2013 DRAFTING REQUEST

Bill

Received:	**3/6/2014**	Received By:	**mglass**
Wanted:	**As time permits**	Same as LRB:	
For:	**André Jacque (608) 266-9870**	By/Representing:	**Jamie Julian**
May Contact:		Drafter:	**mglass**
Subject:	**Nat. Res. - nav. waters**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **Rep.Jacque@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt certain culvert projects from engineering study/DNR permit requirements

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mglass 3/6/2014	kfollett 3/6/2014	jmurphy 3/6/2014	_____ _____			
/1				_____ _____	sbasford 3/6/2014	sbasford 3/7/2014	State S&L

FE Sent For:

At Intro.

<END>

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/?	mglass	/1 3/6		3/6			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Julian, Jamie
Sent: Thursday, March 06, 2014 3:16 PM
To: Gibson-Glass, Mary
Subject: FW: Co-sponsorship of LRB 2803/1 – Reducing Costs for Culverts
Attachments: 13-2803_1.pdf

Hi Mary,

Sorry for the short notice on this one. If possible I would like to have this in hand to have introduced tomorrow. Maybe you already ordered this and if so, please disregard this follow-up!

Thank you!

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

From: Julian, Jamie
Sent: Tuesday, March 04, 2014 12:08 PM
To: Gibson-Glass, Mary
Subject: FW: Co-sponsorship of LRB 2803/1 – Reducing Costs for Culverts

Please have a companion bill and jacket forwarded to our office.

Thank you,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

From: Kovach, Robert
Sent: Thursday, February 27, 2014 4:15 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-sponsorship of LRB 2803/1 – Reducing Costs for Culverts

TO: **Legislative Colleagues**

FROM: **Senators Frank Lasee and Tom Tiffany**
Representatives Andre Jacque and Al Ott

DATE: **February 24, 2014**

RE: **Co-sponsorship of LRB 2803/1 – Reducing Costs for Culverts**

DEADLINE: **Thursday, March 6th at NOON**

When a town or county road crew needs to replace a culvert, they need to apply for a DNR general permit. The DNR is required to issue a free general permit within 30 days.

We have been receiving feedback from all over the state that the DNR has been issuing these free general permits with a condition that an engineering study be performed prior to the replacement. These studies add tens of thousands of dollars to the cost of the culvert replacement, diverting road-aid money that should be used for concrete and asphalt.

Most of these culverts have been in place for decades, and our town and county officials already know they were effectively designed when they were put in place. The town and county road crews know their area and they have a vested interest in keeping their culverts in good working order. The money spent on these extra engineering studies isn't a good use of road aid dollars.

This bill expands which culverts are exempt from the general permit while preserving the DNR's ability to perform a study when public trust is a concern. By changing the funding for these engineering studies from the town/county to the DNR, this bill ensures that engineering studies are only performed at the DNR's direction and only when they are really needed. It also ensures that our road aid dollars are being spent on roads instead of unnecessary engineering fees.

If you are interested in co-sponsoring LRB-2803/1 please contact Rob in Senator Lasee's office at 6-3512 or Jamie in Rep. Jacque's office at 6-9870. You will be added to the Senate and Assembly version unless you specify otherwise.

Analysis by the Legislative Reference Bureau

Current law generally prohibits any person from constructing, placing, or maintaining a culvert in or over a navigable water without being issued an individual permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and it either does not have an inside diameter that exceeds 24 inches or it is in compliance with the conditions imposed by the applicable permit.

This bill adds an exemption for a culvert that is replacing an existing culvert that is not authorized by an individual or a general permit. Under the bill, the replacement culvert is exempt if it is the same length, diameter, and size as the existing culvert, if it will not have a lower the flow rate capacity than the existing culvert, and it will be at the same location and have the same slope as the existing permit.

Under the bill, a replacement culvert may not have an inside diameter that exceeds 48 inches in diameter if it is being constructed or placed on a navigable water that is identified by DNR as an outstanding or exceptional resource water.

Also, the bill exempts from the individual and general permitting requirements the maintenance of a culvert if the flow rate capacity will not be decreased as a result of the maintenance.

Under the bill, DNR must be responsible for the design and engineering costs in determining whether the construction or placement of a culvert is exempt from or subject to the general or individual permitting process that applies to culverts.

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

Rob Kovach
Policy Advisor/Committee Clerk
Office of Senator Frank Lasee
(608) 266-3512

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB-~~2803/1~~ 4383/1
MGG:kjf:jf

RM not Run

Today

2013 BILL

No changes

Regen

1 AN ACT ***to repeal*** 30.123 (6) (intro.) (except title), 30.123 (6) (e) and 30.123 (7)
2 (b); ***to amend*** 30.123 (6) (b), 30.123 (6) (d), 30.123 (6m) (intro.), 30.123 (6r) (a),
3 30.123 (6s) (a) (intro.) and 30.123 (6s) (b); and ***to create*** 30.123 (6) (dg), 30.123
4 (6) (dr), 30.123 (6) (f) and 30.123 (9) of the statutes; **relating to:** replacement
5 and maintenance of existing culverts and design and engineering work for the
6 construction and placement of certain culverts.

Analysis by the Legislative Reference Bureau

Current law generally prohibits any person from constructing, placing, or maintaining a culvert in or over a navigable water without being issued an individual permit by the Department of Natural Resources (DNR) or without receiving authorization to proceed under a statewide general permit issued by DNR. Under current law, a culvert is exempt from these permitting requirements if it is replacing an existing culvert and it either does not have an inside diameter that exceeds 24 inches or it is in compliance with the conditions imposed by the applicable permit.

This bill adds an exemption for a culvert that is replacing an existing culvert that is not authorized by an individual or a general permit. Under the bill, the replacement culvert is exempt if it is the same length, diameter, and size as the existing culvert, if it will not have a lower the flow rate capacity than the existing culvert, and it will be at the same location and have the same slope as the existing permit.

Under the bill, a replacement culvert may not have an inside diameter that exceeds 48 inches in diameter if it is being constructed or placed on a navigable water that is identified by DNR as an outstanding or exceptional resource water.

Also, the bill exempts from the individual and general permitting requirements the maintenance of a culvert if the flow rate capacity will not be decreased as a result of the maintenance.

Under the bill, DNR must be responsible for the design and engineering costs in determining whether the construction or placement of a culvert is exempt from or subject to the general or individual permitting process that applies to culverts.

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

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

SECTION 1. 30.123 (6) (intro.) (except title) of the statutes is repealed.

SECTION 2. 30.123 (6) (b) of the statutes is amended to read:

30.123 **(6)** (b) The construction and maintenance of bridges by the department of transportation in accordance with s. 30.2022 <u>are exempt from the permitting requirements under this section</u>.

SECTION 3. 30.123 (6) (d) of the statutes is amended to read:

30.123 **(6)** (d) ~~The~~ <u>Subject to par. (dr), the</u> construction or placement and the maintenance of a <u>new</u> culvert ~~to replace a~~ <u>that replaces an existing</u> culvert that is authorized under a permit issued under s. 30.12 or ~~30.123,~~ <u>this section is exempt from the permitting requirements under this section</u> if the construction, placement, and maintenance will comply with the ~~same~~ conditions of the permit.

SECTION 4. 30.123 (6) (dg) of the statutes is created to read:

30.123 **(6)** (dg) Subject to par. (dr), the construction or placement and the maintenance of a new culvert that replaces an existing culvert that is not authorized under a permit issued under s. 30.12 or this section is exempt from the permitting requirements under this section if all of the following apply:

1. The culvert that is being constructed or placed will not have a flow rate capacity that is less than the flow rate capacity of the existing culvert.

2. Both culverts are the same length and have the same inside diameter.

3. Both culverts are otherwise the same in size and area.

4. The replacement culvert is made out of a material that is comparable to the material of which the existing culvert is made.

5. The replacement culvert will be at the same location and at the same elevation and will have the same slope as the existing culvert.

SECTION 5. 30.123 (6) (dr) of the statutes is created to read:

30.123 **(6)** (dr) A replacement culvert that is on a navigable water that is identified as an outstanding or exceptional resource water under s. 281.15 is exempt under par. (d) or (dg) only if the culvert has an inside diameter that does not exceed 48 inches.

SECTION 6. 30.123 (6) (e) of the statutes is repealed.

SECTION 7. 30.123 (6) (f) of the statutes is created to read:

30.123 **(6)** (f) The maintenance of a culvert is exempt from the permitting requirements under this section if the the flow rate capacity will not be decreased as a result of the maintenance.

SECTION 8. 30.123 (6m) (intro.) of the statutes is amended to read:

30.123 **(6m)** PERMITS IN LIEU OF EXEMPTIONS. (intro.) The department may decide to require that a person engaged in an activity that is exempt under sub. (6) (d) ~~or (e)~~ <u>to (dr)</u> apply for an individual permit or seek authorization under a general permit if the department has conducted an investigation and visited the site of the activity and has determined that conditions specific to the site require restrictions on the activity in order to prevent any of the following:

1 **SECTION 9.** 30.123 (6r) (a) of the statutes is amended to read:

2 30.123 **(6r)** (a) A person may submit to the department a written statement
3 requesting that the department determine whether a proposed activity is exempt
4 under sub. (6) (d) ~~or (e)~~ to (dr). The statement shall contain a description of the
5 proposed activity and site and shall give the department consent to enter and inspect
6 the site.

7 **SECTION 10.** 30.123 (6s) (a) (intro.) of the statutes is amended to read:

8 30.123 **(6s)** (a) (intro.) The department may promulgate rules concerning the
9 exempt activities under sub. (6) (d) to (dr) that only do any of the following:

10 **SECTION 11.** 30.123 (6s) (b) of the statutes is amended to read:

11 30.123 **(6s)** (b) Notwithstanding par. (a), the rules under par. (a) ~~1. and 2.~~ may
12 not establish practices or requirements that prohibit the construction of replacement
13 culverts or that render the placement of culverts economically cost–prohibitive.

14 **SECTION 12.** 30.123 (7) (b) of the statutes is repealed.

15 **SECTION 13.** 30.123 (9) of the statutes is created to read:

16 30.123 **(9)** ENGINEERING COSTS. The department shall be responsible for all of
17 the engineering and design work that is necessary to determine whether the
18 construction or placement of a culvert by a municipality is exempt under this section
19 or is subject to the general or individual permitting requirements under this section.
20 The department may enter into a contract with another person to perform this work.

21 **(END)**

Basford, Sarah

From: Julian, Jamie
Sent: Thursday, March 06, 2014 4:50 PM
To: LRB.Legal
Subject: Draft Review: LRB -4383/1 Topic: Exempt certain culvert projects from engineering study/DNR permit requirements

Please Jacket LRB -4383/1 for the ASSEMBLY.