

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/19/99

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Assembly Republican Caucus

By/Representing: Anderson

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Alt. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Pre Topic:

ARC:.....Anderson - Am. # 302,

Topic:

Fish ladders and dam inventory

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>
/1	gibsom 06/22/99	ygeller 06/22/99	kfollet 06/22/99	_____	ismith 06/22/99		

FE Sent For:

<END>

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1?	gibsom	11/22 jlg	KJF 6/22	KJF/KM 6/22			

FE Sent For:

<END>

II. Fish Ladders and Dam Inventory

JFC Action:

JFC budget motion #272 relating to fish ladders and dam inventory failed 8-8 on a party-line vote (D-N, R-Y).

Motion:

This motion includes JFC motion #272 which reads:

- Move to require DNR to promulgate rules related to statutory authority provided to the Department for protection of public rights in navigable waters as it relates to dams. Require the rules to address the role of fish ladders as part of these public rights. Prohibit the Department from requiring fish ladders to be installed as part of a dam project until the rules are promulgated. Prohibit the Department from requiring a fish ladder, as a part of any dam unless federal cost sharing or state cost sharing is available.
- Require the Department to inventory dams in the state that require repair, removal or modification, including the order in which repairs will be required and a determination of what improvements related to public rights will be required. Require DNR to provide notice to the owner at the time the dam is included on the inventory and information regarding requirements to be made by the DNR. Require a public hearing in the municipality once a dam is included on the inventory. In addition, require a public comment period and appeals process related to the inclusion of a dam at the conclusion of the hearing. Require DNR to promulgate rules defining the procedures to be followed under these notice processes.

Fiscal Impact

Indeterminate.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0755/3 1
MGG...:....

Updated

soon

D-Note

JLg

ARC:..... Anderson 302 Unknown - Am. #00, Fish ladders and dam inventory

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

substitute amendment

1

At the locations indicated, amend the bill as follows:

2

499 9
1. Page 8 line 9: after that line insert:

3

867x ← (B) x
SECTION 31.02 (title) of the statutes is amended to read:

4

and duties ← (B)
31.02 (title) Powers of department.

5

867xr
SECTION 31.02 (4) (c) of the statutes is amended to read:

6

31.02 (4) (c) With good and sufficient fishway or fishways or fish ladders, or in

7

lieu thereof the owner may be permitted to enter into an agreement with the

8

department to pay for or to supply to the state of Wisconsin annually such quantities

9

of game fish for stocking purposes as may be agreed upon by the owner and the

10

department.

11

867xr
SECTION 31.02 (4r) of the statutes is created to read:

INSERT material from p. 2

1 31.02 (4r) The department shall promulgate rules specifying the rights held
 2 by the public in navigable waters that are dammed. The rules shall include
 3 provisions on the rights held by public that affect the placement of fishways or fish
 4 ladders in navigable waters that are dammed."

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Move
to
P. 1.

SECTION ~~31.02~~^{867x5} 31.02 (4g) of the statutes is created to read:
 31.02 (4g) The department may not impose the requirement under sub. (4) (c)
 on an owner of a dam unless all of the following apply:
 1. The rules promulgated under sub. (4r) are in effect.
 2. The federal government or the state implements a program to provide cost
 sharing grants to owners of dams for equipping dams with fishways or fish ladders
 and a grant is available to the dam owner under the program.

2. Page 3, line 7: after that line insert:

" SECTION ~~31.385~~^{877d} 31.385 (4) of the statutes is created to read:

31.385 (4) (a) The department shall maintain an inventory of all dams in the
 state that require dam safety project under this section. The inventory shall list the
 dam safety projects in the chronological order in which they are required to be
 undertaken. For each dam safety project on the inventory, the department shall
 include a statement of which parts of the dam safety project are required to protect
 the rights held by the public in the navigable waters contained by the dam.

(b) The department shall provide notice to the owner of a dam that is included
 in the inventory. The department shall by rule establish a notice and hearing process
 for a dam owner to object to the inclusion of the owner's dam on the list. The
 department shall use this notice and hearing each time a dam is included in the

1 inventory. The process shall include a public hearing in the city, village or town in
2 which the dam is located, a public comment period, and an appeals process.” ✓

3 (END) ✓

D-Note

P Please review this draft carefully to ensure
it complies with the caucus' intent.

MG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0755/1dn
MGG:jlj:kjf

June 22, 1999

Please review this draft carefully to ensure it complies with the caucus' intent.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0755/1
MGG:jlg:kjf

ARC:.....Anderson - Am. # 302, Fish ladders and dam inventory

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 499, line 9: after that line insert:

3 "SECTION 867xp. 31.02 (title) of the statutes is amended to read:

4 31.02 (title) **Powers and duties of department.**

5 SECTION 867xr. 31.02 (4) (c) of the statutes is amended to read:

6 31.02 (4) (c) With good and sufficient ~~fishway or fishways~~ or fish ladders, or in
7 lieu thereof the owner may be permitted to enter into an agreement with the
8 department to pay for or to supply to the state of Wisconsin annually such quantities
9 of game fish for stocking purposes as may be agreed upon by the owner and the
10 department.

1 **SECTION 867xs.** 31.02 (4g) of the statutes is created to read:

2 31.02 (4g) The department may not impose the requirement under sub. (4) (c)
3 on an owner of a dam unless all of the following apply:

4 1. The rules promulgated under sub. (4r) are in effect.

5 2. The federal government or the state implements a program to provide
6 cost-sharing grants to owners of dams for equipping dams with fishways or fish
7 ladders and a grant is available to the dam owner under the program.

8 **SECTION 867xt.** 31.02 (4r) of the statutes is created to read:

9 31.02 (4r) The department shall promulgate rules specifying the rights held
10 by the public in navigable waters that are dammed. The rules shall include
11 provisions on the rights held by public that affect the placement of fishways or fish
12 ladders in navigable waters that are dammed.”.

13 **2.** Page 502, line 14: after that line insert:

14 **“SECTION 877d.** 31.385 (4) of the statutes is created to read:

15 31.385 (4) (a) The department shall maintain an inventory of all dams in the
16 state that require dam safety project under this section. The inventory shall list the
17 dam safety projects in the chronological order in which they are required to be
18 undertaken. For each dam safety project on the inventory, the department shall
19 include a statement of which parts of the dam safety project are required to protect
20 the rights held by the public in the navigable waters contained by the dam.

21 (b) The department shall provide notice to the owner of a dam that is included
22 in the inventory. The department shall by rule establish a notice and hearing process
23 for a dam owner to object to the inclusion of the owner’s dam on the list. The
24 department shall use this notice and hearing each time a dam is included in the

1 inventory. The process shall include a public hearing in the city, village or town in
2 which the dam is located, a public comment period, and an appeals process.”

3 (END)