

# JOINT FINANCE - MOTION #520 Paragraph 23

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.

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.

(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.

**Posted By:**  
**Wheeler Reports, Inc.**





**Wisconsin  
County Code  
Administrators**

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June 5, 2015

Senator Alberta Darling, Co-Chair, Representative John Nygren, Co-Chair  
And Members – Joint Committee on Finance  
C/O Joe Malkasian – Committee Clerk  
Room 305 East, State Capitol  
Madison, WI 53702

RE: Budget Bill: Motion #520, Paragraph #23, Shoreland Zoning Standards.

Dear Senator Darling, Representative Nygren and members of the Joint Finance Committee:

As President of the Wisconsin County Code Administrators (WCCA), I would like to submit the following WCCA's position on the Joint Committee on Finance Motion #520 motion relating to shoreland zoning standards of the 2015-2017 state budget bill. The WCCA is an association of County Zoning Administrators who are responsible for the administration and enforcement of the County's shoreland and land use regulations, in compliance with state administrative codes.

WCCA opposes changes to the state shoreland zoning standards proposed in paragraph 23 of Motion # 520.

Wisconsin has a rich history in protecting its shorelands. Wisconsin Counties have been enforcing the minimum shoreland standards since the late 1960's. Wisconsin's minimum shoreland zoning standards are promulgated as NR 115, Wisconsin Administrative Code (NR 115). NR 115 shoreland standards protect water quality, preserve property values, protect wildlife habitat, protect spawning grounds, preserve shoreland cover and fisheries habitat, protect natural scenic beauty and to prevent erosion and sedimentation. The shoreland standards are widely accepted by the public and are supported locally. The shoreland zoning standards provide protection for the state's 15,000 lakes and 13,500 miles of navigable streams and rivers. Almost 3 percent of Wisconsin's area—nearly a million acres—is lakes.

In the late 1990's, state and county officials recognized that the NR 115 shoreland standards were antiquated and needed to be amended. After nearly a 15 year effort, that involved many stakeholders, the State of Wisconsin passed the amended NR 115. This amendment process was involved to say the least. In 2002 a 28-member Advisory Committee was formed to provide oversight and guidance during the amendment proceedings. In 2003 the committee held 8 public listening sessions to receive comments on proposed changes to NR 115. In 2005, 11 public hearings were held with over 1,400 people in attendance and over 50,000 comments received. In 2007, another 8 public hearings were held with 727 people attending and 8,945 comments received. Finally, in 2013, 5 additional public hearings were held as the code was tweaked with 146 people attending and 410 comments received.

The NR 115 amendment process was extensive with much input from many parties across the state. In Wisconsin there is a long standing tradition of protecting our shorelands that has resulted in better water quality, higher property values, and a better economy. Currently, these standards include limits on the expansion of non-conforming structures if compliant locations exist on the property. Current law allows

for the replacement of all non-conforming structures lost to violent wind, vandalism, fire, flood, snow, ice, mold or infestation. However, the regulations do not allow expansions without considering the impact of those actions on the water resource they are infringing on. WCCA supports the law as it is currently written and feels the changes proposed could be detrimental to our state's valuable waterways.

In addition, paragraph 23 of Motion #520, restricts local units of government, including both towns and counties from adopting rules that protect their most vulnerable resources. Many areas of our state have unique water resources that local government officials, with the backing of local citizens and landowners, have instituted slightly greater regulations in order to protect that which they hold dear in their backyards. That protection sought and passed by the people who live in the area would be stripped away with the passage of this motion.

WCCA understands that hard decisions must be made to balance Wisconsin's state budget. That being said, WCCA requests that paragraph 23 of Motion 520 be stricken from the budget and instead vetted through the legislative bill making process. The WCCA believes this matter needs to receive the fullest attention and input from all stakeholders, such as, property owners, realtors, builders, lake association and lake district members, anglers, boaters, town, county and state officials.

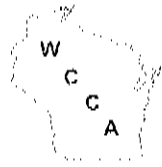
In closing, the WCCA respectfully requests the Joint Committee on Finance to reconsider and repeal paragraph 23 from Motion 520 relating to shoreland zoning standards. The WCCA extends the offer to discuss this matter with the authors of the motion and any member of the Joint Committee on Finance to address the issues and to develop a workable plan for all affected parties. The WCCA also is available to answer questions the committee may have regarding this matter.

Sincerely,

*Terri Dopp-Paukstat*

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cc: WCCA Executive Board  
Wisconsin Counties Association  
Wisconsin Towns Association  
Senator Luther Olsen  
Senator Sheila Harsdorf  
Senator Leah Vukmir  
Senator Tom Tiffany  
Senator Howard Marklein  
Senator Lena Taylor  
Senator Jon Erpenbach  
Representative Dale Kooyenga  
Representative Amy Loudenbeck  
Representative Dean Knudson  
Representative Michael Schraa  
Representative Mary Czaja  
Representative Chris Taylor  
Representative Gordon Hintz



Wisconsin  
County Code  
Administrators



Wisconsin County  
Planning  
& Zoning Directors  
*Established in 1978*

## MEMORANDUM

**TO:** Honorable Members of the Joint Committee on Finance

**FROM:** Wisconsin Counties Association  
Wisconsin Land and Water Conservation Association  
Wisconsin County Code Administrators  
Wisconsin County Planning and Zoning Directors

**DATE:** June 8, 2015

**SUBJECT:** Paragraph 23 of Motion #520 applicable to County Shoreland Zoning

This letter serves as a summary of our concerns pertaining to Paragraph 23 of Motion #520 of the 2015-2017 state budget bill. Our organizations are charged with protecting our natural resources through various means, best management practices of land conservation principles, shoreland/wetland zoning regulations, and planning for future development in all areas of our great state.

Wisconsin currently has superior water resources because of the protections that have been in place for more than 45 years. The abandonment of minimum county shoreland zoning standards should not be taken lightly when considering the positive impacts they have had. While other states have had degradation of waterways, our state has halted and even reversed that trend because of the work of our organizations, namely WCA, WCCA, WLWCA, and WCPA in cooperation with the Wisconsin Department of Natural Resources (DNR).

Our concerns with Paragraph 23 of Motion #520 are as follows:

a.) The proposal to allow development of non-conforming structures without restriction or permit could lead to impairment of our waterways and unsafe conditions for property owners. The reasonable limitation on the expansion, reconstruction and modification of nonconforming structures provides a balance between their continued use and their eventual removal. In the vast majority of situations, the nonconformity is due to the structure being very close to the shoreline. In such cases the expansion of the nonconforming structure can increase runoff, which has a negative impact on water quality.

b.) When permits are not required, the system of checks and balances that currently aids development to take place in an orderly and safe manner will disappear. It is our concern that unintended impacts will lead to a decline in environmental quality in our shoreland areas and consequently result in a lowering property values and a decline in overall economic conditions.

c.) Removing the ability to allow a county to have restrictions greater than the minimum standards set by NR 115 does not allow local units of government to tailor their regulations to their unique resources at the local level, nor does it allow them to implement priorities in their locally written and approved plans.

d.) Changes to the minimum standards should go through the legislative process so that interested parties may comment. Waterways are held in trust for the public. This process would examine the regulations from all viewpoints and identify possible consequences during the process.

We ask that the aforementioned items be considered outside of the biennial budget in order to allow for stakeholder input into the process of improving current state statutes related to shoreland zoning. Thank you for your consideration.