

Analysis by the Legislative Reference Bureau
ELECTRONICS AND INFORMATION TECHNOLOGY MANUFACTURING ZONE
This bill authorizes the Wisconsin Economic Development Corporation to create not more than one electronics and information technology manufacturing zone.

Section on environment only.

Entire bill: <http://docs.legis.wisconsin.gov/raw/proposal/2017/-4050>

Environmental impact statements

Under current law, all state agencies are required to prepare environmental impact statements for every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment. A state agency is required to consider an environmental impact statement in its decision-making process, but the statement has no regulatory consequence. Current federal law under the National Environmental Policy Act also requires federal agencies to prepare an environmental impact statement for any major federal action, including for federal permits that are necessary for actions in the state. Under the bill, a determination regarding the issuance of any permit or approval for a new manufacturing facility within an electronics and information technology manufacturing zone is not a major action for the purpose of the environmental impact statement requirement.

Wetlands and waterway permits exemption

Under federal law, activities involving the discharge of dredged or fill material into “navigable waters” must comply with certain guidelines contained in regulations promulgated by the federal Environmental Protection Agency in order for a discharge permit to be issued by the U.S. Army Corps of Engineers (ACE). Before ACE may issue a permit, the Department of Natural Resources must determine that the project complies with state water quality standards, including those for wetlands (water quality certification). Federal law defines “navigable waters” to be “the waters of the United States.” Generally, courts have interpreted “the waters of the United States” to exclude nonnavigable, isolated, intrastate waters (nonfederal wetlands).

Under current state law, subject to exceptions, no person may discharge dredged material or fill material into a federal or nonfederal wetland unless the discharge is authorized by a wetland general permit or individual permit, or the discharge is exempt from permitting requirements. Current law requires DNR to issue wetland general permits for discharges of dredged or fill material into certain federal and nonfederal wetlands. For a discharge into a wetland that is not authorized under a wetland general permit, current law requires a person to apply for and obtain a wetland individual permit. Before DNR may issue a wetland individual permit, it must require the restoration, enhancement, creation, or preservation of other wetlands to compensate for adverse impacts to a wetland - 5 - Aug. 2017 Spec. Sess. 2017 - 2018 Legislature LRB-4050/1 MS/MG/JK/ZW/MK:emw&wlj ASSEMBLY BILL 1 resulting from the discharge, also known as mitigation. Under current law, a wetland general or individual permit issued by DNR constitutes water quality certification.

Under this bill, a person may, without a permit, discharge dredged material or fill material into a nonfederal wetland that is located in an electronics and information technology manufacturing zone if the discharge is related to the construction, access, or operation of a new manufacturing

facility that is also located in the zone. With respect to a federal wetland located in an electronics and information technology manufacturing zone, the bill provides that no state permit is required and that the state waives water quality certification. Under the bill, a federal permit for such a discharge is still required. The bill requires any adverse impacts to functional values of federal or nonfederal wetlands in an electronics and information technology manufacturing zone to be compensated at a ratio of two acres per each acre impacted through the purchase of credits from a mitigation bank, participation in the in lieu fee subprogram or escrow subprogram administered by DNR, or completion of mitigation within this state. Under current law, the general minimum ratio is 1.2 acres for each acre affected by the discharge.

Under current law, subject to exceptions, no person may do any of the following without a permit issued by DNR: 1) deposit any material or place any structure upon the bed of any navigable water where no bulkhead line has been established or beyond a lawfully established bulkhead line; 2) construct or maintain a bridge or construct, place, or maintain a culvert in, on, or over navigable waters; 3) construct, dredge, or enlarge any artificial water body that connects with an existing navigable waterway; 4) construct or enlarge any part of an artificial water body that is or will be located within 500 feet of the ordinary high-water mark of, but that does not or will not connect with, an existing navigable waterway; 5) grade or remove topsoil from the bank of any navigable waterway where the area exposed by the grading or removal will exceed 10,000 square feet; and 6) change the course of or straighten a navigable stream.

Under the bill, DNR generally may not require a permit for any of these activities if they relate to the construction, access, or operation of a new manufacturing facility located in an electronics and information technology manufacturing zone. However, the bill provides that DNR may require a permit for the construction or maintenance of bridges and the construction or placement and maintenance of culverts if DNR determines that conditions specific to the site require restrictions in order to prevent significant adverse impacts to the public rights and interests, environmental pollution, or material injury to the riparian rights of any riparian owner