

**ASSEMBLY AMENDMENT 18,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

June 29, 1999 – Offered by Representatives BLACK, LA FAVE and LASSA.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 65, line 9: after that line insert:

3 “**SECTION 121v.** 18.13 (4g) of the statutes is created to read:

4 18.13 **(4g)** PUBLIC INTERVENOR. Notwithstanding s. 165.075, the public
5 intervenor does not have authority to initiate any action or proceeding concerning
6 the issuance of obligations by the building commission under this chapter.”.

7 **2.** Page 1174, line 2: after that line insert:

8 “**SECTION 2286k.** 165.07 of the statutes is created to read:

9 **165.07 Assistant attorney general — public intervenor. (1)** The attorney
10 general shall designate an assistant attorney general on the attorney general’s staff
11 as public intervenor. Written notices of all proceedings under chs. 30, 31, 281 to 285
12 and 289 to 299, except s. 281.48, shall be given to the public intervenor and to the

1 administrators of divisions primarily assigned the departmental functions under
2 chs. 29, 281, 285 and 289 to 299, except s. 281.48, by the agency head responsible for
3 such proceedings. A copy of such notice shall also be given to the natural areas
4 preservation council.

5 **(2)** The public intervenor shall formally intervene in proceedings described in
6 sub. (1) when requested to do so by an administrator of a division primarily assigned
7 the departmental functions under chs. 29, 281, 285 or 289 to 299, except s. 281.48.
8 The public intervenor may, on the public intervenor’s own initiative or upon request
9 of any committee of the legislature, formally intervene in all proceedings described
10 in sub. (1) whenever such intervention is needed for the protection of “public rights”
11 in water and other natural resources, as provided in chs. 30 and 31 and defined by
12 the supreme court.

13 **(3)** Personnel of the department of natural resources shall, upon the request
14 of the public intervenor, make such investigations, studies and reports as the public
15 intervenor may request in connection with proceedings described in sub. (1), either
16 before or after formal intervention. Personnel of state agencies shall at the public
17 intervenor’s request provide information, serve as witnesses in proceedings
18 described in sub. (1) and otherwise cooperate in the carrying out of the public
19 intervenor’s intervention functions. Formal intervention shall be by filing a
20 statement to that effect with the examiner or other person immediately in charge of
21 the proceeding. Thereupon the public intervenor shall be considered a party in
22 interest with full power to present evidence, subpoena and cross-examine witnesses,
23 submit proof, file briefs or do any other acts appropriate for a party to the
24 proceedings.

1 **(4)** The public intervenor may appeal from administrative rulings to the courts.
2 In all administrative proceedings and judicial review proceedings the public
3 intervenor shall be identified as “public intervenor”. This section does not preclude
4 or prevent any division of the department of natural resources, or any other
5 department or independent agency, from appearing by its staff as a party in such
6 proceedings.

7 **SECTION 2286n.** 165.075 of the statutes is created to read:

8 **165.075 Assistant attorney general; public intervenor; authority.** In
9 carrying out his or her duty to protect public rights in water and other natural
10 resources, the public intervenor has the authority to initiate actions and proceedings
11 before any agency or court in order to raise issues, including issues concerning
12 constitutionality, present evidence and testimony and make arguments.

13 **SECTION 2286q.** 165.076 of the statutes is created to read:

14 **165.076 Assistant attorney general; public intervenor; advisory**
15 **committee.** The attorney general shall appoint a public intervenor advisory
16 committee under s. 15.04 (1) (c). The public intervenor advisory committee shall
17 consist of not less than 7 nor more than 9 members. The members shall have
18 backgrounds in or demonstrated experience or records relating to environmental
19 protection or natural resource conservation. At least one of the members shall have
20 working knowledge in business. At least one of the members shall have working
21 knowledge in agriculture. The public intervenor advisory committee shall advise the
22 public intervenor consistent with his or her duty to protect public rights in water and
23 other natural resources. The public intervenor advisory committee shall conduct
24 meetings consistent with subch. V of ch. 19 and shall permit public participation and
25 public comment on public intervenor activities.”.

1 **3.** Page 1426, line 20: after that line insert:

2 “**SECTION 3093m.** 814.245 (2) (d) of the statutes is amended to read:

3 814.245 **(2)** (d) “State agency” does not include the public intervenor or citizens
4 utility board.”.

5 **4.** Page 1541, line 10: after that line insert:

6 “(11c) TRANSFER OF PUBLIC INTERVENOR PERSONNEL AND EFFECTS.

7 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
8 liabilities of the department of natural resources that on October 1, 1997, were
9 primarily related to the functions of the public intervenor, as determined by the
10 secretary of administration, shall become the assets and liabilities of the department
11 of justice.

12 (b) *Tangible personal property.* On the effective date of this paragraph, all
13 tangible personal property, including records, of the department of natural resources
14 that on October 1, 1997, was primarily related to the functions of the public
15 intervenor, as determined by the secretary of administration, is transferred to the
16 department of justice.

17 (c) *Contracts.* All contracts entered into by the department of natural resources
18 in effect on the effective date of this paragraph that are primarily related to the
19 functions of the public intervenor, as determined by the secretary of administration,
20 remain in effect and are transferred to the department of justice. The department
21 of justice shall carry out any such contractual obligations unless modified or
22 rescinded by the department of justice to the extent allowed under the contract.

23 (d) *Rules and orders.* All rules promulgated by the department of natural
24 resources in effect on the effective date of this paragraph that are primarily related

1 to the functions of the public intervenor, as determined by the secretary of
2 administration, remain in effect until their specified expiration dates or until
3 amended or repealed by the department of justice. All orders issued by the
4 department of natural resources in effect on the effective date of this paragraph that
5 are primarily related to the functions of the public intervenor, as determined by the
6 secretary of administration, remain in effect until their specified expiration dates or
7 until modified or rescinded by the department of justice.

8 (e) *Pending matters.* Any matter pending with the department of natural
9 resources on the effective date of this paragraph that is primarily related to the
10 functions of the public intervenor, as determined by the secretary of administration,
11 is transferred to the department of justice and all materials submitted to or actions
12 taken by the department of natural resources with respect to the pending matter are
13 considered as having been submitted to or taken by the department of justice.”.

14 (END)