



Legislative Fiscal Bureau

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FAXED

May 10, 2004

TO: Senator Mary Lazich
Representative Glenn Grothman
State Capitol

FROM: Bob Lang, Director

SUBJECT: Senate Bill 563: Revisor's Corrections Bill

On May 6, 2004, you received an email from the Revisor of Statutes regarding one of the law revision bills -- Senate Bill 563. The Revisor's email was prompted by discussions that we have had with that office regarding one of the provisions of SB 563. The purpose of this memorandum is to inform you of that discussion.

Senate Bill 563 is a Revisor's corrections bill intended to correct inconsistencies or inaccuracies in statute as a result of gubernatorial vetoes. SB 563 was introduced on April 14, 2004, by the Law Revision Committee and was referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform. On May 5, 2004, the Committee recommended the bill for passage on a vote of four to zero.

In general, Revisor's bills serve to repeal, consolidate, renumber, amend, or otherwise revise various provisions of the statutes for the purpose of correcting errors, correcting or clarifying references, eliminating defects, anachronisms, conflicts, ambiguities, and obsolete provisions, reconciling conflicts, and repelling unintended repeals. As such, they are intended to serve a purely technical function. The bill would make three changes to reconcile statutory references that were affected by gubernatorial vetoes of prior legislation. One of the three provisions included in SB 563 is the subject of this memorandum.

During deliberations on SB 44 (the 2003-05 biennial budget bill), the Legislature proposed lowering the threshold of the Joint Committee on Finance review of stewardship land acquisition and property development projects from \$250,000 to zero. Under Enrolled SB 44, all land acquisition and property development activities under stewardship would have been reviewed by Joint Finance under the 14-day passive review process. The \$250,000 threshold of review by the

Committee would have been maintained for local assistance or non-profit conservation (NCO) grants provided under the stewardship program.

The Governor, in his partial vetoes of 2003 Act 33, deleted this provision. Further, the partial veto repealed all Finance Committee 14-day passive review requirements for land acquisition, property development, and grant activities supported by funding from the stewardship program. The repeal was accomplished by completely vetoing the sections in SB 44 relating to this item, with the exception of Section 802m, which read: "23.0917 (6)(b) of the statutes is repealed" (this provision would have repealed the \$250,000 threshold on all stewardship projects). The Governor deleted the "(b)", thereby repealing all of 23.0917 (6), which provided for the 14-day passive review procedure of certain stewardship projects by the Joint Committee on Finance.

However, a second review process reference under which DNR is required to seek the approval of both the Governor and the Joint Committee on Finance in order to "borrow ahead" for larger purchases remains in statute.

Under s. 23.0917 (5m), DNR may obligate under the land acquisition subprogram any amount not in excess of the total ten-year bonding authority for that subprogram for the acquisition of land, subject to the approval of the Governor and the Joint Committee on Finance under its 14-day passive review process. Currently, section 23.0917 (5m)(a), reads as follows:

"23.0917(5m)(a) Beginning in fiscal year 1999-2000, the department, subject to the approval of the governor and the joint committee on finance under sub.(6) {referring to the vetoed section specifying the procedure followed for the Finance Committee's passive review}, may obligate under the subprogram for land acquisition any amount not in excess of the total bonding authority for that subprogram for the acquisition of land."

This provision has been used by DNR in the past for the Great Addition and Peshtigo River State Forest purchases.

In reviewing the law, the Revisor interpreted the reference to the vetoed passive review process under sub.(6) as invalidating the process of Joint Finance review, and the bill therefore (among other things) proposes striking "and the joint committee on finance under sub.(6)" from statute. The language of SB 563 is as follows:

"Section 1. 23.0917(5m)(a) of the statutes is amended to read:

23.0917(5m)(a) Beginning in fiscal year 1999-2000, the department, subject to the approval of the governor ~~and the joint committee on finance under sub. (6)~~, may obligate under the subprogram for land acquisition any amount not in excess of the total bonding authority for that subprogram for the acquisition of land."

While this is a reasonable interpretation, one could suggest that an alternative reading of the provision may provide for continued review of these transactions by the Governor and by the Joint Committee on Finance. Although the reference to the passive review process is no longer valid, s. 13.10 of the statutes states that where it is not otherwise expressly stated, review is under the Joint Finance Committee's quarterly meeting procedure. Therefore, one could suggest that the current review procedure for these "borrow ahead" purchases would now be under s. 13.10.

The bill could be adopted as introduced. Under the bill, any Joint Finance review authority would clearly be removed for future "borrow ahead" purchases. Further, this would avoid a potential conflict on the procedure to be used for any such large land purchase that would occur in the future (DNR is not expected to use this provision for the recently announced Rainbow Flowage purchase). However, if the Legislature wished to maintain some potential authority over such purchases, SB 563 could be amended to remove any corrective reference to s. 23.0917(5m)(a) while allowing the remaining sections to proceed (this would leave some ambiguity over the legislative role in these large purchases).

Finally, if desired, this provision could be addressed in a separate bill at some future date. For example, a bill could be drafted to delete only the phrase "under sub. (6)", but retain the words "and the joint committee on finance" and thereby clarify that while the statutory reference to the Committee's passive review authority was obsolete, Joint Finance retains the responsibility of approving DNR requests to exceed current year expenditure authority for land acquisition under the stewardship program (such as that used for the \$25 million Great Addition and Peshtigo River purchases).

I hope this information is helpful. Please contact me if you have further questions.

BL/sas

cc: Bruce Munson, Revisor of Statutes

