



State of Wisconsin  
2001 - 2002 LEGISLATURE

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LRB-1335/3

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DOA:.....Grinde - Fox River Navigational System Authority

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

~~LEB~~

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AN ACT <sup>DON'T GEN. CAT.</sup> relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**NAVIGABLE WATERS**

and the director of the state historical society

Under current law, the Fox River management commission (river commission), is authorized to enter into agreements with the federal government to operate and manage the Fox River navigational system which includes locks, harbors and, other facilities related to navigation that are on or near the Fox River. Under current law, a second commission, the Fox-Winnebago regional management commission (Fox-Winnebago commission), will replace the river commission when the state receives federal funding for the restoration and repair of the navigational system. Under current law, the duties and powers of these two commissions are similar. However, these two commissions differ in that the river commission is a state agency attached to DNR and the Fox-Winnebago commission is a regional commission with ten of its thirteen members representing the five counties in which the navigational system is located and the remaining three members being appointed by the governor.

This bill replaces both of these commissions with the Fox River Navigational System Authority (Authority). An authority is an entity with a board of directors that is established by state law but that is not a state agency. The board of directors of the Authority consists of ~~five~~ members appointed by the governor for three-year terms and the secretary of natural resources, and transportation, or their designees.

The bill requires the Authority to take over the rehabilitation, repair, replacement, operation, and maintenance of the Fox River navigational system after

the secretary of

*only*

the transfer of the system from the federal government to the state. Once the system is transferred to the state, the state in turn will enter into a lease with the Authority to transfer the system to the Authority.

For the rehabilitation and repair of the system, the federal government will provide federal funding to the Authority that matches the amount of funding provided by the state to the Authority. DNR provides the state funding from the financial assistance program that it administers for expenses relating to the construction and maintenance of recreational boating facilities, such as locks and facilities that provide access between bodies of water. The state funding in turn must be matched by funding raised by a nonprofit corporation with which the Authority will contract to provide marketing and funding raising services. The bill requires DNR to set aside for the navigational system \$400,000 in each fiscal year for seven fiscal years, and requires DNR to release the set aside funding on an annual basis to match the amount raised by the nonprofit corporation. The Authority may not issue bonds to raise funding for the navigational system.

*Each of These*

In addition to providing fund raising services for the Authority, the nonprofit corporation shall invest the funding received by the Authority for the rehabilitation and repair of the navigational system. The nonprofit corporation must be based in one or more of the counties in which the navigational system is located.

*and repair*

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ANL

Because the Authority is not a state agency, numerous laws that are applicable to state agencies do not apply to the Authority. However, the Authority is considered a state agency in the following respects, among others: 1) it must comply with the open records and open meetings law; 2) it is subject to the lobbying regulation law to the same extent as state agencies; 3) the members of its board of directors and its chief executive officer are subject to the code of ethics for state public officials; 4) it is exempt from the sales and use tax and from property taxes; 5) its employees receive state health and retirement benefits; and 6) its employees are subject to law prohibiting political activities by state employees while engaged in official duties.

The Authority is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) it hires its staff outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) it keeps its operating fund in its own account outside of the state treasury; and 5) DOJ does not represent the Authority and the Authority may instead retain its own legal counsel.

This bill requires that the Authority submit a management plan to DOA that addresses the costs and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system and describes how the authority will manage its funds to insure that there are sufficient funds available to abandon the navigational system if its operation is no longer feasible. The bill requires the Authority to update the plan upon the request of DOA. If the operation of the system does become infeasible, the Authority must submit a plan for its abandonment. Before abandoning the system, DOA must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

*(and DNR)*

This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 7.33 (1) (c) of the statutes is amended to read:

2           7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and  
3 includes an authority created under ch. 231, 232, 233 ~~or~~, 234, or 237.

4           **SECTION 2.** 13.48 (10) (b) 3m. of the statutes is created to read:

5           13.48 (10) (b) 3m. Rehabilitation projects of the Fox River Navigational System  
6 Authority.

7           **SECTION 3.** 13.48 (12) (b) 4. of the statutes is created to read:

8           13.48 (12) (b) 4. A facility constructed by or for the Fox River Navigational  
9 System Authority.

10          **SECTION 4.** 13.48 (13) (a) of the statutes is amended to read:

11          13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or  
12 facility that is constructed for the benefit of or use of the state, any state agency,  
13 board, commission or department, the University of Wisconsin Hospitals and Clinics  
14 Authority, the Fox River Navigational System Authority, or any local professional  
15 baseball park district created under subch. III of ch. 229 if the construction is  
16 undertaken by the department of administration on behalf of the district, shall be  
17 in compliance with all applicable state laws, rules, codes and regulations but the  
18 construction is not subject to the ordinances or regulations of the municipality in  
19 which the construction takes place except zoning, including without limitation

1 because of enumeration ordinances or regulations relating to materials used,  
2 permits, supervision of construction or installation, payment of permit fees, or other  
3 restrictions.

4 **SECTION 5.** 13.62 (2) of the statutes is amended to read:

5 13.62 (2) "Agency" means any board, commission, department, office, society,  
6 institution of higher education, council or committee in the state government, or any  
7 authority created in ch. 231, 232, 233 ~~or~~ 234, or 237, except that the term does not  
8 include a council or committee of the legislature.

9 **SECTION 6.** 15.06 (1) (e) of the statutes is repealed.

10 **SECTION 7.** 15.06 (3) (a) 4. of the statutes is repealed.

11 **SECTION 8.** 15.345 (5) of the statutes is amended to read:

12 15.345 (5) **FOX RIVER MANAGEMENT COMMISSION.** There is created in the  
13 department of natural resources a Fox River management commission consisting of  
14 7 members. The commission shall cease to exist on the day after the date on which  
15 the state and the Fox River Navigational System Authority enter into the lease  
16 agreement specified in s. 237.06.

17 **SECTION 9.** 16.002 (2) of the statutes is amended to read:

18 16.002 (2) "Departments" means constitutional offices, departments and  
19 independent agencies and includes all societies, associations and other agencies of  
20 state government for which appropriations are made by law, but not including  
21 authorities created in chs. 231, 232, 233, 234, 235, and 237.

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\*\*\*\*NOTE: Section 16.002 (2) needs to be reviewed by JTK to make sure the only  
substantive change is to add the authority under ch. 237.

22 **SECTION 10.** 16.004 (4) of the statutes is amended to read:

1           16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the  
2 department as the secretary designates may enter into the offices of state agencies  
3 and authorities created under chs. 231, 233 ~~and~~, 234, and 237, and may examine  
4 their books and accounts and any other matter which in the secretary's judgment  
5 should be examined and may interrogate the agency's employees publicly or  
6 privately relative thereto.

7           **SECTION 11.** 16.004 (5) of the statutes is amended to read:

8           16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and  
9 authorities created under chs. 231, 233 ~~and~~, 234, and 237, and their officers and  
10 employees, shall cooperate with the secretary and shall comply with every request  
11 of the secretary relating to his or her functions.

12           **SECTION 12.** 16.004 (12) (a) of the statutes is amended to read:

13           16.004 (12) (a) In this subsection, "state agency" means an association,  
14 authority, board, department, commission, independent agency, institution, office,  
15 society or other body in state government created or authorized to be created by the  
16 constitution or any law, including the legislature, the office of the governor and the  
17 courts, but excluding the University of Wisconsin Hospitals and Clinics Authority  
18 and the Fox River Navigational System Authority.

19           **SECTION 13.** 16.008 (2) of the statutes is amended to read:

20           16.008 (2) The state shall pay for extraordinary police services provided  
21 directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of  
22 a state officer or agency responsible for the operation and preservation of such  
23 facilities. The University of Wisconsin Hospitals and Clinics Authority shall pay for  
24 extraordinary police services provided to facilities of the authority described in s.  
25 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary

1 police services provided to the navigational system, as defined in s. 237.01 (4).  
2 Municipalities or counties which provide extraordinary police services to state  
3 facilities may submit claims to the claims board for actual additional costs related  
4 to wage and disability payments, pensions and worker's compensation payments,  
5 damage to equipment and clothing, replacement of expendable supplies, medical and  
6 transportation expense and other necessary expenses. The clerk of the municipality  
7 or county submitting a claim shall also transmit an itemized statement of charges  
8 and a statement which identifies the facility served and the person who requested  
9 the services. The board shall obtain a review of the claim and recommendations from  
10 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and  
11 (6).

12 **SECTION 14.** 16.045 (1) (a) of the statutes is amended to read:

13 16.045 (1) (a) "Agency" means an office, department, independent agency,  
14 institution of higher education, association, society or other body in state  
15 government created or authorized to be created by the constitution or any law, which  
16 is entitled to expend moneys appropriated by law, including the legislature and the  
17 courts, but not including an authority created in ch. 231, 232, 233, 234 ~~or~~, 235, or 237.

18 **SECTION 15.** 16.41 (4) of the statutes is amended to read:

19 16.41 (4) In this section, "authority" means a body created under ch. 231, 233  
20 ~~or~~, 234, or 237.

21 **SECTION 16.** 16.417 (1) (b) of the statutes is amended to read:

22 16.417 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234  
23 ~~or~~, 235, or 237.

24 **SECTION 17.** 16.52 (7) of the statutes is amended to read:

1           16.52 (7) PETTY CASH ACCOUNT. With the approval of the secretary, each agency  
2 which is authorized to maintain a contingent fund under s. 20.920 may establish a  
3 petty cash account from its contingent fund. The procedure for operation and  
4 maintenance of petty cash accounts and the character of expenditures therefrom  
5 shall be prescribed by the secretary. In this subsection, "agency" means an office,  
6 department, independent agency, institution of higher education, association,  
7 society or other body in state government created or authorized to be created by the  
8 constitution or any law, which is entitled to expend moneys appropriated by law,  
9 including the legislature and the courts, but not including an authority created in  
10 ch. 231, 233 ~~or~~, 234, or 237.

11           **SECTION 18.** 16.528 (1) (a) of the statutes is amended to read:

12           16.528 (1) (a) "Agency" means an office, department, independent agency,  
13 institution of higher education, association, society or other body in state  
14 government created or authorized to be created by the constitution or any law, which  
15 is entitled to expend moneys appropriated by law, including the legislature and the  
16 courts, but not including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

17           **SECTION 19.** 16.53 (2) of the statutes is amended to read:

18           16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed  
19 invoice, the agency shall notify the sender of the invoice within 10 working days after  
20 it receives the invoice of the reason it is improperly completed. In this subsection,  
21 "agency" means an office, department, independent agency, institution of higher  
22 education, association, society or other body in state government created or  
23 authorized to be created by the constitution or any law, which is entitled to expend  
24 moneys appropriated by law, including the legislature and the courts, but not  
25 including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

1           **SECTION 20.** 16.54 (9) (a) 1. of the statutes is amended to read:

2           16.54 (9) (a) 1. “Agency” means an office, department, independent agency,  
3 institution of higher education, association, society or other body in state  
4 government created or authorized to be created by the constitution or any law, which  
5 is entitled to expend moneys appropriated by law, including the legislature and the  
6 courts, but not including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

7           **SECTION 21.** 16.70 (2) of the statutes is amended to read:

8           16.70 (2) “Authority” means a body created under ch. 231, 232, 233 ~~or~~, 234, or  
9 237.

10          **SECTION 22.** 16.765 (1) of the statutes is amended to read:

11          16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and  
12 Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
13 Center Sports and Entertainment Corporation shall include in all contracts executed  
14 by them a provision obligating the contractor not to discriminate against any  
15 employee or applicant for employment because of age, race, religion, color, handicap,  
16 sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual  
17 orientation as defined in s. 111.32 (13m) or national origin and, except with respect  
18 to sexual orientation, obligating the contractor to take affirmative action to ensure  
19 equal employment opportunities.

20          **SECTION 23.** 16.765 (2) of the statutes is amended to read:

21          16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and  
22 Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
23 Center Sports and Entertainment Corporation shall include the following provision  
24 in every contract executed by them: “In connection with the performance of work  
25 under this contract, the contractor agrees not to discriminate against any employee



1 or applicant for employment because of age, race, religion, color, handicap, sex,  
2 physical condition, developmental disability as defined in s. 51.01 (5), sexual  
3 orientation or national origin. This provision shall include, but not be limited to, the  
4 following: employment, upgrading, demotion or transfer; recruitment or recruitment  
5 advertising; layoff or termination; rates of pay or other forms of compensation; and  
6 selection for training, including apprenticeship. Except with respect to sexual  
7 orientation, the contractor further agrees to take affirmative action to ensure equal  
8 employment opportunities. The contractor agrees to post in conspicuous places,  
9 available for employees and applicants for employment, notices to be provided by the  
10 contracting officer setting forth the provisions of the nondiscrimination clause”.

11 SECTION 24. 16.765 (4) of the statutes is amended to read:

12 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and  
13 Clinics Authority, the Fox River Navigational System Authority, and the Bradley  
14 Center Sports and Entertainment Corporation shall take appropriate action to  
15 revise the standard government contract forms under this section.

16 SECTION 25. 16.765 (5) of the statutes is amended to read:

17 16.765 (5) The head of each contracting agency and the boards of directors of  
18 the University of Wisconsin Hospitals and Clinics Authority, the Fox River  
19 Navigational System Authority, and the Bradley Center Sports and Entertainment  
20 Corporation shall be primarily responsible for obtaining compliance by any  
21 contractor with the nondiscrimination and affirmative action provisions prescribed  
22 by this section, according to procedures recommended by the department. The  
23 department shall make recommendations to the contracting agencies and the boards  
24 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox  
25 River Navigational System Authority, and the Bradley Center Sports and

1 Entertainment Corporation for improving and making more effective the  
2 nondiscrimination and affirmative action provisions of contracts. The department  
3 shall promulgate such rules as may be necessary for the performance of its functions  
4 under this section.

5 **SECTION 26.** 16.765 (6) of the statutes is amended to read:

6 16.765 (6) The department may receive complaints of alleged violations of the  
7 nondiscrimination provisions of such contracts. The department shall investigate  
8 and determine whether a violation of this section has occurred. The department may  
9 delegate this authority to the contracting agency, the University of Wisconsin  
10 Hospitals and Clinics Authority, the Fox River Navigational System Authority, or the  
11 Bradley Center Sports and Entertainment Corporation for processing in accordance  
12 with the department's procedures.

13 **SECTION 27.** 16.765 (7) (intro.) of the statutes is amended to read:

14 16.765 (7) (intro.) When a violation of this section has been determined by the  
15 department, the contracting agency, the University of Wisconsin Hospitals and  
16 Clinics Authority, the Fox River Navigational System Authority, or the Bradley  
17 Center Sports and Entertainment Corporation, the contracting agency, the  
18 University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational  
19 System Authority, or the Bradley Center Sports and Entertainment Corporation  
20 shall:

21 **SECTION 28.** 16.765 (7) (d) of the statutes is amended to read:

22 16.765 (7) (d) Direct the violating party to take immediate steps to prevent  
23 further violations of this section and to report its corrective action to the contracting  
24 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River

1 Navigational System Authority, or the Bradley center sports and entertainment  
2 corporation.

3 **SECTION 29.** 16.765 (8) of the statutes is amended to read:

4 16.765 (8) If further violations of this section are committed during the term  
5 of the contract, the contracting agency, the Fox River Navigational System Authority,  
6 or the Bradley Center Sports and Entertainment Corporation may permit the  
7 violating party to complete the contract, after complying with this section, but  
8 thereafter the contracting agency, the Fox River Navigational System Authority, or  
9 the Bradley Center Sports and Entertainment Corporation shall request the  
10 department to place the name of the party on the ineligible list for state contracts,  
11 or the contracting agency, the Fox River Navigational System Authority, or the  
12 Bradley Center Sports and Entertainment Corporation may terminate the contract  
13 without liability for the uncompleted portion or any materials or services purchased  
14 or paid for by the contracting party for use in completing the contract.

15 **SECTION 30.** 16.838 (1) (b) of the statutes is amended to read:

16 16.838 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234  
17 or, 235, or 237.

18 **SECTION 31.** 16.845 (1) of the statutes is amended to read:

19 16.845 (1) **RULE; PENALTY.** Except as elsewhere expressly prohibited, the  
20 managing authority of any facility owned by the state or by the University of  
21 Wisconsin Hospitals and Clinics Authority or leased from the state by the Fox River  
22 Navigational System Authority may permit its use for free discussion of public  
23 questions, or for civic, social, recreational or athletic activities. No such use shall be  
24 permitted if it would unduly burden the managing authority or interfere with the  
25 prime use of such facility. The applicant for use shall be liable to the state ~~or~~, to the

1 Fox River Navigational System Authority, or to the University of Wisconsin  
2 Hospitals and Clinics Authority for any injury done to its property, for any expense  
3 arising out of any such use and for such sum as the managing authority may charge  
4 for such use. All such sums payable to the state shall be paid into the general fund  
5 and credited to the appropriation account for the operation of the facility used. The  
6 managing authority may permit such use notwithstanding the fact that a reasonable  
7 admission fee may be charged to the public. Whoever does or attempts to do an act  
8 for which a permit is required under this section without first obtaining the permit  
9 may be fined not more than \$100 or imprisoned not more than 30 days or both. This  
10 subsection applies only to those facilities for which a procedure for obtaining a permit  
11 has been established by the managing authority.

12 **SECTION 32.** 16.85 (2) of the statutes is amended to read:

13 16.85 (2) To furnish engineering, architectural, project management and other  
14 building construction services whenever requisitions therefor are presented to the  
15 department by any agency. The department may deposit moneys received from the  
16 provision of these services in the account under s. 20.505 (1) (kc) or in the general  
17 fund as general purpose revenue — earned. In this subsection, “agency” means an  
18 office, department, independent agency, institution of higher education, association,  
19 society or other body in state government created or authorized to be created by the  
20 constitution or any law, which is entitled to expend moneys appropriated by law,  
21 including the legislature and the courts, but not including an authority created in  
22 ch. 231, 233 or, 234, or 237.

23 **SECTION 33.** 16.85 (16) of the statutes is created to read:

24 16.85 (16) To review and approve the design and specifications of any  
25 rehabilitation or repair project of the Fox River Navigational System Authority on

1 state-owned land, to approve the decision to proceed with the project, and to  
2 periodically review the progress of the project during construction to assure  
3 compliance with the approved design and specifications.

4 **SECTION 34.** 16.865 (8) of the statutes is amended to read:

5 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a  
6 proportionate share of the estimated costs attributable to programs administered by  
7 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department  
8 may charge premiums to agencies to finance costs under this subsection and pay the  
9 costs from the appropriation on an actual basis. The department shall deposit all  
10 collections under this subsection in the appropriation account under s. 20.505 (2) (k).  
11 Costs assessed under this subsection may include judgments, investigative and  
12 adjustment fees, data processing and staff support costs, program administration  
13 costs, litigation costs and the cost of insurance contracts under sub. (5). In this  
14 subsection, "agency" means an office, department, independent agency, institution  
15 of higher education, association, society or other body in state government created  
16 or authorized to be created by the constitution or any law, which is entitled to expend  
17 moneys appropriated by law, including the legislature and the courts, but not  
18 including an authority created in ch. 231, 232, 233, 234 ~~or~~, 235, or 237.

19 **SECTION 35.** 17.15 (4) of the statutes is repealed.

20 **SECTION 36.** 17.27 (1r) of the statutes is repealed.

21 **SECTION 37.** 19.42 (10) (o) of the statutes is created to read:

22 19.42 (10) (o) The chief executive officer and members of the board of directors  
23 of the Fox River Navigational System Authority.

24 **SECTION 38.** 19.42 (13) (n) of the statutes is created to read:

1           19.42 (13) (n) The chief executive officer and members of the board of directors  
2 of the Fox River Navigational System Authority.

3           **SECTION 39.** 20.370 (5) (cq) of the statutes, as affected by 1999 Wisconsin Act  
4 9, is amended to read:

5           20.370 (5) (cq) *Recreation aids — recreational boating and other projects.* As  
6 a continuing appropriation, the amounts in the schedule for recreational boating  
7 aids under s. 30.92, for the grant for Black Point Estate under s. 23.0962, for the  
8 Portage levee system and the Portage canal under s. 31.309, for development of a  
9 state park under s. 23.198, for funding for the Fox River Navigational System  
10 Authority under s. 237.08 (2), and for the engineering and environmental study  
11 under s. 31.307.

12           **SECTION 40.** 20.370 (9) (jL) of the statutes is amended to read:

13           20.370 (9) (jL) *Fox River management; fees.* From the general fund, all moneys  
14 received from user fees imposed under s. 30.93 (4) ~~or 30.94 (5)~~ for the management  
15 and operation of the Fox River navigational system and for expenses of the Fox River  
16 management commission under s. 30.93 and, ~~after the date on which the governor~~  
17 ~~makes the certification under s. 30.94 (8), for the management, operation,~~  
18 ~~restoration and repair of the Fox River navigational system and expenses of the~~  
19 ~~Fox-Winnebago regional management commission under s. 30.94.~~ No moneys may  
20 be encumbered from this appropriation after the date on which the state and the Fox  
21 River Navigational System Authority enter into the lease agreement specified in s.  
22 237.06.

23           **SECTION 41.** 20.370 (9) (ju) of the statutes is amended to read:

24           20.370 (9) (ju) *Fox River management.* Biennially, the amounts in the schedule  
25 for the management and operation of the Fox River navigational system and for

1 expenses of the Fox River management commission under s. 30.93 and, after the date  
2 ~~on which the governor makes the certification under s. 30.94 (8), for the~~  
3 ~~management, operation, restoration and repair of the Fox River navigational system~~  
4 ~~and expenses of the Fox-Winnebago regional management commission. No moneys~~  
5 ~~may be encumbered from this appropriation after the date on which the state and the~~  
6 ~~Fox River Navigational System Authority enter into the lease agreement specified~~  
7 ~~in s. 237.06.~~

8 SECTION 42. 20.370 (9) (my) of the statutes is amended to read:

9 20.370 (9) (my) *General program operations — federal funds.* All moneys  
10 received as federal aid for the restoration and repair of the Fox River navigational  
11 system, for expenses of the Fox River management commission, for the  
12 Fox-Winnebago regional management commission and for communications,  
13 customer services and aids administration, as authorized by the governor under s.  
14 16.54, for the purposes for which received.

15 SECTION 43. 20.373 of the statutes is created to read:

16 **20.373 Fox River Navigational System Authority.** There is appropriated  
17 to the Fox River Navigational System Authority for the following program:

18 (1) INITIAL COSTS. (a) *Establishment and operation.* As a continuing  
19 appropriation, the amounts in the schedule for the establishment of the Fox River  
20 Navigational System Authority and for the initial costs of operating the Fox River  
21 Navigational System Authority and the Fox River navigational system.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

22 SECTION 44. 23.175 (1) (b) of the statutes is amended to read:

**SECTION 44**

1           23.175 (1) (b) “State agency” means any office, department, agency, institution  
2 of higher education, association, society or other body in state government created  
3 or authorized to be created by the constitution or any law which is entitled to expend  
4 moneys appropriated by law, including any authority created under ch. 231, 233 or,  
5 234, or 237 but not including the legislature or the courts.

6           **SECTION 45.** 29.604 (2) (am) of the statutes is amended to read:

7           29.604 (2) (am) “State agency” means a board, commission, committee,  
8 department or office in the state government or the Fox River Navigational System  
9 Authority. “State agency” does not include the department of natural resources or  
10 the office of the governor.

11           **SECTION 46.** 30.93 (1) (b) of the statutes is amended to read:

12           30.93 (1) (b) “Fox River navigational system” ~~has the meaning designated~~  
13 under s. 30.94 (1) (b) means locks, harbors, real property, structures, and facilities  
14 related to navigation that are located on or near the Fox River, including locks,  
15 harbors, real property, structures, and facilities that were under the ownership or  
16 control of the federal government on April 1, 1984. “Fox River navigational system”  
17 does not include dams on the Fox River.

18           **SECTION 47.** 30.93 (8) of the statutes is amended to read:

19           30.93 (8) **APPLICABILITY.** This section does not apply after the date on which the  
20 ~~governor makes the certification under s. 30.94 (8) state and the Fox River~~  
21 Navigational System Authority enter into the lease agreement specified in s. 237.06.

22           **SECTION 48.** 30.94 (title) of the statutes is repealed.

23           **SECTION 49.** 30.94 (1) (title), (intro.), and (a) of the statutes are repealed.

24           **SECTION 50.** 30.94 (1) (b) of the statutes is renumbered 237.01 (4) and amended  
25 to read:



1           237.01 (4) ~~“Fox River navigational~~ “~~Fox River navigational~~ Navigational system” means locks, harbors,  
2           real property, structures, and facilities related to navigation that are located on or  
3           near the Fox River, including locks, harbors, real property, structures, and facilities  
4           that were under the ownership or control of the federal government on April 1, 1984.  
5           ~~“Fox River navigational~~ “~~Fox River navigational~~ Navigational system” does not include dams on the Fox  
6           River.

7           **SECTION 51.** 30.94 (1) (c) of the statutes is repealed.

8           **SECTION 52.** 30.94 (2) to (8) of the statutes are repealed.

9           **SECTION 53.** 40.02 (54) (i) of the statutes is created to read:

10          40.02 (54) (i) The Fox River Navigational System Authority.

11          **SECTION 54.** 70.11 (41) of the statutes is created to read:

12          70.11 (41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by  
13          the Fox River Navigational System Authority, provided that use of the property is  
14          primarily related to the purposes of the authority.

15          **SECTION 55.** 71.26 (1) (be) of the statutes is amended to read:

16          71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin  
17          Hospitals and Clinics Authority and of the Fox River Navigational System Authority.

18          **SECTION 56.** 77.54 (9a) (a) of the statutes is amended to read:

19          77.54 (9a) (a) This state or any agency thereof ~~and,~~ the University of Wisconsin  
20          Hospitals and Clinics Authority, and the Fox River Navigational System Authority.

21          **SECTION 57.** 100.45 (1) (dm) of the statutes is amended to read:

22          100.45 (1) (dm) “State agency” means any office, department, agency,  
23          institution of higher education, association, society or other body in state  
24          government created or authorized to be created by the constitution or any law which  
25          is entitled to expend moneys appropriated by law, including the legislature and the

1 courts, the Wisconsin Housing and Economic Development Authority, the Bradley  
2 Center Sports and Entertainment Corporation, the University of Wisconsin  
3 Hospitals and Clinics Authority ~~and~~, the Wisconsin Health and Educational  
4 Facilities Authority, and the Fox River Navigational System Authority.

5 **SECTION 58.** 103.49 (1) (f) of the statutes is amended to read:

6 103.49 (1) (f) “State agency” means any office, department, independent  
7 agency, institution of higher education, association, society or other body in state  
8 government created or authorized to be created by the constitution or any law,  
9 including the legislature and the courts. “State agency” also includes the University  
10 of Wisconsin Hospitals and Clinics Authority and the Fox River Navigational System  
11 Authority.

12 **SECTION 59.** 103.49 (2) of the statutes is amended to read:

13 103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter  
14 made for the erection, construction, remodeling, repairing, or demolition of any  
15 project of public works, except contracts for the construction or maintenance of public  
16 highways, streets, and bridges, to which the state, or any state agency or the  
17 University of Wisconsin Hospitals and Clinics Authority is a party shall contain a  
18 stipulation that no person performing the work described in sub. (2m) may be  
19 permitted to work a greater number of hours per day or per week than the prevailing  
20 hours of labor, except that any such person may be permitted or required to work  
21 more than such prevailing hours of labor per day and per week if he or she is paid  
22 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5  
23 times his or her hourly basic rate of pay; nor may he or she be paid less than the  
24 prevailing wage rate determined under sub. (3) in the same or most similar trade or  
25 occupation in the area wherein such project of public works is situated. A reference

1 to the prevailing wage rates determined under sub. (3) and the prevailing hours of  
2 labor shall be published in the notice issued for the purpose of securing bids for the  
3 project. If any contract or subcontract for a project that is subject to this section is  
4 entered into, the prevailing wage rates determined under sub. (3) and the prevailing  
5 hours of labor shall be physically incorporated into and made a part of the contract  
6 or subcontract, except that for a minor subcontract, as determined by the  
7 department, the department shall prescribe by rule the method of notifying the  
8 minor subcontractor of the prevailing wage rates and prevailing hours of labor  
9 applicable to the minor subcontract. The prevailing wage rates and prevailing hours  
10 of labor applicable to a contract or subcontract may not be changed during the time  
11 that the contract or subcontract is in force.

12 **SECTION 60.** 103.49 (7) (a) of the statutes is amended to read:

13 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall  
14 distribute to all state agencies ~~and to the University of Wisconsin Hospitals and~~  
15 ~~Clinics Authority~~ a list of all persons whom the department has found to have failed  
16 to pay the prevailing wage rate determined under sub. (3) or has found to have paid  
17 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the  
18 prevailing hours of labor at any time in the preceding 3 years. The department shall  
19 include with any name the address of the person and shall specify when the person  
20 failed to pay the prevailing wage rate and when the person paid less than 1.5 times  
21 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of  
22 labor. A state agency ~~or the University of Wisconsin Hospitals and Clinics Authority~~  
23 may not award any contract to the person unless otherwise recommended by the  
24 department or unless 3 years have elapsed from the date the department issued its

1 findings or date of final determination by a court of competent jurisdiction,  
2 whichever is later.

3 **SECTION 61.** 106.215 (1) (e) of the statutes is amended to read:

4 106.215 (1) (e) "Local unit of government" means the governing body of any city,  
5 town, village, county, county utility district, town sanitary district, public inland lake  
6 protection and rehabilitation district, metropolitan sewerage district or school  
7 district, ~~the Fox-Winnebago regional management commission~~ or the elected tribal  
8 governing body of a federally recognized American Indian tribe or band.

9 **SECTION 62.** 230.03 (3) of the statutes is amended to read:

10 230.03 (3) "Agency" means any board, commission, committee, council, or  
11 department in state government or a unit thereof created by the constitution or  
12 statutes if such board, commission, committee, council, department, unit, or the  
13 head thereof, is authorized to appoint subordinate staff by the constitution or  
14 statute, except a legislative or judicial board, commission, committee, council,  
15 department, or unit thereof or an authority created under ~~ch.~~ chs. 231, 232, 233, 234  
16 ~~or~~, 235, and 237. "Agency" does not mean any local unit of government or body within  
17 one or more local units of government that is created by law or by action of one or more  
18 local units of government.

19 **SECTION 63.** Chapter 237 of the statutes is created to read:

## 20 **CHAPTER 237**

### 21 **FOX RIVER NAVIGATIONAL**

#### 22 **SYSTEM AUTHORITY**

23 **237.01 Definitions.** In this chapter:

24 (1) "Authority" means the Fox River Navigational System Authority.

25 (2) "Board of directors" means the board of directors of the authority.

System

as a member of the board of directors for the Fox River Navigational Authority

1 (3) "Fiscal year" means the period beginning on July 1 and ending on the  
2 following June 30.

(under S. 237.02(1)),

3 **237.02 Creation and organization of authority.** (1) There is created a  
4 public body corporate and politic to be known as the "Fox River Navigational System  
5 Authority." The board of directors of the authority shall consist of the following  
6 members:

- 7 (a) ~~Five~~ <sup>Six</sup> members ~~nominated~~ <sup>appointed</sup> by the governor for 3-year terms.
- 8 (b) The secretary of natural resources, or his or her designee.
- 9 (c) The secretary of transportation, or his or her designee.

and forestry

\*\*\*\*NOTE: If the draft creating the new department of forestry and state parks is included in the budget bill, the secretary of transportation will be switched to the secretary of the new department.

move to p. 29 after line 19

INS. KZ-29 goes on p. 29

10 (2) A vacancy on the board of directors of shall be filled in the same manner as  
11 the original appointment to the board of directors for the remainder of the unexpired  
12 term, if any.

13 (3) A member of the board of directors may not be compensated for his or her  
14 services but shall be reimbursed for actual and necessary expenses, including travel  
15 expenses, incurred in the performance of his or her duties.

16 (4) No cause of action of any nature may arise against and no civil liability may  
17 be imposed upon a member of the board of directors for any act or omission in the  
18 performance of his or her powers and duties under this chapter, unless the person  
19 asserting liability proves that the act or omission constitutes willful misconduct.

20 (5) The members of the board of directors shall annually elect a chairperson  
21 and may elect other officers as they consider appropriate. Four voting members of  
22 the board of directors constitute a quorum for the purpose of conducting the business  
23 and exercising the powers of the authority, notwithstanding the existence of any

(d) The ~~director~~ <sup>director</sup> of the state historical society, or his or her designee.

1 vacancy. The board of directors may take action upon a vote of a majority of the  
2 members present, unless the bylaws of the authority require a larger number.

3 (6) The board of directors shall appoint a chief executive officer who shall not  
4 be a member of the board of directors and who shall serve at the pleasure of the board  
5 of directors. The authority may delegate by resolution to one or more of its members  
6 or its executive director any powers and duties that it considers proper. The chief  
7 executive officer shall receive such compensation as may be determined by the board  
8 of directors. The chief executive officer or other person designated by resolution of  
9 the board of directors shall keep a record of the proceedings of the authority and shall  
10 be custodian of all books, documents, and papers filed with the authority, the minute  
11 book or journal of the authority, and its official seal. The chief executive officer or  
12 other person may cause copies to be made of all minutes and other records and  
13 documents of the authority and may give certificates under the official seal of the  
14 authority to the effect that such copies are true copies, and all persons dealing with  
15 the authority may rely upon such certificates.

16 **237.03 Duties of authority. (1) GENERAL DUTIES.** In addition to all other  
17 duties imposed under this chapter, the authority shall do all of the following:

18 (a) Adopt bylaws and policies and procedures for the regulation of its affairs  
19 and the conduct of its business.

20 (b) Contract for any legal services required for the authority.

21 (c) Establish the authority's annual budget and monitor the fiscal management  
22 of the authority.

23 (d) Procure liability insurance covering its officers and employees and procure  
24 insurance against any loss in connection with its property and other assets.

1           (e) Make every reasonable effort to contract with <sup>one or more</sup> a corporation to provide the  
2 services specified under s. 237.09 (2).

3           **(2) DUTIES UPON LEASING.** Upon entering the lease under s. 237.06, the  
4 authority shall do all of the following:

5           (a) Rehabilitate, repair, replace, operate, and maintain the navigational  
6 system.

7           (b) Maintain the sea lamprey barrier at the Rapide Croche lock according to  
8 specifications of the department of natural resources in order to prevent sea  
9 lampreys and other nonnative species from moving upstream.

10           **237.04 Powers of authority.** The authority shall have all the powers  
11 necessary or convenient to carry out the purposes and provisions of this chapter. In  
12 addition to all other powers granted by this chapter, the authority may:

13           **(1)** Incur debt, except as restricted under s. 237.05 (1).

14           **(2)** Sue and be sued.

15           **(3)** Hire employees, define their duties, and fix their rate of compensation.

16           **(4)** Have a seal and alter the seal at pleasure; have perpetual existence; and  
17 maintain an office.

18           **(5)** Appoint any technical or professional advisory committee that the  
19 authority finds necessary to assist the authority in exercising its duties and powers.

20 The authority shall define the duties of the committee, and provide reimbursement  
21 for the expenses of the committee.

22           **(6)** Enter into contracts with 3rd parties as are necessary for the rehabilitation,  
23 repair, replacement, operation, or maintenance of the navigational system.

1           (7) Acquire, lease, subject to s. 237.05 (2), and dispose of property as is  
2 necessary for the rehabilitation, repair, replacement, operation, or maintenance of  
3 the navigational system.

4           (8) Accept gifts and other funding for the rehabilitation, repair, replacement,  
5 operation, or maintenance of the navigational system.

6           (9) Charge user fees for services the authority provides to the operators of  
7 watercraft using the navigational system.

8           (10) Charge fees for use of facilities of the navigational system as provided in  
9 s. 16.845.

10           **237.05 Restrictions on authority.** (1) The authority may not issue bonds.

11           (2) The authority may not sublease all, or any part of, the navigational system  
12 without the approval of the department of administration.

13           **237.06 Lease.** Upon transfer of the ownership of the navigational system by  
14 the federal government to the state, the department of administration on behalf of  
15 the state and the authority shall enter into a lease agreement under which the state  
16 shall lease the navigational system to the authority for nominal consideration. The  
17 secretary of administration shall determine the amount of the rental payments.

18           **237.07 Management plan; financial statements.** (1) (a) The authority  
19 shall submit to the department of administration a plan that does all the following:

20           1. Addresses the costs of and funding for the rehabilitation, repair,  
21 replacement, operation, and maintenance of the navigational system.

22           2. Describes how the authority will manage its funds to ensure that sufficient  
23 funding is available to abandon the navigational system if the operation of the  
24 navigational system is no longer feasible.



1 (b) The authority shall submit the plan under par. (a) within 180 days after the  
2 date on which the state and the authority enter into the lease agreement specified  
3 in s. 237.06.

4 (2) The authority shall update and resubmit the plan under sub. (1) upon the  
5 request of the department of administration.

6 (3) (a) For each fiscal year, the authority shall submit to the department of  
7 administration an audited financial statement, ~~certified by an independent auditor~~  
8 of the funding received by the authority from the department of natural resources  
9 under s. 237.08 (2) and by the authority from contributions and other funding  
10 accepted by the authority under s. 237.08 (3).

\*\*\*NOTE: By cross-reference to s. 237.08 (3), the moneys raised by the corporation  
are already included, so I did not redraft s. 237.07 (3) (a).

11 (4) ~~(a)~~ For each fiscal year in which moneys are to be released to the authority  
12 by the department of natural resources under s. 237.08, ~~the~~ <sup>each</sup> corporation specified in  
13 s. 237.09 shall submit to the authority an audited financial statement of the amount  
14 raised by the corporation under s. 237.09 (2) (b) for that fiscal year.

15 (b) The financial statement under par. (a) shall include notes that explain in  
16 detail the specific sources of funding contained in the financial statement.

~~\*\*\*NOTE: Do you want detailed notes for the financial statement in s. 237.07 (4)~~

~~(b)2~~

17 **237.08 Sources of funding.** (1) FEDERAL FUNDING. The authority shall accept  
18 federal funding for the rehabilitation, repair, replacement, operation, and  
19 maintenance of the navigational system and shall agree with any conditions  
20 attached to the funding.

21 (2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before  
22 applying the percentages under s. 30.92 (4) (b) 6., the department of natural

resources shall set aside for the rehabilitation and repair of the navigational system \$400,000 in each fiscal year to be matched by the moneys raised by ~~corporation~~ under s. 237.09 (2) (b). The funding shall be set aside beginning with the first fiscal year beginning after the submittal of the initial management plan submitted under s. 237.07 (1) and shall continue to be set aside in each of the ~~next~~ consecutive fiscal years. From the funding that is set aside, the department shall release to the authority for each fiscal year an amount equal to the <sup>total</sup> amount raised by ~~the~~ <sup>each</sup> corporation under s. 237.09 (2) (b) for which matching funding has not been previously released.

(3) OTHER FUNDING. The authority shall encourage and may accept contributions and funding for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system. The authority shall also accept funding raised by ~~the~~ <sup>each</sup> corporation under s. 237.09 (2).

**237.09 Requirements for ~~corporation~~ <sup>nonprofit</sup> (1) Any <sup>each</sup> corporation** contracted with under s. 237.03 (1) (e) shall be a nonprofit corporation as described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code and shall be based in one or more of the counties in which the navigational system is located. <sup>with</sup>

(2) <sup>each</sup> ~~The~~ <sup>contracted under s. 237.03 (1) (e)</sup> corporation shall do all of the following:

(a) Provide marketing and fund-raising services for the authority.

(b) Make every reasonable effort to raise \$2,750,000 of local or private funding for the rehabilitation and repair of the navigational system.

(c) ~~Invest the funding~~ <sup>Accept for investment</sup> received by the authority for rehabilitation and repair under s. 237.08 <sup>and invest the moneys</sup> at a rate of return that the authority finds adequate to enable the

<sup>accept</sup> and <sup>invest</sup> the moneys ~~to the corporation~~

*(B)*  
*(13)* If the authority contracts with more than one corporation under S. 237.03(1)(e), all of the corporations shall make the effort to raise ~~the~~ *the* total of \$ 2,750,000.

1 authority to exercise its duties and powers in rehabilitating and repairing the  
2 navigational system.

3 **237.10 Political activities.** (1) No employee of the authority may directly  
4 or indirectly solicit or receive subscriptions or contributions for any partisan political  
5 party or any political purpose while engaged in his or her official duties as an  
6 employee. No employee of the authority may engage in any form of political activity  
7 calculated to favor or improve the chances of any political party or any person seeking  
8 or attempting to hold partisan political office while engaged in his or her official  
9 duties as an employee or engage in any political activity while not engaged in his or  
10 her official duties as an employee to such an extent that the person's efficiency during  
11 working hours will be impaired or that he or she will be tardy or absent from work.  
12 Any violation of this section is adequate grounds for dismissal.

13 (2) If an employee of the authority declares an intention to run for partisan  
14 political office the employee shall be placed on a leave of absence for the duration of  
15 the election campaign and if elected shall no longer be employed by the authority on  
16 assuming the duties and responsibilities of such office.

17 (3) An employee of the authority may be granted by the chief executive officer  
18 a leave of absence to participate in partisan political campaigning.

19 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the  
20 restrictions of sub. (1), except as they apply to the solicitation of assistance,  
21 subscription, or support from any other employee in the authority.

22 **237.11 Liability limited.** (1) Neither the state nor any political subdivision  
23 of the state nor any officer, employee, or agent of the state or a political subdivision  
24 who is acting within the scope of employment or agency is liable for any debt,  
25 obligation, act, or omission of the authority.

1           (2) All of the expenses incurred by the authority in exercising its duties and  
2 powers under this chapter shall be payable only from funds of the authority.

3           **237.12 Exemption.** Any activity or project involving the navigational system,  
4 including abandonment of the navigational system, is exempt from any permit,  
5 license, or other approval required under ch. 30 or 31.

6           **237.13 Abandonment.** If the authority determines the operation of the  
7 navigational system is no longer feasible, the authority shall submit a plan to the  
8 department of administration and to the department of natural resources describing  
9 the steps the authority will take in abandoning the navigational system. The  
10 navigational system may not be abandoned unless both the department of  
11 administration and the department of natural resources determine that the plan for  
12 abandonment will preserve the public rights in the Fox River, will ensure safety, and  
13 will protect life, health, and property.

14           **237.14 Transitional provisions.** (1) FUNDING. The department of  
15 administration shall transfer the unencumbered balances in the appropriation  
16 accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date  
17 on which the state and the authority enter into the lease agreement specified in s.  
18 237.06.

19           (2) TRANSFERS. (a) The chairperson of the Fox River management commission  
20 and the chairperson of the board of directors of the authority, acting jointly, shall  
21 identify all of the following that will transfer from the commission to the authority:

- 22           1. Any assets and liabilities of the commission.
- 23           2. Any tangible personal property, including records, of the commission.

1 3. Any contracts entered into by the commission, and any policies and  
2 procedures of the commission that will be in effect on the day after the date on which  
3 the state and the authority enter into the lease agreement specified in s. 237.06.

4 (b) On the day after the date on which the state and the authority enter into  
5 the lease agreement specified in s. 237.06, all of the assets, liabilities, and personal  
6 property identified for transfer under par. (a) 1. and 2. shall become the assets,  
7 liabilities, and personal property of the authority.

8 (c) On the day after the date on which the state and the authority enter into  
9 the lease agreement specified in s. 237.06, all the contracts identified under par. (a)  
10 3. shall remain in effect and the authority shall, beginning on that day, carry out any  
11 such contractual obligations until modified or rescinded to the extent allowed under  
12 the contract.

13 (d) On the day after the date on which the state and the authority enter into  
14 the lease agreement specified in s. 237.06, all policies and procedures identified in  
15 par. (a) 3. shall become policies and procedures of the authority and shall remain in  
16 effect until their expiration date or until modified or rescinded by the authority.

17 (e) In case of disagreement with respect to any matter specified in pars. (a) to  
18 (d), the secretary of administration shall determine the matter and shall develop a  
19 plan for an orderly transfer of the item subject to the disagreement.

20 ~~INITIAL TERMS OF BOARD OF DIRECTORS~~ Notwithstanding the length of terms  
21 of the members of the board of directors of the authority specified <sup>in</sup> ~~under~~ s. 237.02 (1)

- 22 (a) the initial members shall be appointed for the following terms:  
23 (a) ~~Two~~ <sup>Three</sup> members for a term that expires on July 1, 2004.  
24 (b) ~~Two~~ <sup>Three</sup> members for a term that expires on July 1, 2005.  
25 ~~(c) One member for a term that expires on July 1, 2006.~~

INS. K2  
\*MAX NOTE  
FROM P. 2)  
15  
Move  
to P. 30  
19  
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25  
"KM"  
"KM"  
"KM"  
"KM"

System  
Section  
Fox River Navigational Authority  
of the statutes, as created by this act

**SECTION 64**

1           **SECTION 64.** 281.75 (4) (b) 3. of the statutes is amended to read:

2           281.75 (4) (b) 3. An authority created under ch. 231, 233 ~~or~~ 234, or 237.

3           **SECTION 65.** 285.59 (1) (b) of the statutes is amended to read:

4           285.59 (1) (b) "State agency" means any office, department, agency, institution  
5 of higher education, association, society or other body in state government created  
6 or authorized to be created by the constitution or any law which is entitled to expend  
7 moneys appropriated by law, including the legislature and the courts, the Wisconsin  
8 Housing and Economic Development Authority, the Bradley Center Sports and  
9 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics  
10 Authority, the Fox River Navigational System Authority, and the Wisconsin Health  
11 and Educational Facilities Authority.

12           **SECTION 66.** 704.31 (3) of the statutes is amended to read:

13           704.31 (3) This section does not apply to a lease to which a local professional  
14 baseball park district created under subch. III of ch. 229 or the Fox River  
15 Navigational System Authority is a party.

16           (END)

SEC. 8

# 9137. Nonstatutory provisions; natural resources

material from p. 29 → "KM" INS.

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1335/3ins  
MGG:cs&kg:km

For the rehabilitation and repair of the system, the federal government will provide federal funding to the Authority in amount that matches the amount of funding provided by the state to the Authority. The state funding will come from the recreational boating aids program that DNR administers to provide funding for the construction and maintenance of recreational boating facilities, such as locks and other facilities that provide access between bodies of water. ✓

In order to receive the state funding, the Authority must contract with one or more nonprofit corporations to provide marketing and fund-raising services. The funds raised by these corporations will provide the matching amounts for the state funding and will also be used for the rehabilitation and repair of the navigational system. ✓

The bill requires DNR to set <sup>space</sup> ~~aside~~ *aside* from the recreational boating aids program for the ~~the~~ navigational system \$400,000 in each fiscal year for seven fiscal years and requires DNR to release the ~~set-aside~~ *set-aside* funding on an annual basis in amounts to match the amounts raised by the nonprofit corporations. The Authority may not issue bonds to raise funding for the navigational system.

*set-aside*

1335/3

(D-Note)  
MGG: King

Note that, as drafted, all <sup>of</sup> the nonprofit corporations may be based in a single county.

MGG



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

LRB-1335/3dn  
MCG:kmg:pg

January 30, 2001

Note that, as drafted, all of the nonprofit corporations may be based in a single county.

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

## Gibson-Glass, Mary

---

**From:** Grinde, Kirsten  
**Sent:** Tuesday, January 30, 2001 10:16 AM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB-1335 Fox River Nav System Authority

Mary,

Please make the following change to LRB-1335:

1. Include language requiring that if the authority decides to construct a means to transport watercraft around the Rapide Croche lock, the authority must first develop and implement a plan, which has been approved by DNR, to control aquatic nuisance species.

This plan is in addition to the current language requiring the authority to maintain the Rapide Croche lock as a sea lamprey barrier.

Thanks,

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor  
Madison, WI 53707-7864

voice: (608) 266-7973  
fax: (608) 267-0372  
e-mail: [kirsten.grinde@doa.state.wi.us](mailto:kirsten.grinde@doa.state.wi.us)



State of Wisconsin  
2001 - 2002 LEGISLATURE

1002

RMR

LRB-1335/3  
MGG:cs&kg:pg  
stays

DOA:.....Grinde – Fox River Navigational System Authority

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T GEN. CAP.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**NAVIGABLE WATERS**

Under current law, the Fox River management commission (river commission), is authorized to enter into agreements with the federal government to operate and manage the Fox River navigational system which includes locks, harbors and, other facilities related to navigation that are on or near the Fox River. Under current law, a second commission, the Fox-Winnebago regional management commission (Fox-Winnebago commission), will replace the river commission when the state receives federal funding for the restoration and repair of the navigational system. Under current law, the duties and powers of these two commissions are similar. However, these two commissions differ in that the river commission is a state agency attached to DNR and the Fox-Winnebago commission is a regional commission with ten of its thirteen members representing the five counties in which the navigational system is located and the remaining three members being appointed by the governor.

This bill replaces both of these commissions with the Fox River Navigational System Authority (authority). An authority is an entity with a board of directors that is established by state law but that is not a state agency. The board of directors of the authority consists of six members appointed by the governor for three-year terms and the secretary of natural resources, the secretary of transportation, and the director of the state historical society, or their designees.

The bill requires the authority to take over the rehabilitation, repair, replacement, operation, and maintenance of the Fox River navigational system after the transfer of the system from the federal government to the state. Once the system is transferred to the state, the state in turn will enter into a lease with the authority to transfer the system to the authority.

For the rehabilitation and repair of the system, the federal government will provide federal funding to the authority in amount that matches the amount of funding provided by the state to the authority. The state funding will come from the recreational boating aids program that DNR administers to provide funding for the construction and maintenance of recreational boating facilities, such as locks and other facilities that provide access between bodies of water.

In order to receive the state funding, the authority must contract with one or more nonprofit corporations to provide marketing and fund-raising services. The funds raised by these corporations will provide the matching amounts for the state funding and will also be used for the rehabilitation and repair of the navigational system.

The bill requires DNR to set aside from the recreational boating aids program for the navigational system \$400,000 in each fiscal year for seven fiscal years and requires DNR to release the set-aside funding on an annual basis in amounts to match the amounts raised by the nonprofit corporations. The authority may not issue bonds to raise funding for the navigational system.

In addition to providing fund-raising services for the authority, the nonprofit corporations shall invest the funding received by the authority for the rehabilitation and repair of the navigational system. These nonprofit corporations must be based in one or more of the counties in which the navigational system is located.

Because the authority is not a state agency, numerous laws that are applicable to state agencies do not apply to the authority. However, the authority is considered a state agency in the following respects, among others: 1) it must comply with the open records and open meetings law; 2) it is subject to the lobbying regulation law to the same extent as state agencies; 3) the members of its board of directors and its chief executive officer are subject to the code of ethics for state public officials; 4) it is exempt from the sales and use tax and from property taxes; 5) its employees receive state health and retirement benefits; and 6) its employees are subject to law prohibiting political activities by state employees while engaged in official duties.

The authority is unlike a state agency in many other ways, including: 1) it approves its own budget without going through the state budgetary process; 2) it hires its staff outside the state hiring system; 3) it is not subject to statutory rule-making procedures, including requirements for legislative review of proposed rules; 4) it keeps its operating fund in its own account outside of the state treasury; and 5) DOJ does not represent the authority and the authority may instead retain its own legal counsel.

This bill requires that the authority submit a management plan to DOA that addresses the costs and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system and describes how the authority will manage its funds to insure that there are sufficient funds available to

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This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 7.33 (1) (c) of the statutes is amended to read:

2           7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and  
3 includes an authority created under ch. 231, 232, 233 ~~or~~, 234, or 237.

4           **SECTION 2.** 13.48 (10) (b) 3m. of the statutes is created to read:

5           13.48 (10) (b) 3m. Rehabilitation projects of the Fox River Navigational System  
6 Authority.

7           **SECTION 3.** 13.48 (12) (b) 4. of the statutes is created to read:

8           13.48 (12) (b) 4. A facility constructed by or for the Fox River Navigational  
9 System Authority.

10          **SECTION 4.** 13.48 (13) (a) of the statutes is amended to read:

11          13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or  
12 facility that is constructed for the benefit of or use of the state, any state agency,  
13 board, commission or department, the University of Wisconsin Hospitals and Clinics  
14 Authority, the Fox River Navigational System Authority, or any local professional  
15 baseball park district created under subch. III of ch. 229 if the construction is

1 vacancy. The board of directors may take action upon a vote of a majority of the  
2 members present, unless the bylaws of the authority require a larger number.

3 (6) The board of directors shall appoint a chief executive officer who shall not  
4 be a member of the board of directors and who shall serve at the pleasure of the board  
5 of directors. The authority may delegate by resolution to one or more of its members  
6 or its executive director any powers and duties that it considers proper. The chief  
7 executive officer shall receive such compensation as may be determined by the board  
8 of directors. The chief executive officer or other person designated by resolution of  
9 the board of directors shall keep a record of the proceedings of the authority and shall  
10 be custodian of all books, documents, and papers filed with the authority, the minute  
11 book or journal of the authority, and its official seal. The chief executive officer or  
12 other person may cause copies to be made of all minutes and other records and  
13 documents of the authority and may give certificates under the official seal of the  
14 authority to the effect that such copies are true copies, and all persons dealing with  
15 the authority may rely upon such certificates.

16 **237.03 Duties of authority. (1) GENERAL DUTIES.** In addition to all other  
17 duties imposed under this chapter, the authority shall do all of the following:

18 (a) Adopt bylaws and policies and procedures for the regulation of its affairs  
19 and the conduct of its business.

20 (b) Contract for any legal services required for the authority.

21 (c) Establish the authority's annual budget and monitor the fiscal management  
22 of the authority.

23 (d) Procure liability insurance covering its officers and employees and procure  
24 insurance against any loss in connection with its property and other assets.

1 (e) Make every reasonable effort to contract with one or more corporations to  
2 provide the services specified under s. 237.09 (2).

3 (2) DUTIES UPON LEASING. Upon entering <sup>into</sup> the lease under s. 237.06, the  
4 authority shall do all of the following:

5 ~~104~~ Rehabilitate, repair, replace, operate, and maintain the navigational  
6 system.

7 ~~(b) Maintain the sea lamprey barrier at the Rapide Croche lock according to~~  
8 ~~specifications of the department of natural resources in order to prevent sea~~  
9 ~~lampreys and other nonnative species from moving upstream.~~

10 **237.04 Powers of authority.** The authority shall have all the powers  
11 necessary or convenient to carry out the purposes and provisions of this chapter. In  
12 addition to all other powers granted by this chapter, the authority may:

13 (1) Incur debt, except as restricted under s. 237.05 (1).

14 (2) Sue and be sued.

15 (3) Hire employees, define their duties, and fix their rate of compensation.

16 (4) Have a seal and alter the seal at pleasure; have perpetual existence; and  
17 maintain an office.

18 (5) Appoint any technical or professional advisory committee that the  
19 authority finds necessary to assist the authority in exercising its duties and powers.  
20 The authority shall define the duties of the committee, and provide reimbursement  
21 for the expenses of the committee.

22 (6) Enter into contracts with 3rd parties as are necessary for the rehabilitation,  
23 repair, replacement, operation, or maintenance of the navigational system.

(3)

1 the submittal of the initial management plan submitted under s. 237.07 (1) and shall  
2 continue to be set aside in each of the next 6 consecutive fiscal years. From the  
3 funding that is set aside, the department shall release to the authority for each fiscal  
4 year an amount equal to the total amount raised by each corporation under s. 237.09  
5 (2) (b) for which matching funding has not been previously released.

6 (3) OTHER FUNDING. The authority shall encourage and may accept  
7 contributions and funding for the rehabilitation, repair, replacement, operation, or  
8 maintenance of the navigational system. The authority shall also accept funding  
9 raised by each corporation under s. 237.09 (2).

10 **237.09 Requirements for nonprofit corporations.** (1) Each corporation  
11 contracted with under s. 237.03 (1) (e) shall be a nonprofit corporation as described  
12 in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income  
13 tax under section 501 (a) of the Internal Revenue Code and shall be based in one or  
14 more of the counties in which the navigational system is located.

15 (2) Each corporation contracted with under s. 237.03 (1) (e) shall do all of the  
16 following:

17 (a) Provide marketing and fund-raising services for the authority.

18 (b) Make every reasonable effort to raise \$2,750,000 of local or private funding  
19 for the rehabilitation and repair of the navigational system.

20 (c) Accept for investment moneys received by the authority for rehabilitation  
21 and repair under s. 237.08 and invests the moneys at a rate of return that the  
22 authority finds adequate to enable the authority to exercise its duties and powers in  
23 rehabilitating and repairing the navigational system.

24 (3) If the authority contracts with more than one corporation under s. 237.03  
25 (1) (e), all of the corporations shall make the effort to raise the total of \$2,750,000.

→ INSERT  
26-25



237.11

~~237.10~~

1 **Political activities.** (1) No employee of the authority may directly  
2 or indirectly solicit or receive subscriptions or contributions for any partisan political  
3 party or any political purpose while engaged in his or her official duties as an  
4 employee. No employee of the authority may engage in any form of political activity  
5 calculated to favor or improve the chances of any political party or any person seeking  
6 or attempting to hold partisan political office while engaged in his or her official  
7 duties as an employee or engage in any political activity while not engaged in his or  
8 her official duties as an employee to such an extent that the person's efficiency during  
9 working hours will be impaired or that he or she will be tardy or absent from work.  
10 Any violation of this section is adequate grounds for dismissal.

11 (2) If an employee of the authority declares an intention to run for partisan  
12 political office the employee shall be placed on a leave of absence for the duration of  
13 the election campaign and if elected shall no longer be employed by the authority on  
14 assuming the duties and responsibilities of such office.

15 (3) An employee of the authority may be granted by the chief executive officer  
16 a leave of absence to participate in partisan political campaigning.

17 (4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the  
18 restrictions of sub. (1), except as they apply to the solicitation of assistance,  
19 subscription, or support from any other employee in the authority.

237.12

~~237.11~~

20 **Liability limited.** (1) Neither the state nor any political subdivision  
21 of the state nor any officer, employee, or agent of the state or a political subdivision  
22 who is acting within the scope of employment or agency is liable for any debt,  
23 obligation, act, or omission of the authority.

24 (2) All of the expenses incurred by the authority in exercising its duties and  
25 powers under this chapter shall be payable only from funds of the authority.

<sup>237.13</sup>

1 ~~237.02~~ **Exemption.** Any activity or project involving the navigational system,  
2 including abandonment of the navigational system, is exempt from any permit,  
3 license, or other approval required under ch. 30 or 31.

<sup>237.14</sup>

4 ~~237.13~~ **Abandonment.** If the authority determines the operation of the  
5 navigational system is no longer feasible, the authority shall submit a plan to the  
6 department of administration and to the department of natural resources describing  
7 the steps the authority will take in abandoning the navigational system. The  
8 navigational system may not be abandoned unless both the department of  
9 administration and the department of natural resources determine that the plan for  
10 abandonment will preserve the public rights in the Fox River, will ensure safety, and  
11 will protect life, health, and property.

<sup>237.15</sup>

12 ~~237.14~~ **Transitional provisions.** (1) **FUNDING.** The department of  
13 administration shall transfer the unencumbered balances in the appropriation  
14 accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date  
15 on which the state and the authority enter into the lease agreement specified in s.  
16 237.06.

17 (2) **TRANSFERS.** (a) The chairperson of the Fox River management commission  
18 and the chairperson of the board of directors of the authority, acting jointly, shall  
19 identify all of the following that will transfer from the commission to the authority:

- 20 1. Any assets and liabilities of the commission.
- 21 2. Any tangible personal property, including records, of the commission.
- 22 3. Any contracts entered into by the commission, and any policies and  
23 procedures of the commission that will be in effect on the day after the date on which  
24 the state and the authority enter into the lease agreement specified in s. 237.06.

1 (b) On the day after the date on which the state and the authority enter into  
2 the lease agreement specified in s. 237.06, all of the assets, liabilities, and personal  
3 property identified for transfer under par. (a) 1. and 2. shall become the assets,  
4 liabilities, and personal property of the authority.

5 (c) On the day after the date on which the state and the authority enter into  
6 the lease agreement specified in s. 237.06, all the contracts identified under par. (a)  
7 3. shall remain in effect and the authority shall, beginning on that day, carry out any  
8 such contractual obligations until modified or rescinded to the extent allowed under  
9 the contract.

10 (d) On the day after the date on which the state and the authority enter into  
11 the lease agreement specified in s. 237.06, all policies and procedures identified in  
12 par. (a) 3. shall become policies and procedures of the authority and shall remain in  
13 effect until their expiration date or until modified or rescinded by the authority.

14 (e) In case of disagreement with respect to any matter specified in pars. (a) to  
15 (d), the secretary of administration shall determine the matter and shall develop a  
16 plan for an orderly transfer of the item subject to the disagreement.

\*\*\*\*NOTE: If the draft creating the new department of parks and forestry is included  
in the budget bill, the secretary of transportation, as a member of the board of directors  
for the Fox River Navigational System Authority under s. 237.02 (1), will be switched to  
the secretary of the new department.

17 **SECTION 64.** 281.75 (4) (b) 3. of the statutes is amended to read:

18 281.75 (4) (b) 3. An authority created under ch. 231, 233 ~~or~~ 234, or 237.

19 **SECTION 65.** 285.59 (1) (b) of the statutes is amended to read:

20 285.59 (1) (b) "State agency" means any office, department, agency, institution  
21 of higher education, association, society or other body in state government created  
22 or authorized to be created by the constitution or any law which is entitled to expend  
23 moneys appropriated by law, including the legislature and the courts, the Wisconsin

1 Housing and Economic Development Authority, the Bradley Center Sports and  
2 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics  
3 Authority, the Fox River Navigational System Authority, and the Wisconsin Health  
4 and Educational Facilities Authority.

5 **SECTION 66.** 704.31 (3) of the statutes is amended to read:

6 704.31 (3) This section does not apply to a lease to which a local professional  
7 baseball park district created under subch. III of ch. 229 or the Fox River  
8 Navigational System Authority is a party.

9 **SECTION 9137. Nonstatutory provisions; natural resources.**

10 (1) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY; INITIAL TERMS. Notwithstanding  
11 the length of terms of the members of the board of directors of the authority specified  
12 in section 237.02 (1) (a) of the statutes, as created by this act, the initial members  
13 shall be appointed for the following terms:

14 (a) Three members for a term that expires on July 1, 2004.

15 (b) Three members for a term that expires on July 1, 2005.

16 (END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1335/4ins  
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**Insert 26-25**

**237.10 Rapide Croche lock.** (1) Upon entering into the lease under s. 237.06, the authority shall maintain the sea lamprey barrier at the Rapide Croche lock according to specifications of the department of natural resources in order to prevent sea lampreys and other nonnative species from moving upstream.

(2) If the authority decides to construct a means to transport watercraft around the Rapide Croche lock, the authority shall develop a plan for the construction that includes steps to be taken to control sea lampreys and other nonnative species. The authority shall submit the plan to the department of natural resources and may not implement the plan unless it has been approved by the department.

## Gibson-Glass, Mary

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**From:** Grinde, Kirsten  
**Sent:** Wednesday, January 31, 2001 3:40 PM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB-1335/4 - Fox River Nav System Authority

Mary,

Please make the following changes to LRB-1335/4:

1. The appropriation to the authority will come from the conservation fund. I think the current language would draw from the general fund.
2. Page 11, lines 9 and 12 -- "Bridle" should be changed to "Bradley".
3. Page 21, line 22 -- A quorum should be five members since we've increased the board to nine.
4. Page 26, line 16 -- Please correct the tense of the verb "invests" to "invest". Otherwise, I think the language on the multiple corporations looks fine.
5. The changes on the Rapide Croche issue look good.

Thanks for all your help on this draft!

Kirsten

State Budget Office  
Department of Administration  
101 E. Wilson St., 10th floor  
Madison, WI 53707-7864

voice: (608) 266-7973  
fax: (608) 267-0372  
e-mail: kirsten.grinde@doa.state.wi.us



noon

stays

DOA:.....Grinde - Fox River Navigational System Authority

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T GEN. CAT.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

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14 Authority, the Fox River Navigational System Authority, or any local professional  
15 baseball park district created under subch. III of ch. 229 if the construction is

1 Navigational System Authority, or the Bradley center sports and entertainment  
2 corporation.

Bradley ←

3 SECTION 29. 16.765 (8) of the statutes is amended to read:

4 16.765 (8) If further violations of this section are committed during the term  
5 of the contract, the contracting agency, the Fox River Navigational System Authority,  
6 or the Bradley Center Sports and Entertainment Corporation may permit the  
7 violating party to complete the contract, after complying with this section, but  
8 thereafter the contracting agency, the Fox River Navigational System Authority, or  
9 the ~~Bradley~~ Center Sports and Entertainment Corporation shall request the  
10 department to place the name of the party on the ineligible list for state contracts,  
11 or the contracting agency, the Fox River Navigational System Authority, or the  
12 ~~Bradley~~ Center Sports and Entertainment Corporation may terminate the contract  
13 without liability for the uncompleted portion or any materials or services purchased  
14 or paid for by the contracting party for use in completing the contract.

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Place the name

15 SECTION 30. 16.838 (1) (b) of the statutes is amended to read:

16 16.838 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234  
17 or, 235, or 237.

18 SECTION 31. 16.845 (1) of the statutes is amended to read:

19 16.845 (1) RULE; PENALTY. Except as elsewhere expressly prohibited, the  
20 managing authority of any facility owned by the state or by the University of  
21 Wisconsin Hospitals and Clinics Authority or leased from the state by the Fox River  
22 Navigational System Authority may permit its use for free discussion of public  
23 questions, or for civic, social, recreational or athletic activities. No such use shall be  
24 permitted if it would unduly burden the managing authority or interfere with the  
25 prime use of such facility. The applicant for use shall be liable to the state or, to the

1 expenses of the Fox River management commission under s. 30.93 and, after the date  
2 on which the governor makes the certification under s. 30.94 (8), for the  
3 management, operation, restoration and repair of the Fox River navigational system  
4 and expenses of the Fox-Winnebago regional management commission. No moneys  
5 may be encumbered from this appropriation after the date on which the state and the  
6 Fox River Navigational System Authority enter into the lease agreement specified  
7 in s. 237.06.

8 SECTION 42. 20.370 (9) (my) of the statutes is amended to read:

9 20.370 (9) (my) *General program operations — federal funds.* All moneys  
10 received as federal aid for the restoration and repair of the Fox River navigational  
11 system, for expenses of the Fox River management commission, for the  
12 Fox-Winnebago regional management commission and for communications,  
13 customer services and aids administration, as authorized by the governor under s.  
14 16.54, for the purposes for which received.

15 *from the conservation funds,*  
SECTION 43. 20.373 of the statutes is created to read:

16 20.373 **Fox River Navigational System Authority.** There is appropriated  
17 to the Fox River Navigational System Authority for the following program:

18 (1) INITIAL COSTS. <sup>(r)</sup> ~~(a)~~ *Establishment and operation.* As a continuing  
19 appropriation, the amounts in the schedule for the establishment of the Fox River  
20 Navigational System Authority and for the initial costs of operating the Fox River  
21 Navigational System Authority and the Fox River navigational system.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

22 SECTION 44. 23.175 (1) (b) of the statutes is amended to read:

1 findings or date of final determination by a court of competent jurisdiction,  
2 whichever is later.

3 **SECTION 61.** 106.215 (1) (e) of the statutes is amended to read:

4 106.215 (1) (e) “Local unit of government” means the governing body of any city,  
5 town, village, county, county utility district, town sanitary district, public inland lake  
6 protection and rehabilitation district, metropolitan sewerage district or school  
7 district, ~~the Fox-Winnebago regional management commission~~ or the elected tribal  
8 governing body of a federally recognized American Indian tribe or band.

9 **SECTION 62.** 230.03 (3) of the statutes is amended to read:

10 230.03 (3) “Agency” means any board, commission, committee, council, or  
11 department in state government or a unit thereof created by the constitution or  
12 statutes if such board, commission, committee, council, department, unit, or the  
13 head thereof, is authorized to appoint subordinate staff by the constitution or  
14 statute, except a legislative or judicial board, commission, committee, council,  
15 department, or unit thereof or an authority created under ~~ch.~~ chs. 231, 232, 233, 234  
16 ~~or, 235, and 237.~~ “Agency” does not mean any local unit of government or body within  
17 one or more local units of government that is created by law or by action of one or more  
18 local units of government.

19 **SECTION 63.** Chapter 237 of the statutes is created to read:

20 **CHAPTER 237**

21 **FOX RIVER NAVIGATIONAL**

22 **SYSTEM AUTHORITY**

23 **237.01 Definitions.** In this chapter:

24 (1) “Authority” means the Fox River Navigational System Authority.

25 (2) “Board of directors” means the board of directors of the authority.

1           (3) "Fiscal year" means the period beginning on July 1 and ending on the  
2 following June 30.

3           **237.02 Creation and organization of authority.** (1) There is created a  
4 public body corporate and politic to be known as the "Fox River Navigational System  
5 Authority." The board of directors of the authority shall consist of the following  
6 members:

- 7           (a) Six members appointed by the governor for 3-year terms.  
8           (b) The secretary of natural resources, or his or her designee.  
9           (c) The secretary of transportation, or his or her designee.  
10          (d) The director of the state historical society, or his or her designee.

11          (2) A vacancy on the board of directors ~~of~~ shall be filled in the same manner as  
12 the original appointment to the board of directors for the remainder of the unexpired  
13 term, if any.

14          (3) A member of the board of directors may not be compensated for his or her  
15 services but shall be reimbursed for actual and necessary expenses, including travel  
16 expenses, incurred in the performance of his or her duties.

17          (4) No cause of action of any nature may arise against and no civil liability may  
18 be imposed upon a member of the board of directors for any act or omission in the  
19 performance of his or her powers and duties under this chapter, unless the person  
20 asserting liability proves that the act or omission constitutes willful misconduct.

21          (5) The members of the board of directors shall annually elect a chairperson  
22 and may elect other officers as they consider appropriate. ~~Four~~ <sup>Five</sup> voting members of  
23 the board of directors constitute a quorum for the purpose of conducting the business  
24 and exercising the powers of the authority, notwithstanding the existence of any

1           **(3) OTHER FUNDING.** The authority shall encourage and may accept  
2 contributions and funding for the rehabilitation, repair, replacement, operation, or  
3 maintenance of the navigational system. The authority shall also accept funding  
4 raised by each corporation under s. 237.09 (2).

5           **237.09 Requirements for nonprofit corporations.** (1) Each corporation  
6 contracted with under s. 237.03 (1) (e) shall be a nonprofit corporation as described  
7 in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income  
8 tax under section 501 (a) of the Internal Revenue Code and shall be based in one or  
9 more of the counties in which the navigational system is located.

10           **(2)** Each corporation contracted with under s. 237.03 (1) (e) shall do all of the  
11 following:

12           (a) Provide marketing and fund-raising services for the authority.

13           (b) Make every reasonable effort to raise \$2,750,000 of local or private funding  
14 for the rehabilitation and repair of the navigational system.

15           (c) Accept for investment moneys received by the authority for rehabilitation  
16 and repair under s. 237.08 and invest the moneys at a rate of return that the  
17 authority finds adequate to enable the authority to exercise its duties and powers in  
18 rehabilitating and repairing the navigational system.

19           **(3)** If the authority contracts with more than one corporation under s. 237.03  
20 (1) (e), all of the corporations shall make the effort to raise the total of \$2,750,000.

21           **237.10 Rapide Croche lock.** (1) Upon entering into the lease under s. 237.06,  
22 the authority shall maintain the sea lamprey barrier at the Rapide Croche lock  
23 according to specifications of the department of natural resources in order to prevent  
24 sea lampreys and other nonnative species from moving upstream.



## Gibson-Glass, Mary

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**From:** Grinde, Kirsten  
**Sent:** Friday, February 02, 2001 11:57 AM  
**To:** Gibson-Glass, Mary  
**Subject:** LRB-1335 - Fox River Nav System Authority

Mary,

Please make the following change to LRB-1335/5:

1. Pages 26-27 -- For the sea lamprey issue, please replace "nonnative species" with "aquatic nuisance species". A definition already exists at s. 30.1255.
2. The local foundations/corporations are still reviewing the multiple contracts language. They are supposed to get back to Senator Roessler's aide by noon today. I'll let you know if I hear anything.

Thanks,

Kirsten

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*Explained def does not apply in  
S. 237.10*

*OK - does not want it to be  
a defined term in this draft.*