



1995 SENATE BILL 664

March 27, 1996 - Introduced by Senator BURKE, cosponsored by Representative BLACK. Referred to Committee on Environment and Energy.

1 **AN ACT to amend** 94.26 of the statutes; **relating to:** the effect of dams, ditches
2 and drains used in the cultivation of cranberries on certain trout streams.

Analysis by the Legislative Reference Bureau

Under current law, the construction and maintenance of dams, ditches and drains that are used in the cultivation of cranberries are exempt from any of the permitting or other regulatory requirements administered by the department of natural resources (DNR) that cover dams and other structures that affect navigable waters. This bill eliminates this exemption for such dams, ditches and drains if they affect Class I trout streams. Under rules promulgated by DNR, trout streams are classified as Class I, Class II or Class III. To be a Class I trout stream, the stream must contain a high quality of trout habitat or must contain trout in adequate numbers to sustain the trout population without stocking.

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

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

3 **SECTION 1.** 94.26 of the statutes is amended to read:

4 **94.26 Cranberry culture; maintenance of dams, etc.** Any person owning
5 lands adapted to the culture of cranberries may build and maintain on any land
6 owned by the person such dams upon any watercourse or ditch as shall be necessary
7 for the purpose of flowing such lands, and construct and keep open upon, across and

1 through any lands such drains and ditches as shall be necessary for the purpose of
2 bringing and flooding or draining and carrying off the water from such cranberry
3 growing lands, or for the purpose of irrigation, fertilization and drainage of any other
4 lands owned by the person; provided, that no such dams or ditches shall injure any
5 other dams or ditches theretofore lawfully constructed and maintained for a like
6 purpose by any other person. These dams, drains and ditches shall be subject to chs.
7 30 and 31 if they affect a body of water that is classified as a Class I trout stream by
8 the department of natural resources under rules promulgated under s. 23.09 (2) (m).

9 **SECTION 2. Initial applicability.**

10 (1) This act first applies to the building and maintenance of dams and the
11 construction and keeping open of drains and ditches that occur on the effective date
12 of this subsection.

13 (END)