



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 492**

March 3, 1998 – Offered by COMMITTEE ON ENVIRONMENT.

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

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 23.321 of the statutes is created to read:

5 **23.321 Compensatory mitigation of wetlands.** (1) In this section:

6 (a) “Wetland” has the meaning given in s. 23.32 (1).

7 (b) “Wetland compensatory mitigation” means the reestablishment,
8 restoration, enhancement, creation or, in exceptional circumstances identified by the
9 department, preservation of wetlands to compensate for adverse impacts to other
10 wetlands that remain after all appropriate and practicable measures to avoid and
11 minimize those adverse impacts have been undertaken. “Wetland compensatory
12 mitigation” includes using credits from a wetlands mitigation bank.

1 (c) "Wetlands mitigation bank" means a system of accounting for wetland loss
2 and compensation that includes one or more sites where wetlands are reestablished,
3 restored, enhanced or created to provide transferable credits in advance of adverse
4 impacts to other wetlands.

5 (2) Upon request, the department shall consider wetland compensatory
6 mitigation in issuing a permit for, or otherwise authorizing, an activity under ss.
7 59.692, 61.351, 62.231, 87.30, 281.11 to 281.47 or 281.49 to 281.85 or ch. 30, 31, 283,
8 289, 291, 292, 293, 295 or 299.

9 (3) The department shall promulgate rules governing wetland compensatory
10 mitigation projects and the operation of a wetland mitigation bank. The rules shall
11 be at least as strict as federal law governing wetland compensatory mitigation, but
12 the rules may not require more extensive wetland compensatory mitigation than is
13 required by federal law. Upon promulgation, the rules shall apply to any application
14 or other request for an initial determination for a permit or other authorization that
15 is pending with the department on the date on which the rules take effect.

16 **SECTION 2. Nonstatutory provisions.**

17 (1) SUBMISSION OF PROPOSED RULES. The department of natural resources shall
18 submit proposed rules required under section 23.321 (3) of the statutes, as created
19 by this act, to the legislative council staff for review under section 227.15 (1) of the
20 statutes no later than the first day of the 18th month beginning after publication.

21 **SECTION 3. Effective dates.** This act takes effect on the day after publication,
22 except as follows:

23 (1) The treatment of section 23.321 (2) of the statutes takes effect on the first
24 day of the 21st month beginning after publication.

25 (END)