

2011 DRAFTING REQUEST

Senate Amendment (SA-SB368)

Received: 02/02/2012

Received By: mglass

Wanted: As time permits

Companion to LRB:

For: Neal Kedzie (608) 266-2635

By/Representing: Dan Johnson

May Contact:

Drafter: mglass

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

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Kedzie@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Mitigation ratios, interrelationship with other water regulatory requirements

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	mglass 02/02/2012	wjackson 02/03/2012	jmurphy 02/03/2012	_____	sbasford 02/03/2012		
/1	mglass 02/06/2012	wjackson 02/07/2012	rschluet 02/07/2012	_____	sbasford 02/07/2012	sbasford 02/07/2012	

FE Sent For:

<END>

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/P1	mglass 02/02/2012	wjackson 02/03/2012	jmurphy 02/03/2012	<u>RSB</u> 2/7	sbasford 02/03/2012		

FE Sent For:

1 Wlj 2/7

WALZ

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/?	mglass	/pl WLj 2/3	jm 2/3	to 2/3 jm			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Johnson, Dan
Sent: Thursday, February 02, 2012 9:00 AM
To: Gibson-Glass, Mary
Subject: Senate Amendment to SB 368

Hi Mary,

Senator Kedzie would like to request a simple amendment to Senate Bill 368. The first two revisions should be pretty straightforward. The third might require a bit more explanation, so I have included intent language. Please call me if you need further clarification on what it is we're attempting to do. Thank you!

Dan Johnson
Chief of Staff
State Senator Neal Kedzie
11th Senate District
608.266.2635

Senate Amendment to Senate Bill 368

1. **Page 27, line 20** – After “demonstrable”, insert, “public”
2. **Page 35, lines 11-12** – After “this section”, insert, “governs the determination of whether wetland water quality standards are satisfied but”
3. **Page 31, lines 15-18**; Replace this:

“The department shall establish under the mitigation program mitigation ratios that are consistent with the federal regulations that apply to mitigation and mitigation banks but the minimum ratio shall be at least 1.2 acres for each acre affected by the discharge.”

With this:

The department shall establish under the mitigation program mitigation ratios that are, to the greatest extent possible, consistent with the federal regulations that apply to mitigation and mitigation banks. For mitigation performed in the same watershed or within one-half mile of the site of the discharge, the ratio shall be 1.2 acres for each acre affected by the discharge. For mitigation which occurs outside the watershed of the discharge, the ratio shall be the ratio establish by the department, plus an additional ten percent of that ratio.

Intent

The intent is to create an incentive for mitigation to be performed within the same watershed. Or, put another way, to create a disincentive to perform mitigation outside of the watershed.

For example, if the Department establishes the mitigation ratio to be 1.2 acres for every 1 acre affected, then mitigation performed inside the watershed would be 1.2:1. However, if mitigation is performed outside the watershed, then the ratio would be 1.2 acres + 10% of 1.2 acres. So the end result would be 1.32 acres of mitigation. (1.2 + .12 = 1.32) If ten percent is not the correct term to use in statute, then a simple multiplier of



FW

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE AMENDMENT,

TO 2011 SENATE BILL 368

Page 31 ~~after~~, line 160 after consistent insert to the greatest extent possible

1 At the locations indicated, amend the bill as follows:

2 1. Page 27, line 20: after ~~demonstrable~~ insert ^{economic} "economic" public

3 2. Page 31, line 15: after "(d)" insert "1."

4 3. Page 31, line 18: after "discharge" insert ", unless subd. 2. applies".

5 4. Page 31, line 18: after that line insert:

6 "2. For mitigation ^{that} ~~which~~ ^{STET} occurs within the same watershed in which the
7 discharge is located or within one-half mile of the site of the discharge, the ratio
8 established by the department shall equal 90 percent of the ratio that would apply
9 if the mitigation were to occur outside the watershed or were to occur one-half mile
10 or more from the site of the discharge."

****NOTE: If, for example, DNR set an overall ratio at 1.5 acres, mitigation meeting the distance requirements under subd. 2. would be implemented at a ratio of 1.35 acres to one acre. Is this what is intended?

① 5. Page 35, line 12: after "section" insert "governs the determination of
 ② whether a discharge is in compliance with water quality standards but".

* ^{clause} ~~phrase~~ ^{is} ~~used~~ ^{used} on page 28, line 14. ✓ [^]
 3 ^{clause}

(END)

Gibson-Glass, Mary

From: Johnson, Dan
Sent: Friday, February 03, 2012 4:53 PM
To: Gibson-Glass, Mary
Subject: RE: Senate Amendment to SB 368

for 11

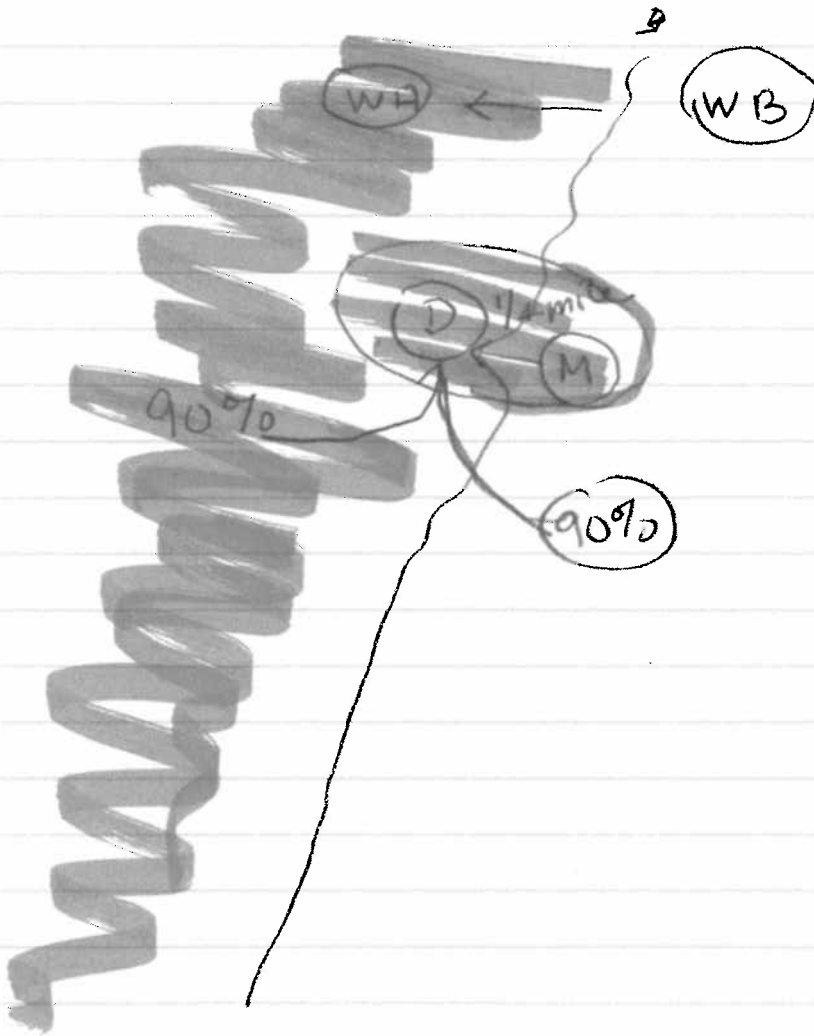
Hi Mary,

I left a message on your voicemail regarding the SB 368 amendment, and just to clarify, we want to ensure that the minimum ratio both in and out of the watershed is no less than 1.2:1. Thus, I think a fix to the amendment would read as follows:

“For mitigation that occurs within the same watershed in which the discharge is located or within one-half mile of the site of the discharge, the ratio established by the department shall equal 90 percent of the ratio that would apply if the mitigation were to occur outside the watershed or were to occur one-half mile or more from the site of the discharge, but the ratio may be no less than 1.2 acres for each acre affected by the discharge.”

Thank you!

Dan Johnson
State Senator Neal Kedzie
11th Senate District
608.266.2635



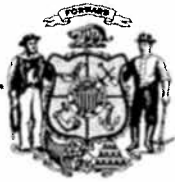
if ~~WA~~ general ≥ 1.3

then ~~WA~~ ≥ 1.17 but ≥ 1.2 .
discount

1.3 1.17 bumped to 1.2

1.4 1.26

1.5 1.35



RMK
PA 1

LRBa2242/P1
MGG:wlj:jm

Tues

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT,
TO 2011 SENATE BILL 368**

1 At the locations indicated, amend the bill as follows:

2 1. Page 27, line 20: after "economic" insert "public".

3 2. Page 31, line 15: after "(d)" insert "1."

4 3. Page 31, line 16: after "consistent" insert ", to the greatest extent possible,".

5 4. Page 31, line ¹⁷~~16~~: after "~~discharge~~^{but}" insert ", unless subd. 2. applies".

6 5. Page 31, line 18: after that line insert:

7 "2. For mitigation that occurs within the same watershed in which the
8 discharge is located or within one-half mile of the site of the discharge, the ratio
9 established by the department shall equal 90 percent of the ratio that would apply
10 if the mitigation were to occur outside the watershed or were to occur one-half mile
11 or more from the site of the discharge."

*but the ratio established
under this subdivision may be no less than 1.2
acres for each acre affected by the discharge*

