



1995 ASSEMBLY BILL 413

May 30, 1995 - Introduced by Representatives SERATTI, OURADA, DUFF, KREIBICH, URBAN, FREESE, HANDRICK, JOHNSRUD, AINSWORTH, VRAKAS, ZUKOWSKI, GOETSCH, NASS, HOVEN, GREEN, OTT, KELSO, ALBERS, GROTHMAN, OWENS and GARD, cosponsored by Senators FARROW and BRESKE. Referred to Committee on Environment and Utilities.

1 **AN ACT to create** 144.35 of the statutes; **relating to:** notices concerning
2 proposals by American Indian tribal governing bodies to redesignate areas for
3 air quality purposes.

Analysis by the Legislative Reference Bureau

The federal Clean Air Act includes provisions for the prevention of significant deterioration (PSD) of air quality in areas that meet federal air quality standards (attainment areas). Under the so-called PSD provisions, attainment areas are designated as either class I, class II or class III. New air pollution sources in class I areas are subject to more restrictive emissions limitations than those in class II areas and sources in class III areas are subject to less restrictive emissions limitations. Most attainment areas are originally designated class II areas under the Clean Air Act. States may generally redesignate attainment areas within their boundaries but only American Indian tribal governing bodies may redesignate areas within the boundaries of reservations. A state or tribe is required to provide notice and public hearings before redesignating a nonattainment area. If a governor disagrees with a redesignation by a tribe, the governor may ask the administrator of the federal environmental protection agency (EPA) to enter into negotiations with the parties involved to resolve the dispute. If the parties involved do not resolve the dispute, the EPA administrator resolves the dispute.

This bill requires the department of natural resources (DNR) to provide notice to the legislature and to the public when an American Indian tribal governing body proposes to redesignate an area for the purposes of the PSD provisions of the federal Clean Air Act. The bill requires DNR to report to the legislature on the result of consultations with a tribe concerning a proposed redesignation. The bill also requires the governor to report to the legislature on the governor's decision about whether to disagree with a redesignation by a tribe and to ask the EPA administrator to resolve the dispute and the reasons for that decision.

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:

1 **SECTION 1.** 144.35 of the statutes is created to read:

2 **144.35 Notice concerning proposed area redesignations.** (1) Within 5
3 days of receiving notification that an American Indian tribal governing body
4 proposes to redesignate an area under 42 USC 7474 for the purpose of the federal
5 Clean Air Act provisions concerning the prevention of significant deterioration of air
6 quality, the department shall do all of the following:

7 (a) Report that notification to the appropriate standing committees of the
8 legislature, as determined by the speaker of the assembly and the president of the
9 senate, under s. 13.172 (3).

10 (b) Publish a class 1 notice, under ch. 985, of the proposed redesignation in a
11 newspaper of general circulation in the area that would be affected by the
12 redesignation and in the official state newspaper.

13 **(2)** Within 5 days of receiving notification of the time and place of a public
14 hearing under 42 USC 7475 (b) (1) (A) concerning a proposal by an American Indian
15 tribal governing body to redesignate an area, the department shall provide notice of
16 the time and place of the public hearing in the manner provided in sub. (1) (a) and
17 (b). If the department receives notification of a hearing at the same time that it
18 receives notification of the proposed redesignation, it shall combine the notices under
19 this subsection with the notices under sub. (1).

20 **(3)** The department shall submit a report, to the appropriate standing
21 committees of the legislature, as determined by the speaker of the assembly and the

1 president of the senate, under s. 13.172 (3), on the results of any consultations, under
2 42 CFR 52.21 (g) (4) (ii), with an American Indian tribal governing body that
3 proposes to redesignate an area under 42 USC 7474.

4 (4) When the governor decides whether to disagree with the redesignation of
5 an area by an American Indian tribal governing body under 42 USC 7474, and to
6 request the administrator of the federal environmental protection agency to act to
7 resolve the dispute, the governor shall submit a report stating the decision and the
8 reasons for the decision to the appropriate standing committees of the legislature,
9 as determined by the speaker of the assembly and the president of the senate, under
10 s. 13.172 (3).

11 (END)