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February 10, 2022

## **Testimony on Assembly Bill 919 Assembly Committee on Transportation**

Good morning and thank you, Chairman Plumer, Vice-Chairman Spiros, and committee members for hearing Assembly Bill 919.

After 2015 Wisconsin Act 55 was signed into law, it created a statute allowing counties to enact an ordinance requiring lakefront property owners to maintain a vegetative buffer zone. The ordinance must also allow the buffer zone to contain a viewing corridor that is at least 35 feet wide for every 100 feet of shoreline frontage.

The legislative intent of 2015 Wisconsin Act 55 was to set a scale of 35 feet of viewing corridor for every 100 feet of shoreline frontage – in other words making it 35%. Some counties, however, have interpreted this statute to mean any property with less than 100 feet of frontage is not entitled to any viewing corridor at all. Due to this confusion, the Oneida County Planning and Zoning Department has asked us to clarify this language in state statute.

AB 919 would allow the buffer zone to contain a viewing corridor with a width along the shoreline of no less than 35 feet or 35% of the shoreline frontage, whichever is greater. Assembly Substitute Amendment 1 alters the 35-foot provision to 10 feet but maintains the 35% provision. This was crafted in the attempt to further clarify and ensure that the language accomplishes the desired outcome.

In addition, we have been asked to address an issue relating to bridges within a shoreland zoning setback area. Currently, bridges are not included in the list of structures that are permitted within the 75-foot area.

AB 919 would add county and municipal bridges that have been issued a permit by the Department of Natural Resources to the list of allowable structures.

Thank you again for your time and consideration. I will be happy to answer any of your questions.



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# MARY FELZKOWSKI

STATE SENATOR • 12<sup>TH</sup> SENATE DISTRICT

## **AB 919 Testimony**

Sen. Mary Felzkowski

Assembly Committee on Transportation

February 10, 2022 | 12:30pm | 328 Northwest

Chairman Plumer and Fellow Members of the Committee:

Thank you for providing me the opportunity to testify on Assembly Bill 919.

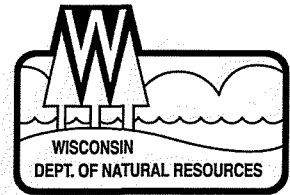
There's no better feeling than heading north for the weekend and spending some quality family time at the lake. You wake up in the morning, pour yourself a hot cup of coffee, and head out to the deck – where you can enjoy an unobstructed view of the calm, tranquil water.

This view is permitted to you by state statute that allows for 35ft of viewing corridor for 100ft of shoreline frontage. While the original legislative intent was to have 35% of the shoreline, some counties have asked for clarification, with the current interpretation being that if you don't have at least 100ft of shoreline, you aren't entitled to any amount of viewing corridor at all. This means anyone with less than 100ft of shoreline, gets no viewing corridor; anyone with 200ft of shoreline gets a 70ft viewing corridor; and anybody in-between gets the same 35ft viewing corridor you would get with 100ft of shoreline.

AB 919 with Assembly Substitute Amendment One would allow a riparian landowner the ability to create an access and viewing corridor that is 35% of their shoreline or 10ft, whichever is greater. There were some questions in regards to the original language and whether or not the property owner would be required to have a minimum of 10ft access and viewing corridor. We worked with the DNR, Leg Council, and LRB to fix that language so it does the same thing, but provides less confusion. The Department of Natural Resources had brought some suggestions for technical changes, which we took care of in the amendment – including the language “access and viewing corridor” to match administrative code.

In addition to the access and viewing corridor issue, AB 919 would add bridges that have been issued a permit by the Department of Natural Resources to the list of allowable structures that may be built within the 75-foot shoreland zoning setback area. Currently state bridges are already exempted – this bill would allow the same for DNR permitted county and local bridges.

Once again, thank you for the opportunity and we're happy to take any questions.



## Assembly Committee on Transportation

### *2021 Assembly Bill 919*

### *Construction of Bridges in a Shoreland Setback Area and Vegetative Buffer Zone Requirements*

*February 10, 2022*

Good afternoon Chair Plumer and members of the Committee. My name is Dan Helsel, and I am the Program Director for the Waterways program at the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify, for informational purposes, on Assembly Bill 919, related to the construction of bridges in a shoreland setback area and vegetative buffer zone requirements.

2015 Wisconsin Act 55 created language that has proven confusing when determining the allowed width of an access and viewing corridor within the vegetative buffer zone of a shoreland setback area. The language can be interpreted to mean that a property owner without a minimum lot width of 100 feet does not need to be allowed to have an access and viewing corridor by a county shoreland zoning ordinance, which was not the intent. The department appreciates this effort to provide clarity to the issue and has additional changes for the Committee to consider.

As currently drafted, if a county shoreland zoning ordinance requires a person to maintain a vegetative buffer, it must also allow an individual to have a viewing corridor that is either 35 feet wide, or 35 percent of the shoreline frontage, whichever is greater.

This would enable property owners with less than 100 feet of shoreline frontage to have an access and viewing corridor that is greater than 35 percent of the lot. This could lead to a significant reduction in vegetation within the shoreland setback area. Reducing the vegetation can directly reduce water quality, create habitat loss for fish and wildlife, and reduce the natural scenic beauty. To remedy these concerns, the department would recommend allowing an access and viewing corridor that is no greater than 35 percent of the width of the shoreline frontage. This would ensure that property owners are allowed to have an access and viewing corridor but would not require a county ordinance to permit a 35-foot access and viewing corridor for all properties, regardless of size. This would help protect water quality, fish and wildlife habitat, and natural scenic beauty by ensuring that sufficient vegetation remains in the buffer zone of a shoreland setback area.

We appreciate the Committee's consideration of these changes and the recent introduction of the substitute amendment. The amendment would address some concerns by requiring county ordinances to allow an access and viewing corridor that is either 10 feet wide or 35 percent of the lot, whichever is greater, instead of 35 feet wide or 35 percent of the lot, whichever is greater. While this change addresses the concern with the original language noted above, the way the amendment language is drafted raises new concerns. The drafted language implies that a county would not be required to establish a maximum width of an access and viewing corridor. If counties are not required to establish a maximum width, we could run into cases where vegetative buffer zones are clear cut and resources are

severely degraded. The establishment of a maximum width for an access and viewing corridor helps retain a vegetative buffer zone, which protects water quality, fish and wildlife habitat, and natural scenic beauty. There would also be a lack of consistency between counties when it comes to shoreland zoning, creating confusion for both landowners and county administrators.

We would welcome the opportunity to further discuss potential solutions with the author.

On behalf of the Department of Natural Resources, I would like to thank you for your time today. I would be happy to answer any questions you may have.