



## 1997 ASSEMBLY BILL 492

August 28, 1997 - Introduced by Representatives DUFF, HASENOHRL, OLSEN, GROTHMAN, MUSSER, ALBERS and JOHNSRUD, cosponsored by Senators FARROW, WELCH and WEEDEN, by request of Department of Natural Resources. Referred to Committee on Environment.

1     **AN ACT to create** 23.321 of the statutes; **relating to:** authorizing the department  
2             of natural resources to allow wetland compensatory mitigation projects and  
3             granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under federal law, projects involving the discharge of dredge or fill material into any body of water, including wetlands, must comply with certain guidelines contained in regulations promulgated by the federal environmental protection agency in order for a permit to be issued by the U.S. army corps of engineers. Under a memorandum of understanding entered into by the environmental protection agency and the corps interpreting these guidelines, a project may comply with the guidelines, although it involves an adverse impact on an existing wetland, if compensatory action is taken, such as restoring another wetland that has already been degraded. However, before the corps may issue a permit, the department of natural resources (DNR) must determine that the project complies with state water quality standards, including those for wetlands.

Under current law, DNR has no specific authority to allow compensatory mitigation of wetlands under its statutory authority to promulgate state water quality standards. DNR does allow compensatory mitigation for certain metallic mining activities and for highway construction and repair activities that are conducted by the department of transportation.

This bill specifically authorizes DNR to allow compensatory mitigation of wetlands in issuing permits for, or otherwise approving, activities that it regulates. If DNR decides to allow mitigation, it must promulgate rules governing mitigation. The requirements in the rules must be at least as strict as the applicable federal requirements relating to wetland mitigation.

