

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: 07/20/2001

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Schug

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters: gibsom

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: NO

Requester's email:

---

**Pre Topic:**

LFB:.....Schug -

---

**Topic:**

Lake Belle View and Sugar River project

---

**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>
/?	rkite 07/20/2001	gilfokm 07/20/2001		_____			
/1			rschluet 07/20/2001	_____	lrb_docadmin 07/20/2001		

FE Sent For:

**2001 DRAFTING REQUEST**

**Senate Amendment (SA-SSA1-SB55)**

Received: **07/20/2001**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Schug**

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

Drafter: **rkite**

May Contact:

Addl. Drafters: **gibsom**

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

Extra Copies:

Submit via email: **NO**

Requester's email:

---

**Pre Topic:**

LFB:.....Schug -

---

**Topic:**

Lake Belle View and Sugar River project


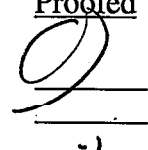
---

**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	rkite	11-7/king /20					
				7-20-01			

FE Sent For:

<END>

2001

Date (time)  
needed

soon

D-Note

Rm not run

LRB b 2207 1 1

RNKING: KMG:

# BUDGET AMENDMENT

See form AMENDMENTS — COMPONENTS & ITEMS.

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

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

~~#. Page . . . . , line . . . . :~~

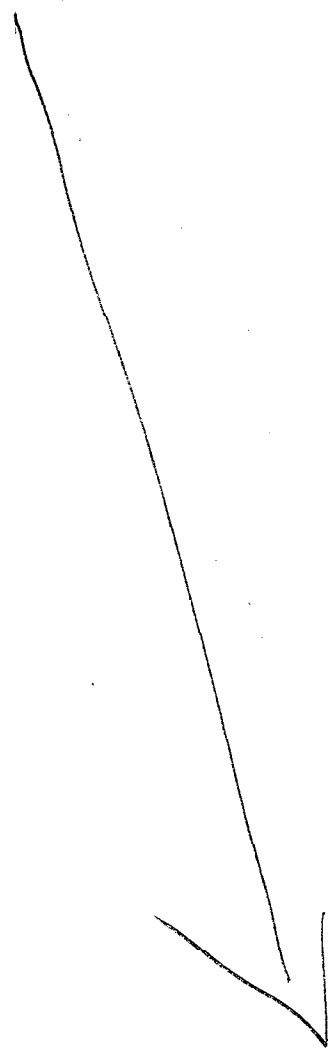
~~#. Page . . . . , line . . . . :~~

~~#. Page . . . . , line . . . . :~~

~~#. Page . . . . , line . . . . :~~

~~#. Page . . . . , line . . . . :~~

~~#. Page . . . . , line . . . . :~~



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1 ~~AN ACT to create 30.2026 of the statutes; relating to: authorizing the village~~  
2 ~~of Belleville to place fill on all or part of a portion of the bed of Lake Belle View.~~

---

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis shall be included in a later version.

---

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

✓ #. Page 497, line 21: after that line insert:

3 " SECTION ~~30~~<sup>1261k</sup> 30.2026 of the statutes is created to read:

4 **30.2026 Lake Belle View and Sugar River project. (1) AUTHORIZATION.**

5 (a) Subject to the restrictions under sub. (2), the village of Belleville may place fill  
6 on all or part of the portion of the bed of Lake Belle View located in Dane County for  
7 any of the following purposes:

8 1. Improving fish and wildlife habitat.

9 2. Creating and enhancing wetlands.

10 3. Improving the water quality of Lake Belle View and the Sugar River.

1           4. Enhancing the recreational use and aesthetic enjoyment of Lake Belle View  
2 and the Sugar River.

3           5. Separating Lake Belle View from the Sugar River by creating an artificial  
4 barrier from lake bottom sediments or by other means.

5           6. Creating suitable lake bottom depths or contours in Lake Belle View.

6           7. Promoting the growth of desirable wetland plants.

7           (b) Any lake bottom sediments that are unsuitable for the creation of an  
8 artificial barrier under par. (a) 5. may be placed in any agricultural field that is  
9 adjacent to Lake Belle View.

10          (c) If the village of Belleville creates an artificial barrier from lake bottom  
11 sediments under par. (a) 5., the village of Belleville shall also place lake bottom  
12 sediments in adjacent areas for the purpose of creating and enhancing wetlands.

13          **(2) REQUIREMENTS.** (a) The village of Belleville shall obtain approval from the  
14 department for any placement of fill material as authorized under sub. (1).

15          (b) The village of Belleville shall submit to the department any plans or other  
16 information that the department considers necessary for it to effectively determine  
17 whether to grant approval under par. (a).

18          (c) The village of Belleville shall ensure that all of the following apply to any  
19 artificial barrier created as authorized under sub. (1).

20           1. The barrier does not materially obstruct navigation or reduce the effective  
21 flood flow capacity of a stream.

22           2. The barrier is not detrimental to the public interest.

23           3. The barrier is owned by a public entity and the public is granted free access  
24 to the barrier.

1           4. Access by the public to the barrier is limited to use as open space for  
2 recreational purposes.

3           5. The barrier remains in as natural a condition as is practicable, as determined  
4 by the department.

5           6. No structure, except those necessary in order to effectuate a purpose  
6 specified in sub. (1) (a), are placed on the barrier.

7           (d) The village of Belleville shall create any artificial barrier under this section  
8 in compliance with all state laws that relate to navigable bodies of water, except s.  
9 30.12 (1) and (2).

10           **(3) CONDITIONS.** (a) The village of Belleville shall maintain any artificial  
11 barrier created as authorized under sub. (1). If a landowner of more than 500 feet  
12 of Lake Belle View shoreline, a portion of which is located within 1,000 feet of any  
13 such artificial barrier, is dissatisfied with the manner in which the village of  
14 Belleville is maintaining the barrier, the owner may maintain the barrier in lieu of  
15 the village, upon approval of the department. The village or a landowner who  
16 maintains the barrier shall comply with all state laws that relate to navigable bodies  
17 of water, except s. 30.12 (1) and (2). The department may require the village of  
18 Belleville or the landowner to maintain the barrier in a structurally and functionally  
19 adequate condition.

20           (b) The village of Belleville shall ensure that any construction draw down of  
21 Lake Belle View related to the creation of any artificial barrier authorized under sub.  
22 (1) occurs only once.

23           **(4) COSTS.** Any costs incurred by the state to construct, maintain, improve, or  
24 remove any artificial barrier created as authorized under sub. (1) shall be paid by the  
25 village of Belleville or its successors or assigns.



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

LRBb2207/1dn  
LRB2074/1dn  
RNK:kmg:rs

July 12, 2001

It is possible that a Wisconsin court would find that this amendment is a "private or local law" which, under article IV, section 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place, or thing is a private or local law within the meaning of article 4, section 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest." As it is difficult to predict the potential for and outcome of any court action on this amendment, it may be advisable to introduce this proposal as a separate 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**

LRBb2207/1dn  
RNK:kmg:rs

July 20, 2001

It is possible that a Wisconsin court would find that this amendment is a "private or local law" which, under article IV, section 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this amendment cannot validly be enacted as part of the budget bill, which clearly encompasses more than one subject. Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place, or thing is a private or local law within the meaning of article 4, section 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest." As it is difficult to predict the potential for and outcome of any court action on this amendment, it may be advisable to introduce this proposal as a separate bill.

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



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBb2207/1  
RNK&MGG:kmg:rs

LFB:.....Schug - Lake Belle View and Sugar River project

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**SENATE AMENDMENT**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

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

2 **1.** Page 497, line 21: after that line insert:

3 **"SECTION 1261k.** 30.2026 of the statutes is created to read:

4 **30.2026 Lake Belle View and Sugar River project. (1) AUTHORIZATION.**

5 (a) Subject to the restrictions under sub. (2), the village of Belleville may place fill  
6 on all or part of the portion of the bed of Lake Belle View located in Dane County for  
7 any of the following purposes:

8 1. Improving fish and wildlife habitat.

9 2. Creating and enhancing wetlands.

10 3. Improving the water quality of Lake Belle View and the Sugar River.

1           4. Enhancing the recreational use and aesthetic enjoyment of Lake Belle View  
2 and the Sugar River.

3           5. Separating Lake Belle View from the Sugar River by creating an artificial  
4 barrier from lake bottom sediments or by other means.

5           6. Creating suitable lake bottom depths or contours in Lake Belle View.

6           7. Promoting the growth of desirable wetland plants.

7           (b) Any lake bottom sediments that are unsuitable for the creation of an  
8 artificial barrier under par. (a) 5. may be placed in any agricultural field that is  
9 adjacent to Lake Belle View.

10          (c) If the village of Belleville creates an artificial barrier from lake bottom  
11 sediments under par. (a) 5., the village of Belleville shall also place lake bottom  
12 sediments in adjacent areas for the purpose of creating and enhancing wetlands.

13          (2) REQUIREMENTS. (a) The village of Belleville shall obtain approval from the  
14 department for any placement of fill material as authorized under sub. (1).

15          (b) The village of Belleville shall submit to the department any plans or other  
16 information that the department considers necessary for it to effectively determine  
17 whether to grant approval under par. (a).

18          (c) The village of Belleville shall ensure that all of the following apply to any  
19 artificial barrier created as authorized under sub. (1).

20           1. The barrier does not materially obstruct navigation or reduce the effective  
21 flood flow capacity of a stream.

22           2. The barrier is not detrimental to the public interest.

23           3. The barrier is owned by a public entity and the public is granted free access  
24 to the barrier.

1           4. Access by the public to the barrier is limited to use as open space for  
2 recreational purposes.

3           5. The barrier remains in as natural a condition as is practicable, as determined  
4 by the department.

5           6. No structure, except those necessary in order to effectuate a purpose  
6 specified in sub. (1) (a), are placed on the barrier.

7           (d) The village of Belleville shall create any artificial barrier under this section  
8 in compliance with all state laws that relate to navigable bodies of water, except s.  
9 30.12 (1) and (2).

10           **(3) CONDITIONS.** (a) The village of Belleville shall maintain any artificial  
11 barrier created as authorized under sub. (1). If a landowner of more than 500 feet  
12 of Lake Belle View shoreline, a portion of which is located within 1,000 feet of any  
13 such artificial barrier, is dissatisfied with the manner in which the village of  
14 Belleville is maintaining the barrier, the owner may maintain the barrier in lieu of  
15 the village, upon approval of the department. The village or a landowner who  
16 maintains the barrier shall comply with all state laws that relate to navigable bodies  
17 of water, except s. 30.12 (1) and (2). The department may require the village of  
18 Belleville or the landowner to maintain the barrier in a structurally and functionally  
19 adequate condition.

20           (b) The village of Belleville shall ensure that any construction draw down of  
21 Lake Belle View related to the creation of any artificial barrier authorized under sub.  
22 (1) occurs only once.

23           **(4) COSTS.** Any costs incurred by the state to construct, maintain, improve, or  
24 remove any artificial barrier created as authorized under sub. (1) shall be paid by the  
25 village of Belleville or its successors or assigns.

