

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Agriculture and
Environmental
Resources
(SC-AER)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
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Thomas D. Ourada

Wisconsin State Representative



March 4, 1998

**Testimony on Assembly Bill 646
Representative Tom Ourada**

**Senate Committee on Agriculture and Environmental Resources
Senator Alice Clausing, Chair
March 4, 1998 - 10am - Room 2, LL MLK**

Madam Chair and members of the Senate Committee on Agriculture and Environmental Resources, thank you very much for holding today's public hearing on Assembly Bill (AB) 646, relating to the regulation of hunting, fishing, trapping and the management of wild animals by local governmental units. This legislation will be very important to the Department of Natural Resources (DNR) in maintaining their wildlife management.

I introduced AB 646 in order to help clarify the authority of the DNR to administer and enforce the laws regulating the hunting, fishing, trapping and management of wild animals. AB 646 addresses both the appropriate scope of local authority to regulate hunting, fishing and trapping and the procedure for review of ordinances. The bill is intended to provide an explicit statement (since our current statutes do not contain this language) regarding the current scope of local authority to regulate hunting, fishing and trapping as described by the Attorney General.

There seem to be many misconceptions when questions arise regarding who has the authority when it comes to the regulation of these activities. Under current law, title to, and protection of, wild animals is vested in the state. The DNR administers and enforces the laws regulating the hunting, fishing, trapping and management of wild animals.

What AB 646 does, is restates the authority of counties, cities, villages and towns (political subdivisions) as well as special purpose districts and subunits of these political subdivisions and districts to enact ordinances that have an *incidental* effect on hunting, fishing, trapping or management of wild animals if their primary purpose is to further public health or safety. The bill also grants these local entities the authority to enact ordinances that regulate or prohibit access for hunting, fishing and trapping in certain areas of land that the entities lease or own. Finally, the bill creates a procedure for DNR to issue orders declaring such ordinances void if local entities exceed this authority.

To avoid any confusion, the purpose of this legislation is not to take away any regulating authority from local municipalities and give it to the DNR, it is simply to restate that the DNR has always had authority when regulating these activities. Based on opinions given by the Attorney General's office, putting them in statutory language this bill will make it

easier for the DNR to implement the laws regulating the hunting, fishing, trapping and management of wild animals, as entrusted to them by the legislature.

The key difference between the Bill and the Substitute Amendment is the deletion of "welfare" in the phrase "public health, safety or welfare." This phrase occurs in the Bill in the authorization for a local governmental unit to enact a regulation bill that has an incidental effect on hunting, fishing or trapping. Under the bill, such local regulation is authorized if the primary purpose is to further "public health, safety or welfare." Under the Substitute Amendment, such regulation is authorized if the primary purpose is to further "public health or safety."

This change was made in the Substitute because it was my intent that the bill should reflect the current law regarding the authority of local governmental units to adopt regulations that have an "incidental effect" on hunting, fishing or trapping. Attorney General opinions used in the drafting of this bill used the phrase "public peace or safety." This phrase is even narrower than "public health or safety" and clearly does not include local regulations related to public welfare. In these opinions, the Attorney General was reviewing ordinances related to the discharge of firearms, in which public safety was the apparent purpose of the ordinance.

The Substitute Amendment retains "public health" because it relates to local regulatory concerns that are similar in scope to public safety concerns. However, "public welfare" is deleted in the Substitute Amendment because it would expand the authority of local units to adopt regulations that have an incidental effect on hunting, fishing or trapping, compared to the current authority described by the Attorney General.

My intent with Assembly Bill 646 and its Substitute Amendment is to clearly state the authority of the DNR to regulate hunting, fishing and trapping. Clarifying this authority will protect the rights of hunters, fishers and trappers. The sportsmen and women in your districts will greatly appreciate your support for this bill.

Again, thank you for holding this public hearing, and thank you for your consideration on this important piece of legislation.