



1997 ASSEMBLY BILL 548

October 2, 1997 - Introduced by Representatives SERATTI, GARD, AINSWORTH, GOETSCH, MUSSER, HARSDF, F. LASEE, GROTHMAN, M. LEHMAN, HANDRICK, ALBERS, KELSO, DUFF, GUNDERSON, NASS, PORTER and GREEN. Referred to Committee on Environment.

1 **AN ACT to create** 285.76 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 within 5 days after DNR receives notice that an American Indian tribal governing body proposes to redesignate an area for the purposes of the PSD

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provisions of the federal Clean Air Act. DNR must also notify the public about the proposed redesignation and about the public hearing on the proposed redesignation. The bill requires DNR to report to the legislature on the result of consultations with a tribe concerning a proposed redesignation.

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.** 285.76 of the statutes is created to read:

2 **285.76 Notice concerning proposed area redesignations.** (1) Within 5
3 days after the department receives notification that an American Indian tribal
4 governing body proposes to redesignate an area under 42 USC 7474 for the purpose
5 of the federal clean air act provisions concerning the prevention of significant
6 deterioration of air quality and that a consultation meeting is requested among the
7 tribal governing body, the federal environmental protection agency and this state,
8 the department shall report that notification to the appropriate standing committees
9 of the legislature, as determined by the speaker of the assembly and the president
10 of the senate, under s. 13.172 (3).

11 **(2)** Within 15 days after receiving notification that an American Indian tribal
12 governing body proposes to redesignate an area under 42 USC 7474 for the purpose
13 of the federal clean air act provisions concerning the prevention of significant
14 deterioration of air quality, the department shall do all of the following:

15 (a) Publish a class 1 notice, under ch. 985, of the proposed redesignation and
16 request for consultation with the state in a newspaper of general circulation in the
17 area that would be affected by the redesignation, as determined using standards
18 established by the federal environmental protection agency, and in the official state

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1 newspaper and provide a written statement concerning the proposed redesignation
2 to those newspapers.

3 (b) Report that notification to the governor, and to the agency responsible for
4 administering air pollution control laws, of any other state with an area that would
5 be affected by the redesignation, as determined using standards established by the
6 federal environmental protection agency.

7 (3) Within 15 days after receiving notification of the time and place of a public
8 hearing under 42 USC 7475 (b) (1) (A) concerning a proposal by an American Indian
9 tribal governing body to redesignate an area, the department shall provide notice of
10 the time and place of the public hearing in the manner provided in subs. (1) and (2)
11 (a). If the department receives notification of a hearing at the same time that it
12 receives notification of the proposed redesignation, it shall combine the newspaper
13 notices under this subsection with the notices under sub. (2) (a).

14 (4) The department shall submit a report to the appropriate standing
15 committees of the legislature, as determined by the speaker of the assembly and the
16 president of the senate, under s. 13.172 (3), on the results of any consultations, under
17 42 CFR 52.21 (g) (4) (ii), with an American Indian tribal governing body that
18 proposes to redesignate an area under 42 USC 7474.

19 (END)