



**ASSEMBLY AMENDMENT 3,
TO ASSEMBLY AMENDMENT 26,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 150**

June 22, 1995 – Offered by Representatives PROSSER and BRANCEL.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 33, line 24: after that line insert:

3 “94m. Page 313, line 5: increase the dollar amount for fiscal year 1995–96 by
4 \$503,900 and increase the dollar amount for fiscal year 1996–97 by \$1,092,300 for
5 the purpose of providing representation in misdemeanor cases in which a prosecutor
6 elects to proceed under section 967.052 (2) of the statutes.”.

7 **2.** Page 65, line 2: after that line insert:

8 “227m. Page 569, line 2: after that line insert:

9 “**SECTION 1586m.** 29.092 (12m) of the statutes is created to read:

10 29.092 (**12m**) INCIDENTAL TAKE PERMIT. The fee for an incidental take permit
11 issued under s. 29.415 (6m) is \$100.”.

12 **3.** Page 65, line 7: delete “(a)”.

1 **4. Page 66, line 7:** delete the material beginning with that line and ending with
page 67, line 5, and substitute:

2 “**SECTION 1631e.** 29.415 (2) (a) of the statutes is renumbered 29.415 (2) (am).

3 **SECTION 1631f.** 29.415 (2) (ac) of the statutes is created to read:

4 29.415 (2) (ac) “Agency” means a board, commission, committee, department,
5 except the department of natural resources, or officer in the state government, except
6 the governor, a district attorney or a military or judicial officer.

7 **SECTION 1631j.** 29.415 (2) (ag) of the statutes is created to read:

8 29.415 (2) (ag) “Agency action” means any action authorized, funded or
9 implemented by an agency.

10 **SECTION 1631k.** 29.415 (2) (bn) of the statutes is created to read:

11 29.415 (2) (bn) “Whole plant–animal community” means a group of species
12 living together in a particular area, time and habitat.

13 **SECTION 1631ki.** 29.415 (4) (intro.) of the statutes is amended to read:

14 29.415 (4) PROHIBITION. (intro.) Except as provided in sub. (6r) or as permitted
15 by departmental rule or permit:

16 **SECTION 1631L.** 29.415 (6m) of the statutes is created to read:

17 29.415 (6m) INCIDENTAL TAKE PERMITS. (a) The department may issue a permit,
18 under such terms and conditions as it may prescribe, authorizing a taking that
19 otherwise is prohibited by this section if the taking is not for the purpose of, but will
20 be only incidental to, the carrying out of a lawful activity.

21 (b) The department may not issue a permit under this subsection unless an
22 applicant for the permit submits to the department a conservation plan and an
23 implementing agreement. The conservation plan shall include all of the following:

1 1. A description of the impact that will likely occur to endangered species or
2 threatened species specified by the department's endangered and threatened species
3 list.

4 2. The steps that the applicant will take to minimize and mitigate the impact
5 that the endangered species or the threatened species will suffer.

6 3. A description of the funding that the applicant will have available to
7 implement the steps specified under subd. 2.

8 4. A description of the alternative actions to the taking that the applicant has
9 considered and the reasons that these alternatives will not be utilized.

10 5. Any other measures that the department may determine to be necessary or
11 appropriate.

12 (d) An application for a permit under this subsection may contain more than
13 one applicant.

14 (f) Upon receipt of an application for a permit and the accompanying
15 conservation plan and implementing agreement for a proposed taking, the
16 department shall publicize the application by announcing the application receipt
17 and by giving a brief description of the proposed taking. The publicity shall be
18 distributed to the news media in the vicinity of the proposed taking. The department
19 shall establish a procedure for receipt of public comment on the proposed taking.

20 (g) After having considered the public comment received on the proposed
21 taking, the department shall issue the permit if the department finds, based on the
22 permit application, the conservation plan and the implementation agreement, that
23 the taking will meet all of the following requirements:

24 1. The taking will not be for the purpose of, but will be only incidental to, the
25 carrying out a lawful activity.

1 2. The applicant will, to the maximum extent practicable, minimize and
2 mitigate the impact caused by the taking.

3 3. The applicant will ensure that adequate funding for the conservation plan
4 will be provided.

5 4. The taking will not appreciably reduce the likelihood of the survival or
6 recovery of the endangered species or threatened species, the whole plant-animal
7 community of which it is a part or the habitat that is critical to its existence.

8 5. Any measures required under par. (b) 5. will be met.

9 (gm) The department may require that an applicant make additional
10 assurances that the requirements under par. (g) 1. to 5. will be met before issuing a
11 permit under par. (g).

12 (h) The department shall impose on the permit terms or conditions that the
13 department finds necessary or appropriate to ensure that the requirements under
14 par. (g) 1. to 5. will be met. These terms or conditions may include reporting and
15 monitoring requirements.

16 (i) The department shall revoke a permit issued under this subsection if it finds
17 that an applicant fails to comply with the terms and conditions of the permit.

18 (j) A permit issued by the department is not required if a permit under 16 USC
19 1539 has been issued and the department determines that that the federal permit,
20 along with its conservation plan and implementing agreement, comply with the
21 requirements under this subsection.

22 (k) This subsection does not apply to interagency activities under sub. (6r).

23 **SECTION 1631Li.** 29.415 (6r) of the statutes is created to read:

24 29.415 (6r) CONSULTATION. (a) An agency shall notify the department at the
25 earliest opportunity of the location, nature and extent of a proposed activity the

1 agency may conduct, approve or fund that may affect an endangered or threatened
2 species. The department may allow the taking, exportation, transportation or
3 possession of an endangered or threatened species if all of the following apply:

4 1. The activity is accomplished in accordance with interagency consultation
5 procedures established by the department and the agency for the purpose of
6 minimizing any adverse effect on the endangered or threatened species.

7 2. The activity is not likely to jeopardize the continued existence and recovery
8 of the endangered or threatened species, the whole plant-animal community of
9 which it is a part or is not likely to result in the destruction or adverse modification
10 of a habitat that is critical to the continued existence of the endangered species or
11 the threatened species, as determined by the department under par. (b).

12 3. The benefit to public health, safety or welfare justifies the activity.

13 (b) For purposes of par. (a) 2., the department shall determine whether a habit
14 is critical to the continued existence of an endangered or threatened species by
15 considering the endangered species' or threatened species' global and state element
16 ranking as defined by natural heritage inventory methodology.

17 (c) The department shall notify the agency if the department determines that
18 there is reasonable cause for the department to determine that an activity is not
19 being carried out in compliance with this subsection or with any environmental
20 protection requirements developed through interagency consultation procedures. If
21 the secretary of natural resources and the head, as defined in s. 15.01 (8), of the
22 agency or the state officer are unable to agree upon methods or time schedules to be
23 used to correct the alleged noncompliance, the department may bring any action or
24 initiate any other proceedings to enforce compliance with this subsection.

1 (d) The department and the agency shall exchange information and cooperate
2 in the planning and implementation of any activity relating to the taking,
3 exportation, transportation or possession of any endangered species or threatened
4 species in order to alleviate, to the extent practicable under the circumstances, any
5 potential adverse effect on the endangered species or the threatened species.

6 (e) Cooperation between the department and an agency under par. (d) may
7 include conducting reasonable surveys upon the request of the department, unless
8 the department determines that the requirements of public health, safety or welfare
9 outweigh the need for the surveys.

10 (f) Except as may be required under s. 1.11, no public notice or hearing is
11 required in connection with interagency consultation and cooperation under this
12 subsection.”.”.

13 **5.** Page 72, line 5: delete lines 5 to 8 and substitute:

14 “36.27 (1) (d) The board may not require students to pay that portion of any fee
15 for the support of noninstructional student activities that is allocated to student
16 organizations that engage in lobbying, as defined in s. 13.62 (10), or that employ an
17 individual to lobby or attempt to lobby congress.”.”.

18 **6.** Page 97, line 20: after that line insert:

19 “368m. Page 1110, line 6: delete the material beginning with “entitled” and
20 ending with the comma on line 8.”.

21 **7.** Page 97, line 22: before the last period insert “; and after “(d)” insert “1.”.

22 **8.** Page 97, line 23: after that line insert:

23 “371m. Page 1110, line 15: after that line insert:

1 “(dm) No credit may be allowed under this subsection unless the claimant
2 includes with the claimant’s return a statement from the department of development
3 verifying the amount of qualifying employment–related day care expenses.”.

4 371r. Page 1111, line 1: delete the material beginning with “entitled” and
5 ending with the comma on line 3.”.

6 **9.** Page 99, line 18: after that line insert:

7 “382m. Page 1116, line 20: after that line insert:

8 “**SECTION 3394n.** 71.10 (5) (a) 2. of the statutes is amended to read:

9 71.10 (5) (a) 2. “Endangered resources program” means purchasing or
10 improving land or habitats for any native Wisconsin endangered or threatened
11 species as defined in s. 29.415 (2) (a) (am) or (b) or for any nongame species as defined
12 in s. 29.01 (10), conducting wildlife and resource research and surveys and providing
13 wildlife management services, providing for wildlife damage control or the payment
14 of claims for damage associated with endangered or threatened species, repaying the
15 general fund for amounts expended under s. 20.370 (1) (fb) in fiscal year 1983–84 and
16 the payment of administrative expenses related to the administration of this
17 subsection.”.

18 **10.** Page 102, line 19: before the last period insert “; and after “(d)” insert “1.”.

19 **11.** Page 102, line 20: after that line insert:

20 “392m. Page 1133, line 23: after that line insert:

21 “(dm) No credit may be allowed under this subsection unless the claimant
22 includes with the claimant’s return a statement from the department of development
23 verifying the amount of qualifying employment–related day care expenses.”.

24 **12.** Page 103, line 20: delete “and (ec)” and substitute “, (ec), (en) and (eo)”.

1 **13.** Page 104, line 2: after that line insert:

2 “(en) Development zones day care credit under s. 71.28 (1dd).

3 (eo) Development zones environmental remediation credit under s. 71.28
4 (1de).”.

5 **14.** Page 104, line 19: after that line insert:

6 “404m. Page 1145, line 14: delete the material beginning with “entitled” and
7 ending with the comma on line 16.”.

8 **15.** Page 104, line 21: before the last period insert “; and after “(d)” insert “1.”.

9 **16.** Page 104, line 22: after that line insert:

10 “407m. Page 1145, line 23: after that line insert:

11 “(dm) No credit may be allowed under this subsection unless the claimant
12 includes with the claimant’s return a statement from the department of development
13 verifying the amount of qualifying employment–related day care expenses.”.

14 407r. Page 1146, line 9: delete the material beginning with “entitled” and
15 ending with the comma on line 11.”..

16 **17.** Page 106, line 22: after “licensing” insert “or an examining board or
affiliated credentialing board attached to the department of regulation and
licensing”.

17 **18.** Page 372, line 14: delete “The department may not” and substitute
“Neither the department nor any examining board or affiliated credentialing board
may”.

18 **19.** Page 372, line 20: after “department” insert “or the interested examining
board or affiliated credentialing board”.

1 **20.** Page 373, line 3: on lines 3, 4 and 8, restore the stricken material.

2 **21.** Page 373, line 17: delete lines 17 to 21 and substitute:

3 “440.08 (4) (b) *Failure to pay delinquent taxes.* If the department or the
4 interested examining board or affiliated credentialing board, as appropriate,
5 determines under sub. (2r) that an applicant for renewal is liable for any delinquent
6 taxes owed to this state, or if an applicant does not complete the information on the
7 credential renewal application form that is required under sub. (2g) (b), the
8 department, examining board or affiliated credentialing board shall deny the
9 applicant’s application for credential renewal by mailing to the holder of the
10 credential a notice of denial that includes a statement of the facts that warrant the
11 denial under this paragraph and a notice that the holder may, within 30 days after
12 the date on which the notice of denial is mailed, file a written request with the
13 department to have the denial reviewed at a hearing before the department, if the
14 department issued the credential, or before the examining board or affiliated
15 credentialing board that issued the credential.”.”

16 **22.** Page 374, line 19: delete the material beginning with that line and ending
with page 376, line 14.

17 **23.** Page 376, line 21: delete the material beginning with that line and ending
with page 380, line 6.

18 **24.** Page 380, line 11: delete the material beginning with that line and ending
with page 383, line 13.

19 **25.** Page 445, line 1: delete the material beginning with “no” and ending with
“transportation” on line 2 and substitute: “the department of transportation may not
expend more than \$25,000,000 in the 1995–97 fiscal biennium”.

- 1 **26.** Page 445, line 3: on lines 3 and 4, delete “in the 1995–96 fiscal year”.
- 2 **27.** Page 451, line 24: after “OF” insert “CERTAIN”.
- 3 **28.** Page 452, line 3: after that line insert:
- 4 “1m. “General purpose revenues” has the meaning given in section 20.001 (2)
- 5 (a) of the statutes.”.
- 6 **29.** Page 452, line 7: after “agency” insert “funded in whole or in part from
- 7 general purpose revenues”.
- 8 **30.** Page 452, line 9: after “positions” insert “funded from general purpose
- 9 revenues”.
- 10 **31.** Page 452, line 10: after “agency” insert “funded from general purpose
- 11 revenues that are”.
- 12 **32.** Page 452, line 13: after “positions” insert “funded in whole or in part from
- 13 general purpose revenues”.
- 14 **33.** Page 456, line 15: after “licensing” insert “or to an examining board or
- 15 affiliated credentialing board attached to the department of regulation and
- 16 licensing”.
- 17 **34.** Page 457, line 10: after “(ec)” insert “, (en), (eo)”.
- 18 **35.** Page 457, line 23: delete “first fall semester beginning after publication”
- 19 and substitute “1996 spring semester”.

(END)