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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2015 Senate Bill 459**

**Senate Substitute Amendment 3**

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### SENATE SUBSTITUTE AMENDMENT 3 TO 2015 SENATE BILL 459

Senate Substitute Amendment 3 to 2015 Senate Bill 459 does all of the following:

- Makes changes to areas designated as areas of special natural resource interest (ASNRI) by removing both of the following:
  - Waters or portions of waters that contain endangered or threatened species or aquatic elements as defined and identified in the Wisconsin Natural Heritage Inventory.
  - Waters in areas identified in a special area management plan or special inventory study.

This substitute amendment also adds to the list of ASNRI waters bodies of water that contain a “sensitive area,” as defined in the substitute armament and requires each waterway listed as an ASNRI to be shown on a map published on the Department of Natural Resources (DNR) website.

- Modifies the legal definition of a “boathouse” so that such structures need not be continuously used for the storage of watercraft, specifies that foundation repair is included under allowable maintenance and repair of these structures, and makes other changes related to boathouses.
- Provides that the special statutory procedures for certain approvals related to large utility projects are the exclusive approval methods for those approvals.
- Generally specifies that ch. 30, Stats. (navigable waters, harbors, and navigation), only applies to artificial water bodies that are not hydrologically connected to a natural navigable waterway to the extent specifically provided in the chapter.

- Specifies that a challenge to certain types of exemption determinations by the DNR must be brought as a declaratory judgment action, not as a contested case hearing or judicial review of a decision from such a hearing.
- Requires the DNR to issue a general permit authorizing seawall replacement in certain circumstances in ASNRI.
- Removes statutory restrictions and limits DNR restrictions on permanent boat shelters.
- Allows dredging of artificial water bodies that do not connect with an existing navigable waterway without a permit.
- Allows construction of a stormwater pond in an artificial water body by a municipality in specified circumstances.
- Requires certain factors to be taken into account by the DNR when issuing a water level determination for a dam, including property and economic values.
- Generally limits the DNR's review of practicable alternatives for proposed projects that will impact wetlands, for projects involving less than two acres of wetland on lots created as part of a subdivision, land division, or other development initiated prior to July 1, 2012, to those practicable alternatives that are located on the property owned by the applicant if the project involves one of the following:
  - The construction or expansion of a single-family home and attendant features.
  - The construction or expansion of a barn or farm buildings.
  - The expansion of a small business project.
- Generally specifies that all practicable alternatives analyses for wetlands must be limited to those alternatives that are consistent with the overall purpose and scope of the project and requires the DNR to impose a level of scrutiny, and require an amount of information, that is commensurate with the severity of the environmental impact, as determined by the DNR.
- Creates an exception from wetlands permitting laws for maintenance, operation, or abandonment of stormwater ponds that were not originally constructed in a wetland.
- Provides an effective date of approximately four months after enactment.

## **BILL HISTORY**

Senate Substitute Amendment 3 was offered by Senator Cowles on February 12, 2016. On February 15, 2016, the Senate Committee on Natural Resources and Energy voted to recommend adoption of Senate Substitute Amendment 3 on a vote of Ayes, 4; Noes, 1, and to recommend passage of the bill, as amended, on a vote of Ayes, 3; Noes, 2.

LAK:jal