

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 10/01/1999

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Schug**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies:

Pre Topic:

LFB:.....Schug -

Topic:

Drainage board requirements

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 10/01/1999 | jgeller 10/02/1999 | mclark 10/02/1999 | _____ | lrb_docadmin 10/03/1999 | | |
| /2 | gibsom 10/04/1999 | jgeller 10/04/1999 | martykr 10/04/1999 | _____ | lrb_docadmin 10/04/1999 | | |

FE Sent For:

<END>

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| /1 | gibsom 10/01/1999 | jgeller 10/02/1999 | mclark 10/02/1999 | _____ | lrb_docadmin 10/03/1999 | | |

FE Sent For:

12 10/4 jg *Xm 10/4* *LH 10/4*
Xm 10/4

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | gibsom | 1 10/2 jlg | MRC 10/2 | MRC JK 10/2 | | | |

FE Sent For:

<END>

AGRICULTURE, TRADE AND CONSUMER PROTECTION

1. DRAINAGE BOARD GRANTS AND REQUIREMENTS

Assembly: ^{AS IS} Allow DATCP to provide grants to county drainage boards for up to 60% of board costs to comply with drainage district requirements (the Governor's recommendation, rather than 40% under the Joint Finance substitute amendment). Further, extend the sunset of the grant program by two years to June 30, 2006.

Specify that a district drain is not navigable unless a United States Geological Survey map or other equally reliable scientific evidence shows that the drain was a navigable stream before it became a district drain.

apply only to Farm Drainage District No 6, also known as Duck Creek Drainage District, in Outagamie County

Allow county drainage boards to place structures or deposits in a district drain without a DNR permit if, after consulting with DNR, DATCP either specifically approves the placement or the structure or deposit is required by DATCP rule to conform to approved drain specifications, unless the district drain has been designated a class 1 trout stream prior to the effective date of the bill. Further, allow county drainage boards to clean material from a district drain without a DNR permit as long as the removal is required by DATCP rule, after consulting with DNR, to conform to drain specifications, unless the district drain has been designated a class 1 trout stream prior to the effective date of the bill. Require county drainage boards to operate, repair and maintain dams and other structures in district drains in accordance with DATCP rules and Chapter 88 (Drainage of Lands) of the statutes. Further, allow DNR to operate, repair and maintain the dams in the interest of drainage and conservation if the drainage board fails to do so. Eliminating some permit requirements for drainage boards would decrease fee revenues to DNR.

Senate: No change to Joint Finance.

3. PESTICIDE SALES AND USE REPORTING SYSTEM

Assembly: Delete \$250,000 SEG and 3.0 positions from the agricultural management fund and \$150,000 from the environmental fund and Joint Finance provisions for a pesticide sales and use reporting system (including the development of a pesticide database, criteria for system development and reporting requirements). Rather, provide \$35,000 SEG from the environmental fund in 1999-00 in onetime funding in a biennial appropriation for a pesticide database study. Funding would be used to study the feasibility of

| | Chg. to JFC Funding Positions | |
|-----|----------------------------------|--------|
| SEG | -\$365,000 | - 3.00 |



State of Wisconsin
1999 - 2000 LEGISLATURE

RMP
LRBb1895/1
MGG:....
Jg

D-N

LFB:.....Schug - Drainage board requirements

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY 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 486, line 18: after that line insert:

3 "SECTION 785dd. 30.01 (1n) of the statutes is created to read:

4 30.01 (1n) "Drain" has the meaning given in s. 88.01 (8).

5 SECTION 785dd. 30.01 (1n) of the statutes is created to read:

6 30.01 (1n) "Duck Creek Drainage District" means Outagamie Drainage

7 District No. 6, which is also known as the Duck Creek Drainage District, and ^{that} ~~which~~

8 is located in Outagamie County.

9 SECTION 785dh. 30.10 (2) of the statutes is amended to read:

1 30.10 (2) STREAMS. Except as provided under sub. (4) (c) and (d),[✓] all streams,
2 sloughs, bayous and marsh outlets, which are navigable in fact for any purpose
3 whatsoever, are declared navigable to the extent that no dam, bridge or other
4 obstruction shall be made in or over the same without the permission of the state.

5 **SECTION 785dm.** 30.10 (4) (d) of the statutes is created to read:

6 30.10 (4) (d) A drainage district drain[✓] operated by the Duck Creek Drainage
7 District is not navigable unless it is shown, by means of a U.S. geological survey map
8 or other similarly reliable scientific evidence, that the drain was a navigable stream
9 before it became a ^{drainage} district drain.

10 **SECTION 785dp.** 30.12 (1) (intro.) of the statutes is amended to read:

11 30.12 (1) GENERAL PROHIBITION. (intro.) Except as provided under ~~sub.~~ subs.
12 (4) and (4m),[✓] unless a permit has been granted by the department pursuant to
13 statute or the legislature has otherwise authorized structures or deposits in
14 navigable waters, it is unlawful.”

15 **2.** Page 487, line 4:[✓] after that line insert:

16 **“SECTION 792m.** 30.12 (4m) of the statutes is created to read:

17 30.12 (4m) [✓] DUCK CREEK DRAINAGE DISTRICT STRUCTURES AND DEPOSITS.
18 Subsection (1)[✓] does not apply to a structure or deposit that the drainage board for the
19 Duck Creek Drainage District places in a drain that the board operates if either of
20 the following applies:

21 (a) The department of agriculture, trade and consumer protection, after
22 consulting with the department of natural resources, specifically approves the
23 structure or deposit.

1 (b) The structure or deposit is required, under rules promulgated by the
 2 department of agriculture, trade and consumer protection, in order to conform the
 3 drain to specifications approved by the department of agriculture, trade and
 4 consumer protection after consulting with the department of natural resources. "

5 **3.** Page 489, line 13: after that line insert:

6 "SECTION 802mg. 30.20 (1) (b) of the statutes is amended to read:

7 30.20 (1) (b) Except as provided under par. ~~the~~ pars. (c) and (d), no person may
 8 remove any material from the bed of any lake or stream not mentioned under par.
 9 (a) without first obtaining a permit from the department under sub. (2) (c).

10 SECTION 802mr. 30.20 (1) (d) of the statutes is created to read:

11 30.20 (1) (d) The drainage board for the Duck Creek Drainage District may
 12 without a permit under sub. (2) (c) remove material from a drain that the county
 13 drainage board ^{the board} operates in a drainage district under ch. 89 if the removal is required,
 14 under rules promulgated by the department of agriculture, trade and consumer
 15 protection, in order to conform the drain to specifications imposed by the department
 16 of agriculture, trade and consumer protection after consulting with the department
 17 of natural resources. "

18 **4.** Page 499, line 9: after that line insert:

19 "SECTION 867xo. 31.02 (6) of the statutes is amended to read:

20 31.02 (6) ~~The department shall~~ Except as provided in sub. (7m), the
 21 department may operate, repair and maintain the dams and dykes dikes constructed
 22 across drainage ditches and streams in drainage districts, in the interest of drainage
 23 control, water conservation, irrigation, conservation, pisciculture and to provide

1 areas suitable for the nesting and breeding of aquatic wild bird life and the
2 propagation of fur-bearing animals.

3 SECTION 867xq. 31.02 (7) of the statutes is amended to read:

4 31.02 (7) The department shall confer with the drainage commissioners in each
5 drainage district on the formation of policies for the operation and maintenance of
6 the dams; in districts having no commissioners, the department shall confer in like
7 manner with the committee appointed by the county board, if any, to represent either
8 such drainage district, or in the event that the drainage district is dissolved, to
9 represent the interests of the county in all matters whatsoever pertaining to water
10 conservation and control within the area which theretofore constituted such
11 drainage district. This subsection does not apply to the Duck Creek Drainage
12 District.

13 SECTION 867xr. 31.02 (7m) of the statutes is created to read:

14 31.02 (7m) The drainage board for the Duck Creek Drainage District shall
15 operate, repair and maintain dams, dikes and other structures in district drains that
16 the board operates in drainage districts in compliance with ch. 88 and any rules
17 promulgated by the department of agriculture, trade and consumer protection under
18 ch. 88. If a county drainage board fails to perform its duties under this subsection,
19 the department of natural resources may exercise its authority under subs. (6), (8)

20 and (9). ~~Note regarding adding X-refs to subs. (8) and (9)~~

21 SECTION 1876m. 88.01 (8m) of the statutes is created to read:

22 88.01 (8m) "Duck Creek Drainage District" has the meaning given in s. 30.01

23 (1m) # Page 980, line 17: after that line insert:

24 SECTION 1877d. 88.31 (7m) of the statutes is created to read:

Page 980, line 6: after that line insert:

1 88.31 (7m) The Duck Creek Drainage District is exempt from the permit
2 requirements and procedures under subs. (1) to (7).[✓]

3 **SECTION 1877e.** 88.31 (8) (intro.) of the statutes is amended to read:

4 88.31 (8) (intro.) Subject to other restrictions imposed by this chapter, a
5 drainage board which has obtained a permit under this chapter all of the permits
6 ^{as} required under chs. 30 ~~and~~ (this chapter) may:

7 **SECTION 1877f.** 88.35 (5m) of the statutes is amended to read:

8 88.35 (5m) If navigable waters are affected by the proposed drainage, the
9 drainage board shall obtain a permit under s. 88.31. This subsection does not apply
10 to the Duck Creek Drainage District.

11 History: 1979 c. 110; 1989 a. 31; 1993 a. 456.

11 **SECTION 1877j.** 88.62 (3) of the statutes is renumbered 88.62 (3) (a) and
12 amended to read:

13 88.62 (3) (a)[✓] If drainage work is undertaken in navigable waters, the drainage
14 board shall obtain a permit under s. 30.20 or 88.31 or ch. 31, as directed by the
15 department of natural resources, except as provided in par. (b).[✓]

16 History: 1987 a. 275; 1991 a. 316; 1993 a. 456.

16 **SECTION 1877k.** 88.62 (3) (b) of the statutes is created to read:

17 88.62 (3) (b) If drainage work is undertaken in navigable waters in the Duck
18 Creek Drainage District, the board[✓] for that district shall obtain a permit under s.
19 30.20[✓] or ch. 31, as directed by the department of natural resources.

20 **SECTION 1877m.** 88.72 (3) of the statutes is amended to read:

21 88.72 (3) At the hearing on the petition, any interested person may appear and
22 contest its sufficiency and the necessity for the work. If the drainage board finds that
23 the petition has the proper number of signers and that to afford an adequate outlet
24 it is necessary to remove dams or other obstructions from waters and streams which

1 may be navigable, or to straighten, clean out, deepen or widen any waters or streams
 2 either within or beyond the limits of the district, the board shall ~~file an application~~
 3 ~~with the department of natural resources as provided in s. 30.20 or 88.31, as directed~~
 4 ~~by the department of natural resources. Thereafter, proceedings shall be had as~~
 5 ~~provided in s. 30.20 or 88.31 insofar as the same is applicable~~ obtain any permit that
 6 is required under ~~ch. 30 or 31~~ ^{this chapter or} ~~ch. 30 or 31~~ plain period

History: 1973 c. 336; 1993 a. 456.

7 SECTION 1877p. 88.72 (4) of the statutes is amended to read:

8 88.72 (4) Within 30 days after the department of natural resources has issued
 9 a permit under ~~s. 30.20 or 88.31~~ ^{this chapter and} ~~all of the permits as required under chs. 30 and 31~~
 10 ~~and this chapter~~, the board shall proceed to estimate the cost of the work, including
 11 the expenses of the proceeding together with the damages that will result from the
 12 work, and shall, within a reasonable time, award damages to all lands damaged by
 13 the work and assess the cost of the work against the lands in the district in proportion
 14 to the assessment of benefits then in force." ✓

15 (END)

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

LRBb1895/3¹dn
MGG:.....
JLg

1. I eliminated the language dealing with trout streams because it is my understanding that there are no such trout streams in the Duck Creek Drainage District. The language is, therefore, unnecessary and leaving it in confuses the draft.

2. Note the added cross-references in s. 31.02 (7m) to s. 31.02 (8) and (9). I made this change since s. 31.02 (8) and (9) are no longer repealed.

3. It is possible that a Wisconsin court would find this legislation to be a "private or local bill" which, under Article IV, section 18, of the Wisconsin constitution, must be enacted as single-subject legislation. If so this legislation cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. In light of this, the committee may wish to consider introduction of this legislation as a separate bill.

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

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

LRBb1895/1dn
MGG:jlg:mrc

October 2, 1999

1. I eliminated the language dealing with trout streams because it is my understanding that there are no such trout streams in the Duck Creek Drainage District. The language is, therefore, unnecessary and leaving it in confuses the draft.

2. Note the added cross-references in s. 31.02 (7m) to s. 31.02 (8) and (9). I made this change since s. 31.02 (8) and (9) are no longer repealed.

3. It is possible that a Wisconsin court would find this legislation to be a "private or local bill" which, under article IV, section 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so this legislation cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. In light of this, the committee may wish to consider introduction of this legislation as a separate bill.

Mary Gibson-Glass
Senior Legislative Attorney
267-3215

Gibson-Glass, Mary

From: Schug, David
Sent: Sunday, October 03, 1999 8:18 PM
To: Gibson-Glass, Mary
Subject: drainage districts

Mary,

Thank you for LRB 1895/1. It looks pretty good. The only questions I have pertain to p. 2 lines 17-20, p. 3 lines 12, and p. 4 lines 13-14. Does it need to be clarified in each of these cases that the alluded to drain must be within the Duck Creek Drainage District and not just any drain operated by that drainage board? For example, would p. 2 line 19 be more narrow, as intended, if it read "Duck Creek Drainage District places in a Duck Creek Drainage District drain that the board operates if either of"? I would suggest a similar specification in each of the above situations.

Please let me know what you think or call with questions.

David

plus in 30.10(4)(d)

6-3847 *Rationale: The board for the Duck Creek Drainage district operates 8 drainage districts, not just the Duck Creek one*



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR
LRBb1895/12
MGG;jlg:mrc

today

LFB:.....Schug - Drainage board requirements

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

ASSEMBLY 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 486, line 18: after that line insert:

3 "SECTION 785dd. 30.01 (1n) of the statutes is created to read:

4 30.01 (1n) "Drain" has the meaning given in s. 88.01 (8).

5 SECTION 785de. 30.01 (1nm) of the statutes is created to read:

6 30.01 (1nm) "Duck Creek Drainage District" means Outagamie Drainage

7 District No. 6 ^{of that} which is also known as the Duck Creek Drainage District, and ~~which~~
8 is located in Outagamie County.

9 SECTION 785dh. 30.10 (2) of the statutes is amended to read:

1 30.10 (2) STREAMS. Except as provided under sub. (4) (c) and (d), all streams,
2 sloughs, bayous and marsh outlets, which are navigable in fact for any purpose
3 whatsoever, are declared navigable to the extent that no dam, bridge or other
4 obstruction shall be made in or over the same without the permission of the state.

5 **SECTION 785dm.** 30.10 (4) (d) of the statutes is created to read:

6 30.10 (4) (d) A drainage district drain ^{located in} ~~operated by~~ the Duck Creek Drainage
7 District ^{and operated by the board for that district} is not navigable unless it is shown, by means of a U.S. geological survey map
8 or other similarly reliable scientific evidence, that the drain was a navigable stream
9 before it became a drainage district drain.

10 **SECTION 785dp.** 30.12 (1) (intro.) of the statutes is amended to read:

11 30.12 (1) GENERAL PROHIBITION. (intro.) Except as provided under sub. ~~sub.~~
12 (4) and (4m), unless a permit has been granted by the department pursuant to
13 statute or the legislature has otherwise authorized structures or deposits in
14 navigable waters, it is unlawful:"

15 **2.** Page 487, line 4: after that line insert:

16 **"SECTION 792m.** 30.12 (4m) of the statutes is created to read:

17 30.12 (4m) DUCK CREEK DRAINAGE DISTRICT STRUCTURES AND DEPOSITS.
18 Subsection (1) does not apply to a structure or deposit that the drainage board for the
19 Duck Creek Drainage District places in a drain that the board ^{in the Duck Creek Drainage District} operates if either of
20 the following applies:

21 (a) The department of agriculture, trade and consumer protection, after
22 consulting with the department of natural resources, specifically approves the
23 structure or deposit.

1 (b) The structure or deposit is required, under rules promulgated by the
2 department of agriculture, trade and consumer protection, in order to conform the
3 drain to specifications approved by the department of agriculture, trade and
4 consumer protection after consulting with the department of natural resources.”.

5 **3.** Page 489, line 13: after that line insert:

6 “SECTION 802mg. 30.20 (1) (b) of the statutes is amended to read:

7 30.20 (1) (b) Except as provided under ~~par.~~ pars. (c) and (d), no person may
8 remove any material from the bed of any lake or stream not mentioned under par.
9 (a) without first obtaining a permit from the department under sub. (2) (c).

10 SECTION 802mr. 30.20 (1) (d) of the statutes is created to read:

11 30.20 (1) (d) The drainage board for the Duck Creek Drainage District may
12 without a permit under sub. (2) (c) remove material from a drain that the board
13 operates ^{(in the Duck Creek Drainage district} if the removal is required, under rules promulgated by the department of
14 agriculture, trade and consumer protection, in order to conform the drain to
15 specifications imposed by the department of agriculture, trade and consumer
16 protection after consulting with the department of natural resources.”.

17 **4.** Page 499, line 9: after that line insert:

18 “SECTION 867xo. 31.02 (6) of the statutes is amended to read:

19 31.02 (6) ~~The department shall~~ Except as provided in sub. (7m), the
20 department may operate, repair and maintain the dams and ~~dykes~~ dikes constructed
21 across drainage ditches and streams in drainage districts, in the interest of drainage
22 control, water conservation, irrigation, conservation, pisciculture and to provide
23 areas suitable for the nesting and breeding of aquatic wild bird life and the
24 propagation of fur-bearing animals.

1 **SECTION 867xq.** 31.02 (7) of the statutes is amended to read:

2 31.02 (7) The department shall confer with the drainage commissioners in each
3 drainage district on the formation of policies for the operation and maintenance of
4 the dams; in districts having no commissioners, the department shall confer in like
5 manner with the committee appointed by the county board, if any, to represent either
6 such drainage district, or in the event that the drainage district is dissolved, to
7 represent the interests of the county in all matters whatsoever pertaining to water
8 conservation and control within the area which theretofore constituted such
9 drainage district. This subsection does not apply to the Duck Creek Drainage
10 District.

11 **SECTION 867xr.** 31.02 (7m) of the statutes is created to read:

12 31.02 (7m) The drainage board for the Duck Creek Drainage District shall
13 operate, repair and maintain dams, dikes and other structures in district drains that
14 the board operates in ^{the Duck Creek Drainage District} ~~(drainage districts)~~ in compliance with ch. 88 and any rules
15 promulgated by the department of agriculture, trade and consumer protection under
16 ch. 88. If a county drainage board fails to perform its duties under this subsection,
17 the department of natural resources may exercise its authority under subs. (6), (8)
18 and (9).”

19 **5.** Page 980, line 6: after that line insert:

20 **“SECTION 1876m.** 88.01 (8m) of the statutes is created to read:

21 88.01 (8m) “Duck Creek Drainage District” has the meaning given in s. 30.01
22 (1nm).”

23 **6.** Page 980, line 17: after that line insert:

24 **“SECTION 1877d.** 88.31 (7m) of the statutes is created to read:

1 88.31 (7m) The Duck Creek Drainage District is exempt from the permit
2 requirements and procedures under subs. (1) to (7).

3 **SECTION 1877e.** 88.31 (8) (intro.) of the statutes is amended to read:

4 88.31 (8) (intro.) Subject to other restrictions imposed by this chapter, a
5 drainage board which has obtained ~~a permit under this chapter~~ all of the permits as
6 required under this chapter and ch. 30 may:

7 **SECTION 1877f.** 88.35 (5m) of the statutes is amended to read:

8 88.35 (5m) If navigable waters are affected by the proposed drainage, the
9 drainage board shall obtain a permit under s. 88.31. This subsection does not apply
10 to the Duck Creek Drainage District.

11 **SECTION 1877j.** 88.62 (3) of the statutes is renumbered 88.62 (3) (a) and
12 amended to read:

13 88.62 (3) (a) If drainage work is undertaken in navigable waters, the drainage
14 board shall obtain a permit under s. 30.20 or 88.31 or ch. 31, as directed by the
15 department of natural resources, except as provided in par. (b).

16 **SECTION 1877k.** 88.62 (3) (b) of the statutes is created to read:

17 88.62 (3) (b) If drainage work is undertaken in navigable waters ^{located} in the Duck
18 Creek Drainage District, the board for that district shall obtain a permit under s.
19 30.20 or ch. 31, as directed by the department of natural resources.

20 **SECTION 1877m.** 88.72 (3) of the statutes is amended to read:

21 88.72 (3) At the hearing on the petition, any interested person may appear and
22 contest its sufficiency and the necessity for the work. If the drainage board finds that
23 the petition has the proper number of signers and that to afford an adequate outlet
24 it is necessary to remove dams or other obstructions from waters and streams which
25 may be navigable, or to straighten, clean out, deepen or widen any waters or streams

1 either within or beyond the limits of the district, the board shall ~~file an application~~
2 ~~with the department of natural resources as provided in s. 30.20 or 88.31, as directed~~
3 ~~by the department of natural resources. Thereafter, proceedings shall be had as~~
4 ~~provided in s. 30.20 or 88.31 insofar as the same is applicable~~ obtain any permit that
5 is required under this chapter or ch. 30 or 31.

6 **SECTION 1877p.** 88.72 (4) of the statutes is amended to read:

7 88.72 (4) Within 30 days after the department of natural resources has issued
8 ~~a permit under s. 30.20 or 88.31~~ all of the permits as required under this chapter and
9 chs. 30 and 31, the board shall proceed to estimate the cost of the work, including the
10 expenses of the proceeding together with the damages that will result from the work,
11 and shall, within a reasonable time, award damages to all lands damaged by the
12 work and assess the cost of the work against the lands in the district in proportion
13 to the assessment of benefits then in force.”

14 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1895/2
MGG:jl:km

LFB:.....Schug - Drainage board requirements

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

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6 30.01 (1nm) "Duck Creek Drainage District" means Outagamie Drainage

7 District No. 6 that is also known as the Duck Creek Drainage District and is located

8 in Outagamie County.

9 **SECTION 785dh.** 30.10 (2) of the statutes is amended to read:

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9 evidence, that the drain was a navigable stream before it became a drainage district
10 drain.

11 **SECTION 785dp.** 30.12 (1) (intro.) of the statutes is amended to read:

12 30.12 (1) GENERAL PROHIBITION. (intro.) Except as provided under sub. subs.
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16 **2.** Page 487, line 4: after that line insert:

17 **“SECTION 792m.** 30.12 (4m) of the statutes is created to read:

18 30.12 (4m) DUCK CREEK DRAINAGE DISTRICT STRUCTURES AND DEPOSITS.
19 Subsection (1) does not apply to a structure or deposit that the drainage board for the
20 Duck Creek Drainage District places in a drain that the board operates in the Duck
21 Creek Drainage District if either of the following applies:

22 (a) The department of agriculture, trade and consumer protection, after
23 consulting with the department of natural resources, specifically approves the
24 structure or deposit.

1 (b) The structure or deposit is required, under rules promulgated by the
2 department of agriculture, trade and consumer protection, in order to conform the
3 drain to specifications approved by the department of agriculture, trade and
4 consumer protection after consulting with the department of natural resources.”.

5 **3.** Page 489, line 13: after that line insert:

6 “SECTION 802mg. 30.20 (1) (b) of the statutes is amended to read:

7 30.20 (1) (b) Except as provided under ~~par. pars.~~ (c) and (d), no person may
8 remove any material from the bed of any lake or stream not mentioned under par:
9 (a) without first obtaining a permit from the department under sub. (2) (c).

10 SECTION 802mr. 30.20 (1) (d) of the statutes is created to read:

11 30.20 (1) (d) The drainage board for the Duck Creek Drainage District may
12 without a permit under sub. (2) (c) remove material from a drain that the board
13 operates in the Duck Creek Drainage District if the removal is required, under rules
14 promulgated by the department of agriculture, trade and consumer protection, in
15 order to conform the drain to specifications imposed by the department of
16 agriculture, trade and consumer protection after consulting with the department of
17 natural resources.”.

18 **4.** Page 499, line 9: after that line insert:

19 “SECTION 867xo. 31.02 (6) of the statutes is amended to read:

20 31.02 (6) ~~The department shall~~ Except as provided in sub. (7m), the
21 department may operate, repair and maintain the dams and ~~dykes~~ dikes constructed
22 across drainage ditches and streams in drainage districts, in the interest of drainage
23 control, water conservation, irrigation, conservation, pisciculture and to provide

1 areas suitable for the nesting and breeding of aquatic wild bird life and the
2 propagation of fur-bearing animals.

3 **SECTION 867xq.** 31.02 (7) of the statutes is amended to read:

4 31.02 (7) The department shall confer with the drainage commissioners in each
5 drainage district on the formation of policies for the operation and maintenance of
6 the dams; in districts having no commissioners, the department shall confer in like
7 manner with the committee appointed by the county board, if any, to represent either
8 such drainage district, or in the event that the drainage district is dissolved, to
9 represent the interests of the county in all matters whatsoever pertaining to water
10 conservation and control within the area which theretofore constituted such
11 drainage district. This subsection does not apply to the Duck Creek Drainage
12 District.

13 **SECTION 867xr.** 31.02 (7m) of the statutes is created to read:

14 31.02 (7m) The drainage board for the Duck Creek Drainage District shall
15 operate, repair and maintain dams, dikes and other structures in district drains that
16 the board operates in the Duck Creek Drainage District in compliance with ch. 88
17 and any rules promulgated by the department of agriculture, trade and consumer
18 protection under ch. 88. If a county drainage board fails to perform its duties under
19 this subsection, the department of natural resources may exercise its authority
20 under subs. (6), (8) and (9).”.

21 **5.** Page 980, line 6: after that line insert:

22 **“SECTION 1876m.** 88.01 (8m) of the statutes is created to read:

23 88.01 (8m) “Duck Creek Drainage District” has the meaning given in s. 30.01
24 (1nm).”.

1 **6.** Page 980, line 17: after that line insert:

2 “**SECTION 1877d.** 88.31 (7m) of the statutes is created to read:

3 88.31 (7m) The Duck Creek Drainage District is exempt from the permit
4 requirements and procedures under subs. (1) to (7).

5 **SECTION 1877e.** 88.31 (8) (intro.) of the statutes is amended to read:

6 88.31 (8) (intro.) Subject to other restrictions imposed by this chapter, a
7 drainage board which has obtained ~~a permit under this chapter~~ all of the permits as
8 required under this chapter and ch. 30 may:

9 **SECTION 1877f.** 88.35 (5m) of the statutes is amended to read:

10 88.35 (5m) If navigable waters are affected by the proposed drainage, the
11 drainage board shall obtain a permit under s. 88.31. This subsection does not apply
12 to the Duck Creek Drainage District.

13 **SECTION 1877j.** 88.62 (3) of the statutes is renumbered 88.62 (3) (a) and
14 amended to read:

15 88.62 (3) (a) If drainage work is undertaken in navigable waters, the drainage
16 board shall obtain a permit under s. 30.20 or 88.31 or ch. 31, as directed by the
17 department of natural resources, except as provided in par. (b).

18 **SECTION 1877k.** 88.62 (3) (b) of the statutes is created to read:

19 88.62 (3) (b) If drainage work is undertaken in navigable waters located in the
20 Duck Creek Drainage District, the board for that district shall obtain a permit under
21 s. 30.20 or ch. 31, as directed by the department of natural resources.

22 **SECTION 1877m.** 88.72 (3) of the statutes is amended to read:

23 88.72 (3) At the hearing on the petition, any interested person may appear and
24 contest its sufficiency and the necessity for the work. If the drainage board finds that

1 the petition has the proper number of signers and that to afford an adequate outlet
2 it is necessary to remove dams or other obstructions from waters and streams which
3 may be navigable, or to straighten, clean out, deepen or widen any waters or streams
4 either within or beyond the limits of the district, the board shall ~~file an application~~
5 ~~with the department of natural resources as provided in s. 30.20 or 88.31, as directed~~
6 ~~by the department of natural resources. Thereafter, proceedings shall be had as~~
7 ~~provided in s. 30.20 or 88.31 insofar as the same is applicable~~ obtain any permit that
8 is required under this chapter or ch. 30 or 31.

9 **SECTION 1877p.** 88.72 (4) of the statutes is amended to read:

10 88.72 (4) Within 30 days after the department of natural resources has issued
11 ~~a permit under s. 30.20 or 88.31~~ all of the permits as required under this chapter and
12 chs. 30 and 31, the board shall proceed to estimate the cost of the work, including the
13 expenses of the proceeding together with the damages that will result from the work,
14 and shall, within a reasonable time, award damages to all lands damaged by the
15 work and assess the cost of the work against the lands in the district in proportion
16 to the assessment of benefits then in force.”

17 (END)