



2015 ASSEMBLY BILL 165

April 15, 2015 – Introduced by Representatives JACQUE, SPREITZER, BORN, JARCHOW, KAHL, E. BROOKS, TITTL, LOUDENBECK, RIPP, KOLSTE, BILLINGS, MURPHY, KULP, ROHRKASTE, DOYLE, ALLEN, BERNIER, DANOU, THIESFELDT, NOVAK, KRUG, MURTHA and MACCO, cosponsored by Senators GUDEX, RINGHAND, OLSEN, LASSA, COWLES, VINEHOUT, LASEE, ROTH and WIRCH. Referred to Committee on State Affairs and Government Operations.

1 **AN ACT** *to create* 60.61 (3r) and 60.62 (5) of the statutes; **relating to:** town
2 zoning ordinances affecting shorelands.

Analysis by the Legislative Reference Bureau

Under current law, a county must enact a shoreland zoning ordinance for all shorelands in its unincorporated area and the ordinance must meet shoreland zoning standards established by the Department of Natural Resources (DNR) by rule. Current law defines a shoreland to be an area within a specified distance from the edge of a navigable water.

Current law also provides that if an existing town ordinance relating to shorelands is more restrictive than a later enacted county shoreland zoning ordinance, the town ordinance remains in effect to the extent of the greater restrictions, but not otherwise.

In *Hegwood v. Town of Eagle Zoning Board of Appeals*, 2013 WI App 118, N.W. 2d 111, the Wisconsin Appellate Court held that a town has no authority to regulate shorelands unless the town enacted an ordinance before a county shoreland zoning ordinance was enacted regulating the same shorelands. The court held that in that case, the town ordinance continues in effect only to the extent that it is more restrictive than the later enacted county shoreland zoning ordinance.

This bill provides that a town, with certain exceptions, may enact a zoning ordinance, consistent with its existing zoning authority, that applies in shorelands. The bill also specifies that a town zoning ordinance may not impose restrictions or requirements in shorelands with respect to matters regulated by a county shoreland ordinance affecting the same shorelands. The bill does not change current law which

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provides that a town ordinance that is in effect before a county shoreland zoning ordinance takes effect and that is more restrictive than the county shoreland zoning ordinance, continues to apply to the extent of the greater restrictions.

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

1 **SECTION 1.** 60.61 (3r) of the statutes is created to read:

2 60.61 (3r) ZONING IN SHORELANDS. (a) In this subsection, “shorelands” has the
3 meaning given in s. 59.692 (1) (b).

4 (b) A town may enact a zoning ordinance under this section that applies in
5 shorelands, except as provided in par. (c).

6 (c) A town zoning ordinance enacted under this section may not impose
7 restrictions or requirements in shorelands with respect to matters regulated by a
8 county shoreland zoning ordinance enacted under s. 59.692 affecting the same
9 shorelands, regardless of whether the county shoreland zoning ordinance was
10 enacted separately from, or together with, an ordinance enacted under s. 59.69,
11 except as provided in s. 59.692 (2) (b).

12 **SECTION 2.** 60.62 (5) of the statutes is created to read:

13 60.62 (5) ZONING IN SHORELANDS. (a) In this subsection, “shorelands” has the
14 meaning given in s. 59.692 (1) (b).

15 (b) A town may enact a zoning ordinance under this section that applies in
16 shorelands, except as provided in par. (c).

17 (c) A town zoning ordinance enacted under this section may not impose
18 restrictions or requirements in shorelands with respect to matters regulated by a
19 county shoreland zoning ordinance enacted under s. 59.692 affecting the same
20 shorelands, regardless of whether the county shoreland zoning ordinance was

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1 enacted separately from, or together with, an ordinance enacted under s. 59.69,
2 except as provided in s. 59.692 (2) (b).

3 (END)