

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 07/11/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau 6-8742

By/Representing: Schug

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters: gibsom

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

LFB:.....Schug -

Topic:

Waterway permit requirements

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 07/11/2001	gilfokm 07/12/2001		_____			
	gibsom 07/11/2001			_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	nelsorp1 07/12/2001			_____ _____			
/1			pgreensl 07/13/2001	_____ _____	lrb_docadmin 07/13/2001		

FE Sent For:

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1. WATERWAY PERMIT REQUIREMENTS

Conference Committee: Adopt the Assembly provision as modified to require DNR to notify, in writing, an applicant for a waterway permit under Chapter 30 of the statutes as to whether or not their permit application is complete within 60 days of the application submission. If the application is determined incomplete, require DNR to include in its notification the specific items needed to complete the application. Further, allow an applicant to supplement and resubmit such an application multiple times. Prohibit the Department from demanding items of information that are not specified in the notice as a condition for determining whether the application is complete unless both DNR and the applicant agree, or unless the applicant makes material additions or alterations to the project for which the application has been submitted.

Specify that DNR must either provide notice stating that that it will proceed on a permit if no objections are received or schedule a public hearing to be held within 60 days after receipt of a request or application (rather than current law provisions that have no time limit for holding a hearing). Further, require that if an objection is received, require that the public hearing be conducted within 60 days after the hearing is ordered.

Finance for municipal flood control and riparian restoration cost-share grants for the dam rehabilitation grants. Specify that DNR may only provide grants for a project to match federal funds provided under the federal Watershed Protection and Flood Prevention Act of 1953 (PL 83-566). Require DNR to promulgate rules necessary to implement the grant program.

71. SOUTH FORK OF THE HAY RIVER WATERSHED FUNDING

Senate: No change to Joint Finance.

Assembly: Modify the Joint Finance provision that extended the statutorily designated South Fork of the Hay River priority watershed sunset date from June 30, 2001, to June 30, 2006, to instead extend the sunset date to June 30, 2005. The extension would provide additional cost-share grants to landowners and staffing grants to counties in the watershed.

72. WISCONSIN WATERS INITIATIVE

Senate: Provide \$237,300 in 2001-02 and \$474,600 in 2002-03 to continue development of a computer-based system to improve access to water-related site information electronically. The funds would be provided from a new, annual appropriation from the nonpoint account of the environmental fund (\$150,000 annually) and from the water resources account of the conservation fund (\$87,300 in 2001-02 and \$324,600 in 2002-03).

Chg. to JFC	
SEG	\$711,900

Assembly: No change to Joint Finance.

73. WATERWAY PERMIT REQUIREMENTS

Senate: No change to Joint Finance.

Assembly: Require DNR to notify, in writing, an applicant for a waterway permit under Chapter 30 of the statutes as to whether or not their permit application is complete within 30 days of the application submission. If the application is determined incomplete, require DNR to include in its notification the specific items needed to complete the application. Further, allow an applicant to supplement and resubmit such an application multiple times. Prohibit the Department from demanding items of information that are not specified in the notice as a condition for determining whether the application is complete unless both DNR and the applicant agree, or unless the applicant makes material additions or alterations to the project for which the application has been submitted.

Specify that DNR must either provide notice stating that that it will proceed on a permit if no objections are received or schedule a public hearing to be held within 30 days after receipt of a request or application (rather than current law provisions that have no time limit for holding a

Handwritten notes: \$200,000 16.515 in Finance approp. in 02-03

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 hearing). Further, require that if an objection is received, require that the public hearing be conducted within 30 days after the hearing is ordered. If DNR schedules or orders a hearing for a permit, in lieu of the hearing, allow a permit applicant to bring an action in circuit court asking that the court order DNR to issue the Chapter 30 waterway permit.

Allow persons to grade or otherwise remove topsoil from the bank of any navigable water where the area exposed by grading or removal is less than 20,000 square feet (versus 10,000 square feet under current law) without obtaining a permit from DNR. Further, remove the requirement that DNR must either provide notice stating that it will proceed on a permit to grade or otherwise remove topsoil from the bank of any navigable water where the area exposed by grading or removal exceeds 20,000 square feet if no objections are received or schedule a public hearing. Under current law, DNR must provide notice of such a permit to the clerks of the county and municipality in which the project or affected body of water is located, to local property owners and to the Milwaukee Metropolitan Sewerage District if the project affects waters located in the District.

74. PERMITTING PROCESS FOR THE GREEN BAY AREA

Senate: No change to Joint Finance.

Assembly: Create a lakeshore basin council in DNR consisting of two members appointed by the Governor and one resident each from Brown, Door and Kewaunee Counties appointed by their respective County Boards. Set a four-year term for council membership, but specify that the term of the initial appointee from Kewaunee County would expire on July 1, 2003, from Brown County would expire on July 1, 2005 and from Door County would expire on July 1, 2007. Apply the following provisions only to permit applications and permits for projects or activities sites that are located in Brown, Door or Kewaunee County.

Require DNR to submit each application for a Chapter 30 (waterway) permit that it receives to the lakeshore basin council for its recommendations regarding the issuance of the permit. Require the council to submit its recommendations on the permit to DNR and for DNR to give the council notice of any hearing that is scheduled or ordered on the issuance of a permit. Require the Department of Administration Division of Hearings and Appeals to randomly assign hearing examiners to conduct hearings regarding permit applications. Further, if DNR does not schedule a hearing requested by a permit applicant within 120 days after the Department denies a permit, allow the applicant to request the Division of Hearings and Appeals to schedule a hearing at the earliest date available to the Division.

Require DNR to treat any application for a noncommercial pier or dredging permit as a Type III action under DNR rules regarding environmental analysis and review procedures for Department actions. (Under NR 150, DNR determines Type III actions as those that normally do not have the potential to cause significant environmental effects, affect energy usage or involve unresolved conflicts in the use of available resources. A Type III action generally requires the

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Date (time)
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LRB b 2078 1 1

BUDGET AMENDMENT

14662 RPN: King

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2001 SENATE BILL 55**

→ *Fix Request Sheet*

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

#. Page , line :

#. Page , line :

#. Page , line :

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JRP

ARC:.....Tessmer - AM94, Chapter 30 revision—Timelines for complete applications and public hearings

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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

2 1. Page 492, line 2: after that line insert:

3 "SECTION 1245g. 30.015 of the statutes is created to read:

4 **30.015 Time limits for issuing permit determinations.** In issuing permits

5 under this chapter, the department shall initially determine whether a complete

6 application for the permit has been submitted and, no later than ⁶⁰~~30~~ days after the

7 application is submitted, notify the applicant in writing about the initial

8 determination of completeness. If the department determines that the application

9 is incomplete, the notice shall state the reason for the determination and the specific

10 items of information necessary to make the application complete. An applicant may

1 supplement and resubmit an application that the department has determined to be
2 incomplete. There is no limit on the number of times that an applicant may resubmit
3 an application that the department has determined to be incomplete under this
4 section. The department may not demand items of information that are not specified
5 in the notice as a condition for determining whether the application is complete
6 unless both the department and the applicant agree or unless the applicant makes
7 material additions or alterations to the project for which the application has been
8 submitted.

9 **SECTION 1245p.** 30.02 (3) of the statutes is amended to read:

10 30.02 (3) Upon receipt of a complete permit application or a request for a
11 determination under s. 236.16 (3) (d), the department shall either schedule a public
12 hearing to be held within ⁶⁰~~30~~ days after receipt of the application or request or provide
13 notice stating that it will proceed on the application or request without a public
14 hearing if, within [✓]30 days after the publication of the notice, no substantive written
15 objection to issuance of the permit is received or no request for a hearing concerning
16 the determination under s. 236.16 (3) (d) is received. The notice shall be provided
17 to the clerk of each municipality in which the project is located and to any other
18 person required by law to receive notice. The department may provide notice to other
19 persons as it deems appropriate. The department shall provide a copy of the notice
20 to the applicant, who shall publish it as a class 1 notice under ch. 985 in a newspaper
21 designated by the department that is likely to give notice in the area affected. The
22 applicant shall file proof of publication with the department.

23 **SECTION 1245r.** 30.02 (4) (a) of the statutes is amended to read:

24 30.02 (4) (a) If a public hearing is ordered, the division of hearings and appeals
25 shall mail a written notice at least 10 days before the hearing to each person given

1 notice under sub. (3) and in the case of an application for a permit, to any person who
2 submitted a substantive written objection to issuance of the permit. The public
3 hearing shall be conducted within ⁶⁰~~30~~ days after the hearing is ordered.

4 **SECTION 1245s.** 30.02 (4) (b) of the statutes is amended to read:

5 30.02 (4) (b) The applicant shall publish a class 1 notice under ch. 985 of the
6 public hearing in a newspaper designated by the department that is likely to give
7 notice in the area affected. The applicant shall file proof of publication under this
8 paragraph with the hearing examiner at or prior to the hearing.”.

9 (END)



LFB:.....Schug – Waterway permit requirements

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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4 **SECTION 1245s.** 30.02 (4) (b) of the statutes is amended to read:

5 30.02 (4) (b) The applicant shall publish a class 1 notice under ch. 985 of the
6 public hearing in a newspaper designated by the department that is likely to give
7 notice in the area affected. The applicant shall file proof of publication under this
8 paragraph with the hearing examiner at or prior to the hearing.”.

9 (END)