

**2001 DRAFTING REQUEST**

**Bill**

Received: 12/05/2000

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Grinde

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies: RNK  
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**Pre Topic:**

DOA:.....Grinde -

**Topic:**

Fox River Navigational System Authority

**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>
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For: **Administration-Budget**

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15-2/KMG  
1-01

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1 RAC**

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**Pre Topic:**

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**Topic:**

Fox River Navigational System Authority

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Topic:

Fox River navigational system corporation

Instructions:

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FE Sent For:

<END>

**Gibson-Glass, Mary**

**From:** Grinde, Kirsten  
**Sent:** Wednesday, December 13, 2000 4:48 PM  
**To:** Gibson-Glass, Mary  
**Cc:** Wiley, Ladd; Schmiedicke, David  
**Subject:** Revised Fox Locks drafting instructions

Mary,

*Authority*

We would like the Fox River Navigational System language to be drafted to create an authority to rehabilitate, restore, renovate, manage and operate the locks. This authority would:

- replace the Fox River Management Commission and Fox-Winnebago Management Commission
- have 7 members on the board, including the Secretaries of DNR and DOT; the remaining members would be at large appointments by the Governor
- be responsible for the rehabilitation, restoration, renovation, long-term maintenance, management and operation of the navigational system (Question: Can the state transfer the ownership of the system to the new authority, or would the authority need to lease the system?)
- have the authority to charge fees for use of the locks
- have the authority to enter into contracts
- be required to submit a (business) plan to the Department of Administration describing how the authority will manage its funds to ensure that sufficient funds are available to abandon the locks when operation is no longer feasible and addressing the cost and funding of operation of the locks. This plan should be updated annually.
- not be able to expend funds received for the rehabilitation, restoration and renovation of the locks until after DOA reviews and approves/certifies the above original plan
- be required to make its best effort to contract for the investment of the funds received for rehabilitation, restoration and renovation with an organization that meets the following criteria:
  - is a nonprofit 501(c)(3) corporation
  - will provide marketing and fund development (fundraising) services
  - has a local or regional interest
  - agrees to make its best effort to provide \$2.75 million of private or local funds for the project
  - will invest at a rate that the authority finds to be satisfactory
- be allowed to determine what would be a satisfactory rate of return on its investment to perform its duties
- be able to apply for grants from state agencies; in particular, the authority would be eligible to receive a grant from the recreational boating aids appropriation for \$400,000 annually for seven years. DNR would release to the authority an amount equal to the funds collected by the local foundations (private or local sources) up to \$400,000 each year.
- be required to maintain the sea lamprey barrier at the Rapide Croche lock
- JTK • be required to submit an annual audit report/statement to the Department of Administration.

*conv w/ Kirsten  
aware of private + local  
law issue*

*KG*

Let me know if you have any questions. Thanks.

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor

*Chapter 111*

*no pending authority  
employees like  
WHEFA  
231.03(9)*



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1335/P1  
MGG:.....

Wed 11/3

Note

CS

DOA:.....Grinde – Fox River navigational system authority

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

# This is a preliminary draft. An analysis will be provided in a later version.

~~DO NOT GEN~~

1 AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

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

2 SECTION 1. 7.33 (1) (c) of the statutes is amended to read:

3 7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and  
4 includes an authority created under ch. 231, 232, 233 or, 234, or 237.

History: 1977 c. 398; 1979 c. 260 s. 44; Stats. 1979 s. 7.33; 1987 a. 111; 1987 a. 391 ss. 37m, 41g, 41r; 1989 a. 56 s. 259; 1995 a. 27.

5 SECTION 2. 13.48 (10) (b) 3m. of the statutes is created to read:

6 13.48 (10) (b) 3m. Rehabilitation projects of the Fox River Navigational System  
7 Authority.

8 SECTION 3. 13.62 (2) of the statutes is amended to read:

2  
scored  
comma

1 13.62 (2) "Agency" means any board, commission, department, office, society,  
2 institution of higher education, council or committee in the state government, or any  
3 authority created in ch. 231, 232, 233 ~~or~~ 234 <sup>2</sup> or 237, except that the term does not  
4 include a council or committee of the legislature.

History: 1977 c. 278; 1979 c. 260 s. 94; 1979 c. 328 s. 146; 1983 a. 27, 36; 1987 a. 399; 1989 a. 338; 1991 a. 32; 1993 a. 112; 1995 a. 27; 1999 a. 9, 185.

5 SECTION 4. 15.01 (2) of the statutes is amended to read:

6 15.01 (2) "Commission" means a 3-member governing body in charge of a  
7 department or independent agency or of a division or other subunit within a  
8 department, ~~except for the Wisconsin waterways commission which shall consist of~~  
9 5 members; ~~and the parole commission which shall consist of 6 members and the Fox~~  
10 ~~River management commission which shall consist of 7 members.~~ A Wisconsin group  
11 created for participation in a continuing interstate body, or the interstate body itself,  
12 shall be known as a "commission", but is not a commission for purposes of s. 15.06.  
13 The parole commission created under s. 15.145 (1) shall be known as a "commission",  
14 but is not a commission for purposes of s. 15.06.

History: 1977 c. 29, 274; 1979 c. 34; 1983 a. 27, 189, 371, 410, 538; 1985 a. 29, 120, 180; 1987 s. 27, 342, 399; 1989 a. 31, 107, 202; 1991 a. 39, 269, 315; 1993 a. 16, 107, 210, 215; 1995 a. 27 ss. 74 and 9145 (1); 1995 a. 442, 462; 1997 a. 27, 237.

15 SECTION 5. 15.06 (1) (e) of the statutes is repealed. ✓

16 SECTION 6. 15.06 (3) (a) 4. of the statutes is repealed. ✓

17 SECTION 7. 15.345 (5) of the statutes is repealed. ✓

18 SECTION 8. 16.004 (4) of the statutes is amended to read:

19 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the  
20 department as the secretary designates may enter into the offices of state agencies  
21 and authorities created under chs. 231, 233 ~~and~~ 234, ~~and~~ 237, and may examine  
22 their books and accounts and any other matter which in the secretary's judgment

1 should be examined and may interrogate the agency's employees publicly or  
2 privately relative thereto.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9.

3 **SECTION 9. 16.004 (5) of the statutes is amended to read:**

4 **16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE.** All state agencies and  
5 authorities created under chs. 231, 233 and, 234, and 237, and their officers and  
6 employees, shall cooperate with the secretary and shall comply with every request  
7 of the secretary relating to his or her functions.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9.

8 **SECTION 10. 16.004 (12) (a) of the statutes is amended to read:**

9 **16.004 (12) (a)** In this subsection, "state agency" means an association,  
10 authority, board, department, commission, independent agency, institution, office,  
11 society or other body in state government created or authorized to be created by the  
12 constitution or any law, including the legislature, the office of the governor and the  
13 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority  
14 and the Fox River Navigation<sup>al</sup> System Authority.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9.

15 **SECTION 11. 16.008 (2) of the statutes is amended to read:**

16 **16.008 (2)** The state shall pay for extraordinary police services provided  
17 directly to state facilities, as defined in s. 70.119 (3) (c), in response to a request of  
18 a state officer or agency responsible for the operation and preservation of such  
19 facilities. The University of Wisconsin Hospitals and Clinics Authority shall pay for  
20 extraordinary police services provided to facilities of the authority described in s.  
21 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary  
22 police services provided to the navigational system, as defined in s. 237.01.

23 Municipalities or counties which provide extraordinary police services to state

(4)

1 facilities may submit claims to the claims board for actual additional costs related  
2 to wage and disability payments, pensions and worker's compensation payments,  
3 damage to equipment and clothing, replacement of expendable supplies, medical and  
4 transportation expense and other necessary expenses. The clerk of the municipality  
5 or county submitting a claim shall also transmit an itemized statement of charges  
6 and a statement which identifies the facility served and the person who requested  
7 the services. The board shall obtain a review of the claim and recommendations from  
8 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and  
9 (6).

History: 1977 c. 418; 1995 a. 27.

10 **SECTION 12.** 16.045 (1) (a) of the statutes is amended to read:

11 16.045 (1) (a) "Agency" means an office, department, independent agency,  
12 institution of higher education, association, society or other body in state  
13 government created or authorized to be created by the constitution or any law, which  
14 is entitled to expend moneys appropriated by law, including the legislature and the  
15 courts, but not including an authority created in ch. 231, 232, 233, 234 ~~or~~, 235, or 237.

History: 1993 a. 351; 1995 a. 27; 1997 a. 73.

16 **SECTION 13.** 16.41 (4) of the statutes is amended to read:

17 16.41 (4) In this section, "authority" means a body created under ch. 231, 233  
18 ~~or~~, 234, or 237.

History: 1977 c. 196 s. 130 (3); 1977 c. 272, 273; 1983 a. 27; 1987 a. 399; 1995 a. 27.

19 **SECTION 14.** 16.417 (1) (b) of the statutes is amended to read:

20 16.417 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234  
21 ~~or~~, 235, or 237.

History: 1987 a. 365 ss. 1, 4m; 1987 a. 399; 1989 a. 56 s. 259; 1993 a. 362; 1997 a. 27.

22 **SECTION 15.** 16.52 (7) of the statutes is amended to read:

1           16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency  
2 which is authorized to maintain a contingent fund under s. 20.920 may establish a  
3 petty cash account from its contingent fund. The procedure for operation and  
4 maintenance of petty cash accounts and the character of expenditures therefrom  
5 shall be prescribed by the secretary. In this subsection, “agency” means an office,  
6 department, independent agency, institution of higher education, association,  
7 society or other body in state government created or authorized to be created by the  
8 constitution or any law, which is entitled to expend moneys appropriated by law,  
9 including the legislature and the courts, but not including an authority created in  
10 ch. 231, 233 ~~or~~ 234 or 237.

History: 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418; 1979 c. 34 ss. 63 to 67, 2102 (43) (a); 1981 c. 14; 1983 a. 27 ss. 73, 74, 2202 (42); 1983 a. 368; 1985 a. 29; 1987 a. 399; 1989 a. 31, 336, 359; 1991 a. 39, 316; 1995 a. 27 ss. 296, 297, 9145 (1); 1997 a. 27.

11           **SECTION 16.** 16.528 (1) (a) of the statutes is amended to read:

12           16.528 (1) (a) “Agency” means an office, department, independent agency,  
13 institution of higher education, association, society or other body in state  
14 government created or authorized to be created by the constitution or any law, which  
15 is entitled to expend moneys appropriated by law, including the legislature and the  
16 courts, but not including an authority created in ch. 231, 233 ~~or~~ 234 or 237.

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39; 1995 a. 27, 241; 1999 a. 150 s. 672.

17           **SECTION 17.** 16.53 (2) of the statutes is amended to read:

18           16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed  
19 invoice, the agency shall notify the sender of the invoice within 10 working days after  
20 it receives the invoice of the reason it is improperly completed. In this subsection,  
21 “agency” means an office, department, independent agency, institution of higher  
22 education, association, society or other body in state government created or  
23 authorized to be created by the constitution or any law, which is entitled to expend

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1 moneys appropriated by law, including the legislature and the courts, but not  
2 including an authority created in ch. 231, 233 ~~or~~ 234, or 237.

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316; 1993 a. 80, 399; 1995 a. 27 ss. 301, 302, 9126 (19), 9130 (4); 1997 a. 3.

3 SECTION 18. 16.54 (9) (a) 1. of the statutes is amended to read:

4 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,  
5 institution of higher education, association, society or other body in state  
6 government created or authorized to be created by the constitution or any law, which  
7 is entitled to expend moneys appropriated by law, including the legislature and the  
8 courts, but not including an authority created in ch. 231, 233 ~~or~~ 234, or 237.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74.

9 SECTION 19. 16.70 (2) of the statutes is amended to read:

10 16.70 (2) "Authority" means a body created under ch. 231, 232, 233 ~~or~~ 234, and  
11 237.

History: 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189; 1993 a. 263, 399; 1995 a. 27, 56; 1997 a. 27; 1999 a. 65, 167; s. 13.93 (2) (c).

12 SECTION 20. 16.765 (1) of the statutes is amended to read:

13 16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and  
14 Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
15 Center Sports and Entertainment Corporation shall include in all contracts executed  
16 by them a provision obligating the contractor not to discriminate against any  
17 employee or applicant for employment because of age, race, religion, color, handicap,  
18 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual  
19 orientation as defined in s. 111.32 (13m) or national origin and, except with respect  
20 to sexual orientation, obligating the contractor to take affirmative action to ensure  
21 equal employment opportunities.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

22 SECTION 21. 16.765 (2) of the statutes is amended to read:

or

1           16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and  
2           Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
3           Center Sports and Entertainment Corporation shall include the following provision  
4           in every contract executed by them: “In connection with the performance of work  
5           under this contract, the contractor agrees not to discriminate against any employee  
6           or applicant for employment because of age, race, religion, color, handicap, sex,  
7           physical condition, developmental disability as defined in s. 51.01 (5), sexual  
8           orientation or national origin. This provision shall include, but not be limited to, the  
9           following: employment, upgrading, demotion or transfer; recruitment or recruitment  
10          advertising; layoff or termination; rates of pay or other forms of compensation; and  
11          selection for training, including apprenticeship. Except with respect to sexual  
12          orientation, the contractor further agrees to take affirmative action to ensure equal  
13          employment opportunities. The contractor agrees to post in conspicuous places,  
14          available for employees and applicants for employment, notices to be provided by the  
15          contracting officer setting forth the provisions of the nondiscrimination clause”.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

16          **SECTION 22.** 16.765 (4) of the statutes is amended to read:

17          16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and  
18          Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
19          Center Sports and Entertainment Corporation shall take appropriate action to  
20          revise the standard government contract forms under this section.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

21          **SECTION 23.** 16.765 (5) of the statutes is amended to read:

22          16.765 (5) The head of each contracting agency and the boards of directors of  
23          the University of Wisconsin Hospitals and Clinics Authority, the Fox River

1 Navigational System Authority, and the Bradley Center Sports and Entertainment  
2 Corporation shall be primarily responsible for obtaining compliance by any  
3 contractor with the nondiscrimination and affirmative action provisions prescribed  
4 by this section, according to procedures recommended by the department. The  
5 department shall make recommendations to the contracting agencies and the boards  
6 of directors of the University of Wisconsin Hospitals and Clinics Authority and the  
7 Bradley Center Sports and Entertainment Corporation for improving and making  
8 more effective the nondiscrimination and affirmative action provisions of contracts.  
9 The department shall promulgate such rules as may be necessary for the  
10 performance of its functions under this section.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

11 **SECTION 24.** 16.765 (6) of the statutes is amended to read:

12 16.765 (6) The department may receive complaints of alleged violations of the  
13 nondiscrimination provisions of such contracts. The department shall investigate  
14 and determine whether a violation of this section has occurred. The department may  
15 delegate this authority to the contracting agency, the University of Wisconsin  
16 Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the  
17 Bradley Center Sports and Entertainment Corporation for processing in accordance  
18 with the department's procedures.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

19 **SECTION 25.** 16.765 (7) (intro.) of the statutes is amended to read:

20 16.765 (7) (intro.) When a violation of this section has been determined by the  
21 department, the contracting agency, the University of Wisconsin Hospitals and  
22 Clinics Authority, the Fox River Navigational System Authority, or the Bradley  
23 Center Sports and Entertainment Corporation, the contracting agency, the

1 University of Wisconsin Hospitals and Clinics Authority or the Bradley Center  
2 Sports and Entertainment Corporation shall:

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

3 **SECTION 26.** 16.765 (7) (d) of the statutes is amended to read:

4 16.765 (7) (d) Direct the violating party to take immediate steps to prevent  
5 further violations of this section and to report its corrective action to the contracting  
6 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
7 Navigational System Authority, or the Bradley center sports and entertainment  
8 corporation.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

9 **SECTION 27.** 16.765 (8) of the statutes is amended to read:

10 16.765 (8) If further violations of this section are committed during the term  
11 of the contract, the contracting agency, the Fox River Navigational System Authority,  
12 or the Bradley Center Sports and Entertainment Corporation may permit the  
13 violating party to complete the contract, after complying with this section, but  
14 thereafter the contracting agency, the Fox River Navigational System Authority, or  
15 the Bradley Center Sports and Entertainment Corporation shall request the  
16 department to place the name of the party on the ineligible list for state contracts,  
17 or the contracting agency, the Fox River Navigational System Authority, or the  
18 Bradley Center Sports and Entertainment Corporation may terminate the contract  
19 without liability for the uncompleted portion or any materials or services purchased  
20 or paid for by the contracting party for use in completing the contract.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3.

21 **SECTION 28.** 16.838 (1) (b) of the statutes is amended to read:

1           16.838 (1) (b) “Authority” means a body created under ch. 231, 232, 233, 234  
2           or, 235, or 237.

3           History: 1999 a. 4.

3           **SECTION 29.** 16.85 (2) of the statutes is amended to read:

4           16.85 (2) To furnish engineering, architectural, project management and other  
5           building construction services whenever requisitions therefor are presented to the  
6           department by any agency. The department may deposit moneys received from the  
7           provision of these services in the account under s. 20.505 (1) (kc) or in the general  
8           fund as general purpose revenue — earned. In this subsection, “agency” means an  
9           office, department, independent agency, institution of higher education, association,  
10          society or other body in state government created or authorized to be created by the  
11          constitution or any law, which is entitled to expend moneys appropriated by law,  
12          including the legislature and the courts, but not including an authority created in  
13          ch. 231, 233 or, 234, or 237.

14          History: 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142. 399; 1989 a. 31. 336; 1991 a. 30.  
269, 316; 1993 a. 263; 1995 a. 27 ss. 398 to 400, 9116 (5), 9126 (19), 9130 (4); 1997 a. 27; 1999 a. 197.

14          **SECTION 30.** 16.865 (8) of the statutes is amended to read:

15          16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a  
16          proportionate share of the estimated costs attributable to programs administered by  
17          the agency to be paid from the appropriation under s. 20.505 (2) (k). The department  
18          may charge premiums to agencies to finance costs under this subsection and pay the  
19          costs from the appropriation on an actual basis. The department shall deposit all  
20          collections under this subsection in the appropriation account under s. 20.505 (2) (k).  
21          Costs assessed under this subsection may include judgments, investigative and  
22          adjustment fees, data processing and staff support costs, program administration  
23          costs, litigation costs and the cost of insurance contracts under sub. (5). In this  
24          subsection, “agency” means an office, department, independent agency, institution

1 of higher education, association, society or other body in state government created  
2 or authorized to be created by the constitution or any law, which is entitled to expend  
3 moneys appropriated by law, including the legislature and the courts, but not  
4 including an authority created in ch. 231, 232, 233, 234 or, 235, or 237.

History: 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39; 1993 a. 16; 1995 a. 27.  
History: 1991 a. 39; 1995 a. 27 ss. 312, 314, 316, 406, 406e; 1995 a. 225.

5 SECTION 31. 17.15 (4) of the statutes is repealed.

6 SECTION 32. 17.27 (1r) of the statutes is repealed.

7 SECTION 33. 19.42 (10) (o) of the statutes is created to read:

8 19.42 (10) (o) The chief executive officer and members of the board of directors  
9 of the Fox River Navigational System Authority.

as affected by 1999 Wisconsin Act 9

10 SECTION 34. 20.370 (5) (cq) of the statutes is amended to read:

11 20.370 (5) (cq) *Recreation aids — recreational boating and other projects.* AS  
12 a continuing appropriation, the amounts in the schedule for recreational boating  
13 aids under s. 30.92, for the grant for Black Point Estate under s. 23.0962, for the  
14 Southeastern Wisconsin Fox River commission under 1997 Wisconsin Act 237,  
15 section 9136 (2), and under 1999 Wisconsin Act 9, section 9136 (10z), for the Portage  
16 levee system and the Portage canal under s. 31.309, for development of a state park  
17 under s. 23.198, for activities relating to aquatic nuisance species under s. 30.1255  
18 and for the engineering and environmental study under s. 31.307.

19 ~~(c) Recreation aids — recreational boating and other projects.~~ As a continuing appropriation,  
20 the amounts in the schedule for recreational aids under s. 30.92, for the grant for Black  
21 Point Estate under s. 23.0962, for the Portage levee system and the Portage canal under s. 31.309,  
22 for development of a state park under s. 23.198, for funding for the Fox River Navigational System  
23 under s. 237.08 (2) and for the engineering and environmental study under s. 31.307.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22m to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

24 SECTION 35. 20.370 (9) (jL) of the statutes is repealed.

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Authority

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats. ✓

1 SECTION 36. 20.370 (9) (ju) of the statutes is repealed.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats. ✓ ✓

\*\*\*\*NOTE: Need to figure out how to get the moneys from these appropriations to the Authority.

2 SECTION 37. 20.370 (9) (my) of the statutes is amended to read:

3 20.370 (9) (my) *General program operations — federal funds.* All moneys  
4 received as federal aid for the restoration and repair of the Fox River navigational  
5 system, for expenses of the Fox River management commission, for the  
6 Fox-Winnebago regional management commission and for communications,  
7 customer services and aids administration, as authorized by the governor under s.  
8 16.54, for the purposes for which received.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185.

9 SECTION 38. 23.175 (1) (b) of the statutes is amended to read:

10 23.175 (1) (b) "State agency" means any office, department, agency, institution  
11 of higher education, association, society or other body in state government created  
12 or authorized to be created by the constitution or any law which is entitled to expend  
13 moneys appropriated by law, including any authority created under ch. 231, 233 or  
14 234, or 237 but not including the legislature or the courts.

History: 1989 a. 31; 1991 a. 39; 1993 a. 72; 1995 a. 27; 1997 a. 27; 1999 a. 9.

15 SECTION 39. 30.92 (1) (b) of the statutes is amended to read:

16 30.92 (1) (b) "Governmental unit" means the department, a municipality, a lake  
17 sanitary district, a public inland lake protection and rehabilitation district organized  
18 under ch. 33, the Milwaukee River revitalization council, the Lower Wisconsin State  
19 Riverway board, the Fox River management commission or any other local

1 governmental unit, as defined in s. 66.0131 (1) (a), that is established for the purpose  
2 of lake management.

History: 1977 c. 274; 1979 c. 34 s. 2102 (39) (a); 1979 c. 154, 221; 1981 c. 20; 1983 a. 27 ss. 870, 2202 (38); 1985 a. 29, 332; 1989 a. 31, 160; 1991 a. 39, 269; 1995 a. 8, 27, 349; 1997 a. 27 ss. 1144q, 1144r, 1144s, 1145, 1146, 1146d, 1146g, 1146h, 5503g; 1997 a. 79, 248; 1999 a. 9; 1999 a. 150 s. 672.

3 SECTION 40. 30.92 (4) (a) of the statutes is amended to read:

4 30.92 (4) (a) The department shall develop and administer, with the approval  
5 of the commission, a financial assistance program for governmental units, including  
6 itself, and qualified lake associations for the construction and rehabilitation of  
7 capital improvements related to recreational boating facilities, for the improvement  
8 of locks and facilities which provide access between waterways and for the projects  
9 specified in par. (b) 8. ~~No financial assistance under this section may be provided to~~  
10 ~~the Fox River management commission for feasibility studies of construction~~  
11 ~~projects or for construction projects.~~ No financial assistance under this section may  
12 be provided to the department other than for projects for access to inland lakes  
13 without a public access facility.

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History: 1977 c. 274; 1979 c. 34 s. 2102 (39) (a); 1979 c. 154, 221; 1981 c. 20; 1983 a. 27 ss. 870, 2202 (38); 1985 a. 29, 332; 1989 a. 31, 160; 1991 a. 39, 269; 1995 a. 8, 27, 349; 1997 a. 27 ss. 1144q, 1144r, 1144s, 1145, 1146, 1146d, 1146g, 1146h, 5503g; 1997 a. 79, 248; 1999 a. 9; 1999 a. 150 s. 672.

14 SECTION 41. 30.93 (8) of the statutes is amended to read:

15 30.93 (8) APPLICABILITY. This section does not apply after the date on which the  
16 ~~governor makes the certification under s. 30.94 (8) the state and the Fox River~~  
17 Navigational System authority enter into the lease agreement specified in s. 237.06.

History: 1983 a. 410; 1985 a. 16; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9126 (19).

18 SECTION 42. 30.94 (title) of the statutes is repealed.

19 SECTION 43. 30.94 (1) (title) <sup>s (intro.)</sup> and <sup>STET</sup> (a) of the statutes <sup>STET</sup> are repealed.

20 SECTION 44. 30.94 (1) (b) of the statutes is renumbered 237.01 (3).

21 SECTION 45. 30.94 (1) (b) of the statutes is renumbered 237.01 (3) and amended  
22 to read: (4)

*(3)  
(4)*  
Please make sure that quotation mark is not stricken

1 237.01 ~~“Fox River navigational Navigational system”~~ means locks, harbors,  
2 real property, structures, and facilities related to navigation that are located on or  
3 near the Fox River, including locks, harbors, real property, structures, and facilities  
4 that were under the ownership or control of the federal government on April 1, 1984.  
5 “~~Fox River navigational Navigational~~ system” does not include dams on the Fox  
6 River.

History: 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1997 a. 27.

7 SECTION 46. 30.94 (1) (c) of the statutes is repealed.

8 SECTION 47. 30.94 (2) to (8) of the statutes are repealed.

9 ~~SECTION 48. 34.01 (4) of the statutes is amended to read:~~

10 SECTION 49. 40.02 (54) (i) of the statutes is created to read:

11 40.02 (54) (i) The Fox River Navigational System Authority. ✓

12 SECTION 50. 70.11 (41) of the statutes is created to read:

13 70.11 (41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by  
14 the Fox River Navigational System Authority, provided that use of the property is  
15 primarily related to the purposes of the authority.

History: 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; s. 13.93 (1) (b).

16 SECTION 51. 71.26 (1) (be) of the statutes is amended to read:

17 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin  
18 Hospitals and Clinics Authority and of the Fox River Navigational System  
19 Authority.

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; s. 13.93 (2) (c).

20 SECTION 52. 77.54 (9a) (a) of the statutes is amended to read:

PLAIN PERIOD

1 77.54 (9a) (a) This state or any agency thereof and, the University of Wisconsin  
 2 Hospitals and Clinics Authority, and the Fox River Navigational System Authority.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 13; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332, 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 6/2; 1999 a. 167.

3 SECTION 53. 100.45 (1) (dm) of the statutes is amended to read:

4 100.45 (1) (dm) "State agency" means any office, department, agency,  
 5 institution of higher education, association, society or other body in state  
 6 government created or authorized to be created by the constitution or any law which  
 7 is entitled to expend moneys appropriated by law, including the legislature and the  
 8 courts, the Wisconsin Housing and Economic Development Authority, the Bradley  
 9 Center Sports and Entertainment Corporation, the University of Wisconsin  
 10 Hospitals and Clinics Authority and, the Wisconsin Health and Educational  
 11 Facilities Authority, and the Fox River Navigational System Authority.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31.

12 SECTION 54. 103.49 (1) (f) of the statutes is amended to read:

13 103.49 (1) (f) "State agency" means any office, department, independent  
 14 agency, institution of higher education, association, society or other body in state  
 15 government created or authorized to be created by the constitution or any law,  
 16 including the legislature and the courts. "State agency" also includes the University  
 17 of Wisconsin Hospitals and Clinics Authority and the Fox River Navigational System  
 18 Authority.

History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; s. 13.93 (2) (c).

19 SECTION 55. 103.49 (2) of the statutes is amended to read:

20 103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter  
 21 made for the erection, construction, remodeling, repairing or demolition of any  
 22 project of public works, except contracts for the construction or maintenance of public  
 23 highways, streets and bridges, to which the state, or any state agency or the

1 ~~University of Wisconsin Hospitals and Clinics Authority~~ is a party shall contain a  
2 stipulation that no person performing the work described in sub. (2m) may be  
3 permitted to work a greater number of hours per day or per week than the prevailing  
4 hours of labor, except that any such person may be permitted or required to work  
5 more than such prevailing hours of labor per day and per week if he or she is paid  
6 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5  
7 times his or her hourly basic rate of pay; nor may he or she be paid less than the  
8 prevailing wage rate determined under sub. (3) in the same or most similar trade or  
9 occupation in the area wherein such project of public works is situated. A reference  
10 to the prevailing wage rates determined under sub. (3) and the prevailing hours of  
11 labor shall be published in the notice issued for the purpose of securing bids for the  
12 project. If any contract or subcontract for a project that is subject to this section is  
13 entered into, the prevailing wage rates determined under sub. (3) and the prevailing  
14 hours of labor shall be physically incorporated into and made a part of the contract  
15 or subcontract, except that for a minor subcontract, as determined by the  
16 department, the department shall prescribe by rule the method of notifying the  
17 minor subcontractor of the prevailing wage rates and prevailing hours of labor  
18 applicable to the minor subcontract. The prevailing wage rates and prevailing hours  
19 of labor applicable to a contract or subcontract may not be changed during the time  
20 that the contract or subcontract is in force.

History: 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70; 1999 a. 150 ss. 628, 672; 1999 a. 167; s. 13.93 (2) (c).

21 **SECTION 56.** 103.49 (7) (a) of the statutes is amended to read:

22 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall  
23 distribute to all state agencies ~~and to the University of Wisconsin Hospitals and~~  
24 ~~Clinics Authority~~ a list of all persons whom the department has found to have failed

1 to pay the prevailing wage rate determined under sub. (3) or has found to have paid  
 2 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the  
 3 prevailing hours of labor at any time in the preceding 3 years. The department shall  
 4 include with any name the address of the person and shall specify when the person  
 5 failed to pay the prevailing wage rate and when the person paid less than 1.5 times  
 6 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of  
 7 labor. A state agency ~~or the University of Wisconsin Hospitals and Clinics Authority~~  
 8 may not award any contract to the person unless otherwise recommended by the  
 9 department or unless 3 years have elapsed from the date the department issued its  
 10 findings or date of final determination by a court of competent jurisdiction,  
 11 whichever is later.

12 **NOTE: NOTE: NOTE: Par. (a) is shown as affected by two acts of the 1999 legislature and as merged by the revisor under s. 13.93 (2)**  
 13 **(c).NOTE:**

**History:** 1983 a. 27; 1985 a. 159; 1985 a. 332 ss. 141, 142, 253; 1987 a. 403 s. 256; 1989 a. 228; 1993 a. 112; 1995 a. 27, 215, 225; 1997 a. 35; 1999 a. 70;  
 1999 a. 150 ss. 628, 672; 1999 a. 167; s. 13.93 (2) (c).

14 **SECTION 57. 106.215 (1) (e) of the statutes is amended to read:**

15 106.215 (1) (e) "Local unit of government" means the governing body of any city,  
 16 town, village, county, county utility district, town sanitary district, public inland lake  
 17 protection and rehabilitation district, metropolitan sewerage district or school  
 18 district, ~~the Fox-Winnebagoe regional management commission~~ or the elected tribal  
 19 governing body of a federally recognized American Indian tribe or band.

**History:** 1983 a. 27, 181; 1985 a. 29 ss. 103m, 104m, 619 to 623x, 3202 (39); Stats. 1985 s. 16.20; 1987 a. 27, 255; 1989 a. 28, 31, 329, 359; 1991 a. 32, 39, 269, 309; 1993  
 a. 16, 202, 399; 1995 a. 27 ss. 239d to 278; Stats. 1995 s. 106.215; 1995 a. 201, 289; 1995 a. 448 ss. 1, 69; 1997 a. 27, 35, 39, 283; 1999 a. 9.

20 **SECTION 58. 230.03 (3) of the statutes is amended to read:**

21 230.03 (3) "Agency" means any board, commission, committee, council, or  
 22 department in state government or a unit thereof created by the constitution or  
 23 statutes if such board, commission, committee, council, department, unit, or the head  
 24 thereof, is authorized to appoint subordinate staff by the constitution or statute,  
 25 except a legislative or judicial board, commission, committee, council, department, or

1 unit thereof or an authority created under ch. 231, 232, 233, 234 or, 235, and 237.  
2 "Agency" does not mean any local unit of government or body within one or more local  
3 units of government that is created by law or by action of one or more local units of  
4 government.

History: 1971 c. 270; 1973 c. 333; 1977 c. 196 ss. 24, 100; 1977 c. 418; 1981 c. 20, 26; 1983 a. 27 ss. 1604, 2200 (15); 1983 a. 409, 453, 538; 1987 a. 32; 1989 a. 31; 1991 a. 101, 147; 1993 a. 16, 254; 1995 a. 27, 255; 1997 a. 27; 1999 a. 67, 87.

5 SECTION 59. Chapter 237 of the statutes is created to read:

6 Chapter 237  
Fox River Navigational System Authority

7 237.01 Definitions. In this chapter:

- 8 (1) "Authority" means the Fox River Navigational System Authority.
- 9 (2) "Board of directors" means the board of directors of the authority.
- 10 (3) "Fiscal year" means the period beginning on July 1 and ending on the following June 30.

11 237.02 Creation and organization of authority. (1) There is created a public body corporate and politic to be known as the "Fox River Navigational System Authority".  
12 The board of directors of the authority shall consist of the following  
13 members:

14 (a) Five members nominated by the governor, and with the advice and consent  
15 of the senate appointed, for 3-year terms.

16 (b) The secretary of natural resources, or his or her designee.

17 (c) The secretary of transportation, or his or her designee.

18 (2) A vacancy on the board of directors of shall be filled in the same manner  
19 as the original appointment to the board of directors for the remainder of the  
20 unexpired term, if any.

21 (3) A member of the board of directors may not be compensated for his or her  
22 services but shall be reimbursed for actual and necessary expenses, including travel  
23 expenses, incurred in the performance of his or her duties.

1           (4) No cause of action of any nature may arise against and no civil liability may  
2 be imposed upon a member of the board of directors for any act or omission in the  
3 performance of his or her powers and duties under this chapter, unless the person  
4 asserting liability proves that the act or omission constitutes willful misconduct.

5           (5) The members of the board of directors shall annually elect a chairperson  
6 and may elect other officers as they consider appropriate. Four voting members of  
7 the board of directors constitute a quorum for the purpose of conducting the business  
8 and exercising the powers of the authority, notwithstanding the existence of any  
9 vacancy. The board of directors may take action upon a vote of a majority of the  
10 members present, unless the bylaws of the authority require a larger number.

11           (6) The board of directors shall appoint a chief executive officer who shall not  
12 be a member of the board of directors and who shall serve at the pleasure of the board  
13 of directors. The authority may delegate by resolution to one or more of its members  
14 or its executive director any powers and duties that it considers proper. The chief  
15 executive officer shall receive such compensation as the board of directors fixes. The  
16 chief executive officer or other person designated by resolution of the board of  
17 directors shall keep a record of the proceedings of the authority and shall be  
18 custodian of all books, documents, and papers filed with the authority, the minute  
19 book or journal of the authority, and its official seal. The chief executive officer or  
20 other person may cause copies to be made of all minutes and other records and  
21 documents of the authority and may give certificates under the official seal of the  
22 authority to the effect that such copies are true copies, and all persons dealing with  
23 the authority may rely upon such certificates.

24           **237.03 Duties of authority.** (1) GENERAL DUTIES: In addition to all other  
25 duties imposed under this chapter, the authority shall do all of the following:

1 (a) Adopt bylaws and policies and procedures for the regulation of its affairs  
2 and the conduct of its business.

3 (b) Contract for any legal services required for the authority.

4 (c) Establish the authority's annual budget and monitor the fiscal management  
5 of the authority.

6 (d) Procure liability insurance covering its officers and employees and procure  
7 insurance against any loss in connection with its property and other assets.

8 (e) Make every reasonable effort to contract with a corporation to provide the  
9 services specified under s. 273.09 (2). ✓

\*\*\*NOTE: The language in s. 237.03 (1) (c) is based on language found in ch. 233 concerning the UW Hospitals and Clinic Authority, but shouldn't this be the duty of the board of directors?

\*\*\*NOTE: The duties listed under s. 237.03 (1) are modeled after various similar provisions for other authorities, and I arbitrarily picked those that seemed to make the most sense. Please review the provisions imposing duties on authorities under ss. 233.04 and s.235.04 to see if you want any changes.

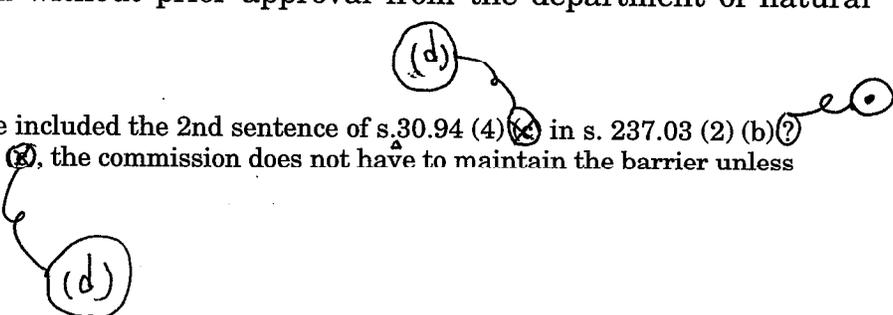
10 (2) DUTIES UPON LEASING. Upon entering the lease under s. 237.06, the  
11 Authority department shall do all of the following:

12 (a) Rehabilitate, repair, manage, operate, and maintain the navigational  
13 system.

\*\*\*NOTE: Review the verbs used both in ss. 30.92 and 30.94 in reference to the navigational system and let me know if you want any changes. I am not certain what the word "manage" means. Can it be deleted?

14 (b) Maintain the sea lamprey barrier at the Rapide Croche lock according to  
15 specifications of the department of natural resources in order to prevent sea  
16 lampreys and other nonnative species from moving upstream. The Rapide Croche  
17 lock may not be opened without prior approval from the department of natural  
18 resources.

\*\*\*NOTE: I have included the 2nd sentence of s.30.94 (4) in s. 237.03 (2) (b) Also under s. 30.94 (4), the commission does not have to maintain the barrier unless



DNR requires it to do so. This provision simply requires the authority to maintain it. Do you want any changes?

1           **233.04 Powers of authority.** The authority shall have all the powers  
2 necessary or convenient to carry out the purposes and provisions of this chapter. In  
3 addition to all other powers granted by this chapter, the authority may:

4           (1) Incur debt.

5           (2) Sue and be sued.

6           (3) Hire employees, define their duties, and fix their rate of compensation.

7           (4) Appoint any technical or professional advisory committee that the  
8 authority finds necessary to assist the authority in exercising its duties and powers.  
9 The authority shall define the duties of the committee, and provide reimbursement  
10 for the expenses of the committee.

11           (5) Enter into contracts with 3rd parties <sup>STGT</sup> as are necessary for the rehabilitation,  
12 repair, management, operation, or maintenance of the navigational system.

13           (6) Acquire and dispose of property as is necessary for the rehabilitation,  
14 repair, management, operation, or maintenance of the navigational system.

15           (7) Accept gifts and other funding for the rehabilitation, repair, management,  
16 operation, or maintenance of the navigational system.

17           (8) Charge user fees for services the authority provides to the operators of  
18 watercraft using the navigational system.

\*\*\*\*NOTE: The powers listed under s. 237.04 are modeled after various similar provisions for other authorities and after the powers for nonprofit corporations, and I arbitrarily picked those that seemed to make the most sense. Please review the provisions granting power to authorities under ss. 231.03, 233.03, 234.03, and (s) 235.03 and to nonprofit corporations under subch. III of ch. 181 to see if you want any changes.

\*\*\*\*NOTE: Do you want to limit the use of the user fees under s. 237.04 (8) to management, operation, and maintenance?

19           **237.05 Restrictions on authority.** (1) The authority may not issue bonds.

1 (2) The authority may not sublease all, or any part of, the navigational system  
2 without the approval of the department of administration.

3 **237.06 Lease.** Upon transfer of the ownership of the navigational system by  
4 the federal government to the state, the department of administration on behalf of  
5 the state and the authority shall enter into a ~~leasing~~ <sup>STATE</sup> lease agreement under which the  
6 state shall lease the navigational system to the authority for nominal consideration.  
7 The secretary of administration shall determine the amount of the rental payments,  
8 ~~and the term of the lease.~~

9 **237.07 Management plan.** (1) The authority shall submit before March 1,  
10 2002, to the department of administration a plan that does all the following:

11 (a) Address<sup>es</sup> the costs of and funding for the rehabilitation, repair, management,  
12 operation, and maintenance of the navigational system.

13 (b) Describes how the authority will manage its funds to ensure that sufficient  
14 funding is available to abandon the navigational system if the operation of the  
15 navigational system is no longer feasible.

16 (2) The authority shall <sup>annually</sup> update the plan ~~submitted~~ <sup>and resubmit</sup> under sub. (1) before March  
17 1 of each year, beginning with March 1, 2003.

18 (3) The authority may not expend any of the moneys it receives under s. 237.08  
19 for rehabilitation and repair <sup>until</sup> the department of administration approves the  
20 plan <sup>approved</sup> (submitted under sub. (1) or ~~is~~ <sup>is</sup> updated under sub. (2) on the  
21 March 1 before the beginning of the <sup>fiscal year</sup>

22 **237.08 Sources of funding.** (1) FEDERAL FUNDING. The authority shall accept  
23 federal funding for the rehabilitation and repair of the navigational system and shall  
24 agree with any conditions attached to the funding. The authority may not use federal  
funding for the management, operation, or maintenance of the navigational system.

1           (2) STATE FUNDING. (a) From the appropriation under s. 20.370 (5) (cq) and  
2 before applying the percentages under s. 30.92 (4) (b) 6., the department of natural  
3 resources shall provide to the authority funding for the rehabilitation and repair of  
4 the navigational system in the amount calculated under par. (b). The funding shall  
5 be made available beginning with the first fiscal year beginning after the submittal  
6 of the initial management plan submitted under s. 237.07 (1) and shall continue to  
7 be made available in each of the next consecutive 6 fiscal years. The department of  
8 natural resources shall provide the funding to the authority for each fiscal year only  
9 if the management plan for that fiscal year has been approved by the department of  
10 administration under s. 237.07 (3).

11           (b) The amount provided under par. (a) for each fiscal year shall equal the  
12 amount raised by the corporation under s. 237.09 (2) (b) during that fiscal year or  
13 \$400,000, whichever is greater.

14           (3) OTHER FUNDING. The authority shall encourage and may accept  
15 contributions and other funding for the rehabilitation, repair, management,  
16 operation, or maintenance of the navigational system. The authority shall also  
17 accept funding raised by the corporation under s. 237.09 (3).

      \*\*\*NOTE: Regarding s. 237.08 (1): Does this accurately reflect the federal  
requirements?

18           **237.09 Requirements for corporation.** (1) Any corporation contracted with  
19 under s. 237.03 (1) (e) shall be a nonprofit corporation as described in section 501  
20 (c) (3) of the internal revenue code that is exempt from federal income tax under  
21 section 501 (a) of the internal revenue code and shall be based in one or more of the  
22 counties in which the navigational system is located.

23           (2) The corporation shall do all of the following:

1 (a) Provide marketing and fundraising services for the authority.

2 (b) Make every reasonable effort to raise \$2,750,000 of local or private funding  
3 for the rehabilitation and repair of the navigational system. ✓

4 (c) Invest the funding received by the authority for rehabilitation and repair  
5 under s. 237.08 at a rate of return that the authority finds adequate to enable the  
6 authority to exercise its duties and powers in rehabilitating and repairing the  
7 navigational system. ✓

8 **237.10 Political activities.** (1) No employee of the authority may directly  
9 or indirectly solicit or receive subscriptions or contributions for any partisan political  
10 party or any political purpose while engaged in his or her official duties as an  
11 employee. No employee of the authority may engage in any form of political activity  
12 calculated to favor or improve the chances of any political party or any person seeking  
13 or attempting to hold partisan political office while engaged in his or her official  
14 duties as an employee or engage in any political activity while not engaged in his or  
15 her official duties as an employee to such an extent that the person's efficiency during  
16 working hours will be impaired or that he or she will be tardy or absent from work.  
17 Any violation of this section is adequate grounds for dismissal. ✓

18 (2) If an employee of the authority declares an intention to run for partisan  
19 political office the employee shall be placed on a leave of absence for the duration of  
20 the election campaign and if elected shall ~~separate~~ no longer be employed by the  
21 authority on assuming the duties and responsibilities of such office.

22 (3) An employee of the authority may be granted by the chief executive officer  
23 a leave of absence to participate in partisan political campaigning.

of absence

or 3

1

(4) Persons on leave ~~from the classified service~~ under subs. (2) and (4) shall not

2

be subject to the restrictions of sub. (1), except as they apply to the solicitation of

3

assistance, subscription, or support from any other employee in the authority.

4

**237.11 Liability limited.** (1) Neither the state <sup>not</sup> any political subdivision of

5

the state <sup>STET</sup> nor any officer, employee, or agent of the state or a political subdivision who

6

is acting within the scope of employment or agency is liable for any debt, obligation,

7

act, or omission of the authority.

8

(2) All of the expenses incurred by the authority in exercising its duties and

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powers under this chapter shall be payable only from funds of the authority.

10

**237.12 State pledge.** The state pledges to and agrees with persons that enter

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into contracts with the authority under this chapter, that the state will not limit or

12

alter the rights vested in the authority by this chapter before the authority has fully

13

performed its contracts, unless adequate provision is made by law for the protection

14

of those entering into contracts with the authority.

15

**237.13 Exemption.** Any activity or project involving the navigational system,

16

including abandonment of the navigational system, is exempt from any permit,

17

license, or other approval required under ch. 30 or 31.

\*\*\*\*NOTE: You may wish to expand the list of provisions specified in the exemption under s. 237.13. Look at those listed in § 30.12 (4) (a) and 30.202 (3)

SS.

18

**237.14 Abandonment.** If the authority determines the operation of the

19

navigational system is no longer feasible, the authority shall submit a plan to the

20

department of administration describing the steps the authority will take in

21

abandoning the navigational system. The navigational system may not be

22

abandoned unless the department of administration determines that the plan for

185

1 abandonment will preserve the public rights in the Fox River, will ensure safety, and  
2 will protect life, health, and property.

\*\*\*NOTE: The language in the last phrase of the last sentence of s. 237.14 is based  
in language found s. 31.685 (5), which deals with the abandonment of dams.

3 SECTION 60. 281.75 (4) (b) 3. of the statutes is amended to read:

4 281.75 (4) (b) 3. An authority created under ch. 231, 233 or, 234 or 237.

History: 1983 a. 410; 1985 a. 22, 29; 1989 a. 31; 1991 a. 39; 1993 a. 413; 1995 a. 27 ss. 4208 to 4210, 9116 (5); 1995 a. 227 s. 401; Stats. 1995 s. 281.75; 1997 a. 27.

5 SECTION 61. 285.59 (1) (b) of the statutes is amended to read:

6 285.59 (1) (b) "State agency" means any office, department, agency, institution  
7 of higher education, association, society or other body in state government created  
8 or authorized to be created by the constitution or any law which is entitled to expend  
9 moneys appropriated by law, including the legislature and the courts, the Wisconsin  
10 Housing and Economic Development Authority, the Bradley Center Sports and  
11 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics  
12 Authority, the Fox River Navigational System Authority, and the Wisconsin Health  
13 and Educational Facilities Authority.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1995 a. 227 s. 509; Stats. 1995 s. 285.59; 1997 a. 27.

(END)

14

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
.....

INS 13-13

SECTION ~~X~~ 30.93 (1) (b) of the statutes is amended to read:

30.93 (1) (b) "Fox River navigational system" has the meaning designated under s. 30.94 (1) (b).

~~History: 1983 a. 210; 1985 a. 41; 1987 a. 327; 1993 a. 16; 1995 a. 27; 1997 a. 21.~~

~~Section 2, 30.94 (1) (b) of the statutes is amended to read:~~

~~30.94 (1) (b) "Fox River navigational system" means locks, harbors, real property, structures and facilities related to navigation that are located on or near the Fox River, including locks, harbors, real property, structures and facilities that were under the ownership or control of the federal government on April 1, 1984. "Fox River navigational system" does not include dams on the Fox River.~~

History: 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1997 a. 21.

TYPED  
INS NOT IN  
SYSTEM



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

LRB-1335/?dn

MGG.....

CS

*Most of the provisions*

Attention: Kirsten Grinde

This draft is incomplete and subject to review by other attorneys in this office, but I wanted you to have something to review as soon as possible. I also need to discuss with you several questions. I'll continue to draft this legislation while you review this version.

In preparing this draft, I have had to make many decisions as to whether to make ~~to~~ the authority subject to provisions under current law that apply to state governmental entities. ~~The ones~~ contained in this drafter's note are the ones that do not appear in the draft because no treatment of current law is necessary. Therefore, you need to look at all of the items listed below as well as all of the treatments in the draft to determine when the authority is being considered a governmental entity.

1. The authority <sup>(15)</sup> is included in s. 1.12 (1) (b) since it is a "body in state government which is created... by law for which an appropriation is made". OK? ✓
2. I assume you do not want something similar to 13.094 for the authority to be reviewed by joint finance. ✓
3. Is s. 13.48 (10)(b) 3m. consistent with your intent? ✓
4. Do you want to exempt the authority from s. 13.48 (12)? ✓
5. Do you want to include the authority in s. 13.48 (13) (a)? ✓
6. Do you want the authority included in s. 13.95 (intro.)? ✓
7. Do you want the authority included in the definition under s. 16.01 (1)? ✓
8. As drafted, the authority is subject to s. 16.15. OK? ✓
9. The authority is <sup>not</sup> included in the definition under s. 16.375. OK? ✓
10. As drafted, ~~s. 16.417 does not apply to the authority~~ <sup>the authority is subject to</sup> OK? ✓
11. As drafted, s. 16.61 does not apply to the authority. OK? ✓
12. Do you want the authority to be subject to s. 16.611, or 16.62? ✓
13. By including the authority in the definition under s. 16.70 (2), the authority is not subject to the purchasing provisions that apply to "agencies" under ss. 16.70 to 16.78. ✓

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However,

and

The authority is subject to the provisions under ss. 16.72 (2) (e) and (f), 16.75 (1m), (8) (a) 1. and 2., and (9) OK?

LPS:  
please  
make  
sure  
that  
these  
are  
auto-  
numbers

- 14. Do you want the authority to be covered by s. 16.845? ✓
- 15. Do you want something similar to s. 16.85 (14) for the authority? ✓
- 16. Do you want to do anything in s. 16.851 since the navigational system is a "state-owned or state-leased facility"? ✓
- 16. Look at <sup>5</sup>16.86<sup>5</sup> (2) and (8). I have excluded the authority from the definition of "agency" under sub. (8) but you may want to change it in light of the language in sub. (2).
- 17. As drafted, the authority is not subject to subch. VII of ch. 16. OK? INSERT  
CPN1
- 18. Do you want the authority excluded from the definition under s. 19.32 (1)? It is included under current law. ✓
- 19. The chief executive officer and the members of the board of the authority are included in the definition of "official required to file" under s. 19.42 (10). OK? ✓
- 20. The authority is included in the definition under s. 19.62 (8). OK? ✓
- 21. The authority is included in the definition under s. 19.82 (1). OK? ✓
- 22. I have not included the authority in the definition under s. 25.50 (1) (d) since the authority is setting up its own investment corporation. OK? ✓
- 23. Do you want the authority treated as a "state agency" in s. 29.604. Under current law, it is not considered a state agency.
- 24. The authority is not subject to ch. 35. OK? ✓
- 25. I have exempted the authority from the payment of property taxes, corporate income taxes, and sale and use taxes. OK? Also, if you want the authority to have to pay for municipal services, s. 70.119 will have to be amended. ✓
- 26. The authority is included in the definition under s. 101.055 (2) (a). OK? ✓
- 27. The authority is included in the definition <sup>of "employer"</sup> under s. 103.10. OK? Also, the personnel commission will be investigating <sup>the authority</sup> ~~agency~~ under s. 103.10 (12). OK? ✓
- 28. The authority is included in the definition under s. 103.15 (1) (a). OK? ✓
- 29. As drafted, the authority is subject to s. 103.49. OK? ✓
- 30. As drafted, the authority is subject to ch. 104. OK? ✓ 137.04
- 31. The authority is included in the definition under s. ~~134.07~~ <sup>181.0855(2)(a),</sup> (3). OK? ✓
- 32. The reference to "authority" in ss. 181.0670 (3) (a) 1. and (b), 185.367 (2) (a) and (3), and ~~185.096~~ (2) (b) and (3) includes the Fox Authority. OK? ✓
- 33. The authority is subject to subch. III of ch. 230. See s. 230.80 (4) OK? ✓

186

18.172(2)(a),

Lps:  
Please  
make  
sure  
that  
these  
are  
auto-  
numbers

- 34. The authority is subject to ch. 287. See ~~s~~<sup>s</sup> 287.01 (5m) and 287.22 (2) (b) and (2m). OK?
- 35. The authority is included in the definition of "state authority" in ss. 341.17 (9) (a) 4., 343.235 (1) (d), and 343.24 (4) (a) 4. OK?
- 36. Do you want language similar to s. 704.31 (3)?
- 37. Do you want to exclude the authority from the definition under s. 895.65 (1) (c)?  
The members of the board of directors appointed under <sup>s</sup> s. 237.02 (1) (a) <sup>proposed</sup> are appointed subject to senate confirmation. OK?

In reviewing this draft, please note that the only moneys available for "management, operation, and maintenance" are those that come from "other funding" under s. 237.08 (3) and user fees? OK?



Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

INS (DN)  
3  
2

INS-D-N1

D-N insert

1/2  
v. 2000  
1/2  
By cross-reference the authority is included  
in the definition under s. 16.966(1). OK?

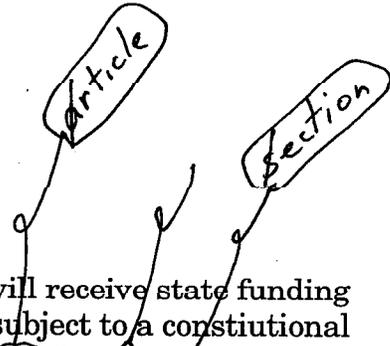
DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
.....

INS D-N 2

④

As we have previously discussed, the fact that this authority will receive state funding for the rehabilitation of the navigational system may make it subject to a constitutional challenge that it violates the internal improvements clause (Art. VIII, sec 10) of the state constitution. In the past, the legislature has included a legislative intent statement in an attempt to bolster the argument that a given provision is constitutional. See, for example, s. 229.64 (1). A reviewing court may or may not give a legislative intent statement any consideration, but please call me if you wish to discuss drafting one.



TYPED  
NOT IAW  
SYSTEM

✓

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

LRB-1335/P1dn  
MGG:cs:ch

January 3, 2001

Attention: Kirsten Grinde

This draft is incomplete and subject to review by other attorneys in this office, but I wanted you to have something to review as soon as possible. I also need to discuss with you several questions. I'll continue to draft this legislation while you review this version.

In preparing this draft, I have had to make many decisions as to whether to make the authority subject to provisions under current law that apply to state governmental entities. Most of the provisions contained in this drafter's note are the ones that do not appear in the draft because no treatment of current law is necessary. Therefore, you need to look at all of the items listed below as well as all of the treatments in the draft to determine when the authority is being considered a governmental entity.

1. The authority is included in s. 1.12 (1) (b) since it is a "body in state government which is created... by law for which an appropriation is made." OK?
2. I assume you do not want something similar to 13.094 for the authority to be reviewed by joint finance.
3. Is s. 13.48 (10) (b) 3m. consistent with your intent?
4. Do you want to exempt the authority from s. 13.48 (12)?
5. Do you want to include the authority in s. 13.48 (13) (a)?
6. Do you want the authority included in s. 13.95 (intro.)?
7. Do you want the authority included in the definition under s. 16.01 (1)?
8. As drafted, the authority is subject to s. 16.15. OK?
9. The authority is not included in the definition under s. 16.375. OK?
10. As drafted, the authority is not subject to s. 16.417. OK?
11. As drafted, s. 16.61 does not apply to the authority. OK?
12. Do you want the authority to be subject to s. 16.611, or 16.62?
13. By including the authority in the definition under s. 16.70 (2), the authority is not subject to the purchasing provisions that apply to "agencies" under ss. 16.70 to 16.78.

However, the authority is subject to the provisions under ss. 16.72 (2) (e) and (f) and 16.75 (1m), (8) (a) 1. and 2., and (9). OK?

14. Do you want the authority to be covered by s. 16.845?

15. Do you want something similar to s. 16.85 (14) for the authority?

16. Do you want to do anything in s. 16.851 since the navigational system is a "state-owned or state-leased facility"?

17. Look at s. 16.865 (2) and (8). I have excluded the authority from the definition of "agency" under sub. (8) but you may want to change it in light of the language in sub. (2).

18. By cross-reference the authority is included in the definition under s. 16.966 (1). OK?

19. As drafted, the authority is not subject to subch. VII of ch. 16. OK?

20. Do you want the authority excluded from the definition under s. 19.32 (1)? It is included under current law.

21. The chief executive officer and the members of the board of the authority are included in the definition of "official required to file" under s. 19.42 (10). OK?

22. The authority is included in the definition under s. 19.62 (8). OK?

23. The authority is included in the definition under s. 19.82 (1). OK?

24. I have not included the authority in the definition under s. 25.50 (1) (d) since the authority is setting up its own investment corporation. OK?

25. Do you want the authority treated as a "state agency" in s. 29.604. Under current law, it is not considered a state agency.

26. The authority is not subject to ch. 35. OK?

27. I have exempted the authority from the payment of property taxes, corporate income taxes, and sale and use taxes. OK? Also, if you want the authority to have to pay for municipal services, s. 70.119 will have to be amended.

28. The authority is included in the definition under s. 101.055 (2) (a). OK?

29. The authority is included in the definition of "employer" under s. 103.10. OK? Also, the personnel commission will be investigating the authority under s. 103.10 (12). OK?

30. The authority is included in the definition under s. 103.15 (1) (a). OK?

31. As drafted, the authority is subject to s. 103.49. OK?

32. As drafted, the authority is subject to ch. 104. OK?

33. The authority is included in the definition under s. 137.04 (3). OK?

34. The reference to "authority" in ss. 88.172 (2) (a), 181.0670 (3) (a) 1. and (b), 181.0855 (2) (a), 185.367 (2) (a) and (3), and 186.096 (2) (b) and (3) includes the Fox Authority. OK?

35. The authority is subject to subch. III of ch. 230. See s. 230.80 (4) OK?

36. The authority is subject to ch. 287. See ss. 287.01 (5m) and 287.22 (2) (b) and (2m). OK?

37. The authority is included in the definition of "state authority" in ss. 341.17 (9) (a) 4., 343.235 (1) (d), and 343.24 (4) (a) 4. OK?

38. Do you want language similar to s. 704.31 (3)?

39. Do you want to exclude the authority from the definition under s. 895.65 (1) (c)?

The members of the board of directors appointed under proposed s. 237.02 (1) (a) are appointed subject to senate confirmation. OK?

In reviewing this draft, please note that the only moneys available for "management, operation, and maintenance" are those that come from "other funding" under s. 237.08 (3) and user fees. OK?

As we have previously discussed, the fact that this authority will receive state funding for the rehabilitation of the navigational system may make it subject to a constitutional challenge that it violates the internal improvements clause (article VIII, section 10) of the state constitution. In the past, the legislature has included a legislative intent statement in an attempt to bolster the argument that a given provision is constitutional. See, for example, s. 229.64 (1). A reviewing court may or may not give a legislative intent statement any consideration, but please call me if you wish to discuss drafting one.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Gibson-Glass, Mary**

**From:** Grinde, Kirsten  
**Sent:** Wednesday, January 10, 2001 3:17 PM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB-1335/P1 -- Fox River Nav System Authority

Mary,

A few more comments on the Authority draft:

*Establishing  
+ operating Auth + system*

First, from your January 4 fax:

- 1. Yes, please stagger the length of the terms of the first appointees.
- 2. Please have the chair of the Fox River Management Commission and the chair of the authority jointly identify the assets; liabilities; tangible personal property, including records; contracts; policies and procedures that will transfer from the Commission to the authority. Also, please require the secretary of the Department of Administration to arbitrate disputes, determine the matter and develop a plan for an orderly transfer.

Second, other items related to the draft:

*Replace*

- 1. Third \*\*\*\*Note on page 19 regarding the verb "manage" in s. 237.03(2)(a): The memorandum of agreement states that "The State will be responsible for operation, maintenance, repair, replacement and rehabilitation" of the locks. Therefore, please remove the verb "manage" but insert "replace".
- 2. Fourth \*\*\*\*Note on page 19 regarding s. 237.03(2)(b): The memorandum of agreement signed by the Governor and the U.S. Army Corps of Engineers states that "The State agrees to maintain the Rapide Croche Lock as a sea lamprey barrier." Therefore, I don't think the second sentence of s. 237.03 (2) (b) should be included in the draft.
- 3. Page 18, line 5, relating to the compensation for the CEO -- could you change it to read "shall receive such compensation as may be determined by the board of directors."
- 4. Page 19, first \*\*\*\*Note regarding the establishing the annual budget: the language is fine as written. It appears to be broad enough to allow the CEO or staff to prepare the budget and the board to approve it, since they're all the "authority."
- 5. Page 19, second \*\*\*\*Note regarding adding or changes to duties of the authority: we will need the authority to submit *to DOA* an annual audited financial statement in order to certify funds received for the feds to release its matching funds.
- 6. Page 19, line 13, please add the phrase, "except as provided under s. 237.05(1)" after "Incur debt"
- 7. Page 20, line 5, please add "lease" after "Acquire" and add "except as provided under s. 237.05(2)" where appropriate on line 5 or 6.
- 8. Page 20, second \*\*\*\*Note regarding use of fee revenue: no, we do not want to limit the use of these fees.
- 9. Page 21, lines 6-7, modify this requirement to have the authority update and resubmit the plan upon the request of the Department of Administration.
- 10. Page 21, lines 22-25, remove the final sentence of this paragraph.
- 11. Page 21, lines 8-11, we are still thinking about this. We may want to remove the whole approval requirement.
- 12. Page 22, \*\*\*\*Note regarding s. 237.08(1): We do not want to prevent the authority from receiving and using federal funds for operation, etc., if such funds are made available. We may be able to use wording similar to that used in state agency federal appropriations, that is "for the purposes for which received".

- 13. Page 22, lines 1-3, the amount released by the Department of Natural Resources will equal the amount of local funds raised by the corporation. The authority would not receive any funds from DNR if no local funds are raised in a fiscal year. Also, we need some way of requiring the local corporation to submit a statement (audited financial statement or something similar) certifying the amount raised each fiscal year, which DNR can then use to release matching funds. DOA would also need a certification of the local funds so that it can certify to the federal government how much state/local matching funds are raised each year. The federal government would then release its funds based on that certification.

*233.04(1) audit*

14. Page 22, line 7: was there a s. 237.09(3)? If so, where is it now?

✓ I'll talk to you soon. Thanks.

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor  
Madison, WI 53707-7864

voice: (608) 266-7973  
fax: (608) 267-0372  
e-mail: [kirsten.grinde@doa.state.wi.us](mailto:kirsten.grinde@doa.state.wi.us)

## Gibson-Glass, Mary

---

**From:** Grinde, Kirsten  
**Sent:** Sunday, January 07, 2001 7:46 PM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB-1335/P1 - Fox River Nav System Authority

Mary,

Here's what I have so far in response to your drafter's note questions:

1. OK to include in s. 1.12(1)(b).
2. Correct, we do not want something similar to s. 13.094.
3. Yes, s. 13.48(10)(b)3m. is consistent with our intent.
4. Yes, exempt the authority from s. 13.48(12).
5. Yes, include the authority in s. 13.48(13)(a).
6. No, do not include the authority in s. 13.95(intro).
7. No, do not include the authority in the definition under s. 16.01(1).
8. OK, that the authority is subject to s. 16.15.
9. OK that the authority is not included in the definition under s. 16.375.
10. As drafted, it appears that the authority is subject to s. 16.417 (see p. 4, lines 12-14 [Section 14]), and it is OK as drafted.
- 11-12. I am still reviewing these sections. However, we do not want the authority to be subject to s. 16.611.
13. OK that the authority is subject to the provisions listed.
14. Yes, please have the authority covered <sup>by</sup> s. 16.845.
15. I'm still checking into this.
- 16, 20. The current law inclusion under s. 19.32(1) is OK -- does this cover s. 16.851? We would want to keep the plans from being open records.
17. I'm still checking into this.
18. OK to include the authority in the definition under s. 16.966(1).
19. OK that the authority is not subject to subch. VII of ch. 16.
21. OK to include them in the definition under s. 19.42(10).
22. OK to include the authority in the definition under s. 19.62(8).
23. OK to include the authority in the definition under s. 19.82(1).
24. OK to not include the authority in the definition under s. 25.50(1)(d).
25. Yes, treat the authority as a state agency in s. 29.604.
26. OK that the authority is not subject to ch. 35.

27. OK that the authority is exempted from the taxes. I'm still checking on the payment for municipal services.

I hope to be able to get answers to the remaining questions to you tomorrow (Monday), but I will be briefing all afternoon and still have a briefing document to finish for it.

Let me know if you have any more questions.

Thanks,

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor  
Madison, WI 53707-7864

voice: (608) 266-7973  
fax: (608) 267-0372  
e-mail: [kirsten.grinde@doa.state.wi.us](mailto:kirsten.grinde@doa.state.wi.us)

**Gibson-Glass, Mary**

---

**From:** Grinde, Kirsten  
**Sent:** Monday, January 08, 2001 9:12 AM  
**To:** Gibson-Glass, Mary  
**Subject:** FW: Fox Locks Authority

Mary,  
A couple more answers to your drafter's note questions: for 15. yes, we do want something similar to s. 16.85(14); for 17. the exclusion is OK; we do not want the authority to be part of the state's risk management program (s. 16.865).

Kirsten

-----Original Message-----

**From:** Schmiedicke, David  
**Sent:** Monday, January 08, 2001 7:48 AM  
**To:** Grinde, Kirsten  
**Subject:** RE: Fox Locks Authority

First -- no. Second -- yes.

-----Original Message-----

**From:** Grinde, Kirsten  
**Sent:** Sunday, January 07, 2001 6:49 PM  
**To:** Schmiedicke, David  
**Subject:** Fox Locks Authority

Dave,

Do you want the Authority to be part of the state's risk management program (s. 16.865)?

Do you want to review and approve the design and specifications for any construction done by the Authority and to be able to review the progress of any such construction (something similar to s. 16.85(14))?

Thanks.

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor  
Madison, WI 53707-7864

voice: (608) 266-7973  
fax: (608) 267-0372  
e-mail: kirsten.grinde@doa.state.wi.us

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

LRB-1335/P1dn  
MGG:cs:ch

January 3, 2001

Attention: Kirsten Grinde

This draft is incomplete and subject to review by other attorneys in this office, but I wanted you to have something to review as soon as possible. I also need to discuss with you several questions. I'll continue to draft this legislation while you review this version.

In preparing this draft, I have had to make many decisions as to whether to make the authority subject to provisions under current law that apply to state governmental entities. Most of the provisions contained in this drafter's note are the ones that do not appear in the draft because no treatment of current law is necessary. Therefore, you need to look at all of the items listed below as well as all of the treatments in the draft to determine when the authority is being considered a governmental entity.

- Call* 1. The authority is <sup>(not)</sup> included in s. 1.12 (1) (b) since it is a <sup>(not)</sup> body in state government which is created... by law for which an appropriation is made." OK? *covered*
- no drafting* 2. I assume you do not want something similar to 13.094 for the authority to be reviewed by joint finance.
- no drafting* 3. Is s. 13.48 (10) (b) 3m. consistent with your intent?
- 4. Do you want to exempt the authority from s. 13.48 (12)?
- 5. Do you want to include the authority in s. 13.48 (13) (a)?
- no drafting* 6. Do you want the authority included in s. 13.95 (intro.)?
- no drafting* 7. Do you want the authority included in the definition under s. 16.01 (1)?
- no drafting* 8. As drafted, the authority is subject to s. 16.15. OK?
- no drafting* 9. The authority is not included in the definition under s. 16.375. OK?
- Call* 10. As drafted, the authority is not subject to s. 16.417. OK? *Definition includes*
- no drafting* 11. As drafted, s. 16.61 does not apply to the authority. OK?
- WAIT* 12. Do you want the authority to be subject to s. 16.611 or 16.62? *no drafting*
- no drafting?* 13. By including the authority in the definition under s. 16.70 (2), the authority is not subject to the purchasing provisions that apply to "agencies" under ss. 16.70 to 16.78.

However, the authority is subject to the provisions under ss. 16.72 (2) (e) and (f) and 16.75 (1m), (8) (a) 1. and 2., and (9). OK? *no drafting*

14. Do you want the authority to be covered by s. 16.845?

*wait*  15. Do you want something similar to s. 16.85 (14) for the authority?

*talk*  16. Do you want to do anything in s. 16.851 since the navigational system is a state-owned or state-leased facility?"

*wait*  17. Look at s. 16.865 (2) and (8). I have excluded the authority from the definition of "agency" under sub. (8) but you may want to change it in light of the language in sub. (2).

*no drafting* 18. By cross-reference the authority is included in the definition under s. 16.966 (1). OK?

*no drafting* 19. As drafted, the authority is not subject to subch. VII of ch. 16. OK?

*no drafting* 20. Do you want the authority excluded from the definition under s. 19.32 (1)? It is included under current law.

*JTK*  21. The chief executive officer and the members of the board of the authority are included in the definition of "official required to file" under s. 19.42 (10). OK?

*no drafting* 22. The authority is included in the definition under s. 19.62 (8). OK?

*no drafting* 23. The authority is included in the definition under s. 19.82 (1). OK?

*no drafting* 24. I have not included the authority in the definition under s. 25.50 (1) (d) since the authority is setting up its own investment corporation. OK?

25. Do you want the authority treated as a "state agency" in s. 29.604. Under current law, it is not considered a state agency.

*no drafting* 26. The authority is not subject to ch. 35. OK?

*no want drafting* 27. I have exempted the authority from the payment of property taxes, corporate income taxes, and sale and use taxes. OK? Also, if you want the authority to have to pay for municipal services, s. 70.119 will have to be amended.

*not done* 28. The authority is included in the definition under s. 101.055 (2) (a). OK?

29. The authority is included in the definition of "employer" under s. 103.10. OK? Also, the personnel commission will be investigating the authority under s. 103.10 (12). OK?

30. The authority is included in the definition under s. 103.15 (1) (a). OK?

*no drafting* 31. As drafted, the authority is subject to s. 103.49. OK?

32. As drafted, the authority is subject to ch. 104. OK?

33. The authority is included in the definition under s. 137.04 (3). OK?

34. The reference to "authority" in ss. 88.172 (2) (a), 181.0670 (3) (a) 1. and (b), 181.0855 (2) (a), 185.367 (2) (a) and (3), and 186.096 (2) (b) and (3) includes the Fox Authority. OK?

35. The authority is subject to subch. III of ch. 230. See s. 230.80 (4) OK?

*Drafting*

36. The authority is subject to ch. 287. See ss. 287.01 (5m) and 287.22 (2) (b) and (2m). OK?

37. The authority is included in the definition of "state authority" in ss. 341.17 (9) (a) 4., 343.235 (1) (d), and 343.24 (4) (a) 4. OK?



38. Do you want language similar to s. 704.31 (3)?

39. Do you want to exclude the authority from the definition under s. 895.65 (1) (c)?

*No drafting*

The members of the board of directors appointed under proposed s. 237.02 (1) (a) are appointed subject to senate confirmation. OK?

*Do not be subject to Senate*

In reviewing this draft, please note that the only moneys available for "management, operation, and maintenance" are those that come from "other funding" under s. 237.08 (3) and user fees. OK?

As we have previously discussed, the fact that this authority will receive state funding for the rehabilitation of the navigational system may make it subject to a constitutional challenge that it violates the internal improvements clause (article VIII, section 10) of the state constitution. In the past, the legislature has included a legislative intent statement in an attempt to bolster the argument that a given provision is constitutional. See, for example, s. 229.64 (1). A reviewing court may or may not give a legislative intent statement any consideration, but please call me if you wish to discuss drafting one.

*No Intent Statement*

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF EXECUTIVE BUDGET AND FINANCE  
DCA-5167 N(R0866)

## FACSIMILE COVER MESSAGE

**CONFIDENTIALITY:** This facsimile transmission is intended only for the use of the individual or entity to which it is addressed. It may contain information which is privileged, confidential or exempt from disclosure under applicable law.

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THE FACSIMILE MACHINE COPIES ONE SIDE OF DOCUMENT

TO		Facsimile Telephone Number	
Name	Mary Gibson-Glass	6-3561	
Location	LRB 5 <sup>th</sup> floor	Room Number	Telephone Number
			7-3215
FROM (Sender)			
Name	Kirsten Grinde	Number of Pages Including This Cover Sheet	Facsimile Telephone Number
Location	101 East Wilson Street, 10th Floor, Madison, WI 53702	4	(608) 267-0372
			Telephone Number
			6-7973

### COMMENTS / INSTRUCTIONS

Mary,

Please review. This is the "final" draft of the agreement signed by the Governor for the transfer of the Fox locks. It may be helpful for explaining some of the duties of the State, the Authority, etc.

I am also sending an email with several comments on the draft.

Thanks,  
Kirsten

**MEMORANDUM OF AGREEMENT  
BETWEEN THE DEPARTMENT OF THE ARMY  
AND  
THE STATE OF WISCONSIN  
FOR THE TRANSFER OF  
LOCKS AND APPURTENANT FEATURES OF THE  
FEDERAL FOX RIVER PROJECT, WISCONSIN**

This Memorandum of Agreement (MOA) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between the Department of the Army (hereinafter "the Government") represented by the Assistant Secretary of the Army (Civil Works), and the State of Wisconsin, (hereinafter "the State"), represented by the Governor of Wisconsin.

**WITNESSETH, THAT:**

**WHEREAS, Section 332 of the Water Resource Development Act of 1992, Public Law 102-580, authorizes the Government to transfer to the State the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin, extending from Green Bay, Wisconsin to Lake Winnebago, Wisconsin, subject to the execution of an agreement that specifies the terms and conditions of the transfer;**

**WHEREAS, the Government desires to transfer, and the State desires to accept, the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin described in Section 332 of the Water Resources Development Act of 1992, Public Law 102-580;**

**WHEREAS, the Government and the State have reached agreement on the following terms and conditions for such transfer as hereinafter set forth; and**

**WHEREAS, the Government and the State have the full authority and capability to perform as hereinafter set forth in accordance with the terms of this MOA.**

**NOW, THEREFORE, the Government and the State agree as follows:**

**ARTICLE I. GENERAL PROVISIONS**

- A. Subject to the terms of this MOA, the Government agrees to transfer, and the State agrees to accept, by quitclaim deed, the real property (land, locks and appurtenant features) substantially identified in Exhibit A (attached).**
- B. Subject to the availability of funds and based on the Environmental Baseline Studies to be completed pursuant to paragraph C.2. of this Article, the Government agrees to complete any necessary remediation action required by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and to provide the applicable warranties and covenants required by section 120(h) of CERCLA.**

- C. The parties agree that the transfer of the real property covered by this MOA is subject to the following:
1. Completion of historical and cultural resources investigations by the Detroit District of the U.S. Army Corps of Engineers (District);
  2. Completion of Environmental Baseline Studies by the District, in accordance with American Society for Testing and Materials Standard D 600-8-96;
  3. Compliance with environmental laws and regulations, including the National Environmental Policy Act of 1969, as amended; and
  4. Compliance with all other applicable laws and regulations.
- D. Subject to receiving funds appropriated by the Congress, the Government agrees to provide to the State, at the time of transfer, a lump-sum payment equal to the cost to place the real property that is transferred in a long-term inoperable condition (hereinafter "full closure cost"). The parties agree that this lump-sum payment shall be \$9,932,000, adjusted by the District for changes in the Engineer News Record construction cost index between November 1999 and the most recent date for which the index value is available at the time of the payment.
- E. Subject to receiving funds appropriated by the Congress, and as further provided in this paragraph, the Government agrees to provide to the State, on or after the date of transfer, payment(s) in a total amount of up to 50 percent of the economically justified increment of the repair and rehabilitation cost above the full closure cost. Not more than once a year, for up to ten years after the date of transfer, the State will certify as to the amount of additional non-Federal funds not less than \$100,000 that it has available for obligation, since any previous certification, for the repair and rehabilitation of the real property transferred pursuant to this MOA. As soon thereafter as practicable, the Government agrees to provide to the State an amount equal to that certified amount. The parties agree that the total payment(s) provided by the Government pursuant to this paragraph shall not exceed \$5,505,900, adjusted by the District for changes in the Engineer News Record cost index between November 1999 and the most recent date for which the index is available at the time of the payment(s), except that the parties further agree that the total payment(s) shall be reduced by 50 percent of any repair and rehabilitation costs incurred by the Government, as determined by the District, between the dates of execution of this MOA and the transfer of the real property.
- F. The State agrees to accept and use funds provided pursuant to Paragraphs D. and E. of this Article for the expeditious repair and rehabilitation of the real property transferred pursuant to this MOA. In addition, the State agrees to use additional funds in an amount not less than those funds provided by the Government pursuant to paragraph E. of this Article for the expeditious repair and rehabilitation of the real property transferred pursuant to this MOA.

- G. The Government agrees to transfer, and the State agrees to accept, the personal property (lock parts) listed in Exhibit B (attached) at the time of the transfer of the real property covered by Paragraph A. of this Article.
- H. Subject to the availability of funds, the Government and the State shall conduct, during the Government's annual dam safety inspection, a joint inspection of the locks to be transferred for the purpose of identifying those features in need of immediate maintenance to prevent further deterioration of the locks. Subject to the availability of funds and prior to the transfer of the real property, the Government may, in its sole discretion, perform maintenance on the locks.
- I. The State will be responsible for operation, maintenance, repair, replacement and rehabilitation of the transferred real property after the date of the transfer. All such work by the State shall be performed in accordance with all applicable State and Federal laws and regulations, including, but not limited to, the National Historic Preservation Act.
- J. The State agrees to maintain the Rapide Croche Lock as a sea lamprey barrier.
- K. The Government agrees to forward all original or copies of records, plans, photos and other documents in its possession, which relate to the history or maintenance of the real property, to the State within two years of the transfer of the locks.
- L. Following the date of transfer, operation and maintenance of all Federal features of the Fox River System, Wisconsin, other than the real property transferred, shall continue to be a Federal responsibility.

## **ARTICLE II. OFFICIALS NOT TO BENEFIT**

No member of or delegate to the Congress, or any resident commissioner shall be admitted to any share or part of this MOA, or to any benefit that may arise therefrom.

## **ARTICLE III. AMENDMENT AND TERMINATION**

- A. This MOA may be amended by written agreement of both parties.
- B. Either party may terminate this MOA prior to the transfer of any funds and/or property interest by written notice.