



DOOR COUNTY

**REGARDING REQUESTED REMOVAL OF
SHORELAND ZONING POLICY ITEM
FROM THE 2015-2017 WISCONSIN STATE BUDGET BILL**

1 TO THE DOOR COUNTY BOARD OF SUPERVISORS:
2

3 **WHEREAS**, Door County has more miles of Lake Michigan shoreline (roughly 300) than any
4 other county in the state as well as roughly 300 miles of navigable stream and inland lake shorelines,
5 all of which shoreline is economically invaluable to the County – but only to the extent that the
6 shoreline beauty and water quality are protected – due to the millions of tourists it attracts.
7

8 **WHEREAS**, in 1968, county shoreland zoning was established in Wisconsin, codified in Sec.
9 59.692, Wis. Stats., with rules promulgated in Ch. NR 115 Wis. Adm. Code ["NR 115"].
10

11 **WHEREAS**, Sec. 59.692 (1m), Wis. Stats. directs counties to zone by ordinance all shorelands
12 in unincorporated areas in order "*...to effect the purposes of s. 281.31 and to promote the public*
13 *health, safety and general welfare..*", with the rules set forth in NR 115 intended to be minimum
14 standards and not maximums.
15

16 **WHEREAS**, Wisconsin's shoreland zoning regulations have only been sparingly and thoughtfully
17 revised over the 47 years they have been in existence, the most recent significant revisions being
18 made to NR115 by the Natural Resources Board in 2010 via the rule-making process, said changes
19 occurring only following many years of meetings, hearings, public input, and deliberation.
20

21 **WHEREAS**, on May 29, 2015, the Joint Committee on Finance ("Joint Finance") approved the
22 inclusion of Item #23 of Motion #520 regarding county shoreland zoning standards in the budget bill,
23 with no public input. In fact, only members of Joint Finance have had a chance to weigh in so far.
24

25 **WHEREAS**, Item #23, which consists of two type-written pages and fourteen paragraphs
26 (attached hereto), represents significant policy shifts from existing, effective, county shoreland zoning
27 regulations, among other things:
28

- 29 ■ Pre-empting local control, effective immediately, by eliminating provisions in state law that
30 have allowed counties to adopt stricter regulations to protect shorelands, instead adopting an
31 ill-advised one-size-fits-all approach, which restricts counties' ability to tailor shoreland zoning
32 laws to fit local conditions;
- 33 ■ Significantly and negatively changing how counties may regulate nonconforming structures,
34 potentially thwarting the purposes of NR115 and affecting neighboring property owners' views
35 and property values;
- 36 ■ Effectively barring counties' regulation of impervious surfaces in shorelands, unless property
37 owners design and install potentially expensive storm water runoff control systems;
- 38 ■ Restraining counties' ability to require permits and impose fees to recoup the reasonable and
39 actual costs for administering these new shoreland zoning regulations, with the inability to
40 require permits potentially leading to property owners' unknowing noncompliance with other
41 regulations (floodplain, sanitary, etc.); *and*
- 42 ■ Doing nothing to "*...further the maintenance of safe and healthful conditions; prevent and*
43 *control water pollution; protect spawning grounds, fish and aquatic life; control building sites,*
44 *placement of structure and land uses and preserve shore cover and natural beauty...*", as
45 envisioned by Sec. 281.31, Wis. Stats.
46

47 Significant policy items, such as Item #23, must be addressed in stand-alone legislation, rather than
48 as part of the budget process.



DOOR COUNTY

REGARDING REQUESTED REMOVAL OF SHORELAND ZONING POLICY ITEM FROM THE 2015-2017 WISCONSIN STATE BUDGET BILL

ROLL CALL Board Members	Aye	Nay	Exc.
AUSTAD	X		
BRANN	X		
BUR		X	
ENGLEBERT	X		
ENIGL	X		
FISHER	X		
GUNNLAUGSSON	X		
HAINES	X		
HALSTEAD	X		
KOCH	X		
KOHOUT	X		
KOK	X		
LIENAU	X		
MEYER	X		
MOELLER	X		
NEINAS	X		
RUNQUIST			X
SCHULTZ	X		
SITTE	X		
VIRLEE	X		
ZIPPERER	X		

BOARD ACTION

Vote Required: Majority Vote of a Quorum

Motion to Approve Adopted Defeated

1st Fisher Defeated

2nd Sitte

Yes: 19 No: 1 Exc: 1

Reviewed by: [Signature], Corp. Counsel

Reviewed by: 06-18-2015, Administrator

FISCAL IMPACT: Approval of this resolution will have no fiscal impact. MEJ

Certification:

I, Jill M. Lau, Clerk of Door County, hereby certify that the above is a true and correct copy of a resolution that was adopted on the 23rd day of June 2015 by the Door County Board of Supervisors.

[Signature]
Jill M. Lau
County Clerk, Door County

1 **NOW, THEREFORE, BE IT RESOLVED**, that the Door County Board
2 of Supervisors respectfully requests that the Joint Committee on Finance
3 Motion #520, Item #23, containing significant regulatory changes
4 pertaining to county shoreland zoning, be removed from the 2015-2017
5 budget bill.

6
7 **BE IT FURTHER RESOLVED**, that, if it is deemed necessary to
8 amend shoreland zoning regulations, such be done by way of **stand-alone**
9 **legislation** in regular legislative session with meetings, hearings, public
10 input, and deliberation, rather than as part of the budget process.

11
12 **BE IT FURTHER RESOLVED**, that Door County would welcome the
13 opportunity to participate in collaborative discussions, public listening
14 sessions, and hearings regarding shoreland zoning regulations to discuss
15 manners in which they could be improved.

16
17 **BE IT FURTHER RESOLVED**, that the County Clerk will forward
18 copies of this resolution to all members of the Wisconsin Joint Committee
19 on Finance, Senator Frank Lasee, Representative Joel Kitchens, Senator
20 Robert L. Cowles, Governor Scott Walker, and each county in the State of
21 Wisconsin.

**SUBMITTED BY:
Resource Planning Committee**

[Signature] [Signature]
Kenneth Fisher, Chair David Lienau

[Signature] [Signature]
Susan Kohout David Enigl

[Signature]
Don Sitte

JOINT FINANCE COMMITTEE
2015-2017 WI STATE BUDGET

Representative Loudenbeck
Senator Tiffany

MAY 27 & 29, 2015 REVIEW/APPROVALS
NATURAL RESOURCES -- DEPARTMENTWIDE

Motion:

Move to do the following:

1. *Position Reductions* [LFB Paper #450]. Adopt Alternatives A1, B1, and C2 (Governor's recommendation).


Stewardship Program [LFB Paper #451]

2. *Bonding Levels*. Delete the Governor's recommendation that beginning with fiscal year 2015-16, DNR may not obligate moneys from the land acquisition subprogram of the reauthorized stewardship program if the annual general fund debt service on amounts obligated under the reauthorized stewardship program exceeds \$54,305,700. Instead, specify that DNR may not obligate more than \$33,250,000 in each year from fiscal year 2015-16 through 2019-20 under the reauthorized stewardship program as shown in the following table. Reduce the amount of total bonding authority for the stewardship program by \$88,250,000 from the currently authorized \$1,365,500,000 (\$1,277,250,000 would be authorized for the program) and provide \$50,000 GPR in 2015-16 and \$980,000 GPR in 2016-17 for estimated debt service payments.

Posted By:
Wheeler Reports, Inc.

f. Provide if current-law provisions for board dissolution are not satisfied, or if court approval is not granted, or if the board finds the public welfare will be promoted by reinstating the drainage district board, the board shall order the district reinstated.

g. Specify the provision first applies to a petition for suspension of operation issued under current law for which no final order has been issued as of the effective date of the bill.

 23. *Shoreland Zoning Standards.* Move to generally incorporate the provisions of 2015 LRB 1919/1 that would amend Chapters 59 (counties), 61 (villages), 62 (cities) and 281 (water and sewage) as follows:

a. Provide a definition for "structure" under s. 59.692 of the statutes (county shoreland zoning) to mean a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch or fire pit. Delete a reference to "buildings" in the definition of "shoreland setback area," and provide the term "structure" applies to consideration of whether construction or placement of objects occurs in a shoreland setback area, which is an area within a set distance of a high-water mark in which building activity is prohibited or limited.

b. Specify a shoreland zoning standard promulgated by DNR, or a county shoreland zoning ordinance, may not impair the interest of a landowner in shoreland property with regard to several aspects of land use as described in the following paragraphs.

(1) Specify DNR standards or a county ordinance may not: (a) require approval to install or maintain outdoor lighting in shorelands; (b) impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands; or (c) otherwise prohibit or regulate outdoor lighting in shorelands if the lighting is designed or intended for residential use.

(2) Modify current-law provisions regarding restoration of nonconforming structures to specify DNR standards or a county ordinance may not require approval for, or impose a fee or mitigation requirement for, or otherwise prohibit or regulate, the maintenance, repair, replacement, restoration, rebuilding or remodeling of all or any part of a nonconforming structure if the activity does not expand the footprint of the nonconforming structure. Provide a county shoreland zoning ordinance shall allow a footprint expansion of a nonconforming structure if the expansion is necessary for the structure to comply with applicable state or federal requirements.

(3) Specify DNR standards or a county ordinance may not require any approval for, or impose any fee or mitigation requirement for, or otherwise prohibit or regulate, the vertical expansion of a nonconforming structure unless the vertical expansion would extend for more than 35 feet above grade level. Provide DNR may establish a shoreland zoning standard that allows vertical or lateral expansion of a nonconforming structure, consistent with the provisions of the motion, and provide a county may enact a shoreland zoning ordinance that allows the vertical or lateral expansion of a nonconforming structure if the ordinance does not conflict with DNR shoreland zoning standards.

(4) Specify DNR standards or a county ordinance may not require any inspection or upgrade of a structure before the sale or transfer of the structure.

(5) Specify DNR standards or a county ordinance may not establish standards for impervious surfaces, unless the standards provide that a surface is considered pervious if the runoff from the surface is treated by a device or system, or is discharged to an internally drained pervious area, that retains the runoff on or off the parcel to allow infiltration into the soil.

c. Specify a county shoreland zoning ordinance may not regulate a matter more restrictively than the matter is regulated by a shoreland zoning standard promulgated as an administrative rule by the DNR. However, provide the restriction does not prohibit a county from enacting a shoreland zoning ordinance to regulate a matter that is not covered by a DNR-promulgated shoreland zoning standard.

d. Provide any provision in a county ordinance that is in effect on or after the bill's effective date, and that is inconsistent with any of the provisions of s. 59.692 of the statutes (county shoreland zoning) as affected by the motion, does not apply and may not be enforced.

e. Specify any village or city enacting ordinances required by statute to cover annexed or previously unincorporated shorelands must adhere to requirements and limitations on such ordinances, as specified by the motion. Further, delete provisions relating to standards for vegetative buffers in such annexed or previously unincorporated shorelands [ss. 61.353 (3)(c) and (d), and 62.233 (3)(c) and (d) of the statutes].

f. Specify a county shoreland zoning ordinance may not require a person to establish a vegetative buffer zone on previously developed land, nor expand an existing vegetative buffer zone. However, specify beginning on the effective date of the bill, a county shoreland zoning ordinance may require a person to maintain a vegetative buffer zone existing on that date if the ordinance: (a) allows the buffer zone to contain a viewing corridor at least 35 feet wide for every 100 feet of shoreline frontage; or (b) allows the viewing corridor to run contiguously for the entire maximum width allowed in the ordinance.

g. Specify a county shoreland zoning ordinance may not regulate the construction of a structure on a substandard lot in a manner more restrictive than DNR standards governing structures on substandard lots.

h. Specify DNR may not appeal to a county board of adjustment a decision by a county to grant or deny a shoreland zoning variance under s. 59.692 of the statutes. Provide the Department may, upon request of a county board of adjustment, issue an opinion on whether a variance should be granted or denied.

i. Specify county shoreland zoning ordinances, construction site erosion control and storm water management zoning ordinances, or wetland zoning ordinances do not apply to lands adjacent to artificially constructed drainage ditches, ponds or storm water retention basins that are not hydrologically connected to a natural navigable body of water. Also, repeal s. 281.31 (2m) (c) of the statutes, providing lands adjacent to farm drainage ditches are exempt from various types of zoning if maintained in nonstructural agricultural use.

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Wheeler Reports, Inc.