
Wisconsin Legislative Council

ACT MEMO



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2023 Wisconsin Act 111
[2023 Senate Bill 255]

Public Access to Wetlands

BACKGROUND

Wisconsin law requires a person to obtain a permit before conducting an activity that will result in a discharge of dredged material or fill material into a wetland, unless the activity is exempt from that requirement. The Department of Natural Resources (DNR) generally must require mitigation to offset wetland impacts authorized in an individual wetland permit. In addition, certain wetland impacts that are exempt from the state individual wetland permit requirement are nonetheless subject to mitigation requirements. [s. 281.36 (3b), (3n) (d) 1., and (3r) (a), Stats.]

Mitigation may be accomplished by one of several methods. One such method is participation in an “in-lieu fee” subprogram, which DNR administers as the [Wisconsin Wetland Conservation Trust](#). Through the Wisconsin Wetland Conservation Trust, a person subject to wetland mitigation requirements may make payments to the DNR or another entity for the purposes of restoring, enhancing, creating, or preserving wetlands or other water resource features.

Prior law required any wetlands that benefit from the in-lieu fee subprogram to be open to the public for hunting, fishing, trapping, cross-country skiing, hiking, or any combination of those activities. However, prior law authorized DNR to establish reasonable restrictions on the use of the land by the public in order to protect public safety or to protect a unique plant or animal community.

2023 WISCONSIN ACT 111

2023 Wisconsin Act 111 modifies the requirements for public access to wetlands that benefit from the in-lieu fee subprogram, described above. Specifically, the act repeals the general requirement that such wetlands must be open to the public. Instead, the act provides that wetlands that benefit from the in-lieu fee subprogram **may** be open to the public.¹ However, the act requires DNR, in determining approved mitigation projects that benefit from the in-lieu fee subprogram, to ensure that there is no net loss of public access to wetlands, to the extent practicable.

Effective date: March 16, 2024

For a full history of the bill, visit the Legislature’s [bill history page](#).

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¹ As under prior law, such public access is subject to any reasonable restrictions established by DNR to protect public safety or a unique plant or animal community.