



soon

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

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

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 and DNR must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

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.

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 undertaken by the department of administration on behalf of the district, shall be
2 in compliance with all applicable state laws, rules, codes and regulations but the
3 construction is not subject to the ordinances or regulations of the municipality in
4 which the construction takes place except zoning, including without limitation
5 because of enumeration ordinances or regulations relating to materials used,
6 permits, supervision of construction or installation, payment of permit fees, or other
7 restrictions.

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

9 13.62 (2) "Agency" means any board, commission, department, office, society,
10 institution of higher education, council or committee in the state government, or any
11 authority created in ch. 231, 232, 233 ~~or~~ 234, or 237, except that the term does not
12 include a council or committee of the legislature.

13 **SECTION 6.** 15.06 (1) (e) of the statutes is repealed.

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 of the statutes is repealed.

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

16 15.345 (5) **FOX RIVER MANAGEMENT COMMISSION.** There is created in the
17 department of natural resources a Fox River management commission consisting of
18 7 members. The commission shall cease to exist on the day after the date on which
19 the state and the Fox River Navigational System Authority enter into the lease
20 agreement specified in s. 237.06.

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

22 16.002 (2) "Departments" means constitutional offices, departments and
23 independent agencies and includes all societies, associations and other agencies of
24 state government for which appropriations are made by law, but not including
25 authorities created in chs. 231, 232, 233, 234, 235, and 237.

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

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

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

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

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

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

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

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

1 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary
2 police services provided to the navigational system, as defined in s. 237.01 (4).
3 Municipalities or counties which provide extraordinary police services to state
4 facilities may submit claims to the claims board for actual additional costs related
5 to wage and disability payments, pensions and worker's compensation payments,
6 damage to equipment and clothing, replacement of expendable supplies, medical and
7 transportation expense and other necessary expenses. The clerk of the municipality
8 or county submitting a claim shall also transmit an itemized statement of charges
9 and a statement which identifies the facility served and the person who requested
10 the services. The board shall obtain a review of the claim and recommendations from
11 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and
12 (6).

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

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

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

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

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

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

25 **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-Winnepago 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 from the conservation fund, to the Fox River Navigational System Authority for the
18 following program:

19 (1) INITIAL COSTS. (r) *Establishment and operation.* As a continuing
20 appropriation, the amounts in the schedule for the establishment of the Fox River
21 Navigational System Authority and for the initial costs of operating the Fox River
22 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.

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

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~~ “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~~ “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.

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 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. Five 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 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 into the lease under s. 237.06, the
4 authority shall rehabilitate, repair, replace, operate, and maintain the navigational
5 system.

6 **237.04 Powers of authority.** The authority shall have all the powers
7 necessary or convenient to carry out the purposes and provisions of this chapter. In
8 addition to all other powers granted by this chapter, the authority may:

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

10 (2) Sue and be sued.

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

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

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

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

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

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

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

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

5 **237.05 Restrictions on authority.** (1) The authority may not issue bonds.

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

8 **237.06 Lease.** Upon transfer of the ownership of the navigational system by
9 the federal government to the state, the department of administration on behalf of
10 the state and the authority shall enter into a lease agreement under which the state
11 shall lease the navigational system to the authority for nominal consideration. The
12 secretary of administration shall determine the amount of the rental payments.

13 **237.07 Management plan; financial statements.** (1) (a) The authority
14 shall submit to the department of administration a plan that does all the following:

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

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

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

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

1 (3) (a) For each fiscal year, the authority shall submit to the department of
2 administration an audited financial statement of the funding received by the
3 authority from the department of natural resources under s. 237.08 (2) and by the
4 authority from contributions and other funding accepted by the authority under s.
5 237.08 (3).

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

8 (4) For each fiscal year in which moneys are to be released to the authority by
9 the department of natural resources under s. 237.08, each corporation specified in
10 s. 237.09 shall submit to the authority an audited financial statement of the amount
11 raised by the corporation under s. 237.09 (2) (b) for that fiscal year.

12 **237.08 Sources of funding. (1) FEDERAL FUNDING.** The authority shall accept
13 federal funding for the rehabilitation, repair, replacement, operation, and
14 maintenance of the navigational system and shall agree with any conditions
15 attached to the funding.

16 (2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before
17 applying the percentages under s. 30.92 (4) (b) 6., the department of natural
18 resources shall set aside for the rehabilitation and repair of the navigational system
19 \$400,000 in each fiscal year to be matched by the moneys raised under s. 237.09 (2)
20 (b). The funding shall be set aside beginning with the first fiscal year beginning after
21 the submittal of the initial management plan submitted under s. 237.07 (1) and shall
22 continue to be set aside in each of the next 6 consecutive fiscal years. From the
23 funding that is set aside, the department shall release to the authority for each fiscal
24 year an amount equal to the total amount raised by each corporation under s. 237.09
25 (2) (b) for which matching funding has not been previously released.

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~~ ^{aquatic nuisance} species from moving upstream.

aquatic nuisance

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

6 **237.11 Political activities.** (1) No employee of the authority may directly
7 or indirectly solicit or receive subscriptions or contributions for any partisan political
8 party or any political purpose while engaged in his or her official duties as an
9 employee. No employee of the authority may engage in any form of political activity
10 calculated to favor or improve the chances of any political party or any person seeking
11 or attempting to hold partisan political office while engaged in his or her official
12 duties as an employee or engage in any political activity while not engaged in his or
13 her official duties as an employee to such an extent that the person's efficiency during
14 working hours will be impaired or that he or she will be tardy or absent from work.
15 Any violation of this section is adequate grounds for dismissal.

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

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

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

1 **237.12 Liability limited.** (1) Neither the state nor any political subdivision
2 of the state nor any officer, employee, or agent of the state or a political subdivision
3 who is acting within the scope of employment or agency is liable for any debt,
4 obligation, act, or omission of the authority.

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

7 **237.13 Exemption.** Any activity or project involving the navigational system,
8 including abandonment of the navigational system, is exempt from any permit,
9 license, or other approval required under ch. 30 or 31.

10 **237.14 Abandonment.** If the authority determines the operation of the
11 navigational system is no longer feasible, the authority shall submit a plan to the
12 department of administration and to the department of natural resources describing
13 the steps the authority will take in abandoning the navigational system. The
14 navigational system may not be abandoned unless both the department of
15 administration and the department of natural resources determine that the plan for
16 abandonment will preserve the public rights in the Fox River, will ensure safety, and
17 will protect life, health, and property.

18 **237.15 Transitional provisions.** (1) FUNDING. The department of
19 administration shall transfer the unencumbered balances in the appropriation
20 accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date
21 on which the state and the authority enter into the lease agreement specified in s.
22 237.06.

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

1 1. Any assets and liabilities of the commission.

2 2. Any tangible personal property, including records, of the commission.

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

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

10 (c) 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 the contracts identified under par. (a)
12 3. shall remain in effect and the authority shall, beginning on that day, carry out any
13 such contractual obligations until modified or rescinded to the extent allowed under
14 the contract.

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

19 (e) In case of disagreement with respect to any matter specified in pars. (a) to
20 (d), the secretary of administration shall determine the matter and shall develop a
21 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.

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

23 281.75 (4) (b) 3. An authority created under ch. 231, 233 or 234, or 237.



D-Note

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

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

TODAY

inserts

Do NOT GEN

1 AN ACT/...; 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

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 and DNR must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

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.

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 undertaken by the department of administration on behalf of the district, shall be
2 in compliance with all applicable state laws, rules, codes and regulations but the
3 construction is not subject to the ordinances or regulations of the municipality in
4 which the construction takes place except zoning, including without limitation
5 because of enumeration ordinances or regulations relating to materials used,
6 permits, supervision of construction or installation, payment of permit fees, or other
7 restrictions.

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

9 13.62 (2) "Agency" means any board, commission, department, office, society,
10 institution of higher education, council or committee in the state government, or any
11 authority created in ch. 231, 232, 233 or, 234, or 237, except that the term does not
12 include a council or committee of the legislature.

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

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

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

16 15.345 (5) **FOX RIVER MANAGEMENT COMMISSION.** There is created in the
17 department of natural resources a Fox River management commission consisting of
18 7 members. The commission shall cease to exist on the day after the date on which
19 the state and the Fox River Navigational System Authority enter into the lease
20 agreement specified in s. 237.06.

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

22 16.002 (2) "Departments" means constitutional offices, departments and
23 independent agencies and includes all societies, associations and other agencies of
24 state government for which appropriations are made by law, but not including
25 authorities created in chs. 231, 232, 233, 234, 235, and 237.

25

Insert
4-25

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

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

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

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

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

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

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

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

1 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary
 2 police services provided to the navigational system, as defined in s. 237.01 (4).
 3 Municipalities or counties which provide extraordinary police services to state
 4 facilities may submit claims to the claims board for actual additional costs related
 5 to wage and disability payments, pensions and worker's compensation payments,
 6 damage to equipment and clothing, replacement of expendable supplies, medical and
 7 transportation expense and other necessary expenses. The clerk of the municipality
 8 or county submitting a claim shall also transmit an itemized statement of charges
 9 and a statement which identifies the facility served and the person who requested
 10 the services. The board shall obtain a review of the claim and recommendations from
 11 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and
 12 (6).

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

14 16.045 (1) (a) "Agency" means an office, department, independent agency,
 15 institution of higher education, association, society or other body in state
 16 government created or authorized to be created by the constitution or any law, which
 17 is entitled to expend moneys appropriated by law, including the legislature and the
 18 courts, but not including an authority created in ch. 231, 232, 233, 234 ^{or 235} ~~or 235~~ ~~or 237~~.
 19

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

21 16.41 (4) In this section, "authority" means a body created under ch. 231, 233
 22 ~~or, 234, or 237.~~

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

24 16.417 (1) (b) "Authority" means a body created under ch. 231, 232, 233, 234
 25 ~~or, 235, or 237.~~

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

Insert
6-18 →

plain strike
3 2 2

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, 234⁵
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

Insert
11-17

plain

or 235 or 237

state

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 ³ ~~or 235~~ ³ ~~or 237~~.

Insert
13-18

Explain
3
strike

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:

1 237.01 (4) "~~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~~ 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

Insert
17-8 →

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~~ ^{plain} ~~and~~ ^{strike} 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.

Insert
20-18 →

←

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1335/7ins.
RNK.....

Insert 4-25 ✓

****NOTE: This is reconciled s. 16.002 (2). This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1462.

hyphs
Insert 6-18 ✓

****NOTE: This is reconciled s. 16.045 (1) (a). This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1462.

hyphs
Insert 11-17

****NOTE: This is reconciled s. 16.838 (1) (b). This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1462.

hyphs
Insert 13-18

****NOTE: This is reconciled s. 16.865 (8). This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1462.

hyphs
Insert 17-8

****NOTE: This reconciles the repeal of s. 30.94 (2) to (8) in LRB-1335 with the amendment of s. 30.94 (5m) (c) in LRB-1891. This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1891.

hyphs
Insert 20-18

****NOTE: This is reconciled s. 230.03 (3). This SECTION has been affected by drafts with the following LRB numbers: -1335 and -1462.

hyphs

the treatment of

in LRB-1335

This reconciles s. 16.002 (2) by deleting the cross-reference to ~~chapter 235~~ ch. 235 because ~~chapter~~ ch. 235 is repealed ~~also~~ by LRB-1462.

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

LRB-1335/7dn

RNK.....

+ MGG
j's

✓
✓
✓
LRB-1127,
✓

Kirsten Grinde, John Montgomery, and Josh Hummert:

✓
✓
✓
This draft reconciles LRB-1335, LRB-1462, and LRB-1891. All of these drafts should continue to appear in the compiled bill.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1335/7dn
RNK&MGG:cjs:ch

February 7, 2001

Kirsten Grinde, John Montgomery, and Josh Hummert:

This draft reconciles LRB-1127, LRB-1335, LRB-1462, and LRB-1891. All of these drafts should continue to appear in the compiled bill.

Robin N. Kite
Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.state.wi.us

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



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

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; 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

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 and DNR must determine that the abandonment plan will preserve the public rights in the Fox River and will ensure safety.

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.

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 undertaken by the department of administration on behalf of the district, shall be
2 in compliance with all applicable state laws, rules, codes and regulations but the
3 construction is not subject to the ordinances or regulations of the municipality in
4 which the construction takes place except zoning, including without limitation
5 because of enumeration ordinances or regulations relating to materials used,
6 permits, supervision of construction or installation, payment of permit fees, or other
7 restrictions.

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

9 13.62 (2) "Agency" means any board, commission, department, office, society,
10 institution of higher education, council or committee in the state government, or any
11 authority created in ch. 231, 232, 233 ~~or~~ 234, or 237, except that the term does not
12 include a council or committee of the legislature.

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

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

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

16 15.345 (5) **FOX RIVER MANAGEMENT COMMISSION.** There is created in the
17 department of natural resources a Fox River management commission consisting of
18 7 members. The commission shall cease to exist on the day after the date on which
19 the state and the Fox River Navigational System Authority enter into the lease
20 agreement specified in s. 237.06.

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

22 16.002 (2) "Departments" means constitutional offices, departments and
23 independent agencies and includes all societies, associations and other agencies of
24 state government for which appropriations are made by law, but not including
25 authorities created in chs. 231, 232, 233, 234, and 237.

****NOTE: This reconciles the treatment of s. 16.002 (2) in LRB-1335 by deleting the cross-reference to ch. 235 because ch. 235 is repealed by LRB-1462.

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

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

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

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

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

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

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

21 16.008 (2) The state shall pay for extraordinary police services provided
22 directly to state facilities, as defined in s. 70.119 (3) (e), in response to a request of
23 a state officer or agency responsible for the operation and preservation of such

1 facilities. The University of Wisconsin Hospitals and Clinics Authority shall pay for
2 extraordinary police services provided to facilities of the authority described in s.
3 70.11 (38). The Fox River Navigational System Authority shall pay for extraordinary
4 police services provided to the navigational system, as defined in s. 237.01 (4).
5 Municipalities or counties which provide extraordinary police services to state
6 facilities may submit claims to the claims board for actual additional costs related
7 to wage and disability payments, pensions and worker's compensation payments,
8 damage to equipment and clothing, replacement of expendable supplies, medical and
9 transportation expense and other necessary expenses. The clerk of the municipality
10 or county submitting a claim shall also transmit an itemized statement of charges
11 and a statement which identifies the facility served and the person who requested
12 the services. The board shall obtain a review of the claim and recommendations from
13 the agency responsible for the facility prior to proceeding under s. 16.007 (3), (5) and
14 (6).

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

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

****NOTE: This is reconciled s. 16.045 (1) (a). This SECTION has been affected by
drafts with the following LRB numbers: -1335 and -1462.

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

22 16.41 (4) In this section, "authority" means a body created under ch. 231, 233
23 ~~or~~, 234, or 237.

1 **SECTION 16.** 16.52 (7) of the statutes is amended to read:

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

12 **SECTION 17.** 16.528 (1) (a) of the statutes is amended to read:

13 16.528 (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, 233 ~~or~~, 234, or 237.

18 **SECTION 18.** 16.53 (2) of the statutes is amended to read:

19 16.53 (2) **IMPROPER INVOICES.** If an agency receives an improperly completed
20 invoice, the agency shall notify the sender of the invoice within 10 working days after
21 it receives the invoice of the reason it is improperly completed. In this subsection,
22 “agency” means an office, department, independent agency, institution of higher
23 education, association, society or other body in state government created or
24 authorized to be created by the constitution or any law, which is entitled to expend

1 moneys appropriated by law, including the legislature and the courts, but not
2 including an authority created in ch. 231, 233 ~~or~~, 234, or 237.

3 **SECTION 19.** 16.54 (9) (a) 1. of the statutes is amended to read:

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

9 **SECTION 20.** 16.70 (2) of the statutes is amended to read:

10 16.70 (2) “Authority” means a body created under ch. 231, 232, 233 ~~or~~, 234, or
11 237.

12 **SECTION 21.** 16.765 (1) of the statutes is amended to read:

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

22 **SECTION 22.** 16.765 (2) of the statutes is amended to read:

23 16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and
24 Clinics Authority, the Fox River Navigational System Authority, and the Bradley
25 Center Sports and Entertainment Corporation shall include the following provision

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

13 **SECTION 23.** 16.765 (4) of the statutes is amended to read:

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

18 **SECTION 24.** 16.765 (5) of the statutes is amended to read:

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

1 of directors of the University of Wisconsin Hospitals and Clinics Authority, the Fox
2 River Navigational System Authority, and the Bradley Center Sports and
3 Entertainment Corporation for improving and making more effective the
4 nondiscrimination and affirmative action provisions of contracts. The department
5 shall promulgate such rules as may be necessary for the performance of its functions
6 under this section.

7 **SECTION 25.** 16.765 (6) of the statutes is amended to read:

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

15 **SECTION 26.** 16.765 (7) (intro.) of the statutes is amended to read:

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

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

24 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
25 further violations of this section and to report its corrective action to the contracting

1 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
2 Navigational System Authority, or the Bradley center sports and entertainment
3 corporation.

4 **SECTION 28.** 16.765 (8) of the statutes is amended to read:

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

16 **SECTION 29.** 16.838 (1) (b) of the statutes is amended to read:

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

****NOTE: This is reconciled s. 16.838 (1) (b). This SECTION has been affected by
drafts with the following LRB numbers: -1335 and -1462.

19 **SECTION 30.** 16.845 (1) of the statutes is amended to read:

20 16.845 (1) RULE: PENALTY. Except as elsewhere expressly prohibited, the
21 managing authority of any facility owned by the state or by the University of
22 Wisconsin Hospitals and Clinics Authority or leased from the state by the Fox River
23 Navigational System Authority may permit its use for free discussion of public

1 questions, or for civic, social, recreational or athletic activities. No such use shall be
2 permitted if it would unduly burden the managing authority or interfere with the
3 prime use of such facility. The applicant for use shall be liable to the state ~~or, to the~~
4 Fox River Navigational System Authority, or to the University of Wisconsin
5 Hospitals and Clinics Authority for any injury done to its property, for any expense
6 arising out of any such use and for such sum as the managing authority may charge
7 for such use. All such sums payable to the state shall be paid into the general fund
8 and credited to the appropriation account for the operation of the facility used. The
9 managing authority may permit such use notwithstanding the fact that a reasonable
10 admission fee may be charged to the public. Whoever does or attempts to do an act
11 for which a permit is required under this section without first obtaining the permit
12 may be fined not more than \$100 or imprisoned not more than 30 days or both. This
13 subsection applies only to those facilities for which a procedure for obtaining a permit
14 has been established by the managing authority.

15 **SECTION 31.** 16.85 (2) of the statutes is amended to read:

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

1 **SECTION 32.** 16.85 (16) of the statutes is created to read:

2 **16.85 (16)** To review and approve the design and specifications of any
3 rehabilitation or repair project of the Fox River Navigational System Authority on
4 state-owned land, to approve the decision to proceed with the project, and to
5 periodically review the progress of the project during construction to assure
6 compliance with the approved design and specifications.

7 **SECTION 33.** 16.865 (8) of the statutes is amended to read:

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

****NOTE: This is reconciled s. 16.865 (8). This SECTION has been affected by drafts
with the following LRB numbers: -1335 and -1462.

22 **SECTION 34.** 17.15 (4) of the statutes is repealed.

23 **SECTION 35.** 17.27 (1r) of the statutes is repealed.

1 **SECTION 36.** 19.42 (10) (o) of the statutes is created to read:

2 19.42 (10) (o) The chief executive officer and members of the board of directors
3 of the Fox River Navigational System Authority.

4 **SECTION 37.** 19.42 (13) (n) of the statutes is created to read:

5 19.42 (13) (n) The chief executive officer and members of the board of directors
6 of the Fox River Navigational System Authority.

7 **SECTION 38.** 20.370 (5) (cq) of the statutes, as affected by 1999 Wisconsin Act
8 9, is amended to read:

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

16 **SECTION 39.** 20.370 (9) (jL) of the statutes is amended to read:

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

1 River Navigational System Authority enter into the lease agreement specified in s.
2 237.06.

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

4 20.370 (9) (ju) *Fox River management.* Biennially, the amounts in the schedule
5 for the management and operation of the Fox River navigational system and for
6 expenses of the Fox River management commission under s. 30.93 and, after the date
7 on which the governor makes the certification under s. 30.94 (8), for the
8 management, operation, restoration and repair of the Fox River navigational system
9 and expenses of the Fox-Winnebago regional management commission. No moneys
10 may be encumbered from this appropriation after the date on which the state and the
11 Fox River Navigational System Authority enter into the lease agreement specified
12 in s. 237.06.

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

14 20.370 (9) (my) *General program operations — federal funds.* All moneys
15 received as federal aid for the restoration and repair of the Fox River navigational
16 system, for expenses of the Fox River management commission, for the
17 Fox-Winnebago regional management commission and for communications,
18 customer services and aids administration, as authorized by the governor under s.
19 16.54, for the purposes for which received.

20 **SECTION 42.** 20.373 of the statutes is created to read:

21 **20.373 Fox River Navigational System Authority.** There is appropriated,
22 from the conservation fund, to the Fox River Navigational System Authority for the
23 following program:

24 (1) INITIAL COSTS. (r) *Establishment and operation.* As a continuing
25 appropriation, the amounts in the schedule for the establishment of the Fox River

1 Navigational System Authority and for the initial costs of operating the Fox River
2 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.

3 SECTION 43. 23.175 (1) (b) of the statutes is amended to read:

4 23.175 (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 any authority created under ch. 231, 233 or,
8 234, or 237 but not including the legislature or the courts.

9 SECTION 44. 29.604 (2) (am) of the statutes is amended to read:

10 29.604 (2) (am) "State agency" means a board, commission, committee,
11 department or office in the state government or the Fox River Navigational System
12 Authority. "State agency" does not include the department of natural resources or
13 the office of the governor.

14 SECTION 45. 30.93 (1) (b) of the statutes is amended to read:

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

21 SECTION 46. 30.93 (8) of the statutes is amended to read:

1 30.93 (8) APPLICABILITY. This section does not apply after the date on which the
2 ~~governor makes the certification under s. 30.94 (8) state and the Fox River~~
3 ~~Navigation System Authority enter into the lease agreement specified in s. 237.06.~~

4 **SECTION 47.** 30.94 (title) of the statutes is repealed.

5 **SECTION 48.** 30.94 (1) (title), (intro.) and (a) of the statutes are repealed.

6 **SECTION 49.** 30.94 (1) (b) of the statutes is renumbered 237.01 (4) and amended
7 to read:

8 237.01 (4) ~~“Fox River navigational~~ Navigation system” means locks, harbors,
9 real property, structures, and facilities related to navigation that are located on or
10 near the Fox River, including locks, harbors, real property, structures, and facilities
11 that were under the ownership or control of the federal government on April 1, 1984.
12 ~~“Fox River navigational~~ Navigation system” does not include dams on the Fox
13 River.

14 **SECTION 50.** 30.94 (1) (c) of the statutes is repealed.

15 **SECTION 51.** 30.94 (2) to (8) of the statutes are repealed.

 ***NOTE: This reconciles the repeal of s. 30.94 (2) to (8) in LRB-1335 with the
amendment of s. 30.94 (5m) (c) in LRB-1891. This SECTION has been affected by drafts
with the following LRB numbers: -1335 and -1891.

16 **SECTION 52.** 40.02 (54) (i) of the statutes is created to read:

17 40.02 (54) (i) The Fox River Navigational System Authority.

18 **SECTION 53.** 70.11 (41) of the statutes is created to read:

19 70.11 (41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by
20 the Fox River Navigational System Authority, provided that use of the property is
21 primarily related to the purposes of the authority.

22 **SECTION 54.** 71.26 (1) (be) of the statutes is amended to read:

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

3 **SECTION 55.** 77.54 (9a) (a) of the statutes is amended to read:

4 77.54 (9a) (a) This state or any agency thereof ~~and~~, the University of Wisconsin
5 Hospitals and Clinics Authority, and the Fox River Navigational System Authority.

6 **SECTION 56.** 100.45 (1) (dm) of the statutes is amended to read:

7 100.45 (1) (dm) “State agency” means any office, department, agency,
8 institution of higher education, association, society or other body in state
9 government created or authorized to be created by the constitution or any law which
10 is entitled to expend moneys appropriated by law, including the legislature and the
11 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
12 Center Sports and Entertainment Corporation, the University of Wisconsin
13 Hospitals and Clinics Authority ~~and~~, the Wisconsin Health and Educational
14 Facilities Authority, and the Fox River Navigational System Authority.

15 **SECTION 57.** 103.49 (1) (f) of the statutes is amended to read:

16 103.49 (1) (f) “State agency” means any office, department, independent
17 agency, institution of higher education, association, society or other body in state
18 government created or authorized to be created by the constitution or any law,
19 including the legislature and the courts. “State agency” also includes the University
20 of Wisconsin Hospitals and Clinics Authority and the Fox River Navigational System
21 Authority.

22 **SECTION 58.** 103.49 (2) of the statutes is amended to read:

23 103.49 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. Any contract hereafter
24 made for the erection, construction, remodeling, repairing, or demolition of any
25 project of public works, except contracts for the construction or maintenance of public

1 highways, streets, and bridges, to which the state, or any state agency ~~or the~~
2 ~~University of Wisconsin Hospitals and Clinics Authority~~ is a party shall contain a
3 stipulation that no person performing the work described in sub. (2m) may be
4 permitted to work a greater number of hours per day or per week than the prevailing
5 hours of labor, except that any such person may be permitted or required to work
6 more than such prevailing hours of labor per day and per week if he or she is paid
7 for all hours worked in excess of the prevailing hours of labor at a rate of at least 1.5
8 times his or her hourly basic rate of pay; nor may he or she be paid less than the
9 prevailing wage rate determined under sub. (3) in the same or most similar trade or
10 occupation in the area wherein such project of public works is situated. A reference
11 to the prevailing wage rates determined under sub. (3) and the prevailing hours of
12 labor shall be published in the notice issued for the purpose of securing bids for the
13 project. If any contract or subcontract for a project that is subject to this section is
14 entered into, the prevailing wage rates determined under sub. (3) and the prevailing
15 hours of labor shall be physically incorporated into and made a part of the contract
16 or subcontract, except that for a minor subcontract, as determined by the
17 department, the department shall prescribe by rule the method of notifying the
18 minor subcontractor of the prevailing wage rates and prevailing hours of labor
19 applicable to the minor subcontract. The prevailing wage rates and prevailing hours
20 of labor applicable to a contract or subcontract may not be changed during the time
21 that the contract or subcontract is in force.

22 **SECTION 59.** 103.49 (7) (a) of the statutes is amended to read:

23 103.49 (7) (a) Except as provided under pars. (b) and (c), the department shall
24 distribute to all state agencies ~~and to the University of Wisconsin Hospitals and~~
25 ~~Clinics Authority~~ a list of all persons whom the department has found to have failed

1 to pay the prevailing wage rate determined under sub. (3) or has found to have paid
2 less than 1.5 times the hourly basic rate of pay for all hours worked in excess of the
3 prevailing hours of labor at any time in the preceding 3 years. The department shall
4 include with any name the address of the person and shall specify when the person
5 failed to pay the prevailing wage rate and when the person paid less than 1.5 times
6 the hourly basic rate of pay for all hours worked in excess of the prevailing hours of
7 labor. A state agency ~~or the University of Wisconsin Hospitals and Clinics Authority~~
8 may not award any contract to the person unless otherwise recommended by the
9 department or unless 3 years have elapsed from the date the department issued its
10 findings or date of final determination by a court of competent jurisdiction,
11 whichever is later.

12 **SECTION 60.** 106.215 (1) (e) of the statutes is amended to read:

13 106.215 (1) (e) "Local unit of government" means the governing body of any city,
14 town, village, county, county utility district, town sanitary district, public inland lake
15 protection and rehabilitation district, metropolitan sewerage district or school
16 district, ~~the Fox-Winnnebago regional management commission~~ or the elected tribal
17 governing body of a federally recognized American Indian tribe or band.

18 **SECTION 61.** 230.03 (3) of the statutes is amended to read:

19 230.03 (3) "Agency" means any board, commission, committee, council, or
20 department in state government or a unit thereof created by the constitution or
21 statutes if such board, commission, committee, council, department, unit, or the
22 head thereof, is authorized to appoint subordinate staff by the constitution or
23 statute, except a legislative or judicial board, commission, committee, council,
24 department, or unit thereof or an authority created under ~~ch.~~ chs. 231, 232, 233, 234,
25 or ~~235~~ 237. "Agency" does not mean any local unit of government or body within one

1 or more local units of government that is created by law or by action of one or more
2 local units of government.

***NOTE: This is reconciled s. 230.03 (3). This SECTION has been affected by drafts
with the following LRB numbers: -1335 and -1462.

3 **SECTION 62.** Chapter 237 of the statutes is created to read:

4 **CHAPTER 237**

5 **FOX RIVER NAVIGATIONAL**

6 **SYSTEM AUTHORITY**

7 **237.01 Definitions.** In this chapter:

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

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

10 (3) “Fiscal year” means the period beginning on July 1 and ending on the
11 following June 30.

12 **237.02 Creation and organization of authority.** (1) There is created a
13 public body corporate and politic to be known as the “Fox River Navigational System
14 Authority.” The board of directors of the authority shall consist of the following
15 members:

16 (a) Six members appointed by the governor for 3-year terms.

17 (b) The secretary of natural resources, or his or her designee.

18 (c) The secretary of transportation, or his or her designee.

19 (d) The director of the state historical society, or his or her designee.

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

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

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

8 **(5)** The members of the board of directors shall annually elect a chairperson
9 and may elect other officers as they consider appropriate. Five voting members of
10 the board of directors constitute a quorum for the purpose of conducting the business
11 and exercising the powers of the authority, notwithstanding the existence of any
12 vacancy. The board of directors may take action upon a vote of a majority of the
13 members present, unless the bylaws of the authority require a larger number.

14 **(6)** The board of directors shall appoint a chief executive officer who shall not
15 be a member of the board of directors and who shall serve at the pleasure of the board
16 of directors. The authority may delegate by resolution to one or more of its members
17 or its executive director any powers and duties that it considers proper. The chief
18 executive officer shall receive such compensation as may be determined by the board
19 of directors. The chief executive officer or other person designated by resolution of
20 the board of directors shall keep a record of the proceedings of the authority and shall
21 be custodian of all books, documents, and papers filed with the authority, the minute
22 book or journal of the authority, and its official seal. The chief executive officer or
23 other person may cause copies to be made of all minutes and other records and
24 documents of the authority and may give certificates under the official seal of the

1 authority to the effect that such copies are true copies, and all persons dealing with
2 the authority may rely upon such certificates.

3 **237.03 Duties of authority.** (1) GENERAL DUTIES. In addition to all other
4 duties imposed under this chapter, the authority shall do all of the following:

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

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

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

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

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

14 (2) DUTIES UPON LEASING. Upon entering into the lease under s. 237.06, the
15 authority shall rehabilitate, repair, replace, operate, and maintain the navigational
16 system.

17 **237.04 Powers of authority.** The authority shall have all the powers
18 necessary or convenient to carry out the purposes and provisions of this chapter. In
19 addition to all other powers granted by this chapter, the authority may:

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

21 (2) Sue and be sued.

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

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

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

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

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

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

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

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

16 **237.05 Restrictions on authority.** (1) The authority may not issue bonds.

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

19 **237.06 Lease.** Upon transfer of the ownership of the navigational system by
20 the federal government to the state, the department of administration on behalf of
21 the state and the authority shall enter into a lease agreement under which the state
22 shall lease the navigational system to the authority for nominal consideration. The
23 secretary of administration shall determine the amount of the rental payments.

24 **237.07 Management plan; financial statements.** (1) (a) The authority
25 shall submit to the department of administration a plan that does all the following:

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

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

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

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

11 (3) (a) For each fiscal year, the authority shall submit to the department of
12 administration an audited financial statement of the funding received by the
13 authority from the department of natural resources under s. 237.08 (2) and by the
14 authority from contributions and other funding accepted by the authority under s.
15 237.08 (3).

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

18 (4) For each fiscal year in which moneys are to be released to the authority by
19 the department of natural resources under s. 237.08, each corporation specified in
20 s. 237.09 shall submit to the authority an audited financial statement of the amount
21 raised by the corporation under s. 237.09 (2) (b) for that fiscal year.

22 **237.08 Sources of funding. (1) FEDERAL FUNDING.** The authority shall accept
23 federal funding for the rehabilitation, repair, replacement, operation, and
24 maintenance of the navigational system and shall agree with any conditions
25 attached to the funding.

1 (2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before
2 applying the percentages under s. 30.92 (4) (b) 6., the department of natural
3 resources shall set aside for the rehabilitation and repair of the navigational system
4 \$400,000 in each fiscal year to be matched by the moneys raised under s. 237.09 (2)
5 (b). The funding shall be set aside beginning with the first fiscal year beginning after
6 the submittal of the initial management plan submitted under s. 237.07 (1) and shall
7 continue to be set aside in each of the next 6 consecutive fiscal years. From the
8 funding that is set aside, the department shall release to the authority for each fiscal
9 year an amount equal to the total amount raised by each corporation under s. 237.09
10 (2) (b) for which matching funding has not been previously released.

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

15 **237.09 Requirements for nonprofit corporations.** (1) Each corporation
16 contracted with under s. 237.03 (1) (e) shall be a nonprofit corporation as described
17 in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income
18 tax under section 501 (a) of the Internal Revenue Code and shall be based in one or
19 more of the counties in which the navigational system is located.

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

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

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

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

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

7 **237.10 Rapide Croche lock.** (1) Upon entering into the lease under s.
8 237.06, the authority shall maintain the sea lamprey barrier at the Rapide Croche
9 lock according to specifications of the department of natural resources in order to
10 prevent sea lampreys and other aquatic nuisance from moving upstream.

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

16 **237.11 Political activities.** (1) No employee of the authority may directly
17 or indirectly solicit or receive subscriptions or contributions for any partisan political
18 party or any political purpose while engaged in his or her official duties as an
19 employee. No employee of the authority may engage in any form of political activity
20 calculated to favor or improve the chances of any political party or any person seeking
21 or attempting to hold partisan political office while engaged in his or her official
22 duties as an employee or engage in any political activity while not engaged in his or
23 her official duties as an employee to such an extent that the person's efficiency during
24 working hours will be impaired or that he or she will be tardy or absent from work.
25 Any violation of this section is adequate grounds for dismissal.

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

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

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

10 **237.12 Liability limited.** (1) Neither the state nor any political subdivision
11 of the state nor any officer, employee, or agent of the state or a political subdivision
12 who is acting within the scope of employment or agency is liable for any debt,
13 obligation, act, or omission of the authority.

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

16 **237.13 Exemption.** Any activity or project involving the navigational system,
17 including abandonment of the navigational system, is exempt from any permit,
18 license, or other approval required under ch. 30 or 31.

19 **237.14 Abandonment.** If the authority determines the operation of the
20 navigational system is no longer feasible, the authority shall submit a plan to the
21 department of administration and to the department of natural resources describing
22 the steps the authority will take in abandoning the navigational system. The
23 navigational system may not be abandoned unless both the department of
24 administration and the department of natural resources determine that the plan for

1 abandonment will preserve the public rights in the Fox River, will ensure safety, and
2 will protect life, health, and property.

3 **237.15 Transitional provisions. (1) FUNDING.** The department of
4 administration shall transfer the unencumbered balances in the appropriation
5 accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date
6 on which the state and the authority enter into the lease agreement specified in s.
7 237.06.

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

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

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

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

1 (d) 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 policies and procedures identified in
3 par. (a) 3. shall become policies and procedures of the authority and shall remain in
4 effect until their expiration date or until modified or rescinded by the authority.

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

8 **SECTION 63.** 281.75 (4) (b) 3. of the statutes is amended to read:

9 281.75 (4) (b) 3. An authority created under ch. 231, 233 ~~or~~, 234, or 237.

10 **SECTION 64.** 285.59 (1) (b) of the statutes is amended to read:

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

19 **SECTION 65.** 704.31 (3) of the statutes is amended to read:

20 704.31 (3) This section does not apply to a lease to which a local professional
21 baseball park district created under subch. III of ch. 229 or the Fox River
22 Navigational System Authority is a party.

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

24 (1) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY; INITIAL TERMS. Notwithstanding
25 the length of terms of the members of the board of directors of the authority specified

1 in section 237.02 (1) (a) of the statutes, as created by this act, the initial members
2 shall be appointed for the following terms:

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

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

5 (END)