

**SENATE BILL 488****GROUNDWATER QUALITY*****Groundwater quality standards***

Under current law, DNR and the Department of Health Services (DHS) establish groundwater quality standards, consisting of enforcement standards and preventive action limits, for substances that contaminate groundwater. The preventive action limit for a substance is 10 percent, 20 percent, or 50 percent of the enforcement limit depending on the type of substance.

Under this bill, the enforcement standards and preventive action limits established by DNR and DHS continue to apply to iron mining operations. <sup>Insert 27-A</sup>

***Point of standards application***

Current law generally requires each state regulatory agency, including DNR, to promulgate rules containing design and operational criteria for facilities and activities affecting groundwater that are designed, to the extent technically and economically feasible, to minimize the level of substances in groundwater and to maintain compliance with preventive action limits, unless compliance with the preventive action limits is not technically and economically feasible. Current law requires each regulatory agency to promulgate rules that specify the range of responses that the regulatory agency may take or that it may require the person controlling a facility or activity to take if a preventive action limit is attained or

**SENATE BILL 488**

exceeded at what is called a point of standards application. Under current law and under this bill, any point at which groundwater is monitored is a point of standards application to determine whether a preventive action limit has been attained or exceeded.

Current law generally prohibits a regulatory agency from promulgating rules containing design and operational criteria that allow an enforcement standard to be exceeded at a point of standards application. Under current law and under this bill, for determining whether an enforcement standard has been attained or exceeded, a point of standards application is any point beyond the boundary of the property on which the regulated facility or activity is located, any point of present groundwater use, and, for certain facilities, such as waste disposal facilities, any point beyond a three-dimensional design management zone (DMZ) established by DNR by rule.

***Design management zone***

Under DNR's rules, the horizontal dimensions of a DMZ vary depending on the type of facility. For a metallic mining waste site, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the outer waste boundary or at the boundary of the property owned or leased by the applicant, whichever distance is less. For a metallic surface mine, the horizontal distance to the boundary of the DMZ

**SENATE BILL 488**

is generally 1,200 feet from the edge of the mining excavation or at the property boundary, whichever distance is less. <sup>Insert 29-A</sup> Generally, the smaller the DMZ, the more likely that a preventive action limit or enforcement standard will be attained or exceeded at the boundary and the more likely that the operator will be required to implement a response.

Under this bill, for an iron mining site, the horizontal distance to the boundary of the DMZ is generally 1,200 feet from the engineered structures of a mining waste site, including any wastewater and sludge storage or treatment lagoon, the edge of the mine and adjacent mine mill and ferrous mineral processing and other facilities or at the property boundary, whichever distance is less.

Under current rules, DNR may reduce the horizontal distance to the boundary of the DMZ on a metallic mining site if certain conditions are met, but may not expand it.

Under the bill, DNR may not reduce the horizontal distance to the boundary of the DMZ on ~~a metallic~~ <sup>an iron</sup> mining site but may expand it by an additional 1,200 feet in any direction if DNR determines that preventive action limits and enforcement standards will be met at the boundary of the expanded DMZ and that preventive

**SENATE BILL 488**

action limits and enforcement standards cannot be met at the boundary of the DMZ if it is not expanded.

Under DNR's rules, a DMZ extends vertically from the land surface through all saturated geological formations. Under the bill, the vertical distance to the boundary of the DMZ ~~is~~ <sup>for</sup> an iron mining site extends no deeper than 1,000 feet into the Precambrian bedrock or than the final depth of the mining excavation, whichever is greater.

***Mandatory intervention boundary***

Currently, for metallic mining waste sites and metallic mines, in addition to the DMZ, DNR's rules provide for a mandatory intervention boundary that is 150 feet from the outer waste boundary or the edge of the mine. Under the rules, if a preventive action limit or an enforcement standard is exceeded beyond the mandatory intervention boundary, DNR must require a response by the operator.

*Insect*  
*30-A* → The bill does not provide a mandatory intervention boundary for an iron mining site.

***Response when preventive action limit is attained or exceeded***

Under DNR's groundwater rules, when a preventive action limit is attained or exceeded at a point of standards application, DNR must determine the appropriate response, taking into consideration the response proposed by the operator. The

**SENATE BILL 488**

response must be designed and implemented to minimize the concentration of the substance in groundwater at the point of standards application to the extent feasible, to regain and maintain compliance with the preventive action limit, and to ensure that the enforcement standard is not attained or exceeded at the point of standards application. DNR's rules specify a range of responses for when a preventive action limit is attained or exceeded at a point of standards application, including requiring a revision of operational procedures and requiring remedial action to restore groundwater quality.

Under the bill, when a preventive action limit is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the range of responses proposed by the operator, including alternate responses to the responses specified in DNR's rules, and designate the appropriate response. DNR may determine that no response is necessary if it determines that the preventive action limit will not be attained or exceeded at any point outside the DMZ or, in some cases, if the natural concentration of the substance is above the preventive action limit.

**SENATE BILL 488*****Response when enforcement standard is attained or exceeded***

Under DNR's groundwater rules, when an enforcement standard is attained or exceeded at a point of standards application for a solid or hazardous waste facility, DNR must require responses as necessary to prevent any new releases of the substance from traveling beyond the DMZ and to restore the contaminated groundwater within a reasonable period. When an enforcement standard is attained or exceeded at a point of standards application for a facility that is not a solid or hazardous waste facility, DNR must generally prohibit the activity that uses or produces the substance and require remedial actions, unless it can be shown that an alternative response will achieve compliance with the enforcement standard at the point of standards application.

Under the bill, *for an iron mining operation* when an enforcement standard is attained or exceeded at a point of standards application and the quality of groundwater is statistically significantly different from the quality of the groundwater unaffected by the iron mining, DNR must evaluate the operator's proposed range of responses and designate an appropriate response. DNR may not prohibit an activity or require closure of a mining waste site unless DNR determines that no other remedial action would

**SENATE BILL 488**

prevent the violation of the enforcement standard at the point of standards application.

**DISPOSAL OF MINING WASTE*****Approval of facility***

Under current law, no person may construct or operate a solid waste disposal facility, such as a landfill, without the approval of DNR under the solid waste statutes and rules. The rules under which metallic mining waste facilities are regulated differ in some ways from the rules for other solid waste facilities.

Under this bill, the current solid waste laws do not apply to iron mining waste facilities. Instead, the standards for an iron mining waste facility are specified in the iron mining laws <sup>created in the bill</sup> and the process for approving an iron mining waste facility is part of the process for approving the iron mining permit. Under the bill, if a mining site will include a disposal facility for waste that is not mining waste, such as trash from an office or cafeteria, the current solid waste laws apply to that disposal facility.

***Location of facility***

Current law requires DNR to promulgate rules for the location of solid waste facilities. Unless DNR grants an exemption, as described below (in the section on exemptions), the rules prohibit the location of a mining waste site in any of the following areas: 1) within 1,000 feet of a state trunk highway, a state park or scenic

**SENATE BILL 488**

easement or overlook, a scenic or wild river, or a hiking or bike trail, unless the proposed waste site is visually inconspicuous or is screened; 2) within an area designated in the statutes as being unsuitable for surface mining, such as a wilderness area, a wildlife refuge, or a state or national park; 3) within 200 feet of the property boundary; 4) within a floodplain; 5) within 300 feet of a navigable river or stream; 6) within 1,000 feet of a lake; or <sup>7</sup> 6) within 1,200 feet of a private or public water supply well.

Under this bill, the limits on the location of a mining waste site do not apply to the portion of an iron mine that is backfilled with mining waste. Otherwise, the bill includes the <sup>Insert 34-A</sup> prohibitions on locating an iron mining waste site in a floodplain or within 1,200 feet of a private or public water supply well. The bill does not prohibit

locating an iron mining waste site in an area designated in the statutes as being unsuitable for surface mining. <sup>Insert 34-B</sup> Also, the bill allows an activity associated with an iron mining waste site to be located within 300 feet of a navigable river or stream or within 1,000 feet of a lake if DNR approves the activity under the provisions of the bill related to wetlands, water withdrawals, or navigable waters.



**SENATE BILL 488*****Waste site feasibility study and plan of operation***

The current solid waste statutes require an applicant for the approval of a solid waste disposal facility to submit a waste site feasibility study that demonstrates the suitability of the site for the disposal of solid waste and a plan of operation for the facility. DNR's rules concerning metallic mining waste facilities contain extensive requirements for the waste site feasibility study and plan of operation.

This bill requires an applicant for an iron mining permit to submit a waste site feasibility study and plan of operation as part of the application for the mining permit. The bill contains extensive requirements for the waste site feasibility study and plan of operation, many of which are similar to the requirements in DNR's current rules. Some of the technical requirements in the bill differ from the current rules.

The bill requires the applicant to perform analyses to assess the potential environmental impact of mining waste handling, storage, and disposal. The applicant must conduct investigations on the proposed waste site and in the laboratory to determine the characteristics of the site through measures such as soil borings and tests and determining groundwater levels and flow patterns and premining groundwater quality. The applicant must provide information about the

**SENATE BILL 488**

ecosystems and climatology in the vicinity of the proposed mining waste site and about the geology, zoning, and land use in the area.

Under the bill, the applicant must submit a proposed waste site design that includes proposed methods for controlling water that has been contaminated by dissolved materials (leachate) and for controlling access to the facility <sup>and</sup> engineering plans <sup>Insert 36-A</sup> and must submit a description of typical daily operations of the iron mining waste facility.

***Proof of financial responsibility***

<sup>before beginning mining</sup>  
Under current law and under this bill, the operator of a mine must furnish to DNR a bond or other security in an amount sufficient to cover the cost of reclamation of the mining site. <sup>Insert 36-B</sup>

Current law also requires the operator of a mining waste facility to provide proof of financial responsibility for the costs of the care, maintenance, and monitoring of the facility after it is closed (long-term care). The obligation <sup>requirement</sup> to provide proof of financial responsibility for long-term care continues until DNR terminates that requirement, which it may not do until at least 40 years after closure of the mine.

Under this bill, the operator of an iron mining waste facility is also required to provide proof of financial responsibility for the costs of the long-term care of the

**SENATE BILL 488**

*requirement*

facility. Under the bill, the operator of an iron mine may apply to DNR for termination of its obligation to provide proof of financial responsibility for long-term care of the mining waste facility after the facility has been closed for at least 20 years

by submitting an application that demonstrates that proof of financial responsibility for long-term care is no longer necessary for adequate protection of public health or the environment. If DNR decides that additional proof of financial responsibility for long-term care is still needed, the operator may not submit another application for five years.

*Insert 37-A*

*Insert 37-AM*

**WATER WITHDRAWALS**

Under current law, no person may withdraw water from a stream or lake without a permit (surface water withdrawal permit) issued by DNR. Current law also regulates withdrawals of groundwater. *The* That law prohibits a property owner

from withdrawing water from or constructing a well that, together with other wells on the same property, has a capacity of more than 100,000 gallons per day without an approval from DNR. *high capacity well approval* DNR must review, using an

environmental review process specified in DNR's rules, every application for an approval of a high capacity well that has a water loss of more than 95 percent of the amount of water withdrawn, that may have a significant environmental impact on

*Insert 37-B*

*Insert 37-C*

*Insert 37-D*

**SENATE BILL 488**

a spring, or that is located in a groundwater protection area. A groundwater protection area is an area within 1,200 feet of certain outstanding or exceptional resource waters or certain trout streams. Current law also provides that if DNR determines that a proposed high capacity well may impair the water supply of a public utility, then DNR may not approve the well unless it includes certain approval conditions that will ensure that the water supply of the public utility will not be impaired and if DNR determines that a proposed high capacity well that has a water loss of 95 percent of the amount of water withdrawn, may have a significant impact on a spring or is located in a groundwater protection area, then DNR generally may not approve the well unless it includes certain approval conditions that will ensure that the high capacity well will not cause significant adverse environmental impact.

Current law also provides that if a person to whom DNR has issued a surface water withdrawal permit or a high capacity well approval proposes to begin a new withdrawal or increase an existing withdrawal that will result in a water loss beyond a specified threshold amount, then that person must apply for a new or modified surface water withdrawal permit or high capacity well approval (water loss application). A water loss is a loss of water from the basin from which it is withdrawn as a result of interbasin diversion or consumptive use. The water loss application

**SENATE BILL 488**

must contain certain information including the place and source of the proposed withdrawal, the estimated average volumes and rates of water loss, the anticipated costs of any proposed construction, and a description of the conservation practices that the applicant intends to follow. <sup>Insert 39-A</sup> If DNR approves the water loss application then

DNR must modify the applicant's existing surface water withdrawal permit or high capacity well approval or issue a new permit or approval that specifies <sup>Insert 39-AM</sup> certain conditions with regard to the water withdrawal.

it must specify

Insert 39-B

This bill establishes different requirements for surface water and groundwater

<sup>Insert 39-C-1</sup> withdrawals relating to iron mining. In lieu of a surface water withdrawal permit, <sup>an approval for or dewatering a mine</sup> approval of a high capacity well approval, and a water loss application, a person who, as part of

an iron mining operation or bulk sampling (explained below), engages in a surface water withdrawal <sup>in a that exceeds 100,000 gallons a day</sup> or withdrawal of groundwater or <sup>in</sup> the dewatering of mines that exceeds 100,000 gallons a day, must obtain a water withdrawal permit from DNR

(mining water withdrawal permit). The bill specifies that a person who applies for

a mining water withdrawal permit need not be a riparian (waterfront) property

owner. If the withdrawal of water will involve one or more high capacity wells, DNR

must require the applicant to submit a siting analysis that includes alternate proposed locations for each well. In evaluating the siting analysis, DNR must

INS. 39-C-2

**SENATE BILL 488**

recognize that there is a need for mining waste sites and processing facilities to be contiguous to the location of the ferrous mineral deposits and must allow any high capacity well to be located so that need will be met. DNR must approve the location of each well as part of the process for issuing a mining water withdrawal permit.

The bill requires DNR to issue a mining water withdrawal permit if the withdrawal meets certain requirements (general requirements). Among those requirements is that the proposed withdrawal and use of the water is substantially *and will not be significantly detrimental to the public interest* consistent with the protection of public health, safety, and welfare; that it will not be significantly detrimental to the quantity or quality of the waters of this state; that it will not significantly impair the rights of riparian owners or the applicant obtains the consent of riparian owners; and that it will not result in significant injury to public rights in navigable waters. As part of its determination about whether a mining water withdrawal meets the general requirements, DNR must consider whether the public benefits resulting from the iron mining operation exceed any injury to public rights and interests in a body of water that is affected by the iron mining operation. The bill also requires DNR to recognize that the withdrawal of waters of the state in connection with mining is in the public's interest and fulfills a public purpose and further requires DNR to consider certain additional factors

**SENATE BILL 488**

including the public benefits that may be provided by increased employment, economic activity, and tax revenues from the iron mining operation and the direct and indirect social benefits and costs that will result from the iron mining operation.

The bill requires that the applicant submit a plan to DNR that contains proposed conservation measures, such as mitigation, compensation, or offsetting of significant impacts to navigable waters by restoring or enlarging up to 1.5 acres of a natural navigable water in exchange for each acre of a natural navigable water that is significantly impacted (offsetting impacts to navigable waters). After DNR reviews the application and plan, DNR must issue a permit if it finds that the general requirements will be met by implementing some or all of the conservation measures.

*Insert 41-A n*  
 The bill authorizes DNR to impose <sup>other</sup> ~~certain~~ reasonable conditions in the mining water withdrawal permit, <sup>as long as</sup> ~~but~~ the conditions <sup>do</sup> ~~may~~ not interfere with, or limit the amount of water needed for, the iron mining operation or bulk sampling. The bill also allows an iron mining operator to request a modification of any condition in the mining water withdrawal permit and establishes certain deadlines under which DNR must approve or deny the request for modification. The bill specifies that if a request for modification results in an <sup>increase in an</sup> existing withdrawal resulting in a water loss averaging more than a specified number of gallons per day in a 30-day period, then

**SENATE BILL 488**

DNR must determine whether, under its rules, it is required to prepare an environmental assessment or environmental impact statement. If so, then DNR must prepare the environmental assessment or environmental impact statement.

**NAVIGABLE WATERS**

Under current law, DNR regulates certain activities that occur in or near navigable waterways. In order for a person to conduct such an activity, the person may be required to obtain one or more permits from DNR. Among the permits that DNR issues are permits to place structures or deposits in navigable waters, permits to construct or maintain bridges and culverts, permits to enlarge or connect waterways, permits to change the courses of streams and rivers, and permits to remove material from beds of navigable waterways. <sup>(waterway permits)</sup> Current law also requires that DNR have in place general permits for some of these activities. Under current law, some activities are exempt from these requirements.

In order to receive an individual <sup>waterway</sup> permit for the navigable waters activities regulated by DNR, the activity must meet certain requirements. These requirements vary depending on the type of permit issued, and may include requirements that address possible <sup>environmental pollution,</sup> obstruction to navigation, reduction to flood flow capacity, and interference with the rights of other riparian owners. The bill modifies



**SENATE BILL 488**

*2* certain of these  
the requirements for the purpose of issuing individual permits associated with iron mining and provides that the same requirements apply to all of these permits. Under

*waterway bulk sampling or*

the bill, a navigable waters permit will be issued if it will not significantly impair the public's rights and interests in navigable waters, will not significantly reduce flood

*in lieu of these requirements in current law, an individual waterway*

flow capacity, will not significantly affect riparian rights, and will not significantly

*INS 43A*

degrade water quality. The bill requires that the applicant submit a plan to DNR that

contains proposed measures, such as improving public rights in navigable waters,

conducting <sup>wetland</sup> mitigation or compensation, or offsetting impacts to navigable waters.

After DNR reviews the application and plan, DNR must issue a permit or enter into

a contract if it finds that the requirements will be met by implementing some or all

of the measures.

~~Under current law, to qualify for some of the individual or general permits or to conduct activities under certain permit exemptions, the person must be an owner of riparian property. Under the bill for purposes of iron mining, the requirement of being a riparian owner does not apply.~~

*INS 43B*

**EXEMPTIONS**

Current law authorizes DNR to promulgate rules under which it may grant to an applicant for a metallic mining permit an exemption to a rule promulgated under

**SENATE BILL 488**

*, but not to a statute,*

the solid waste, hazardous waste, or metallic mining laws if the exemption does not result in a violation of any federal or state environmental statute or endanger public health, safety, or welfare or the environment.

This bill authorizes an applicant for an iron mining permit to request an exemption from any requirement in the iron mining laws applicable to a mining

~~statute~~ *created in the bill*

permit application, a mining permit, or any other approval issued by DNR that is needed to conduct the iron mining. DNR must grant or deny the exemption within

*The request must be submitted no more than 180 days after the application*

15 days. DNR must grant the exemption if it is consistent with the purposes of the iron mining laws; it does not violate other applicable environmental laws; and either:

*for the mining permit is considered to be complete.*

*created in the bill*

1) it will not result in significant adverse environmental impacts, or 2) it will result in significant adverse environmental impacts but the applicant will offset those impacts through compensation, mitigation, or conservation measures, except that

DNR may not grant the exemption or variance if granting it would violate federal law.

**RELATION TO OTHER LAWS**

Current law provides that if there is a standard under other state or federal statutes or rules that specifically regulates in whole an activity also regulated under the metallic mining law, the standard under the other statutes or rules is the

**SENATE BILL 488**

controlling standard. If the other federal or state statute or rule only specifically regulates the activity in part, it is controlling as to that part.

Under this bill, if there is a conflict between a provision of the iron mining laws and a provision in another state environmental law, other than the law related to the Great Lakes Water Resources Compact, the provision in the iron mining laws controls.

**EXPLORATION**

Current law requires a person who intends to engage in exploration to be licensed by DNR. Exploration is drilling to search for minerals or to establish the nature of a known mineral deposit. The law requires DNR to promulgate rules containing minimum standards for exploration and for the reclamation of exploration sites.

This bill also requires a person who intends to engage in exploration for iron ore to be licensed by DNR. The bill requires an applicant for an exploration license to file an exploration plan and a reclamation plan that include provisions related to the matters for which DNR is required to establish standards under current law. The bill contains requirements for filling drillholes once exploration has been completed that are similar to the requirements in DNR's current rules.

**SENATE BILL 488**


Under the current rules, DNR must deny the application for an exploration license if it finds that the exploration will not comply with the standards for exploration and reclamation or if the explorer is in violation of the rules.

Under the bill, DNR must deny the application for an exploration license if it concludes that, after the reclamation plan has been completed, the exploration will have a substantial and irreparable adverse impact on the environment or present a substantial risk of injury to public health and welfare. If DNR intends to deny a license, it must notify the applicant of that intent and the reasons for the intended denial and give the applicant ten days to correct the problems with its application.

As under current DNR rules, the bill generally requires DNR to issue or deny an application for an exploration license within ten business days of receipt of the application. Under the bill, however, if DNR does not comply with that deadline, the exploration license is automatically issued.

**BULK SAMPLING**

Under current law, a person may not prospect for metallic ore without a prospecting permit from DNR. Prospecting is examining an area to determine the quantity and quality of metallic minerals by means other than drilling, for example,

by excavating. <sup>Insert 46-A</sup> 

**SENATE BILL 488**

Under the bill, a person intending to examine an area to determine the quantity and quality of iron ore by means other than drilling is not required to obtain a prospecting license.

The bill ~~does authorize~~ <sup>allows</sup> a person who intends to engage in bulk sampling to file a bulk sampling plan with DNR. Bulk sampling is excavating in a potential mining site to assess the quality and quantity of iron ore deposits and to collect and analyze data to prepare the application for a mining permit or other approval. A person who files a bulk sampling plan must do all of the following:

1. Describe the bulk sampling site and the methods to be used for bulk sampling.

2. Submit a plan for controlling surface erosion that identifies how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

\* 3. Submit a plan for revegetation <sup>, but not for reclamation,</sup> that describes how adverse environmental impacts will be avoided or minimized to the extent practicable, how the site will be revegetated and stabilized, and how adverse impacts to plant and wildlife habitats will be avoided or minimized to the extent practicable.

**SENATE BILL 488**

4. Describe any known adverse environmental impacts that are likely to be caused by bulk sampling and how those impacts will be avoided or minimized to the extent practicable.

→ 5. A

Insert from p 50

The bill requires DNR, within 14 days of receipt of a bulk sampling plan, to identify in writing any kind of approval that DNR issues that is needed to conduct the proposed bulk sampling, such as a wastewater discharge permit or a wetland <sup>Insert 48-A</sup> water quality certification, and any waivers, exemptions, or exceptions to those approvals that may be available.

The bill requires a person who has submitted a bulk sampling plan to submit all applications for approvals and for waivers, exemptions, or exceptions to approvals for the bulk sampling at one time.

The bill specifies deadlines for DNR to act on approvals needed to conduct bulk sampling that would not otherwise apply to those types of approvals. When a person who files a bulk sampling plan applies for an approval or a waiver, exemption, or exception to an approval, the application is considered to be complete on the 30th day after DNR receives the application, unless before that day DNR informs the person that the application is not complete. Once an application is considered to be complete, DNR must act within 30 days on an application for a waiver, exemption,

**SENATE BILL 488**

or exception to an approval, for a determination that an activity is below the threshold that requires an approval, or for a determination of eligibility for coverage under a general permit or a registration permit. For other approvals, DNR must act within 60 days after the application is considered to be complete, except that if it is not possible for DNR <sup>to</sup> ~~to~~ <sup>must</sup> act on <sup>an</sup> approval for an individual permit, such as a wastewater discharge permit, for which federal law requires an opportunity for public comment or the ability to request a hearing before issuance of the permit within 60 days, it must act within 180 days.

Under current law, if a proposed state agency action, such as the issuance of a permit, authorization, or exception, will affect any site that is significant in the history, prehistory, architecture, archaeology, or culture of this state (historic property), the state agency must notify the director of the State Historical Society (SHS) or his or her designee (state historic preservation officer). If the state historic preservation officer determines that the proposed agency action will have an adverse effect on a historic property that is listed on the national or state register of historic places, the Wisconsin inventory of historic places, or SHS's list of locally designated historic places, that officer may require negotiations with the state agency to reduce that adverse effect.

**SENATE BILL 488**

The bill requires a bulk sampling plan to include 1) a description of any

adverse effects that the bulk sampling might have on any historic property or on any scenic or recreational areas; and 2) plans to avoid or minimize those adverse effects

to the extent practicable. The bill also provides that if DNR determines that an

applicant has taken measures to minimize the adverse effects of proposed bulk sampling on a historic property, DNR is not required to notify the state historic preservation officer, and the state historic preservation officer may not require negotiations to reduce that adverse effect. If that adverse effect cannot practicably be minimized, any negotiations between DNR and the state historic preservation officer must be completed within 60 days.

DNR is not required to prepare an environmental impact statement for proposed bulk sampling. Also, the bill requires DNR to act on any required construction site erosion control or storm water management approval, even if DNR has authorized a local program to issue approvals for construction site erosion control or stormwater management.

*This bill does not allow a contested case hearing on any approval needed to conduct bulk sampling.*

**FEES**

Under current law, a person who gives notice of intent to apply for a metallic mining permit must pay a fee established by DNR by rule designed to cover the costs

*move to p. 48*



**SENATE BILL 488**

incurred by DNR in connection with the proposed mining during the year following receipt of the proposed notice. <sup>e</sup> of intent The person must also pay fees for any approvals other than the mining permit that are needed to conduct the mining. The law requires DNR to annually compare the fees paid by an applicant with the costs incurred by DNR in connection with the proposed mining. If the costs incurred by DNR exceed the fees paid, the person must pay a fee equal to the difference.

Under this bill, an applicant is required to pay a mining permit application fee, but is not required to pay an application or filing fee for any other approval, except for an application fee for an approval for a water diversion for which review by the other parties to the Great Lakes Water Resources Compact is required. The bill requires DNR to assess a mining permit application fee equal to its costs for evaluating a mining project or \$2,000,000, whichever is less. An applicant must pay \$100,000 with the bulk sampling plan or, if no bulk sampling plan is filed, with the notice of intent to file a mining permit application and then must make \$250,000 payments when DNR shows that the previous payments have been fully allocated against actual costs. <sup>Insert SI-A</sup>

Current law imposes fees on the disposal of solid waste that are <sup>↑ commonly</sup> called tonnage fees or tipping fees. Under the bill, the operator of a mining waste site must pay the

of those fees,

**SENATE BILL 488**

groundwater fee, the environmental repair fee, and the waste facility siting board fee  
but is not subject to the recycling fee.

solid

**NET PROCEEDS OCCUPATION TAX**

Under current law, the state imposes a net proceeds occupation tax on the mining of metallic minerals in this state. The tax is based, generally, on a percentage of net income from the sale of ore or minerals after certain mining processes have been applied to the ore or minerals.

Under current law, the revenue collected from the net proceeds occupation tax is deposited into the investment and local impact fund. The fund is managed by the local impact fund board. The revenue is then, generally, distributed to the counties and municipalities in which metallic minerals are being mined.

Under the bill, 60 percent of the revenue collected from the net proceeds occupation tax on extracting ferrous metallic minerals in this state is deposited into the investment and local impact fund and 40 percent of the revenue is deposited into

the general fund. economic development

Insert  
SB-A  
& B  
Insert from pp. 2-4

**OTHER**

**Shoreland and floodplain zoning**

Current law prohibits locating a solid waste facility in an area that is covered by a shoreland or floodplain zoning ordinance unless the facility is authorized under

**SENATE BILL 488**

a permit issued by DNR. This bill requires DNR to specify in the permit the authorized location, height, <sup>and</sup> size of the facility that may be located in the area. This bill also specifies that DNR may not prohibit a waste site, structure, building, fill, or other development or construction activity (activity) to be located in an area that would otherwise be prohibited under a shoreland or floodplain zoning ordinance if the activity is authorized by DNR as part of a mining operation covered by an iron mining permit.

Current law provides that a structure, building, fill, or development (structure) that is placed or maintained in a floodplain in violation of a floodplain zoning ordinance is a public nuisance and provides that any person placing or maintaining the structure may be subject to a fine. The bill specifies that these provisions do not apply to a structure placed or maintained as part of a mining operation covered by an iron mining permit issued by DNR. <sup>INS. 53-A</sup>

***Local impact committees***

Current law authorizes a local or tribal government likely to be substantially affected by proposed metallic mining to establish a local impact committee for purposes that include facilitating communications with the mining company, reviewing and commenting on reclamation plans, and negotiating an agreement

**SENATE BILL 488**

between the local or tribal government and the mining company. The law requires the mining company to appoint a person to be the liaison with the local impact committee and requires the mining company to make reasonable efforts to design and carry out mining operations in harmony with community development objectives. Under some circumstances, a local impact committee may receive funding from the investment and local impact fund board.

This bill provides for local impact committees for proposed iron mines in a manner similar to the manner in which those committees are established under current law.

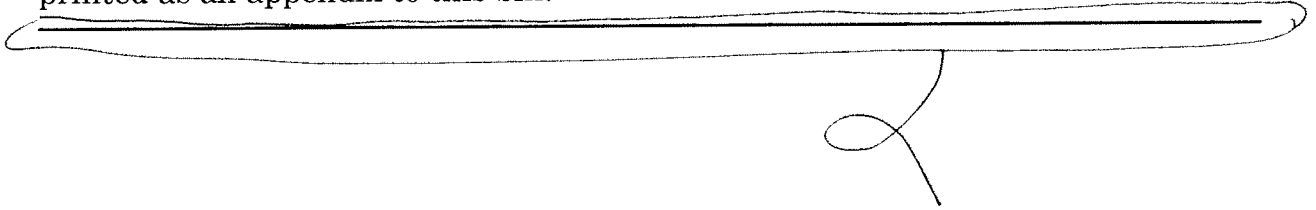
***Rights and conditions relating to mining contracts and leases***

Current law establishes certain rights and imposes certain conditions with respect to contracts or leases that authorize a person to dig for ores and minerals, including the conditions under which a miner may retain ore and minerals discovered on the land, a miner's obligation to keep and to provide certain records concerning mine operations, and the consequences to a miner who conceals or disposes of any ores or minerals for the purpose of defrauding a lessor. Current law also establishes a maximum term for exploration mining leases with regard to minerals that contain metals.

**SENATE BILL 488**

This bill limits these current law provisions to mining activities relating to nonferrous metallic mining.

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



1           **Insert 172-2**

2           **295.77 Review. (1) LIMITS ON CONTESTED CASE HEARINGS.** No person is entitled  
3 to a contested case hearing on a decision by the department on an exploration license  
4 or an approval that is required before bulk sampling may be implemented. No person  
5 is entitled to a contested case hearing on a decision by the department on a mining  
6 permit application or any other approval, except as provided in subs. (2) and (3).

7           **(2) CONTESTED CASE HEARINGS; AFTER INITIAL MINING PERMIT DECISION OR DECISION**  
8 **ON AMENDED PLAN. (a) *Entitlement.*** 1. A person is entitled to a contested case hearing  
9 on a decision by the department related to a mining permit for a proposed mining  
10 operation, including a decision related to the environmental impact statement for  
11 the proposed mining operation, or on any decision that is related to an approval  
12 associated with the proposed mining operation and that is issued no later than the  
13 day on which the department issues its decision on the application for the mining  
14 permit, only if the person is entitled to a contested case hearing on the decision under  
15 s. 227.42 and the person requests the hearing within 30 days after the department  
16 issues the decision to approve or deny the application for the mining permit.

17           2. A person is entitled to a contested case hearing on a decision by the  
18 department related to an amended mining plan, reclamation plan, or mining waste  
19 site feasibility study and plan of operation required under s. 295.63 (3) or to any  
20 amendment to an approval associated with the amended mining plan, reclamation  
21 plan, or mining waste site feasibility study and plan of operation only if the person  
22 is entitled to a contested case hearing on the decision under s. 227.42 and the person  
23 requests the hearing within 30 days after the department issues the decision to

1 approve or deny the amended mining plan, reclamation plan, or mining waste site  
2 feasibility study and plan of operation.

3 3. All issues raised by all persons requesting a contested case hearing in  
4 accordance with subd. 1. or 2. in connection with the same mining operation shall be  
5 considered in one contested case hearing.

6 (b) *Deadline for decision.* 1. The hearing examiner presiding over a contested  
7 case hearing under this subsection shall issue a final decision on the case no more  
8 than 150 days after the department issues the decision to grant or deny the mining  
9 permit or to approve or deny the amended mining plan, reclamation plan, or mining  
10 waste site feasibility study and plan of operation.

11 2. If the hearing examiner does not issue a final decision by the deadline under  
12 subd. 1., the decision of the department being reviewed by the hearing examiner is  
13 affirmed.

14 (c) *Restriction on orders.* The hearing examiner presiding over a contested case  
15 hearing under this subsection may not issue an order prohibiting activity authorized  
16 under a decision of the department that is being reviewed in the contested case  
17 hearing.

18 (d) *Judicial review.* A person seeking judicial review of the decision in a  
19 contested case hearing under this subsection shall comply with the requirements for  
20 service and filing in s. 227.53 (1) (a) and shall commence the action, in the circuit  
21 court for the county in which the majority of the proposed mining site is located, no  
22 more than 30 days after service of the decision or, if the hearing examiner does not  
23 issue a final decision by the deadline under par. (b) 1., no more than 30 days after that  
24 deadline.

1           **(3) CONTESTED CASE HEARINGS ON OTHER DECISIONS** A person is entitled to a  
2           contested case hearing on a decision by the department related to a mining operation  
3           that is issued after the department issues the decision to approve the application for  
4           the mining permit for the mining operation, other than a decision described in sub.  
5           (2) (a) 2., if the person is entitled to a contested case hearing under s. 227.42 and  
6           complies with the requirements for service and filing in s. 227.53 (1) (a).



**Barman, Mike**

---

**From:** Esser, Jennifer  
**Sent:** Wednesday, January 16, 2013 7:59 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -0762/1 Topic: Iron mining regulation

Please Jacket LRB -0762/1 for the SENATE.

## Tradewell, Becky

---

**From:** Esser, Jennifer  
**Sent:** Wednesday, January 16, 2013 8:23 AM  
**To:** Tradewell, Becky; Gibson-Glass, Mary; Kite, Robin  
**Cc:** Konopacki, Larry; Wagner, Michael W - DOR; Nelson, Elise - PSC; Bruhn, Michael L - DNR; Schoenfeldt, Eileen - GOV  
**Subject:** FW: Mining Bill

Hi,

Was hoping that you could please move both LRB 0762/1 and LRB 1129/1 through the fiscal note process so our agencies have a chance to get working on these.

Thanks again for all your help. Have a great day.

Jen

---

**From:** Wagner, Michael W - DOR [<mailto:MichaelW.Wagner@revenue.wi.gov>]  
**Sent:** Wednesday, January 16, 2013 8:16 AM  
**To:** Esser, Jennifer  
**Subject:** Mining Bill

Jen,

I realize that the mining bill is probably just going out for co-sponsorship post-press conference this morning.

However, so we can get working on the fiscal estimate in earnest, could you please have LRB submit the draft through the fiscal note system? That way we can work on our estimate prior to the bill's formal introduction.

Thanks,

Mike Wagner  
Legislative Advisor, Dept. of Revenue  
(608) 266-7817

---

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.