

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/26/99**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus #1816 ,

Topic:

Dredging project in the Milwaukee harbor

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rkite 06/27/99	chanaman 06/27/99	hhagen 06/28/99	_____	lrb_docadmin 06/28/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/26/99

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Walter

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus #1816 ,

Topic:

Dredging project in the Milwaukee harbor

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite	cm4 /1 6/27		rkite cm4 6/28			
FE Sent For:							

<END>

yes

SDC

Agency: Natural Resources

caucus number 1816

duplicate flag:
duplicate with:

Other reference numbers: Paper 701	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Waterways Commission. Earmark \$212,000 of funds administered by the Waterways commission in 1999-00 as 50% matching funds for a dredging project of a navigable channel on Lake Michigan within the Milwaukee harbor. No fiscal impact

other notes

drafting instructions: See above and attached
more instructions:

caucus number 2304

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

other notes

drafting instructions: See above.
more instructions:

duplicate flag: y
duplicate with: 2748

Other reference numbers:	FM 938
bill number/amendment number:	
LRB draft #	LRB 27

30.92

description:

other notes

drafting instructions: (see above)
more instructions:

duplicate flag: y
duplicate with: 1732

Other reference numbers:	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description:

other notes

drafting instructions: See above.
more instructions:

SENATE BUDGET AMENDMENT

CA 1816

Agency name: Department of Natural Resources – Waterways Commission

Related Fiscal Bureau papers and motions: Paper 701

Description: Earmark \$212,000 of the funds administered by the Wisconsin Waterways Commission in 1999-2000 as 50% matching funds for a dredging project of a navigable channel on Lake Michigan within Milwaukee Harbor. Project does not need to be placed on recreational boating priority list.

Fiscal effect: Earmarks funds within existing appropriation.

Attachments: Letter from DNR Secretary Meyer describing miscue in the application process that led Milwaukee County to believe matching funding would be available.



State of Wisconsin | DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

Ms. Lori Lutzka, Supervisor
Milwaukee County Board of Supervisors
Courthouse, Room 201
901 N. 9th Street
Milwaukee, WI 52333

Yours

Dear Ms. Lutzka:

Thank you for your recent letter regarding the potential dredging project inside the South Shore breakwater. I can appreciate how frustrating this situation is for you, members of the County's Department of Parks, Recreation and Culture, and the Department of Public Works. It is important to understand this series of events did not occur as a result of a decision of the Waterways Commission. The proposed dredging activities have never been presented to the Commission for their review. Department of Natural Resources (DNR) staff serve as liaisons to engineering, matching budgets, etc., prior to the project being submitted to the Commission for review.

Unfortunately, Department staff erred in initially judging the project eligible for funding. However, the fact remains that the eligibility of this and any project is determined by statute. Maintenance activities, such as channel dredging, have been ineligible in the program since its inception. In 1987, the law was amended to include the dredging of channel of waterways for recreational boating purposes as an eligible activity but only for inland bodies of water. After further staff review of your project, it became clear that it was ineligible for funding under the recreational boating facilities program.

In answer to your second question, there are, unfortunately, no other sources of funds for the dredging of channels for recreational boating purposes on the Great Lakes.

Again, thank you for your letter. I apologize for any miscommunication and inconvenience we may have caused. I do hope we can work together in the future on other worthy local projects, and ask you to understand that our authority on matters such as this is clearly defined and bound by statute.

Sincerely,

George
George E. Meyer
Secretary

We are very sorry that this happened.





soon
State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1323/1

RNR.....

cmf

D-Note

SDC:.....Walter – Caucus #1816 , Dredging project in the Milwaukee harbor

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

letter "g"

g

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

2 **1.** Page 1539, line 25: after that line insert:

3 “(9~~a~~) MILWAUKEE HARBOR PROJECT. From the appropriation under section

4 20.370 (5) (cq) of the statutes, as affected by this act, the department of natural

5 resources shall provide to Milwaukee County funding for a dredging project of a

6 navigable channel on Lake Michigan within Milwaukee harbor. Milwaukee County

7 and the department shall contribute funding for the project. The department shall

8 contribute funding for the project equal to 50% of the project’s cost. Milwaukee

9 County’s contribution may be in matching funds or may be in-kind contributions or

10 both. The amount expended under this subsection shall be considered an

no match

*or \$212,000,
whichever is less*

1 expenditure for a Great Lakes project as provided in section 30.92 (4) (b) 6. of the
2 statutes. Notwithstanding section 30.92 (4) (b) 7. or 8. of the statutes, the dredging
3 project specified under this subsection qualifies as a recreational boating project for
4 the purpose of expending moneys under this subsection. The project need not be
5 placed on the priority list under section 30.92 (3) (a) of the statutes. This subsection
6 does not apply after June 30, 2000.”

7 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1323/1dn

RNK:.....

cm 1

1. Please note that under this draft, Milwaukee County's contribution to the project may be in matching funds or may be in-kind contributions or both. Is ^{this} O.K.?

2. Under the draft, the amount expended for the project is considered a Great Lakes project for determining the percentages under s. 30.92 (4) (b) 6. Is this O.K.?

3. It is possible that a Wisconsin court would find that this amendment is a "private or local law" which, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. 4, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest". As it is difficult to predict the potential for and outcome of any court action on this amendment, you may wish to consider introducing this proposal as a separate bill.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: Robin.Kite@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1323/1dn

RNK:cmh:ksh

1. Please note that under this draft, Milwaukee County's contribution to the project may be in matching funds or may be in-kind contributions or both. Is this O.K.?

2. Under the draft, the amount expended for the project is considered a Great Lakes project for determining the percentages under s. 30.92 (4) (b) 6. Is this O.K.?

3. It is possible that a Wisconsin court would find that this amendment is a "private or local law" which, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. 4, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest". As it is difficult to predict the potential for and outcome of any court action on this amendment, you may wish to consider introducing this proposal as a separate bill.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: Robin.Kite@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1323/1
RNK:cmh:ksh

SDC:.....Walter – Caucus #1816 , Dredging project in the Milwaukee harbor

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

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

2 **1.** Page 1539, line 25: after that line insert:

3 “(9g) MILWAUKEE HARBOR PROJECT. From the appropriation under section 20.370

4 (5) (cq) of the statutes, as affected by this act, the department of natural resources

5 shall provide to Milwaukee County funding for a dredging project of a navigable

6 channel on Lake Michigan within Milwaukee harbor. Milwaukee County and the

7 department shall contribute funding for the project. The department shall

8 contribute funding for the project equal to 50% of the project’s cost or \$212,000,

9 whichever is less. Milwaukee County’s contribution may be in matching funds or

10 may be in-kind contributions or both. The amount expended under this subsection

1 shall be considered an expenditure for a Great Lakes project as provided in section
2 30.92 (4) (b) 6. of the statutes. Notwithstanding section 30.92 (4) (b) 7. or 8. of the
3 statutes, the dredging project specified under this subsection qualifies as a
4 recreational boating project for the purpose of expending moneys under this
5 subsection. The project need not be placed on the priority list under section 30.92 (3)
6 (a) of the statutes. This subsection does not apply after June 30, 2000.”

7 (END)