



MARY FELZKOWSKI

STATE SENATOR • 12TH SENATE DISTRICT

SB 867 Testimony

Sen. Mary Felzkowski

Senate Committee on Natural Resources and Energy

January 31, 2022 | 411S

Chair Cowles and members of the committee:

Thank you for providing me the opportunity to testify on Senate Bill 867.

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 lake.

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.

SB 867 would allow a riparian landowner the ability to create an access and viewing corridor that is 35% of their shoreline or 35ft, whichever is greater. There have been some questions in regards to the current language and whether or not the property owner would be required to have a minimum of 35ft access and viewing corridor. While the language is confusing, both Legislative Council and Legislative Reference Bureau believe it is correct because it's restricting the county ordinance rather than the property owner. The Department of Natural Resources has brought some suggestions for technical changes and alternate language that would help minimize any confusion. We will be addressing some of those changes in an amendment.

In addition to the access and viewing corridor issue, SB 867 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 I'm happy to take any questions.



WISCONSIN LAKES

We Speak for Lakes!

PO Box 7723
Madison WI 53707

608.661.4313 / info@wisconsinlakes.org

TESTIMONY TO SENATE NATURAL RESOURCES COMMITTEE REGARDING SB867 IN OPPOSITION (AS WRITTEN)

January 31, 2022

Wisconsin's shoreland zoning laws balance the preservation of water quality and a healthy lake environment with the privilege of being able to live or vacation on a waterfront. Though changes to the law in 2015 severely weakened Wisconsin's counties' ability to determine the best methods of protecting the waters unique to them, it preserved many of the important features of shoreland zoning. This includes the use of existing vegetative buffers to slow down runoff and keep pollutants and excess nutrients from ever reaching the lake or stream.

SB867, as written, would reduce buffer protections on smaller lots by requiring counties to allow proportionally wider viewing corridors on small lots than in larger lots. At the same time, the bill alters current law to ensure proportionally similar viewing corridors in larger lots by setting the corridor width as a percentage. **If SB867 simply required counties to allow viewing corridors encompassing 35% of the waterfront, regardless of the lot width, we would support the bill. As written, however, it would effectively reduce the size of buffers or remove them entirely from lots under 100 feet. That we cannot support.**

Vegetative buffers serve an extremely important role in managing runoff from shoreland properties (see, "The Value of Shoreland Zoning" from the Center for Land Use Education at UW-Stevens Point and UW-Extension for a graphic representation of how lots with and without buffers impact a lake). They help stabilize the shoreline with deeper roots than traditional grass lawns, limiting erosion and costly shoreline repair. The plants growing along the shore slow down the flow of water and reduce pollutants and excess nutrients from reaching the lake or stream, thereby preserving water quality. They create habitat for shoreland wildlife like songbirds and frogs, while discouraging the presence of nuisances to the property like geese, who prefer open spaces and add to the runoff problem with their waste (or, perhaps, scare the grandkids with their aggression). More runoff leads to lower water quality, algae blooms, and often to damaged fisheries.

But the impact of lowered water quality can also be felt by the shoreland homeowner. The sense of enjoyment of living on a lake is certainly impacted by a smelly, green, algae-choked lake, and in some cases poor water quality can be a safety concern for pets and humans. Who wants to explain to their grandchild that they can't go swimming because the water isn't safe to be in?

The impact of poor water quality extends itself not only to enjoyment but also to value. A study by researchers from the University of Wisconsin - Eau Claire showed that property

Wisconsin Lakes is a statewide non-profit conservation organization of waterfront property owners, lake users, lake associations, and lake districts who in turn represent over 80,000 citizens and property owners. For 30 years, Wisconsin Lakes has been a powerful bipartisan advocate for the conservation, protection, and restoration of Wisconsin's lake resources.

values of lakefront lots increase substantially as water clarity, a benchmark for water quality, increases. The study determined that an increase in just three feet of water clarity would increase average home sales prices from \$8,000 to \$32,000 dollars and that a drop in water quality would produce a similar impact in the other direction. The less clear the water, the smaller the value of the lakefront home.

And of course, less valuable properties in a county can impact revenues that benefit everyone, not just the lakefront owners. Given that the analysis of tax data showed 75% of Vilas County's and 61% of Oneida County's property tax revenue comes from waterfront property, in some parts of the state water quality of the area lakes is extremely important to local tax revenue.

Current law (Sec 59.692) prevents counties from requiring landowners to install vegetative buffers on previously developed land but does allow them to require preservation of buffers existing on July 14, 2015, so long as they also allow the landowner a total of 35 feet for every 100 feet of shoreline frontage for a viewing corridor or corridors. There is some confusion as to the original intent of this language, but many counties interpret it to mean that for every full block of 100 feet of shoreline, the landowner gets 35 feet of corridor. So, if the lot width is 100-199 feet, the corridor maximum is 35 feet. At 200 feet that jumps to 70 feet of viewing corridor.

Wisconsin Lakes supports what SB867 does for lots larger than 100 feet. It requires a county to allow a viewing corridor(s) that is "35% of the shoreline frontage." This allows every property a viewing corridor proportional to the size of their lot (this may in fact have been the original intent of the 2015 change). While this does potentially increase the total feet of unbuffered space on a lake, it is a more equitable distribution of the allowance for property owners and furthers that balancing of shoreland protection and waterfront ownership.

Specifically, we support the following revision:

59.692(1f)(b)1. Allows the buffer zone to contain an access and viewing corridor that is no greater than 35% of the frontage width.

Unfortunately, SB867 goes on to qualify the 35% rule, by saying the viewing corridor allowed must be the larger of the 35% of frontage or 35 feet. Any lot 100 feet or smaller in width would receive a viewing corridor of 35 feet. Viewing corridor sizes would no longer be proportionally equitable for all property owners and for very small lots, nearly no room for a buffer would be left.

With the 35-foot minimum viewing corridor allowance for any lot in the bill, Wisconsin Lakes cannot support SB867. If it simply required counties to allow corridors equal to 35% of total frontage, however, we would likely be in support.

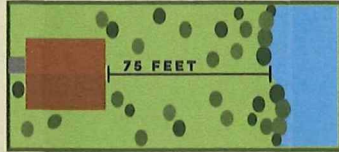
The bill also adds a DNR permitted bridge to the list of structures allowed in the shoreland set back area under 59.692(1n)(d). While we caution the Legislature in regards to adding to this list without good reason and consideration of the impact of new structures on water quality, we do not object to this particular addition.



THE VALUE OF SHORELAND ZONING

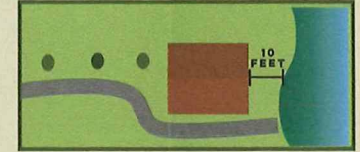
✓ SHORELAND ZONING

A house that is set back at least 75 feet from the water allows space for a buffer of trees and native plants that stabilize the shoreline.



✗ NO SHORELAND ZONING

A house that is close to the water does not leave space for a buffer of trees and native plants that stabilize the shoreline.



When a buffer zone of trees and native plants is mostly kept in place, the shoreline is naturally more stable allowing:

Clear water =
High waterfront
property values

Less erosion =
Less water
pollution

More native plants
and trees = More
fish and frogs

Less algae growth

Larger viewing and access corridors
destabilize more shoreline. Most of
the shoreline would be destabilized
with a 35 foot corridor on a 50 foot
wide lot as shown on the right.

When much of the buffer
zone of trees and native
plants is removed, the
shoreline erodes into the
lake causing:

Cloudy water =
Reduced waterfront
property values

More erosion = Lost
shoreline property =
More water pollution

More lawn
attracts geese

Fewer frogs,
fish, and fish
species

Increased algae growth

Fish eggs suffocate when
covered in eroded soil

CONCLUSIONS

Shoreland zoning standards make it possible to carefully **develop** a waterfront property, **protect** the lake or river, and keep waterfront property values **high**.

WHAT DO SHORELAND ZONING STANDARDS ACCOMPLISH?

Fewer eroded/lost
shorelines

Clearer water =
Higher property values

More fish and
fish species

More food and shelter
for fish and frogs

CONCLUSIONS

Waterfront property developed without shoreland zoning standards can lead to **erosion** and **shoreline loss**, **harm** the lake or river, and **reduce** waterfront property values.

For more information, check with your local zoning office.

Complete the Shoreland Evaluation Tool to assess your waterfront property at survey.healthylakeswi.com.



Senate Committee on Natural Resources and Energy

2021 Senate Bill 867

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

January 31, 2022

Good afternoon Chair Cowles and members of the Committee. My name is Mike Wenholz, and I am the Shoreland Program Coordinator for the Wisconsin Department of Natural Resources. Thank you for the opportunity to testify, for informational purposes, on Senate Bill 867, 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 a viewing and access 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 would welcome the opportunity to discuss these items further.

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.