



State of Wisconsin  
2011 – 2012 LEGISLATURE

January 2011 Special Session



LRB-1016/1  
MGG:jld&nwn:rs

## ASSEMBLY BILL 10

January 24, 2011 – Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION, by request of Governor Scott Walker. Referred to Committee on Natural Resources.

1     **AN ACT** *to amend* 59.692 (6m), 62.231 (6m), 87.30 (1) (d) and 281.165 (1); and *to*  
2     *create* 281.165 (4) of the statutes; **relating to:** an exemption from water  
3     quality standards for wetlands and from certain other regulatory provisions  
4     concerning water quality and surface water use that apply to a wetland area  
5     in Brown County; and review of certain changes to shoreland, wetland, and  
6     floodplain zoning ordinances that apply to a wetland area in Brown County.

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### ***Analysis by the Legislative Reference Bureau***

Under this bill, an activity affecting a wetland in Brown County is considered to be in compliance with the water quality standards applicable to wetlands and exempts the activity from other laws administered by DNR that relate to water quality and navigable waters if the activity meets certain criteria. These criteria include that the wetland area to be affected must be less than three acres in size, that the site of the activity is in a tax incremental district, and that the person engaged in the activity will complete mitigation at a ratio of at least 1.5 acres of wetlands created or mitigation bank credits purchased to one acre of wetland affected depending on whether the wetland is a federal or nonfederal wetland.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***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 (4) (a), the department may not proceed under sub. (6) or (7) (b) or (c), or otherwise  
5 review the amendment, to determine whether the ordinance, as amended, fails to  
6 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 (4) (a), 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.

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

15           87.30 **(1)** (d) For an amendment to a floodplain zoning ordinance that affects  
16 an activity that meets all of the requirements under s. 281.165 (2) ~~or~~ (3) (a), or (4)  
17 (a), the department may not proceed under this subsection, or otherwise review the  
18 amendment, to determine whether the ordinance, as amended, is insufficient.

19           **SECTION 4.** 281.165 (1) of the statutes is amended to read:

20           281.165 **(1)** COMPLIANCE; EXEMPTION. An activity shall be considered to comply  
21 with the water quality standards that are applicable to wetlands and that are

1 promulgated as rules under s. 281.15 and is exempt from any prohibition, restriction,  
2 requirement, permit, license, approval, authorization, fee, notice, hearing,  
3 procedure or penalty specified under s. 29.601 (3) or chs. 30, 31, 281, 283, 289 to 292  
4 or 299 or specified under any rule promulgated, order issued or ordinance adopted  
5 under any of those sections or chapters, if the activity meets all of the requirements  
6 under either sub. (2) ~~or~~ (3), or (4).

7 **SECTION 5.** 281.165 (4) of the statutes is created to read:

8 281.165 (4) BROWN COUNTY. (a) Subsection (1) applies to an activity that meets  
9 all of the following requirements:

10 1. The wetland area that will be affected by the activity is less than 3 acres in  
11 size.

12 2. The site of the activity is zoned for community business use and is part of a  
13 tax incremental district.

14 3. The site of the activity is located in Brown County.

15 4. The person engaged in the activity is in compliance with par. (b) 1. or 2.

16 (b) 1. For a wetland that is other than a nonfederal wetland, as defined in s.  
17 281.36 (1) (c), before engaging the activity described in par. (a), the U.S. Army Corps  
18 of Engineers shall have issued a permit for the activity that contains a mitigation  
19 plan that requires the creation of at least 1.5 acres of wetland for each acre of wetland  
20 affected by the activity.

21 2. For a nonfederal wetland, as defined in s. 281.36 (1) (c), before engaging in  
22 the activity described in par. (a), the person who will engage in the activity shall have  
23 purchased credits from any of the wetland mitigation banks that are located in the  
24 state and that are approved by the department at the ratio of at least 1.5 acres of  
25 wetland purchased for each acre of wetland affected by the activity and shall have

1 provided to the department a written affidavit that the purchase occurred. The  
2 department may not require that the person meet any additional wetland mitigation  
3 requirements.

4 (END)