

FISCAL ESTIMATE

DOA-2048 (R 10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.
 LRB-2122/1; AB 785
 Amendment No. (If Applicable)
 Not Applicable

SUBJECT:
County Drainage Board Exemption from Requirement to Obtain Chapter 30 Permits

FISCAL EFFECT:
 State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

[NOTE:
Impact is to DNR, not DATCP.]

Increase Costs – Possible to absorb within agency's budget?
 Yes No
 Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Unit Affected:

Towns Villages Cities
 Counties Other: Drainage Bd.
 School Dist. WTCS Dist.

FUND SOURCE AFFECTED:
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations:

ASSUMPTIONS USED IN ARRIVING AT FISCAL ESTIMATE

1999 Wisconsin Act 9 modified ch. 88, Wis. Stats., by creating an exception for the need to file a ch. 30 permit application... but only for the Duck Creek Drainage District (Outagamie County). [See sections 1877d, 1877f, 1877j, and 1877k of 1999 Wisconsin Act 9.] County drainage boards would still have to file an application for a ch. 30 permit for work planned in any other drainage districts in the State.

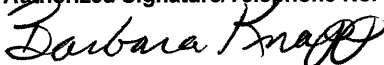
As proposed, AB 785 makes six changes to ch. 88, Wis. Stats.:

- All drainage ditches would not be considered navigable unless an U.S. Geological Survey map or other scientific evidence shows that the ditch was a navigable stream before it became a drainage district ditch.
- All drainage boards would be able to deposit material or place any structure upon the bed of any navigable water (i.e., district ditch) if DATCP approved the structure or deposit **OR** the structure or deposit is required to conform with drain specifications (i.e., maps) approved by DATCP.
- All drainage boards would be able to remove material from a drainage ditch if the removal is required by DATCP in order to conform with drain specifications approved by DATCP.
- No drainage board would first have to confer with the DNR before developing policies about the operation and maintenance of a dam.
- All drainage boards would have to operate, repair, and maintain dams and other structures in compliance with state statutes and any drainage district rules promulgated by DATCP. If the drainage board failed to carry out its duties, the DNR may operate, repair, and maintain the dams and other structures.
- All drainage boards would be exempt from obtaining a permit from the DNR to acquire or remove any dam or obstruction **OR** to clean out, widen, deepen, or straighten any navigable water.

(continued on page 2)

Long – Range Fiscal Implications

If the statute is revised as AB 785 contemplates, farmers will recognize long-term improvements to their cash flow through increased production opportunities on cropland located in drainage districts. The increased cash flows will be in the range of \$100 to \$2,000 per acre per year.

Agency/prepared by: (Name & Phone No.) DATCP Mary Rose Teves, ph. 608-224-4604	Authorized Signature/Telephone No.  Barbara Knapp, ph. 608-224-4746	Date March 2, 2000
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Impact of AB 785 on State Government

The state agency most clearly impacted by AB 785 is the Department of Natural Resources (DNR). The DNR would cease to have control, via a chapter 30 permit, of activities within a formally established drainage district unless:

- (a) there is evidence that the drainage ditch was once a navigable stream; or
- (b) a drainage board has failed to operate, repair, and maintain dams and other structures in compliance with state statutes and any drainage district rules promulgated by DATCP.

The reduction in the number of chapter 30 permit applications will result in less program revenue for the DNR. A filing fee of \$40 accompanies each chapter 30 permit application.

Chapter 88, Wis. Stats., requires the Department of Agriculture, Trade and Consumer Protection (DATCP) to assist drainage boards in resolving conflicts they may have with the DNR. The statutory changes proposed by AB 785 has a great potential to decrease the number of drainage board/DNR conflicts each year, thereby decreasing DATCP's involvement. AB 785 requires no additional workload or cost to the DATCP.

Impact of AB 785 on Local Government

When the drainage district program was transferred from the Department of Administration to the DATCP in 1989, it was with the understanding that the DATCP would revitalize county drainage boards and, subsequently, compliance with the statutes and rules. Over the 10 years since the transfer, DATCP has worked to educate county drainage board members about their roles and responsibilities and drainage district landowners about their rights.

The statutory changes proposed by AB 785 would have the **greatest** impact on county drainage boards and landowners in drainage districts. At the present time, drainage ditch maintenance cannot proceed until a chapter 30 permit is first filed with the DNR and the DNR either issues or waives the permit. While the drainage board waits for the permit application to be processed by the DNR, seasons pass; accumulated sediment or woody vegetation is not removed from drainage ditches, heavy rain events overtop district facilities, farmland is flooded, crops and related revenue are lost. AB 785 will eliminate the delay now experienced while waiting for a chapter 30 permit to be approved by the DNR. AB 785 will allow drainage boards to get on with the business of maintaining district facilities and ensuring landowners rights to drainage. AB 785 will also allow county drainage boards to focus their attention on the other requirements of the drainage statute and rule, rather than pursuing administrative hearings with the DNR in an attempt to overturn denied permits.

At present, DATCP estimates there are 210 drainage districts in 30 Wisconsin counties. If each of the 30 county drainage boards submits one chapter 30 permit application to the DNR each year, that represents a total permit fee expenditure of \$1,200 (\$40/permit x 30 permits applications). County drainage boards would save this amount if AB 785 were adopted.

In addition, if 30% of these permit requests were denied, then 10 county drainage boards would not receive their permits. If half of the county drainage boards with denied permits decided to pursue the matter through an administrative hearing, then 5 of them would be hiring attorneys to represent them before the DNR's hearing examiner. Based on the costs experienced by the Outagamie County Drainage Board during 1999, attorney expenses to fight denied permits could equal \$25,000 (\$5,000/case x 5 cases). Money spent on attorney costs is money not available to do maintenance and other work in the drainage district.

FISCAL ESTIMATE WORKSHEET

2000 SESSION

Detailed Estimate of Annual
Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm.Rule No.
LRB-2122/1; AB 785

Amendment No.
Not applicable

Subject

County Drainage Board Exemption from Requirement to Obtain Chapter 30 Permits

I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None.

II. Annualized Cost:

Annualized Fiscal Impact on State funds from:

A. DATCP Costs, by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 0	\$ - 0
(FTE Position Changes)	(0.0 FTE)	(-0 FTE)
State Operations - Other Costs	0	- 0
Local Assistance	0	- 0
Aids to Individuals or Organizations	0	- 0
TOTAL State Costs by Category	\$ 0	\$ - 0
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ 0	\$ - 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
III. State Revenues -	Increased Rev.	Decreased Rev.
<small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>		
GPR Taxes	\$ 0	\$ - 0
GPR Earned	0	- 0
FED	0	- 0
PRO/PRS	0	- 0
SEG/SEG-S	0	- 0
TOTAL State Revenues	\$ 0	\$ - 0

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ 0	\$ (26,200)
NET CHANGE IN REVENUES	\$ -----	\$ -----

Agency Prepared by: (Name & Phone No.) DATCP Mary Rose Teves, ph. 608-224-4604	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date March 3, 2000
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