

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB222)

Received: 04/25/2005

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Tony Staskunas (608) 266-0620

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters: btradewe

Subject: Insurance - miscellaneous
Environment - env. cleanup

Extra Copies:

Submit via email: YES

Requester's email: Rep.Staskunas@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Create arbitration panel to resolve FoxRiver cleanup by binding arbitration

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>
/?	pkahler 04/25/2005			_____			
/P1	btradewe 04/25/2005	csicilia 05/02/2005	pgreensl 05/02/2005	_____	lemery 05/02/2005		
/1	btradewe 05/18/2005	csicilia 05/20/2005	rschluet 05/20/2005	_____	sbasford 05/20/2005	sbasford 05/20/2005	

FE Sent For:

<END>

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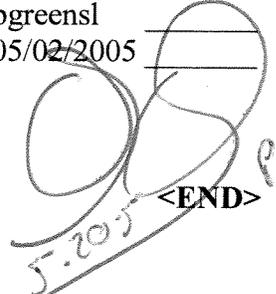
Instructions:

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/P1	btradewe 04/25/2005	csicilia 05/02/2005	pgreensl 05/02/2005		lemery 05/02/2005		

FE Sent For:

1905/20
05
5-2005

<END> P6

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Environment - env. cleanup**

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/?	pkahler 04/25/2005 btradewe	/PI cjs 5/2 05	5/2 P8	5/2 P8/UE			

FE Sent For:

<END>

Kahler, Pam

From: Ramirez, Adrienne
Sent: Monday, April 25, 2005 2:10 PM
To: Kahler, Pam
Subject: FW: LRB.Memo.AllSums.doc

Pam -

I had a chance to talk with Rep. Staskunas about this drafting request. I believe I have answers to all of your questions.

The DNR would provide oversight for the arbitration panel.

This substitute amendment would only apply to the Fox River, and would only apply to insurance claims.

The funding would be through GRP, unless there is a possible Federal funding source for pollution abatement.

If you have further questions, please give me another call.

Thanks,

Adrienne

From: Rep.Staskunas
Sent: Friday, April 22, 2005 4:34 PM
To: Kahler, Pam; Gibson-Glass, Mary; Tradewell, Becky
Subject: LRB.Memo.AllSums.doc

Memo

To; Pam Kahler, Mary Gibson-Glass, Rebecca Tradewell

From: Tony Staskunas

Re: Substitute Amendment for AB 222

I would like for you to draft a substitute amendment to AB 222 that would create an arbitration panel to deal with removal of contaminated material from navigable waters. In the draft, give the arbitration panel the right to hear and resolve all claims that relate to the Fox River cleanup including all of the paper companies and insurance companies that are involved

The state would fund, staff and pay for this arbitration panel. The panel will have three arbitrators. Each side would pick one arbitrator and these two arbitrators would jointly pick the third.

This three person arbitration panel will have the power to subpoena witnesses, take sworn testimony and investigate these claims. They will ultimately have the power to adjudicate these claims and decide how much a particular insurance company will pay towards the clean up.

Finally, if additional statutory powers are needed to enforce the panel's decisions, please include this in the draft.

04/25/2005



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0099/P1
PJK&RCT:.....

SOON (m/25)
5/4

g's

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 222

Bill history

DNote

Gen cat

1 AN ACT ~~...~~; relating to: binding arbitration to resolve Fox River cleanup coverage
2 disputes.

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

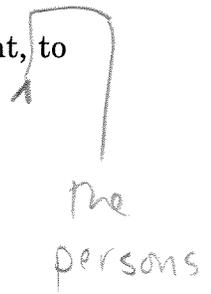
3 SECTION 1. 20.370 (2) (fa) of the statutes is created to read:
4 20.370 (2) (fa) *Fox River cleanup arbitration*. A sum sufficient to pay all costs
5 related to the arbitration process under s. 292.83.

6 SECTION 2. 292.83 of the statutes is created to read:
7 **292.83 Arbitration of Fox River cleanup coverage dispute.** (1) The
8 department shall establish a binding arbitration procedure, which shall be governed
9 by ch. 788, for resolving all claims related to insurance coverage for the costs related
10 to remedial action involving the removal of at least 10,000 tons of contaminated
11 material from the bed or banks of the Fox River. The department shall identify and

1 notify all persons that are responsible under this chapter or the federal
2 Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC
3 9601 to 9675, for that remedial action and all insurers that are potentially
4 responsible for paying claims related to the remedial action, who shall submit their
5 disputes to the binding arbitration under this section.

6 (2) Under the procedure, all responsible persons identified by the department
7 under sub. (1) shall together select one arbitrator, all insurers identified by the
8 department under sub. (1) shall together select one arbitrator, and the 2 arbitrators
9 selected shall together select a 3rd arbitrator. The department shall assign
10 employees of the department to provide administrative services to the arbitration
11 panel. The arbitrators shall resolve all issues related to insurance coverage for costs
12 related to the remedial action, including the insurers responsible for payment, to
13 whom payments are due, and the amounts of the payments.

14 (END)



A handwritten bracket on the right side of the page, spanning from line 12 to line 13. Below the bracket, the words "the persons" are written in cursive.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0099/P1dn
PJK&RCT/.....

gjs

Rep. Staskunas: ✓

This is a preliminary version of the substitute amendment to Assembly Bill 222. ✓

✓ The description of the Fox River cleanup is based on language in proposed s. 292.71 in AB 222, which establishes a fee to be paid by the responsible parties for DNR's activities related to cleanups of navigable waters. You might want to consider a fee like that to cover the costs of conducting the arbitration. We do not know whether any federal funds would be available to cover those costs. ✓

We were uncertain about how you would want to identify the insurers who should be included in the arbitration. Would you want the Commissioner of Insurance involved? ✓

Please let us know whether you want any changes in or additions to this draft. ✓

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Insert D-note

Insert D-vote

¶ This substitute amendment may be considered nongermane under Assembly Rule 54(1) as ~~being~~ relating to a different subject or intending to accomplish a different purpose than the bill. On the other hand, one could argue that the substitute amendment ~~is germane~~ is germane under Assembly Rule ⁵⁴ ~~54~~ (4)(b) because it accomplishes the same ultimate purpose of the bill in a different manner.

(end of insert D-vote)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0099/P1dn
PJK&RCT:cjs:pg

May 2, 2005

Rep. Staskunas:

This is a preliminary version of the substitute amendment to Assembly Bill 222.

The description of the Fox River cleanup is based on language in proposed s. 292.71 in AB 222, which establishes a fee to be paid by the responsible parties for DNR's activities related to cleanups of navigable waters. You might want to consider a fee like that to cover the costs of conducting the arbitration. We do not know whether any federal funds would be available to cover those costs.

We were uncertain about how you would want to identify the insurers who should be included in the arbitration. Would you want the Commissioner of Insurance involved?

This substitute amendment may be considered nongermane under Assembly Rule 54 (1) as relating to a different subject or intending to accomplish a different purpose than the bill. On the other hand, one could argue that the substitute amendment is germane under Assembly Rule 54 (4) (b) because it accomplishes the same ultimate purpose of the bill in a different manner.

Please let us know whether you want any changes in or additions to this draft.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.state.wi.us

Tradewell, Becky

From: Kahler, Pam
Sent: Tuesday, May 17, 2005 4:42 PM
To: Tradewell, Becky
Subject: FW: LRB s0099

Looks like they liked the fee idea. I suppose we could say "with the assistance of the commissioner of insurance" before "all insurers" on page 2, line 3.

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

From: Ramirez, Adrienne
Sent: Tuesday, May 17, 2005 4:30 PM
To: Kahler, Pam
Subject: LRB s0099

Pam -

You drafted a substitute amendment for Rep. Staskunas to AB 222, LRBs0099. There was a drafter's note attached to the LRB. Rep. Staskunas wanted to respond to some of your questions.

He liked the idea of having a fee to cover the costs of conducting arbitration. Is it possible to increase the fees in proposed SS 292.71 to cover these costs?

If so I believe he would like the fees to be paid by the parties involved.

Additionally he would like the Commissioner of Insurance involved in the arbitration process.

If you have any questions, please feel free to contact me.

Thanks again,

Adrienne
Office of Rep. Tony Staskunas
6-0620



State of Wisconsin
2005 - 2006 LEGISLATURE

SOON (m5/18)

LRBs0099/1
PJK&RCT:cjs:pg

stays
rmy

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 222

regenerate

1 AN ACT to create 20.370 (2) (fa) and 292.83 of the statutes; relating to: binding
2 arbitration to resolve Fox River cleanup coverage disputes.

and making an appropriation ✓

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

3 SECTION 1. 20.370 (2) (fa) of the statutes is created to read:
4 20.370 (2) (fa) Fox River cleanup arbitration. A sum sufficient to pay all costs
5 related to the arbitration procedure under s. 292.83.

All monies received under s. 292.83(3)

6 SECTION 2. 292.83 of the statutes is created to read:
7 **292.83 Arbitration of Fox River cleanup coverage dispute.** (1) The
8 department shall establish a binding arbitration procedure, which shall be governed
9 by ch. 788, for resolving all claims related to insurance coverage for the costs related
10 to remedial action involving the removal of at least 10,000 tons of contaminated
11 material from the bed or banks of the Fox River. The department shall identify and

1 notify all persons that are responsible under this chapter or the federal
 2 Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC
 3 9601 to 9675, for that remedial action and ^{with the assistance of the commissioner of} all insurers that are potentially ^{insurance}
 4 responsible for paying claims related to the remedial action, who shall submit their
 5 disputes to the binding arbitration under this section.

6 (2) Under the procedure, all responsible persons identified by the department
 7 under sub. (1) shall together select one arbitrator, all insurers identified by the
 8 department under sub. (1) shall together select one arbitrator, and the 2 arbitrators
 9 selected shall together select a 3rd arbitrator. The department shall assign
 10 employees of the department to provide administrative services to the arbitration
 11 panel. The arbitrators shall resolve all issues related to insurance coverage for costs
 12 related to the remedial action, including the insurers responsible for payment, the
 13 persons to whom payments are due, and the amounts of the payments.

(END)

Insert →
 14
 2-13
 ✓

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0099/lins
RCT:.....

Insert 2-13

* (3) The department shall assess and collect fees from the parties to the arbitration ^{procedure} process under sub. (2) to cover costs related to the arbitration ^{procedure} process.