



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 935

**Assembly Substitute
Amendment 1**

Memo published: February 22, 2018

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2017 ASSEMBLY BILL 935

Current law generally requires a person to obtain a permit before removing material from the bed of a navigable water. Current law also generally requires a person to obtain a permit before removing aquatic plants from the bed of a navigable water. [ss. 23.24 (3) and 30.20, Stats.]

2017 Assembly Bill 935 provides an exemption from those permit requirements for the removal of material from an inland water,¹ if all of the following conditions are satisfied:

- The removal occurs within the riparian owner's riparian zone.²
- The riparian owner's riparian zone abuts a navigable water that is affected by a man-made impoundment.³
- The material removed is unconsolidated sediment that was deposited after the navigable water was affected the impoundment.

¹ The bill defines "inland waters" to mean waters other than Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyer's Harbor, and the Fox River from its mouth to the dam at De Pere.

² The bill defines "riparian zone" to mean the area that extends from riparian land waterward to the line of navigation, as determined by a method that establishes riparian zone lines between adjacent riparian owners in a manner that equitably apportions access to the depth of the water required to operate a boat on the water.

³ Owners of land directly adjacent to an impoundment may not be "riparian" owners under current Wisconsin case law. [See, *Movrich v. Lobermeier*, 2018 WI 9.]

- The removal does not occur in a waterbody that the Department of Natural Resources (DNR) has designated as an outstanding or exceptional resource water.⁴
- The total amount of material removed does not exceed 50 cubic yards per year.
- The material is removed to allow the riparian owner to navigate from the shoreline of his or her riparian property to the line of navigation.⁵
- When removing and disposing of the material, the riparian owner uses best management practices established by the DNR and published on the DNR's website.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Rather than creating an exemption from the permitting requirement for removal of material from the bed of a navigable water, Assembly Substitute Amendment 1 directs the DNR to create a statewide general permit authorizing riparian owners to remove material from the bed of a navigable water in certain circumstances. Under the substitute amendment, the general permit applies to the removal of material from an **inland water that is an impoundment or associated feature**, rather than any affected inland water under the bill. In addition, all of the conditions applicable to the exemptions in the bill, enumerated above, must be satisfied before the general permit applies under the substitute amendment.

The substitute amendment requires the DNR to issue the general permit within six months after the substitute amendment takes effect, and to create it in consultation with local governmental units established for the purpose of managing lakes and other waterways.

Finally, the substitute amendment designates the application fee amounts for the general permit. Specifically, the substitute amendment specifies that the DNR must establish fees of \$350 for an application submitted by an association or group and \$60 for an application submitted by an individual.

BILL HISTORY

Representative Wichgers offered Assembly Substitute Amendment 1 on February 20, 2018. On the same day, the Assembly Committee on Environment and Forestry voted to recommend adoption of the substitute amendment on a vote of Ayes, 8; Noes, 4; and passage of the bill, as amended, on a vote of Ayes, 7; Noes, 5.

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⁴ Designated outstanding and exceptional resource waters are enumerated in ss. NR 102.10 and 102.11, Wis. Adm. Code.

⁵ The bill defines "line of navigation" to mean the depth of a navigable water required to operate a boat on the navigable water.