AN ACT to repeal 59.692 (1d) and 59.692 (2m); to amend 59.692 (1k) (a) (intro.),
59.692 (1k) (a) 2. (intro.), 59.692 (1k) (a) 2m., 59.692 (1k) (a) 4., 59.692 (1k) (am)
(intro.), 59.692 (4) (b), 59.692 (5m), 61.353 (3) (intro.) and 62.233 (3) (intro.); and

to create 59.692 (1k) (ag) of the statutes; relating to: the restrictiveness of
shoreland zoning ordinances.

Analysis by the Legislative Reference Bureau

This bill makes various changes to limits on the restrictiveness of shoreland zoning ordinances.

Current law requires a county to enact shoreland zoning ordinances for all shorelands in its unincorporated area and requires those ordinances to meet shoreland zoning standards established by the Department of Natural Resources by rule. Current law generally defines a shoreland to be an area within a specified distance from the edge of a navigable water.

This bill eliminates a provision under current law that prohibits a county shoreland zoning ordinance from regulating a matter more restrictively than the matter is regulated by a shoreland zoning standard promulgated by DNR. The bill also eliminates a provision under current law that prohibits a county shoreland zoning ordinance from regulating the construction of a structure on a substandard lot in a manner that is more restrictive than the DNR shoreland zoning standards for substandard lots.

Current law provides that a county board of adjustment has authority to decide upon variances and appeals from county decisions regarding shorelands within the
county. The bill eliminates a current law exception that prohibits DNR from appealing a county decision to grant or deny a variance relating to shoreland zoning. Under current law, DNR may only, upon the request of a county board of adjustment, issue an opinion on whether a variance should be granted or denied.

Current law prohibits DNR and counties from impairing the interest of a landowner in shoreland property by establishing a shoreland zoning standard or enacting or enforcing a shoreland zoning ordinance that does any of a number of specified things. The bill removes the language prohibiting the impairment of the interest of a landowner in shoreland property, but leaves the prohibition on establishing a shoreland zoning standard or enacting or enforcing a shoreland zoning ordinance.

Among the things that under current law DNR and counties may not do through a shoreland zoning standard or ordinance is require any approval or impose any fee or mitigation requirement for, or otherwise prohibit or regulate, any of the following:

1. The maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of certain nonconforming structures or structures legally within the shoreland setback area if the activity does not expand the footprint of the structure.
2. The vertical expansion of certain nonconforming structures or structures legally within the shoreland setback area unless the expansion would extend more than 35 feet above grade level.

The bill removes the prohibition on DNR and counties imposing a fee with respect to these activities.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 59.692 (1d) of the statutes is repealed.

SECTION 2. 59.692 (1k) (a) (intro.) of the statutes is amended to read:

59.692 (1k) (a) (intro.) The department may not impair the interest of a landowner in shoreland property by establishing a shoreland zoning standard, and a county may not impair the interest of a landowner in shoreland property by enacting or enforcing a shoreland zoning ordinance, that does any of the following:

SECTION 3. 59.692 (1k) (a) 2. (intro.) of the statutes is amended to read:
59.692 (1k) (a) 2. (intro.) Except as provided in par. pars. (ag) and (b), requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of any of the following if the activity does not expand the footprint of the structure:

**SECTION 4.** 59.692 (1k) (a) 2m. of the statutes is amended to read:

59.692 (1k) (a) 2m. Except as provided in pars. (ag), (b), and (bm), requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a structure listed under sub. (1n) (d) that was legally constructed wholly or partially within the shoreland setback area if the activity does not expand the footprint of the existing structure.

**SECTION 5.** 59.692 (1k) (a) 4. of the statutes is amended to read:

59.692 (1k) (a) 4. Requires Except as provided in par. (ag), requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the vertical expansion of a nonconforming structure or a structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015, unless the vertical expansion would extend more than 35 feet above grade level.

**SECTION 6.** 59.692 (1k) (ag) of the statutes is created to read:

59.692 (1k) (ag) Paragraph (a) 2., 2m., and 4. do not prohibit the department or a county from imposing a fee with respect to the activities described in those subdivisions.

**SECTION 7.** 59.692 (1k) (am) (intro.) of the statutes is amended to read:
59.692 (1k) (am) (intro.) The department may not impair the interest of a landowner in shoreland property by establishing a shoreland zoning standard, and a county may not impair the interest of a landowner in shoreland property by enacting or enforcing a shoreland zoning ordinance, that establishes standards for impervious surfaces unless all of the following apply:

SECTION 8. 59.692 (2m) of the statutes is repealed.

SECTION 9. 59.692 (4) (b) of the statutes is amended to read:

59.692 (4) (b) Variances and appeals regarding shorelands within a county are for the board of adjustment for that county under s. 59.694, and the procedures of that section apply. Notwithstanding s. 59.694 (4), the department may not appeal a decision of the county to grant or deny a variance under this section but may, upon the request of a county board of adjustment, issue an opinion on whether a variance should be granted or denied.

SECTION 10. 59.692 (5m) of the statutes is amended to read:

59.692 (5m) If a county has in effect on or after July 14, 2015, a provision in an ordinance that is inconsistent with sub. (1d), (1f), or (1k), or (2m), the provision does not apply and may not be enforced.

SECTION 11. 61.353 (3) (intro.) of the statutes is amended to read:

61.353 (3) (intro.) A village ordinance enacted under this section shall accord and be consistent with the requirements and limitations under s. 59.692 (1d), (1f), and (1k) and shall include at least all of the following provisions:

SECTION 12. 62.233 (3) (intro.) of the statutes is amended to read:
62.233 (3) (intro.) A city ordinance enacted under this section shall accord and be consistent with the requirements and limitations under s. 59.692 (1d), (1f), and (1k) and shall include at least all of the following provisions:

(END)