



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0435/1
MLJ/EHS/MES/EVM:all

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 615**

March 22, 2018 - Offered by Representative TUSLER.

1 **AN ACT** *to amend* 59.69 (4m) (a), 62.23 (7) (em) 1., 281.36 (3b) (b), 281.36 (3m)
2 (a), 281.36 (3r) (a) 1. and 281.36 (3r) (a) 3.; and *to create* 20.625 (1) (h), 59.69
3 (4m) (bm), 62.23 (7) (em) 2m., 281.36 (1) (ae), 281.36 (1) (be), 281.36 (3t) (g),
4 281.36 (3w), 281.36 (4p), 758.20, 895.492 and 973.25 of the statutes; **relating**
5 **to:** creating a procedure for granting certificates of qualification for
6 employment for persons convicted of a crime, requirements for siting wetland
7 mitigation, wetland mitigation banks, an exemption from wetland permitting
8 requirements, local regulation of historic properties, requiring the exercise of
9 rule-making authority, and making an appropriation.

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

10 **SECTION 1.** 20.625 (1) (h) of the statutes is created to read:
11 20.625 (1) (h) *Certificates of qualification for employment.* All moneys received
12 under s. 973.25 (4) (a) for general program operations of the circuit courts.

1 **SECTION 2.** 59.69 (4m) (a) of the statutes is amended to read:

2 59.69 **(4m)** (a) Subject to ~~par. pars.~~ par. (b) and (bm), a county, as an exercise of its
3 zoning and police powers for the purpose of promoting the health, safety and general
4 welfare of the community and of the state, may regulate by ordinance any place,
5 structure or object with a special character, historic interest, aesthetic interest or
6 other significant value, for the purpose of preserving the place, structure or object
7 and its significant characteristics. Subject to ~~par. (b), (bm),~~ and (c), the county may
8 create a landmarks commission to designate historic landmarks and establish
9 historic districts. Subject to ~~par. pars.~~ par. (b) and (bm), the county may regulate all
10 historic landmarks and all property within each historic district to preserve the
11 historic landmarks and property within the district and the character of the district.

12 **SECTION 3.** 59.69 (4m) (bm) of the statutes is created to read:

13 59.69 **(4m)** (bm) A county containing a 1st class city may not designate a
14 historic landmark or establish a historic district if the landmark or district contains
15 a pumphouse or municipal building building built in 1931 by the city of Milwaukee.

16 **SECTION 4.** 62.23 (7) (em) 1. of the statutes is amended to read:

17 62.23 **(7)** (em) 1. Subject to ~~subd. subds.~~ subd. 2. and 2m., a city, as an exercise of its
18 zoning and police powers for the purpose of promoting the health, safety and general
19 welfare of the community and of the state, may regulate by ordinance, or if a city
20 contains any property that is listed on the national register of historic places in
21 Wisconsin or the state register of historic places shall, not later than 1995, enact an
22 ordinance to regulate, any place, structure or object with a special character, historic,
23 archaeological or aesthetic interest, or other significant value, for the purpose of
24 preserving the place, structure or object and its significant characteristics. Subject
25 to ~~subds. 2., 2m.,~~ subds. 2., 2m., and 3., a city may create a landmarks commission to designate

1 historic or archaeological landmarks and establish historic districts. Subject to subd.
2 subds. 2. and 2m., the city may regulate, or if the city contains any property that is
3 listed on the national register of historic places in Wisconsin or the state register of
4 historic places shall regulate, all historic or archaeological landmarks and all
5 property within each historic district to preserve the historic or archaeological
6 landmarks and property within the district and the character of the district.

7 **SECTION 5.** 62.23 (7) (em) 2m. of the statutes is created to read:

8 62.23 (7) (em) 2m. A 1st class city may not designate a historic landmark or
9 establish a historic district if the landmark or district contains a pumphouse or
10 municipal building building built in 1931 by the city of Milwaukee.

11 **SECTION 6.** 281.36 (1) (ae) of the statutes is created to read:

12 281.36 (1) (ae) "Compensation search area" means an area that includes the
13 geographic management unit of a wetland impacted by a discharge, the county of the
14 impacted wetland, or a 20-mile radius from the impacted wetland.

15 **SECTION 7.** 281.36 (1) (be) of the statutes is created to read:

16 281.36 (1) (be) "Geographic management unit" means one of the 22 statewide
17 management units established by the department based on the major river basins
18 of the state.

19 **SECTION 8.** 281.36 (3b) (b) of the statutes, as affected by 2017 Wisconsin Act 115,
20 is amended to read:

21 281.36 (3b) (b) No person may discharge dredged material or fill material into
22 a wetland unless the discharge is authorized by a wetland general permit or
23 individual permit issued by the department under this section or the discharge is
24 exempt under sub. (4), (4m) (a), (4p) (a), or (4r). No person may violate any condition
25 contained in a wetland general or individual permit issued by the department under

1 this section. The department may not issue a wetland general or individual permit
2 under this section unless it determines that the discharge authorized pursuant to the
3 wetland general or individual permit will comply with all applicable water quality
4 standards.

5 **SECTION 9.** 281.36 (3m) (a) of the statutes, as affected by 2017 Wisconsin Act
6 115, is amended to read:

7 281.36 **(3m)** (a) *When permit required.* Any person wishing to proceed with a
8 discharge into any wetland shall submit an application for a wetland individual
9 permit under this subsection unless the discharge has been authorized under a
10 wetland general permit as provided in sub. (3g) or is exempt under sub. (4), (4m) (a),
11 (4p) (a), or (4r). Before submitting the application, the department shall hold a
12 meeting with the applicant to discuss the details of the proposed discharge and the
13 requirements for submitting the application and for delineating the wetland. An
14 applicant may include in the application a request for a public informational hearing.
15 The application shall be accompanied by the applicable fee specified in sub. (11) or
16 (12) (a).

17 **SECTION 10.** 281.36 (3r) (a) 1. of the statutes is amended to read:

18 281.36 **(3r)** (a) 1. Purchasing credits from a mitigation bank located in the same
19 compensation search area as the wetland impacted by the discharge or, if not
20 available, located anywhere this state.

21 **SECTION 11.** 281.36 (3r) (a) 3. of the statutes is amended to read:

22 281.36 **(3r)** (a) 3. Completing mitigation within the same ~~watershed or within~~
23 ~~one-half mile of the site of the discharge~~ compensation search area as the wetland
24 impacted by the discharge.

25 **SECTION 12.** 281.36 (3t) (g) of the statutes is created to read:

1 281.36 **(3t)** (g) Financial assurance requirements for the construction of
2 mitigation projects by mitigation banks.

3 **SECTION 13.** 281.36 (3w) of the statutes is created to read:

4 281.36 **(3w)** RELEASE OF CREDITS. (a) In this subsection:

5 1. “Developing mitigation bank” means a mitigation bank that has not
6 completed its mitigation project and that has not yet been established under an
7 agreement between the bank’s sponsor and the department or otherwise approved
8 by the department.

9 2. “Estimated credits” means the total number of credits that a developing
10 mitigation bank estimates it will have once its mitigation project is constructed.

11 (b) A developing mitigation bank may sell its estimated credits if the mitigation
12 bank has met the financial assurance requirements established by the department
13 under sub. (3t) (g) and if the mitigation bank releases the credits in accordance with
14 the following schedule:

15 1. No more than 20 percent of the estimated credits after the department
16 approves and executes the mitigation bank document establishing the specifications
17 for the mitigation bank.

18 2. No more than 65 percent of the estimated credits after the applicant or bank
19 sponsor is issued a letter of compliance that construction and all corrective actions
20 are complete.

21 3. No more than 85 percent of the estimated credits after the department
22 approves a monitoring report, but not earlier than 2 years after construction of the
23 mitigation project.

1 4. 100 percent of the estimated credits after the department approves the final
2 monitoring report and determines that all performance standards applicable to the
3 mitigation bank are met.

4 **SECTION 14.** 281.36 (4p) of the statutes is created to read:

5 **281.36 (4p) EXEMPTION; PREVIOUS PERMIT.** (a) The permitting requirement
6 under sub. (3b) does not apply to any discharge into a wetland if that discharge into
7 that wetland was authorized under both a permit issued under sub. (3b) and a federal
8 permit issued under 33 USC 1344 that required a mitigation plan that included all
9 of the following and if the discharge complies with this mitigation plan:

10 1. Rehabilitation or restoration of 40 or more acres of agricultural lands into
11 wetlands, which may include lands used for cranberry cultivation.

12 2. Preservation of 150 or more acres of wetlands pursuant to a conservation
13 easement under sub. (8m).

14 (b) The department shall waive water quality certification under 33 USC 1341
15 (a) (1) for a discharge under par. (a).

16 **SECTION 15.** 758.20 of the statutes is created to read:

17 **758.20 Consolidated court automation programs.** (1) In this section,
18 “Wisconsin Circuit Court Access Internet site” means the Internet site of the
19 consolidated court automation programs, which is the statewide electronic circuit
20 court case management system established under s. 758.19 (4) and maintained by
21 the director of state courts.

22 (2) The director of state courts shall ensure the Wisconsin Circuit Court Access
23 Internet site provides the department of corrections access to the information
24 required to complete the report under s. 973.25 (7).

25 **SECTION 16.** 895.492 of the statutes is created to read:

1 **895.492 Civil liability exemption; certificate of qualification for**
2 **employment. (1)** In this section:

3 (a) “Employee” has the meaning given in s. 101.01 (3) and also includes a former
4 employee.

5 (b) “Employer” has the meaning given in s. 101.01 (4).

6 **(2)** An employer who hires an employee who has been issued a certificate of
7 qualification for employment under s. 973.25 is immune from liability for the acts or
8 omissions of the employee unless the employer, when he or she hired the employee,
9 acted maliciously, with gross negligence, or with intent to cause harm.

10 **SECTION 17.** 973.25 of the statutes is created to read:

11 **973.25 Certificates of qualification for employment. (1) DEFINITIONS.** In
12 this section:

13 (a) “Certificate of qualification for employment” means a certificate issued by
14 the council on offender employment that provides an offender with relief from a
15 collateral sanction, except that it does not provide relief from s. 48.685 (5m), 50.065
16 (4m), or 111.335 (1) (c), (cg), (cm), (cs), or (d).

17 (b) “Collateral sanction” means a penalty, ineligibility, disability, or
18 disadvantage that is related to employment or to occupational licensing or
19 certification and that is a result of the offender’s criminal record. “Collateral
20 sanction” does not include confinement in a jail or prison; probation, parole, or
21 extended supervision; suspension or revocation of motor vehicle operating
22 privileges; imposition of a forfeiture, fine, or assessment; costs of prosecution; or an
23 order to pay restitution.

24 (c) “Offender” means a person who has been convicted of a crime other than a
25 violent crime, as defined in s. 165.84 (7).

1 **(2) COUNCIL ON OFFENDER EMPLOYMENT.** The director of state courts shall provide
2 forms for use in filing an application for a certificate of qualification for employment
3 and shall convene a council on offender employment that shall review applications
4 for certificates of qualification for employment. The council shall consist of the
5 following 3 members: the attorney general, or his or her designee; the state public
6 defender, or his or her designee; and the chairperson of the parole commission, or his
7 or her designee. The council shall have the powers, duties, and responsibilities set
8 forth in this section.

9 **(3) ELIGIBILITY.** An offender who has been released from confinement may
10 apply for a certificate of qualification for employment under this section if any of the
11 following applies:

12 (a) He or she has served at least 24 consecutive months of a term of confinement
13 in prison in the Wisconsin state prisons.

14 (b) He or she has served at least 12 consecutive months of a term of confinement
15 in prison in the Wisconsin state prisons and at least 12 consecutive months of a term
16 of extended supervision under s. 302.113.

17 **(4) PROCEDURE.** (a) An offender may file an application for a certificate of
18 qualification for employment to the council on offender employment on a form to be
19 provided by the director of state courts along with an application fee of \$20 that shall
20 be deposited in the appropriation under s. 20.625 (1) (h). The council may waive the
21 fee if the offender submits an affidavit along with the application in which he or she
22 swears or affirms that he or she is unable to pay the application fee.

23 (b) After receiving an application under par. (a), the council on offender
24 employment shall request from the department of corrections and the department
25 shall provide to the council all of the following information about the offender:

- 1 1. His or her highest level of education.
- 2 2. Any treatment he or she has completed.
- 3 3. Any performance evaluations for his or her work.
- 4 4. Any risk and needs assessment reports.
- 5 5. Any other reports of information gathered during the normal course of
- 6 business, as requested by the council.

7 (c) Within 60 days after receiving the information requested under par. (b), the
8 council on offender employment shall issue an order granting or denying the
9 offender's request for a certificate of qualification for employment.

10 **(5) GRANTING OF CERTIFICATE; EXCEPTIONS.** The council on offender employment
11 shall grant an offender's application for a certificate of qualification for employment
12 if the council finds that the offender is not likely to pose a risk to public safety, that
13 the certificate will substantially assist the offender in obtaining employment or
14 occupational licensing or certification, and that the offender is less likely to commit
15 an additional criminal offense if he or she obtains a certificate of qualification for
16 employment.

17 **(6) REVOCATION OF CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT.** (a) If an
18 offender is convicted of a felony or of a Class A or Class B misdemeanor after he or
19 she is issued a certificate of qualification for employment, or if his or her probation,
20 parole, or extended supervision is revoked for the commission of a crime, the court
21 shall permanently revoke a certificate of qualification for employment issued under
22 sub. (5).

23 (b) The court may not revoke an offender's certificate of qualification for
24 employment as a sanction for the offender's commission of an act or offense that is
25 a violation of a condition of the offender's probation, parole, or extended supervision

1 that is not a crime, or if the offender's probation, parole, or extended supervision is
2 revoked as a result of the offender's commission of a noncriminal act.

3 (7) DATA COLLECTION; REPORT TO LEGISLATURE. The department of corrections
4 shall prepare an annual report that includes, for each year, the number of
5 applications that are received under this section, the number of certificates of
6 qualification for employment that are issued, and the number of certificates of
7 qualification for employment that are revoked and the reasons for revocation. The
8 department shall submit the report to the chief clerk of each house of the legislature
9 for distribution to the legislature under s. 13.172 (2).

10 **SECTION 18. Initial applicability.**

11 (1) The treatment of section 281.36 (3b) (b), (3m) (a), and (4p) of the statutes
12 first applies to a discharge into a wetland authorized by a permit under section
13 281.36 (3b) of the statutes and a federal permit under 33 USC 1344, both of which
14 were issued before the effective date of this subsection.

15 (END)