

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/26/99**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Walter**

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

Drafter: **nilsepe**

May Contact:

Alt. Drafters: **rmarchan**

Subject: **Environment - miscellaneous**

Extra Copies: **RCT**

Pre Topic:

SDC:.....Walter - # 2008, ,

Topic:

Restore office of public intervenor

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>
/?	rmarchan 06/26/99	wjackson 06/28/99		_____			
	nilsepe 06/27/99			_____			
/1			ismith 06/28/99	_____	gretskl 06/28/99		

FE Sent For:

<END>

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/?	rmarchan	1 WLj 6/28	IS 6/28	IS/SH 6/28			

FE Sent For:

<END>

yes

SDC

Agency: Natural Resources - Departmentwide

caucus number 2007

duplicate flag:
duplicate with:

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

description: Remove the DNR Secretary as an appointee of the Governor and restore the position as an appointee of the DNR Board.

other notes

drafting instructions: See above

more instructions:

caucus number 2008

duplicate flag:
duplicate with:

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

description: Reinstate the Public Intervenor with staff and support for the office comparable to when it was removed.

other notes

drafting instructions: Reinstate the Public Intervenor. See above.

more instructions:

caucus number 2746

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
FM 936	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Delete FM 936 which deleted \$75,000 annually in LTE enforcement funding in the Bureau of Facility and Lands for Mazomanie Unit of the Lower WI State Riverway. Allocate \$50,00 GPR annually in LTE enforcement funding for the above bureau.

other notes

drafting instructions: Delete FM 936 and allocate additional money. See above.

more instructions:

Agency: Natural Resources - Departmentwide

Number of Amendments: 3

99-1459

Need to convert appropriation change to the ch. 20 schedule

If other dept re: intervenor was SDC, call council + secy they want the appropriation or if other SDC dept is OK

RE: Budget Amendment – Restore the Office of Public Intervenor

.....

CN 2008

Motion to reinstate the office of the Public Intervenor. There will be some anticipated costs for staff and support to the office. These costs should have been detailed when the position was removed. I would anticipate that the current costs would be comparable.

If any questions arise, please feel free to contact me.

DNR - Deptwide

FIND BILL THIS SESSION



State of Wisconsin
1999 - 2000 LEGISLATURE

1
LRBb1346/2
PEN & RJM: /:....
WJ

SOON

RMR
DNOTE

SDC:.....Walter - # 2008, , Restore office of public intervenor

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

INSECT
1-2

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

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

3 2. Page 218, line 3: increase the dollar amount for fiscal year 1999-00 by
4 \$241,400 and increase the dollar amount for fiscal year 2000-01 by \$241,400 to
5 increase the authorized FTE positions for the department of justice by 2.0 GPR
6 attorney positions for the purposes of the public intervenor.

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

8 4. Page 1426, line 20: after that line insert:

9 5. Page 1541, line 10: after that line insert:

10

(END)

INSECT
1-7
INSECT
1-8
INSECT
1-9

ASSEMBLY BILL 162

2) Act as an interested party in actions in which he or she intervenes, with full power to present evidence, subpoena witnesses, cross-examine witnesses file briefs and do any other acts appropriate for a party to the proceedings.

3) Appeal administrative rulings to the courts.

The bill requires DNR personnel to notify the public intervenor of all administrative proceedings under the environmental protection chapters and to make such investigations, studies and reports to assist the public intervenor either before or during such formal intervention.

The bill also requires the attorney general to appoint a public intervenor advisory council consisting of seven to nine members who have a background in or demonstrated experience or records relating to environmental protection or natural resource conservation. In addition, at least one member must have working knowledge of business and at least one member must have knowledge of agriculture. The advisory committee must hold open, publicized meetings and must advise the public intervenor consistent with his or her duties.

The bill requires DNR to transfer to DOJ all assets, liabilities and tangible personal property, including records, of the public intervenor that were transferred from DOJ to DNR by 1995 Wisconsin Act 27.

The bill authorizes two attorney positions in DOJ and appropriates \$482,800 to DOJ for the 1999-2001 fiscal biennium for the purposes of the public intervenor.

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

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

INSET 1-2

1 (121v) "SECTION 18.13 (4g) of the statutes is created to read:

2 18.13 (4g) PUBLIC INTERVENOR. Notwithstanding s. 165.075, the public
3 intervenor does not have authority to initiate any action or proceeding concerning
4 the issuance of obligations by the building commission under this chapter."

5 (2356) "SECTION 165.07 of the statutes is created to read:

INSET 1-7

6 165.07 Assistant attorney general — public intervenor. (1) The attorney
7 general shall designate an assistant attorney general on the attorney general's staff
8 as public intervenor. Written notices of all proceedings under chs. 30, 31, 281 to 285
9 and 289 to 299, except s. 281.48, shall be given to the public intervenor and to the
10 administrators of divisions primarily assigned the departmental functions under

ASSEMBLY BILL 162

MSA
1-7
(cont.)

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

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

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

24 (4) The public intervenor may appeal from administrative rulings to the courts.
25 In all administrative proceedings and judicial review proceedings the public



1 intervenor shall be identified as "public intervenor". This section does not preclude
2 or prevent any division of the department of natural resources, or any other
3 department or independent agency, from appearing by its staff as a party in such
4 proceedings.

5 *22868* SECTION 4. 165.075 of the statutes is created to read:

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

11 *22869* SECTION 4. 165.076 of the statutes is created to read:

12 *B* 165.076 Assistant attorney general; public intervenor; advisory
13 committee. The attorney general shall appoint a public intervenor advisory
14 committee under s. 15.04 (1) (c). The public intervenor advisory committee shall
15 consist of not less than 7 nor more than 9 members. The members shall have
16 backgrounds in or demonstrated experience or records relating to environmental
17 protection or natural resource conservation. At least one of the members shall have
18 working knowledge in business. At least one of the members shall have working
19 knowledge in agriculture. The public intervenor advisory committee shall advise the
20 public intervenor consistent with his or her duty to protect public rights in water and
21 other natural resources. The public intervenor advisory committee shall conduct
22 meetings consistent with subch. V of ch. 19 and shall permit public participation and
23 public comment on public intervenor activities. *INSET 1-8*

24 *3073M* SECTION 5. 814.245 (2) (d) of the statutes is amended to read:

end inset 17

and insert
1-8

1 814.245 (2) (d) "State agency" does not include the public intervenor or citizens
2 utility board. (b)

INSERT 1-9

3 ~~SECTION 6. Nonstatutory provisions.~~

4 ~~(a) TRANSFER OF PUBLIC INTERVENOR PERSONNEL AND EFFECTS.~~

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

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

NONSTATS

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

21 (d) *Rules and orders.* All rules promulgated by the department of natural
22 resources in effect on the effective date of this paragraph that are primarily related
23 to the functions of the public intervenor, as determined by the secretary of
24 administration, remain in effect until their specified expiration dates or until
25 amended or repealed by the department of justice. All orders issued by the

ASSEMBLY BILL 162

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

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

SECTION 7. Appropriation changes.

11
12 (1) DEPARTMENT OF JUSTICE. In the schedule under section 20.005 (3) of the
13 statutes for the appropriation to the department of justice under section 20.455 (1)
14 (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by
15 \$241,400 for fiscal year 1999-00 and the dollar amount is increased by \$241,400 for
16 fiscal year 2000-01 to increase the authorized FTE positions for the department by
17 2.0 GPR attorney positions on the effective date of this subsection for the purposes
18 of the public intervenor.

SECTION 8. Effective date.

19
20 (1) This act takes effect on July 1, 1999, or on the day after publication,
21 whichever is later.

22 (END)

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

LRBb1346/1dn
PEN & RJM: /:.....

wlj

This draft recreates the office of the public intervenor that existed prior to ~~1985~~ 1997 Wisconsin Act 27, which transferred the public intervenor from DOJ to DNR. ~~1985~~ ~~1997~~ Wisconsin Act 27 ~~entirely eliminated the office.~~ This draft recreates the public intervenor advisory committee, rather than the board that directed the public intervenor while attached to the DNR. The draft creates and funds 2.0 FTE GPR attorney positions, which is the same number of attorneys employed by the office before the transfer to DNR.

The office was entirely eliminated
by 1997

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1346/1dn
PEN:wlj:ijs

June 28, 1999

This draft recreates the office of the public intervenor that existed prior to 1997 Wisconsin Act 27, which transferred the public intervenor from DOJ to DNR. The office was entirely eliminated by 1997 Wisconsin Act 27. This draft recreates the public intervenor advisory committee, rather than the board that directed the public intervenor while attached to the DNR. The draft creates and funds 2.0 FTE GPR attorney positions, which is the same number of attorneys employed by the office before the transfer to DNR.

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1346/1
PEN&RJM:wlj:ijs

SDC:.....Walter - # 2008, , Restore office of public intervenor

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 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 218, line 3: increase the dollar amount for fiscal year 1999-00 by
8 \$241,400 and increase the dollar amount for fiscal year 2000-01 by \$241,400 to
9 increase the authorized FTE positions for the department of justice by 2.0 GPR
10 attorney positions for the purposes of the public intervenor.

1 **3.** Page 1174, line 2: after that line insert:

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

3 **165.07 Assistant attorney general — public intervenor.** (1) The attorney
4 general shall designate an assistant attorney general on the attorney general’s staff
5 as public intervenor. Written notices of all proceedings under chs. 30, 31, 281 to 285
6 and 289 to 299, except s. 281.48, shall be given to the public intervenor and to the
7 administrators of divisions primarily assigned the departmental functions under
8 chs. 29, 281, 285 and 289 to 299, except s. 281.48, by the agency head responsible for
9 such proceedings. A copy of such notice shall also be given to the natural areas
10 preservation council.

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

19 (3) Personnel of the department of natural resources shall, upon the request
20 of the public intervenor, make such investigations, studies and reports as the public
21 intervenor may request in connection with proceedings described in sub. (1), either
22 before or after formal intervention. Personnel of state agencies shall at the public
23 intervenor’s request provide information, serve as witnesses in proceedings
24 described in sub. (1) and otherwise cooperate in the carrying out of the public

1 intervenor's intervention functions. Formal intervention shall be by filing a
2 statement to that effect with the examiner or other person immediately in charge of
3 the proceeding. Thereupon the public intervenor shall be considered a party in
4 interest with full power to present evidence, subpoena and cross-examine witnesses,
5 submit proof, file briefs or do any other acts appropriate for a party to the
6 proceedings.

7 (4) The public intervenor may appeal from administrative rulings to the courts.
8 In all administrative proceedings and judicial review proceedings the public
9 intervenor shall be identified as "public intervenor". This section does not preclude
10 or prevent any division of the department of natural resources, or any other
11 department or independent agency, from appearing by its staff as a party in such
12 proceedings.

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

14 **165.075 Assistant attorney general; public intervenor; authority.** In
15 carrying out his or her duty to protect public rights in water and other natural
16 resources, the public intervenor has the authority to initiate actions and proceedings
17 before any agency or court in order to raise issues, including issues concerning
18 constitutionality, present evidence and testimony and make arguments.

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

20 **165.076 Assistant attorney general; public intervenor; advisory**
21 **committee.** The attorney general shall appoint a public intervenor advisory
22 committee under s. 15.04 (1) (c). The public intervenor advisory committee shall
23 consist of not less than 7 nor more than 9 members. The members shall have
24 backgrounds in or demonstrated experience or records relating to environmental
25 protection or natural resource conservation. At least one of the members shall have

1 working knowledge in business. At least one of the members shall have working
2 knowledge in agriculture. The public intervenor advisory committee shall advise the
3 public intervenor consistent with his or her duty to protect public rights in water and
4 other natural resources. The public intervenor advisory committee shall conduct
5 meetings consistent with subch. V of ch. 19 and shall permit public participation and
6 public comment on public intervenor activities.”.

7 **4.** Page 1426, line 20: after that line insert:

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

9 814.245 (2) (d) “State agency” does not include the public intervenor or citizens
10 utility board.”.

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

12 “(11nc) TRANSFER OF PUBLIC INTERVENOR.

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

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

23 (c) *Contracts.* All contracts entered into by the department of natural resources
24 in effect on the effective date of this paragraph that are primarily related to the

1 functions of the public intervenor, as determined by the secretary of administration,
2 remain in effect and are transferred to the department of justice. The department
3 of justice shall carry out any such contractual obligations unless modified or
4 rescinded by the department of justice to the extent allowed under the contract.

5 (d) *Rules and orders.* All rules promulgated by the department of natural
6 resources in effect on the effective date of this paragraph that are primarily related
7 to the functions of the public intervenor, as determined by the secretary of
8 administration, remain in effect until their specified expiration dates or until
9 amended or repealed by the department of justice. All orders issued by the
10 department of natural resources in effect on the effective date of this paragraph that
11 are primarily related to the functions of the public intervenor, as determined by the
12 secretary of administration, remain in effect until their specified expiration dates or
13 until modified or rescinded by the department of justice.

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

20 (END)