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State of Misconsin 2017 - 2018 LEGISLATURE

LRB-3174/1 ZDW:klm

2017 SENATE BILL 406

September 14, 2017 - Introduced by Senators LeMahieu, Craig and Tiffany, cosponsored by Representatives Steffen, E. Brooks, Felzkowski, Gannon, Horlacher, Kremer, Kulp and Kuglitsch. Referred to Committee on Elections and Utilities.

- AN ACT to renumber and amend 281.36 (3n) (d); and to create 281.36 (3n) (d)
 - 2. of the statutes; **relating to:** mitigation requirements applicable to wetland individual permits.

Analysis by the Legislative Reference Bureau

Under this bill, if the Department of Natural Resources issues a wetland individual permit to a public utility, DNR may not require mitigation unless the discharge authorized by the wetland individual permit will result in a permanent fill of more than 10,000 square feet of wetland.

Under current law, no person may discharge dredged material or fill material into a wetland unless the discharge is authorized by a wetland general permit or individual permit, or the discharge is exempt from permitting requirements. Current law requires DNR to issue wetland general permits for discharges to wetlands that are necessary for temporary access or waste disposal if not more than two acres of wetlands are affected, discharges for certain development if not more than 10,000 square feet of wetlands are affected, and for utility and highway construction and maintenance.

For a discharge into a wetland that is not authorized under a wetland general permit, current law requires a person to apply for and obtain a wetland individual permit. Before DNR may issue a wetland individual permit, it must require the restoration, enhancement, creation, or preservation of other wetlands to compensate for adverse impacts to a wetland resulting from the discharge, also known as mitigation.

SENATE BILL 406

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For further information see the **state** 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:

SECTION 1. 281.36 (3n) (d) of the statutes is renumbered 281.36 (3n) (d) 1. and amended to read:

281.36 (3n) (d) 1. The Except as provided in subd. 2., the department shall require mitigation under the program established under sub. (3r) for wetland individual permits it issues under this subsection. This subsection does not entitle an applicant to a wetland individual permit or any other approval in exchange for conducting mitigation.

Section 2. 281.36 (3n) (d) 2. of the statutes is created to read:

281.36 (3n) (d) 2. If the department issues a wetland individual permit under sub. (3m) to a public utility, as defined in s. 196.01 (5), the department may not require mitigation under the program established under sub. (3r) unless the discharge authorized by the wetland individual permit will result in a permanent fill of more than 10,000 square feet of wetland.

14 (END)