

1999 DRAFTING REQUEST

Senate Amendment (SA-SB398)

Received: 02/24/2000

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Brian Rude (608) 266-5490

By/Representing: Ken Machtan

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Econ. Development - tourism

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Agreement to indemnify the federal government for transfer of Kickapoo valley reserve land

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>
/?	kahlepj 02/24/2000	jgeller 02/25/2000		_____			
/1			martykr 02/25/2000	_____	lrb_docadmin 02/25/2000	lrb_docadmin 02/25/2000	

FE Sent For:

<END>

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/?	kahlepj	1/25 jg	km 2/26	Self 2/25			

FE Sent For:

<END>

02/23/00 14:45 FAX 012 280 5475

US ARMY CORP.ENG

@002:00Z

LaFarge Lake and Dam Project - Hold Harmless Requirement

Consider the following version of language for State legislative action. Very minor revision from language originally drafted:



The department of administration may enter into an agreement to indemnify the federal government from all claims arising from or through the operation of the lands and improvements to be transferred to the state under §361 of the Water Resources Development Act of 1986.

Original Draft Language:

41.41(4)(d) The department of administration may enter into an agreement with the federal government in connection with the transfer of land from the federal government to the state for the Kickapoo Valley reserve that contains indemnification provisions required by federal law.

Regardless of the language passed at by the State of Wisconsin, the Corps expects that the indemnification would be something along the lines of the following, and the authority should be broad enough to sign up to this.

The State shall hold and save the Government free from all damages arising from the ownership and maintenance of the lands and improvements transferred to the State under this agreement, except for damages due to the fault or negligence of the Government or its contractors. For purposes of this indemnification, the term "improvements" includes any roadway relocations or upgrades performed or funded by the Government under §361 of Public Law 104-303. For purposes of this indemnification, the term "contractor" does not include the State of Wisconsin or any of its agencies. The State's obligations under this indemnification shall not extend to any damages or liabilities arising prior to the transfer of the lands or improvements unless that damage or liability is a result of the acts or omissions of the State, its officers, agents, employees or contractors. This indemnification is made subject to the proviso that it does not bind any future legislature of the State of Wisconsin to make appropriations to satisfy a claim arising from this indemnification provision. In the event that an indemnification claim is made by the Government under this provision, the State will promptly present that claim to its legislature for consideration if the State lacks sufficient funds to satisfy the claim.



Wisconsin Senate Assistant Republican Leader
Senator Brian D. Rude

DATE:

TO: *Dan Kahler*

FAX number:

Number of pages attached (including this one): 2

FROM: *Ken Machtan*

MESSAGE:



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa1471
PJK.....

Jlg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT,

TO 1999 SENATE BILL 398

*SOON
(2-25)*

D-note

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 1: delete lines 1 to 3[✓] and substitute:

3 "41.40 (2)[✓] The department of administration[✓] may enter into an agreement to
4 indemnify the federal government from claims arising from or through the
5 management and operation of the land, and any improvements on the land, ~~to be~~
6 transferred under sub. (1)."[✓]

7 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1471/dn
PJK.....

Jg

1. Because the indemnification agreement itself excepts from indemnification damages due to the fault or negligence of the federal government or its contractors, I did not specify that the indemnification ~~agreement~~ would be for *all* claims.

2. The transfer under section 361 of the Water Resources Development Act of 1996 is the same as the transfer under s. 41.40 (1) of our statutes. Therefore, the amendment does not reference the federal law.

proposed

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

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

LRBa1471/1dn
PJK:jlg:km

February 25, 2000

1. Because the indemnification agreement itself excepts from indemnification damages due to the fault or negligence of the federal government or its contractors, I did not specify that the indemnification would be for *all* claims.
2. The transfer under section 361 of the Water Resources Development Act of 1996 is the same as the transfer under proposed s. 41.40 (1) of our statutes. Therefore, the amendment does not reference the federal law.

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