> ~~mitigation required~~ by using a  
 12 compensation ratio of ~~improved wetlands to adversely affected wetlands~~ of at least  
 13 <sup>1.5 to 1</sup> ~~1 to 1~~ <sup>acres of compensation for each acre of adversely affected wetland</sup>

14 (c) For purposes of this subsection and sub. (3g), the department ~~shall by rule~~  
 15 <sup>include a rule defining or otherwise specifying</sup> ~~define or otherwise by rule specify~~ the criteria to be used in determining what  
 16 <sup>the ratios under par. (b) and sub. (3g)</sup> ~~qualifies for a compensation ratio of 1.5 to 1~~ and what qualifies for a compensation  
 17 ~~ratio of 1 to 1~~ <sup>rules promulgated by ~~shall~~ the</sup> <sup>under this section shall</sup>

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

COMPENSATORY

19 281.37 (3g) AMOUNT OF ~~MITIGATION REQUIRED; EXCEPTION~~. The department shall  
 20 determine the required amount of <sup>compensatory</sup> ~~mitigation~~ for a mitigation project by using a  
 21 compensation ratio of ~~improved wetlands to adversely affected wetlands~~ of at least  
 22 <sup>one acre of compensation for each acre of adversely affected wetlands</sup> ~~1 to 1~~ if all of the following apply:

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

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

3 1. A deep marsh.

4 2. A ridge and swale complex.

5 3. A wet prairie that is not dominated by reed canary grass to the exclusion of  
6 a significant population of native species.

7 4. An ephemeral pond in a wooded area.

8 5. A sedge meadow or fresh wet meadow that is not dominated by reed canary  
9 grass to the exclusion of a significant population of native species and that is located

10 south of <sup>USH</sup>~~SPH~~ 10.

11 6. A bog located south of USH 10.

12 7. A hardwood or conifer swamp located south of USH 10.

13 8. A cedar swamp located north of USH 10.

14 (END)



SENATE SUBSTITUTE AMENDMENT ,  
TO 2001 SENATE BILL 361

*Gen. Court*  
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) In this~~  
7 ~~subsection, "Improved wetland" means a restored, enhanced, or created wetland.~~

8 ~~(b)~~ <sup>(a)</sup> Except as provided in sub. (3g), in approving a mitigation project, the  
9 department shall determine the amount of compensatory mitigation required by  
10 using a compensation ratio of at least 1.5 acres of compensation for each acre of  
11 adversely affected wetlands.

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

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

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

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

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

25 1. A deep marsh.

- 1           2. A ridge and swale complex.
- 2           3. A wet prairie that is not dominated by reed canary grass to the exclusion of
- 3 a significant population of native species.
- 4           4. An ephemeral pond in a wooded area.
- 5           5. A sedge meadow or fresh wet meadow that is not dominated by reed canary
- 6 grass to the exclusion of a significant population of native species and that is located
- 7 south of USH 10.
- 8           6. A bog located south of USH 10.
- 9           7. A hardwood or conifer swamp located south of USH 10.
- 10          8. A cedar swamp located north of USH 10.

11

(END)