



1995 ASSEMBLY BILL 77

January 30, 1995 - Introduced by Representatives BLACK, LEHMAN, ROBSON, BAUMGART, CULLEN, BOCK, BALDWIN, NOTESTEIN, R. YOUNG, MORRIS-TATUM, WILDER and BOYLE, cosponsored by Senator BURKE. Referred to Committee on Natural Resources.

1 **AN ACT to create** 59.971 (1) (d), 59.971 (8), 61.351 (1) (am), 61.351 (7), 62.231 (1)
2 (am) and 62.231 (7) of the statutes; **relating to:** zoning of shorelands by
3 counties, zoning of wetlands in shorelands by cities and villages and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a county must enact specific zoning ordinances to regulate activities in any shorelands located within its boundaries. Current law defines "shorelands" as lands within certain distances of navigable waters. Under rules promulgated by the department of natural resources (DNR) that establish standards for these ordinances, more specific and restrictive standards apply to wetlands that are located in shorelands. Also under current law, villages and cities must enact specific zoning ordinances to regulate activities in wetlands that have an area of 5 acres or more and that are located in shorelands.

This bill prohibits a county, village or city from rezoning any area, from enacting any amendment to one of these specific zoning ordinances affecting wetlands or from granting a special zoning permission in order to validate an activity that occurs in any wetland that is subject to one of these specific zoning ordinances and that is in violation of any of these zoning ordinances at the time that the activity occurs. Under the bill, "special zoning permission" includes a zoning variance, a special or conditional permit, a special exception or a conditional use. In addition, if the activity that violates the zoning ordinance adversely affects wetlands, the person committing the violation must restore the wetlands in the manner required under a wetlands restoration plan as approved by DNR. The bill creates a specific forfeiture for failure to comply with these plans.

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

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

1 **SECTION 1.** 59.971 (1) (d) of the statutes is created to read:

2 59.971 (1) (d) "Wetland" has the meaning given in s. 23.32 (1).

3 **SECTION 2.** 59.971 (8) of the statutes is created to read:

4 59.971 (8) (a) A county may not rezone shorelands, enact an amendment to a
5 county ordinance enacted under this section or grant special zoning permission, as
6 defined in s. 59.97 (15) (g), under such an ordinance in order to validate any activity
7 that is in a wetland located on shorelands and that is in violation of the county zoning
8 ordinance at the time that the activity occurs. If the activity has a significant adverse
9 impact on a functional value of the wetland, the county shall require the person
10 committing the violation to restore the wetland in the manner required under a
11 wetlands restoration plan as approved by the department.

12 (b) Any person who fails to comply with a wetlands restoration plan approved
13 by the department under par. (a) shall be subject to a forfeiture of not more than \$50
14 for each offense. Each day during which such violation exists is a separate offense.

15 **SECTION 3.** 61.351 (1) (am) of the statutes is created to read:

16 61.351 (1) (am) "Wetland zoning ordinance" means an ordinance enacted under
17 this section by a village or an ordinance enacted under s. 59.971 (7) that applies to
18 a wetland in an area annexed by the village.

19 **SECTION 4.** 61.351 (7) of the statutes is created to read:

20 61.351 (7) **REZONING OF WETLANDS.** (a) A village may not rezone wetlands, enact
21 an amendment to a wetland zoning ordinance or grant special zoning permission, as

1 defined in s. 62.23 (7) (i) 7., under a wetland zoning ordinance in order to validate
2 any activity that is subject to a wetland zoning ordinance that is in violation of the
3 wetland zoning ordinance at the time that the activity occurs. If the activity has a
4 significant adverse impact on a functional value of the wetlands, the village shall
5 require the person committing the violation to restore the wetlands in the manner
6 required by a wetlands restoration plan as approved by the department of natural
7 resources.

8 (b) Any person who fails to comply with a wetlands restoration plan approved
9 by the department of natural resources under par. (a) shall be subject to a forfeiture
10 of not more than \$50 for each offense. Each day during which such violation exists
11 is a separate offense.

12 **SECTION 5.** 62.231 (1) (am) of the statutes is created to read:

13 62.231 (1) (am) "Wetland zoning ordinance" means an ordinance enacted under
14 this section by a city or an ordinance enacted under s. 59.971 (7) that applies to a
15 wetland in an area annexed by the city.

16 **SECTION 6.** 62.231 (7) of the statutes is created to read:

17 62.231 (7) REZONING OF WETLANDS. (a) A city may not rezone a wetland, enact
18 an amendment to a wetland zoning ordinance or grant special zoning permission, as
19 defined in s. 62.23 (7) (i) 7., under a wetland zoning ordinance in order to validate
20 any activity that is subject to a wetland zoning ordinance and that is in violation of
21 the wetland zoning ordinance at the time that the activity occurs. If the activity has
22 a significant adverse impact on a functional value of the wetlands, the city shall
23 require the person committing the violation to restore the wetlands in the manner
24 required by a wetlands restoration plan as approved by the department of natural
25 resources.

