



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0351/1
EHS:kjf

**SENATE SUBSTITUTE AMENDMENT 4,
TO SENATE BILL 459**

February 16, 2016 – Offered by Senator HANSEN.

1 **AN ACT to create** 30.12 (1g) (am), 30.125 and 30.20 (1g) (b) 3. of the statutes;
2 **relating to:** shoreline maintenance activities in certain areas of the bay of
3 Green Bay.

Analysis by the Legislative Reference Bureau

This substitute amendment requires the Department of Natural Resources to conduct a five-year pilot project under which certain shoreline maintenance activities in shoreline areas of Green Bay where an invasive aquatic species is a problem are exempt from normal navigable water permit or contract requirements.

Under current law, a person must obtain one or more permits from, or enter into a contract with, DNR in order to conduct certain activities in or near navigable waterways. These requirements include permits to place structures or deposits in navigable waters and contracts or permits to remove material from the bed of a navigable waterway (permitting requirements). The bed of a navigable water includes the area between the water's edge and the ordinary high-water mark (shoreline area).

Under current law, some activities are exempt from these permitting requirements, some activities require that the person be issued an individual permit for the activity, and some activities are authorized under statewide general permits. If a general permit covers an activity, the person proposing to conduct the activity must notify DNR that the person wishes to proceed with the activity. If DNR does

not request additional information or notify the person that an individual permit will be required within 30 days after receipt of the notification, the person may proceed with the activity.

This substitute amendment requires DNR to conduct a pilot project under which an exemption is created from these permitting requirements for certain shoreline maintenance activities that are conducted in a shoreline area. The exemption is limited to shoreline areas in the bay of Green Bay where DNR has determined that the invasive species *Phragmites australis* is a problem. The activities exempt from the permitting requirements are the leveling of sand, the grooming of soil, the mowing of vegetation, and the removal of debris. An activity must be authorized by the owner of the riparian land that abuts the shoreline area.

The current exemption determination procedure applies to the exemption created under this substitute amendment. Under current law, a person may request from DNR a determination regarding whether an exemption applies to a proposed activity. Within 15 days after receiving the request, DNR must inspect the site of the proposed activity if DNR determines that is necessary and must make a determination as to whether the activity is exempt. If DNR fails to make the determination within the 15-day period, DNR may not subsequently require the person to apply for an individual permit or to seek authorization under a general permit.

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

1 **SECTION 1.** 30.12 (1g) (am) of the statutes is created to read:

2 30.12 **(1g)** (am) A deposit of sand, gravel, or stone that is necessary to perform
3 an activity authorized under s. 30.125 (2) (a).

4 **SECTION 2.** 30.125 of the statutes is created to read:

5 **30.125 Shoreline maintenance pilot project. (1)** In this section, “shoreline
6 area” means the area that is located between the ordinary high-water mark and
7 water’s edge.

8 **(2)** Subject to sub. (4), the department shall conduct a pilot project under which,
9 if the conditions under sub. (3) are met, the permitting requirements under ss. 23.24
10 (3) and 30.12 and the contract and permitting requirements under s. 30.20 do not
11 apply to any of the following maintenance activities conducted in a shoreline area of

1 Green Bay in which the department has determined that the invasive species
2 *Phragmites australis* is a problem:

3 (a) The leveling of sand or the grooming of soil if the leveling or grooming will
4 occur in an area of unconsolidated material predominately composed of sand, rock,
5 and pebble that is authorized by the owner of the riparian land that abuts the
6 shoreline area.

7 (b) The removal of debris or the mowing of vegetation that is authorized by the
8 owner of the riparian land that abuts the shoreline area.

9 **(3)** All of the following conditions apply to the activities described under sub.
10 (2):

11 (a) No material may be brought in from offsite sources to conduct the activity.

12 (b) No removal of material may be conducted in an area known to contain any
13 species listed as endangered or threatened under s. 29.604 (3) or any floating bogs
14 or wild rice.

15 (c) The removal of material may not interfere with the rights of other riparian
16 owners.

17 (d) The removal of invasive species shall be conducted in a manner that
18 prevents the spread of invasive species into the waters of this state and onto adjacent
19 land.

20 (e) The activity may not involve the filling of a coastal wetland or the alteration
21 of a coastal dune.

22 **(4)** The department may not conduct the pilot project described under subs. (2)
23 and (3) after 5 years after the effective date of this subsection [LRB inserts date].

24 **(5)** Upon completion of the pilot project, the department shall evaluate the
25 impact of the pilot project on the shoreline area, plant and animal habitat, and other

1 factors as determined by the department, and shall submit a report summarizing
2 this evaluation to the chief clerk of each house of the legislature for distribution to
3 the appropriate standing committees under s. 13.172 (3).

4 **SECTION 3.** 30.20 (1g) (b) 3. of the statutes is created to read:

5 30.20 (**1g**) (b) 3. The removal is necessary to perform an activity authorized
6 under s. 30.125 (2).

7 **(END)**