

# History of Senate Bill 160

## SENATE BILL 160

An Act to create 293.67 of the statutes; relating to: prohibiting the use of cyanide in metallic mining.

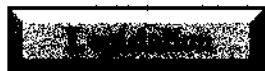
2001

04-25.	S. Introduced by Senators Decker, Burke, Baumgart, Hansen, Risser and George; cosponsored by Representatives Black, La Fave, Reynolds, Sherman, Turner, Pocan, Staskunas, Huber, Richards, J. Lehman, Miller, Bock, Balow, Lassa, Berceau, Carpenter, Cullen, Plouff and Krawczyk.	
04-25.	S. Read first time and referred to committee on Environmental Resources .....	155
05-10.	S. Public hearing held.	
05-31.	S. Executive action taken.	
06-18.	S. Report passage recommended by committee on Environmental Resources, Ayes 4, Noes 1 .....	233
06-18.	S. Available for scheduling.	
11-01.	S. Placed on calendar 11-6-2001 by committee on Senate Organization.	
11-06.	S. Read a second time .....	451
11-06.	S. Senate substitute amendment 1 offered by Senator Schultz .....	451
11-06.	S. Senate substitute amendment 1 rejected, Ayes 18, Noes 15 .....	451
11-06.	S. Ordered to a third reading .....	451
11-06.	S. Rules suspended .....	452
11-06.	S. Read a third time and passed, Ayes 19, Noes 14 .....	452
11-06.	S. Ordered immediately messaged .....	452
11-16.	A. Received from Senate .....	546
11-16.	A. Read first time and referred to committee on Environment .....	546

2002

03-07.	A. Refused to suspend rules to withdraw from committee on Environment and take up, Ayes 41, Noes 57 .....	740
03-26.	A. Failed to concur in pursuant to Senate Joint Resolution 1 .....	811

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# History of Senate Bill 271

## SENATE BILL 271

An Act to repeal 160.19 (12); to amend 160.21 (2) (d) (intro.), 289.05 (2), 291.01 (7), 293.15 (9), 293.15 (11) and 293.93; and to create 291.05 (2m) and 293.17 of the statutes; relating to: environmental regulation of mining and notice to transferees of interests in mining sites. (FE)

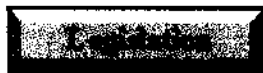
2001

10-10.	S.	Introduced by Senators Hansen, Erpenbach, Shibilski and Decker; cosponsored by Representatives McCormick, Krawczyk, Meyerhofer, La Fave, Sherman, Black, Bies, Underheim, Ryba, Miller and Berceau.	
10-10.	S.	Read first time and referred to committee on Environmental Resources .....	396
10-11.	S.	Public hearing held.	
10-30.	S.	Executive action taken.	
10-31.	S.	Report introduction and adoption of Senate substitute amendment <u>1</u> recommended by committee on Environmental Resources, Ayes 5, Noes 0 .....	438
10-31.	S.	Report passage as amended recommended by committee on Environmental Resources, Ayes 4, Noes 1 .....	438
10-31.	S.	Available for scheduling.	
11-01.	S.	<u>Fiscal estimate received.</u>	
11-01.	S.	Placed on calendar 11-6-2001 by committee on Senate Organization.	
11-06.	S.	Read a second time .....	453
11-06.	S.	Senate substitute amendment <u>1</u> <b>adopted</b> , <u>Ayes 18, Noes 15</u> .....	453
11-06.	S.	Ordered to a third reading .....	453
11-06.	S.	Rules suspended .....	453
11-06.	S.	Read a third time and passed, <u>Ayes 19, Noes 14</u> .....	453
11-06.	S.	Senator Robson added as a coauthor .....	455
11-06.	S.	Ordered immediately messaged .....	455
11-16.	A.	Received from Senate .....	546
11-16.	A.	Read first time and referred to committee on Environment .....	547

2002

03-07.	A.	Refused to suspend rules to withdraw from committee on Environment and take up, <u>Ayes 40, Noes 59</u> .....	756
03-26.	A.	Failed to concur in pursuant to Senate Joint Resolution 1 .....	811

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## 2001 SENATE BILL 271

October 10, 2001 - Introduced by Senators HANSEN, ERPENBACH, SHIBILSKI and DECKER, cosponsored by Representatives MCCORMICK, KRAWCZYK, MEYERHOFER, LA FAVE, SHERMAN, BLACK, BIES, UNDERHEIM, RYBA, MILLER and BERCEAU. Referred to Committee on Environmental Resources.

1 **AN ACT to repeal** 160.19 (12); **to amend** 160.21 (2) (d) (intro.), 289.05 (2), 291.01  
2 (7), 293.15 (9), 293.15 (11) and 293.93; and **to create** 291.05 (2m) and 293.17  
3 of the statutes; **relating to:** environmental regulation of mining and notice to  
4 transferees of interests in mining sites.

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### *Analysis by the Legislative Reference Bureau*

#### *Environmental requirements applicable to metallic mining*

Under current law, the department of natural resources (DNR) regulates the mining of metallic minerals. Under the mining laws, DNR promulgates rules to regulate metallic mining. Under the solid waste and hazardous waste laws, DNR promulgates rules regulating the storage and disposal of solid waste and hazardous waste. Current law authorizes DNR to grant exemptions from the rules regulating mining and from the rules regulating the storage and disposal of solid waste and hazardous waste as they relate to mining waste, if the exemptions do not result in the violation of a state or federal environmental law or endanger public health, safety, or welfare or the environment.

This bill prohibits DNR from granting exemptions from its rules regulating the storage and disposal of solid waste and hazardous waste as they relate to mining waste.

Currently, the hazardous waste laws require DNR to promulgate by rule criteria identical to those promulgated by the federal environmental protection agency (EPA) for identifying the characteristics of hazardous waste. DNR is also

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required to promulgate by rule a list of hazardous wastes. The list must be identical to the list of hazardous wastes promulgated by EPA, except that DNR may include a waste that is not on EPA's list if DNR determines that the waste has the characteristics of a hazardous waste and that inclusion on the list is necessary to protect public health, safety, or welfare. Currently, EPA's rules exclude from regulation as hazardous wastes certain wastes from the mining, processing, and refining of ores and minerals.

This bill requires DNR to regulate a waste from the mining, processing, and refining of ores and minerals as a hazardous waste if it has the characteristics of a hazardous waste, notwithstanding any federal exclusion.

Currently, under the groundwater law, a state agency is required to take actions necessary to ensure that the activities, practices, and facilities that are regulated by the state agency do not cause groundwater quality standards to be exceeded. Mining activities and facilities, including mining waste sites, are not subject to the groundwater quality standards under the groundwater law. Current law separately authorizes DNR to establish groundwater quality standards for mining activities, including mining waste sites. Current law requires DNR to establish criteria for design management zones for solid waste and hazardous waste disposal facilities. A facility must be designed so that groundwater quality standards will not be violated at the boundaries of the design management zone for the facility.

This bill eliminates the exemption of mining activities and facilities, including mining waste sites, from the groundwater quality standards under the groundwater law. The bill eliminates the separate provision authorizing DNR to establish groundwater quality standards for mining activities. The bill also prohibits DNR from using criteria that provide for larger design management zones for mining waste facilities than for other solid waste facilities.

***Notice to transferee***

This bill requires a person who intends to transfer an ownership interest in a mining site for which a permit application is pending with DNR to provide written notice to the transferee of certain environmental statutes and rules applicable to mining operations.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 160.19 (12) of the statutes is repealed.

2           **SECTION 2.** 160.21 (2) (d) (intro.) of the statutes is amended to read:

3           160.21 (2) (d) (intro.) The department shall establish criteria for design  
4 management zones by rule for the facilities specified under par. (c). The department

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1 may not establish or apply criteria that provide for larger design management zones  
2 for solid waste facilities regulated under subch. III of ch. 289 that are part of  
3 activities regulated under ch. 293 than for other solid waste facilities regulated  
4 under subch. III of ch. 289. The rule shall take into account different types of facility  
5 designs. The design management zone which is applied to a facility utilizing the  
6 criteria in the rule may be adjusted based on the following factors:

7 **SECTION 3.** 289.05 (2) of the statutes is amended to read:

8 **289.05 (2)** With the advice and comment of the metallic mining council, the  
9 department shall promulgate rules for the identification and regulation of metallic  
10 mining wastes. The rules promulgated to identify metallic mining wastes and to  
11 regulate the location, design, construction, operation and maintenance of facilities  
12 for the disposal of metallic mining wastes shall be in accordance with ~~any or all of~~  
13 ~~the provisions under this chapter and chs. 30 and 283.~~ The rules shall take into  
14 ~~consideration the special requirements of metallic mining operations in the location,~~  
15 ~~design, construction, operation and maintenance of facilities for the disposal of~~  
16 ~~metallic mining wastes as well as~~ any special environmental concerns that will arise  
17 as a result of the disposal of metallic mining wastes. In promulgating the rules, the  
18 department shall give consideration to research, studies, data and recommendations  
19 of the U.S. environmental protection agency on the subject of metallic mining wastes  
20 arising from the agency's efforts to implement the resource conservation and  
21 recovery act. The department may not promulgate rules under this subsection that  
22 are less stringent than the rules promulgated under subs. (1) and (3).

23 **SECTION 4.** 291.01 (7) of the statutes is amended to read:

24 **291.01 (7)** "Hazardous waste" or "waste" means any solid waste identified by  
25 the department as hazardous under s. 291.05 (1), (2), ~~(2m)~~, or (4).

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1           **SECTION 5.** 291.05 (2m) of the statutes is created to read:

2           291.05 **(2m)** Notwithstanding subs. (1) and (2) and any exemption under 42  
3           USC 6921 (b), the department shall identify a solid waste as a hazardous waste if the  
4           solid waste is from the extraction, beneficiation, or processing of ores and minerals,  
5           and the solid waste otherwise satisfies the criteria under 42 USC 6921 (a) or has the  
6           characteristics, or is listed, under 42 USC 6921 (b).

7           **SECTION 6.** 293.15 (9) of the statutes is amended to read:

8           293.15 **(9)** Promulgate rules by which the department may grant an exemption,  
9           modification, or variance, either making a requirement more or less restrictive, from  
10          any rule promulgated under ~~chs. 289 to 292~~ and this chapter, if the exemption,  
11          modification, or variance does not result in the violation of any federal  
12          environmental statute or regulation or state environmental ~~law~~ statute or rule, other  
13          than the rule from which the exemption, modification, or variance is granted, or  
14          endanger public health, safety, or welfare or the environment.

15          **SECTION 7.** 293.15 (11) of the statutes is amended to read:

16          293.15 **(11)** ~~Notwithstanding chs. 289 and 291, promulgate~~ Promulgate rules  
17          establishing ~~groundwater quality standards or groundwater quantity standards, or~~  
18          ~~both,~~ for any prospecting or mining activity, including standards for any mining  
19          waste site.

20          **SECTION 8.** 293.17 of the statutes is created to read:

21          **293.17 Limitation on department power.** The department may not grant,  
22          for the storage or disposal of solid waste from mining or prospecting, an exemption,  
23          modification, or variance that makes less restrictive a requirement in a rule  
24          promulgated under ch. 289 or 291.

25          **SECTION 9.** 293.38 of the statutes is created to read:

