



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa2405/1
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**ASSEMBLY AMENDMENT 2,
TO 2011 SENATE BILL 368**

February 21, 2012 - Offered by Representatives DANOU, BARCA, MOLEPSKE JR,
BERNARD SCHABER and CLARK.

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

2 **1.** Page 24, line 10: delete "Before submitting the application, the" and
3 substitute "The".

4 **2.** Page 24, line 11: before "meeting" insert "preapplication".

5 **3.** Page 24, line 11: delete "applicant" and substitute "potential applicants".

6 **4.** Page 24, line 13: after "wetland." insert "As part of the preapplication
7 meeting, the department shall identify and establish the scope of the analysis of
8 practicable alternatives that will be required."

9 **5.** Page 24, line 17: delete "of" and substitute "explaining".

10 **6.** Page 24, line 17: delete "an" and substitute "a proposed".

11 **7.** Page 24, line 18: delete "will avoid and minimize" and substitute "were
12 considered to first avoid and then minimize".

1 **8.** Page 24 line 20: after “consequences.” insert “The application shall also
2 include a description of the proposed mitigation method as required under sub. (3r)”.

3 **9.** Page 27, line 17: after “sub. (3m) (b).” insert “The department shall limit the
4 scope of the practicable alternatives that will be considered and shall determine
5 which possible alternatives are practicable in a manner that is consistent with the
6 memorandum of understanding entered into between the U.S. environmental
7 protection agency and the U.S. army corps of engineers relating to the level of
8 analysis required for evaluating compliance with 1333 USC 1344b that is in effect
9 on the effective date of this paragraph [LRB inserts date]. In order for an
10 alternative that would be implemented at a site that is not owned by the applicant
11 at the time the application is submitted and that would be located more than
12 one-half mile from the discharge to be considered practicable, the applicant must be
13 reasonably able to acquire, expand into, or otherwise manage the site in a manner
14 that will fulfill the basic purpose of the proposed discharge or the proposed project
15 of which the proposed discharge would be a part.”.

16 **10.** Page 27, line 17: after “department” insert “also”.

17 **11.** Page 27, line 20: delete that line.

18 **12.** Page 27, line 21: delete “benefit, that the”.

19 **13.** Page 27, line 22: delete “industrial or commercial” and substitute
20 “industrial, commercial, or agricultural”.

21 **14.** Page 27, line 24: after that line insert:

22 “(am) *Standards for issuing permits.* The department shall make a finding that
23 a proposed project causing a discharge is in compliance with water quality standards

1 and that a wetland individual permit may be issued if the department determines
2 that all of the following requirements are met:

3 1. The proposed project represents the least environmentally damaging
4 practicable alternative taking into consideration practicable alternatives that avoid
5 wetland impacts.

6 2. All practicable measures to minimize the adverse impacts to wetland
7 functional values will be taken.

8 3. The proposed project will not result in significant adverse impact to wetland
9 functional values, in significant adverse impact to water quality, or in other
10 significant adverse environmental consequences.”.

11 **15.** Page 28, line 1: delete lines 1 to 3 and substitute:

12 “(b) *Factors to be used.* In making a determination that the requirement under
13 par. (am) 3. is met, the department shall consider all of the following factors:”.

14 **16.** Page 28, line 10: delete lines 10 to 12 and substitute:

15 “4m. The impact that any mitigation required under sub. (3r) will cause to the
16 functional values of the wetlands that are located in the watershed in which the
17 discharge will occur.

18 5m. The net positive or negative environmental impact of the proposed project
19 on the watershed in which the discharge will occur.”.

20 **17.** Page 28, line 13: delete lines 13 to 24.

21 **18.** Page 31, line 18: after “discharge.” insert “The ratios shall include
22 incentives for mitigation that will be located in the same watershed in which the
23 discharge will occur or that will replace the wetland types and functions that are
24 most needed in the watershed in which the discharge will occur.”.

1 **19.** Page 42, line 1: before that line insert:

2 “**SECTION 140m.** 281.37 (5) (title) of the statutes is renumbered 281.36 (14)
3 (title).”.

4 **20.** Page 42, line 1: after “(14)” insert “(a).”.

5 **21.** Page 42, line 1: delete “and amended”.

6 **22.** Page 42, line 2: delete lines 2 to 8.

7 **23.** Page 42, line 8: after that line insert:

8 “**SECTION 141m.** 281.36 (14) (b) and (c) of the statutes are created to read:

9 281.36 (14) (b) The report under par. (a) shall include all of the following:

10 1. The number of preapplication meetings held during the previous 2-year
11 period and a report on the results of these meetings.

12 2. A summary of the types of discharges that were approved during the
13 previous 2-year period. The summary shall specify the locations of the discharges
14 and the types of projects involved.

15 3. A summary of the mitigation performed during the previous 2-year period.
16 The summary shall include a description of mitigation projects approved,
17 accomplished, and monitored during the 2-year period.

18 4. The number of wetland individual permits denied in the previous 2-year
19 period and a summary of the reasons for the denials.

20 5. An accounting covering the previous 2-year period showing the amounts
21 credited to, the amounts appropriated from, and the balance in the appropriation
22 under s. 20.370 (4) (bm).

