



2009 SENATE BILL 301

September 23, 2009 – Introduced by Senators HOLPERIN, JAUCH, TAYLOR and OLSEN, cosponsored by Representatives MEYER, GUNDERSON, BALLWEG, MOLEPSKE JR. and TOWNSEND. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT to renumber and amend** 59.692 (1m); **to amend** 289.35; and **to create**
2 59.692 (1m) (b) and 59.692 (1m) (c) of the statutes; **relating to:** the application
3 of shoreland zoning ordinances to certain unincorporated areas.

Analysis by the Legislative Reference Bureau

Under current law, a county must enact a shoreland zoning ordinance for shorelands in its unincorporated area. Current law defines a shoreland as an area within a certain distance from the edge of a navigable water. If a county does not enact a shoreland zoning ordinance or if the Department of Natural Resources (DNR) determines that the county has enacted an ordinance that fails to meet certain standards, then DNR must adopt a shoreland zoning ordinance for the county.

This bill provides that a county shoreland zoning ordinance enacted by a county or adopted by DNR for a county does not apply to areas meeting certain criteria. Under the bill, a shoreland zoning ordinance does not apply if the majority of the buildings and structures in the area have been used since January 1, 1990, to conduct the affairs of small business, if all of the roads in the area are paved, if the area receives public water and sewer service, and if the area meets all other requirements specified by DNR by rule. The bill requires that every county that enacts a shoreland zoning ordinance include a provision in the ordinance that identifies areas that are exempt from the ordinance based on the specified criteria. The bill provides that, if DNR determines, after notice and hearing, that an area identified in an ordinance as exempt does not meet the specified criteria for exemption, the ordinance applies to that area.

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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 (1m) of the statutes is renumbered 59.692 (1m) (a) and
2 amended to read:

3 59.692 **(1m)** (a) To effect the purposes of s. 281.31 and to promote the public
4 health, safety and general welfare, each county shall zone by ordinance all
5 shorelands in its unincorporated area, except as provided in par. (b). This ordinance
6 may be enacted separately from ordinances enacted under s. 59.69. Each county
7 shall include a provision in the ordinance that identifies those areas described in par.
8 (b) to which the ordinance does not apply.

9 **SECTION 2.** 59.692 (1m) (b) of the statutes is created to read:

10 59.692 **(1m)** (b) A shoreland zoning ordinance enacted by a county under par.
11 (a) or adopted by the department under sub. (6) does not apply to shorelands in an
12 unincorporated area of a county if all of the following apply to that area:

13 1. The majority of the buildings and structures in the area have been used since
14 January 1, 1990, until the effective date of this subdivision [LRB inserts date], to
15 conduct the affairs of small businesses, as defined in s. 227.114 (1).

16 2. All of the roads in the area are paved.

17 3. The area receives public water and sewer service.

18 4. The area meets all other requirements that the department specifies by rule.

19 **SECTION 3.** 59.692 (1m) (c) of the statutes is created to read:

20 59.692 **(1m)** (c) If the department, after notice and hearing, determines that
21 an area identified in an ordinance under par. (a) does not meet the requirements

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1 specified in par. (b) 1. to 4. for exclusion from the ordinance, the ordinance shall apply
2 to the identified area.

3 **SECTION 4.** 289.35 of the statutes is amended to read:

4 **289.35 Shoreland and floodplain zoning.** Solid waste facilities are
5 prohibited within areas under the jurisdiction of shoreland and floodplain zoning
6 regulations adopted under ss. 59.692, 61.351, 62.231 and 87.30, except for areas
7 exempt under s. 59.692 (1m) (b), and except that the department may issue permits
8 authorizing facilities in such areas.

9 (END)