

### 2003 DRAFTING REQUEST

#### Bill

Received: 11/20/2002

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Eugene Hahn (608) 266-3404

By/Representing: Jack

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Munis - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hahn@legis.state.wi.us

Carbon copy (CC:) to:

#### Pre Topic:

No specific pre topic given

#### Topic:

Drainage boards; assessments, comprehensive plans, and the authority to maintain drains.

#### Instructions:

See Attached. Redraft 2001 AB 895 (LRB -1799/2)

#### 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>
/?	mshovers 11/21/2002	kfollett 11/25/2002 kfollett 12/03/2002		_____			S&L
/1			rschluet 12/04/2002	_____	sbasford 12/04/2002	mbarman 01/07/2003	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

↳ At Intro.

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11 MES 11/21/02 11 KJF  
 FE Sent For: 11/26  
 1 12/3 jkd

   
 <END>  
 12-4-2

Resolution #1 & 2

The Dane County Farm Drainage Board in general session, with all members presents does hereby unanimously adopt the following resolutions: to-wit:

#1 RESOLVED:

That the board seek to have amended Sec. 88.83 Wis. Stats. to add as subsection (g), the following:

(g) In the event the city or village to which the jurisdiction has been transferred fails to maintain or repair the drainage system as defined in Sec. 88.63(3), Wis. Stats., the board may give written notice to the city or village stating the work to be done, and if it isn't substantially completed within sixty (60) days the board may enter the lands, do the needed work and bill the city or village for the cost thereof. If the city or village denies in writing prior to the sixty (60) days, that such maintenance or repair is needed, the matter pursuant to Sec. 88.14(2), Wis. Stats. shall be submitted to arbitration.

and further,

#2 RESOLVED:

That the statutes be amended to require all sizeable developments to construct water retention ponds able to control catastrophic runoffs of heavy rain or melting of snow.

BE IT FURTHER RESOLVED, That as part of design of detention facility outlets, consideration should be given to capacity of downstream ditches and channels.

Steven Querin-Schultz, being the duly elected and acting secretary of the Dane County Farm Drainage Board, states that the above and foregoing was duly adopted by the board on the 1st day of December, 2001.

*Steven Querin-Schultz*  
Steven Querin-Schultz, Secretary

Approved by Dane County Farm Drainage Board on December 1, 2001, at Cottage Grove Town Hall, Cottage Grove, Wisconsin, at the Annual Meeting of the Dane County Farm Drainage Board.

from '01 AB 895  
bill file -

WI Drainage Assoc.  
resolution # 6 - -  
basis for 01-4799/2

**Shovers, Marc**

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**From:** Merline, Paul  
**Sent:** Tuesday, February 12, 2002 4:35 PM  
**To:** Shovers, Marc  
**Cc:** Merline, Paul  
**Subject:** LRB 4799/1 Draft Modifications

**Importance:** High

Billfile -  
101 AB895  
Instructions for /2

Hi Marc,

Well, we had a good meeting yesterday discussing the bill draft for the drainage board. After much debate, they settled on a 'final' version. Could you make the following modifications:

Section 1 - The original confusion between drainage *board* and drainage *district* language was here, but as we discussed, this section can be omitted to avoid redundant legislation.

Section 2 - Unless this change brings about additional concerns, please change the second sentence in Section 2 to read as follows:

"Whenever the amount of the fund falls below an amount that allows for maintenance and repair, the board shall levy an additional assessment under s. 88.23."

Section 3 - No changes.

If you have any questions, please let me know. As soon as I receive the revised draft from you, I will circulate back to the drainage folks for final approval. We are still hoping to move this legislation through this term. Hope to hear from you soon.

Thanks again for your help,

Paul Merline  
Legislative Aide

Office of Representative Eugene Hahn  
Wisconsin 47th Assembly District

## Shovers, Marc

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**From:** Merline, Paul  
**Sent:** Monday, February 11, 2002 8:48 AM  
**To:** Shovers, Marc  
**Subject:** RE: LRB 4799/1 - Changes to Drainage District statutes

Marc,

Thanks for the quick reply and comments. I will run these past the drainage group at the meeting this afternoon and see how they would like to proceed. I will also try and have them indicate specifically where they see conflicts between drainage board and drainage district.

Thanks again for the follow up. I'll drop you another line when I know more.

Paul

-----Original Message-----

**From:** Shovers, Marc  
**Sent:** Friday, February 08, 2002 5:34 PM  
**To:** Merline, Paul  
**Subject:** RE: LRB 4799/1 - Changes to Drainage District statutes

Hi Paul:

I read through the draft again and I don't think that the use of the terms "drainage board" and "drainage district" are confusing or used improperly. It would be helpful if those who feel the terms are used incorrectly could indicate, using page and line numbers, where they think the confusion is. I believe that s. 88.83 (6), stats., as created in the bill, accomplishes your intent and uses "board", "drain", and "drainage district" correctly. If I have misinterpreted your intent or the usages of the terms are incorrect, let me know and I'll redraft the bill. I do need to know, however, what your specific concerns are.

I haven't talked to Brian Ohm but, based on my reading of s. 66.1001 (4) (b) 1., I agree that the term "governmental body" includes drainage districts and that current law does not need to be amended to include a drainage district. My understanding from the meeting, however, is that although current law requires a local governmental unit (defined in s. 66.1001 (1) (b) to send an adopted comprehensive plan or an amendment to such a plan to "every governmental body that is located in whole or in part within the boundaries of the local governmental body", the statute is not being followed because plans are not being sent to drainage districts.

It seems as if the choice you have is either to educate local governmental units about their responsibility under s. 66.1001 (4) (b) 1. or to change the law in an unnecessary, redundant fashion to ensure that drainage districts receive copies of the plans. Maybe one approach would be to change the booklet you referred to ( "Guidelines for the Adoption and Distribution of Your Community's Comprehensive Plan" ) to include drainage districts and every other conceivable "governmental body."

Marc

Marc E. Shovers

Senior Legislative Attorney  
Legislative Reference Bureau



Phone: (608) 266-0129  
Fax: (608) 264-8522  
e-mail: marc.shovers@legis.state.wi.us

-----Original Message-----

**From:** Merline, Paul  
**Sent:** Friday, February 08, 2002 3:51 PM  
**To:** Shovers, Marc  
**Cc:** Merline, Paul  
**Subject:** re: LRB 4799/1 - Changes to Drainage District statutes

Hello Marc,

Quick update for you on the drainage district statute changes along with some feedback. The drainage district folks today invited me to attend a meeting this Monday 2/12 to discuss the draft and offer comments. It is scheduled for 1pm in Westfield, so I'll probably need to leave Madison by 11:30 Monday morning. If you can reply before then I would really appreciate it.

Anyway, comments back from Dave Russell at DATCP as well as initial drainage board comments indicate that they feel there could be some confusion regarding the use of the terms 'drainage board' and 'drainage district' in the language throughout the draft. They feel that one would do the actual maintenance and the other is just the areas itself. Do you see the need for additional clarification?

Also, in talks with Mike Blaska who received feedback from Brian Ohm at UW-Extension, they are of the feeling that the current language in 66.1001, 4 (b) (1) covers all governmental bodies that may be present in a governmental unit. Mike suggested that maybe you and Brian might be able to confer (?). Brian can be reached at 262-2098. Any thoughts?

Mike also sent over the attached "Guidelines for the Adoption and Distribution of Your Community's Comprehensive Plan" from the Office of Land Information Services. But while I understand that the distribution list for plans has been frequently interpreted to include every possible governing body in a governmental unit (including drainage districts), drainage districts are not specifically listed even in this document.

That's all for now Marc, I hope to hear from you soon. If not, and at any rate, I'm sure I will have additional comments after Monday. Have a good weekend.

Thanks again,

Paul Merline  
Legislative Aide

Office of Representative Eugene Hahn  
Wisconsin 47th Assembly District

<< File: guidelines\_Plan\_adopt\_submission.pdf >>

Kif + jld

RMNA

2003 ~~2001~~ ASSEMBLY BILL 895

LPS:  
PWF  
amended

March 7, 2002 - Introduced by Representatives ILAHN, OTT, ALBERS, HINES, TOWNSEND and OWENS. Referred to Committee on Agriculture.

repen

- 1 AN ACT to amend 88.63 (2); and to create 88.83 (6) of the statutes; relating to:
- 2 the authority of a drainage board to maintain drains, assessments levied by
- 3 drainage boards, and the dissemination of comprehensive plans.

**Analysis by the Legislative Reference Bureau**

Under current law, the owners of the majority of the land in a drainage district that is located entirely, or partly, within the boundaries of a city or village may petition the drainage board (board) having jurisdiction over the district to transfer jurisdiction of the district, or that part of the district that is located in the city or village, to the city or village. If the district is located only partially within a city or village, however, the district and the city or village must be in agreement regarding the terms of transfer. If, after a hearing, the board finds that the petition requirements have been met, the board must issue an order transferring jurisdiction. After a transfer, all proceedings regarding a drainage district, or part of a district, shall be under the city or village drainage law.

Also under current law, a city or village may adopt a resolution stating that the city or village is willing to accept a drain or part of a drain and to administer it under city or village drainage laws, and may petition the board with jurisdiction over the drain to transfer jurisdiction to the city or village. After a hearing the board may, but is not required to, issue an order transferring jurisdiction of the drain or part of the drain to the city or village.

Under this bill, if a city or village to which jurisdiction over a drainage district is transferred fails to maintain and repair the drains, the board may provide the city

**ASSEMBLY BILL 895**

or village with written notice that describes the maintenance and repair that the board believes is necessary. If the maintenance and repair is not substantially completed within 60 days after the city or village receives the notification, the board may enter the drainage district and complete the necessary maintenance and repair, and may bill the city or village for its costs. If the city or village, within 60 days of receiving the notification, notifies the board in writing that the maintenance and repair described by the board is not needed, the board may take no further action and the matter must be submitted to arbitration.

Under current law, a board is required to establish a fund for the payment of costs of maintenance and repair. Whenever the amount of the fund falls below an amount specified by law, the board is required to levy an additional assessment for maintenance and repair. Under the bill, if the fund falls below an amount that allows for maintenance and repair, the board is required to levy an assessment for maintenance and repair.

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

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

SECTION 1. 88.63 (2) of the statutes is amended to read:

88.63 (2) The board shall establish a fund for the payment of costs of maintenance and repair. Whenever the amount of the fund falls below an amount equivalent to 5% of the confirmed benefits currently in effect in the district that allows for maintenance and repair, the board shall levy an additional assessment under s. 88.23 for maintenance and repair. Assessments for costs of maintenance and repair shall be apportioned on the basis of the confirmed benefits then in effect in the district but may be made notwithstanding the fact that assessments of benefits in the district may have been exhausted by previous assessments for other costs. Assessments for costs of maintenance and repair, including costs incurred and per diems earned by board members under sub. (1m) are not limited by the extent of unexhausted assessments of benefits in the district and shall not be counted in

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## ASSEMBLY BILL 895

1 determining whether there are unexhausted assessments of benefits against which  
2 assessments for costs other than those authorized by this section may be made.

3 SECTION 2. 88.83 (6) of the statutes is created to read:

4 88.83 (6) If a city or village, to which jurisdiction over a drainage district is  
5 transferred under this section, fails in its maintenance and repair of the drains, as  
6 <sup>defined</sup> ~~that term is used~~ in s. 88.63 (3), <sup>(19)</sup> the board may provide the city or village with written  
7 notice that describes the maintenance and repair that the board believes is  
8 necessary. If the maintenance and repair as described by the board is not  
9 substantially completed, not later than 60 days after the city or village receives the  
10 written notice from the board, the board may enter the drainage district and  
11 complete the necessary maintenance and repair. The board may bill the city or  
12 village for the cost of completing the maintenance and repair, and the city or village  
13 shall promptly pay the bill. If the city or village, not later than 60 days after the city  
14 or village receives the written notice from the board, notifies the board in writing that  
15 the maintenance and repair described by the board is not needed, the board may not  
16 take any further action, except in response to a finding by an arbitrator, and the  
17 matter shall be submitted to arbitration under ch. 788.

18 (END)

**Barman, Mike**

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**From:** Shovers, Marc  
**Sent:** Tuesday, January 07, 2003 2:00 PM  
**To:** Barman, Mike  
**Subject:** FW: Drainage districts draft

Hi Mike:

Could you please jacket -0811/1 for Rep. Hahn? Thanks.

Marc

-----Original Message-----

**From:** Martz, Jack  
**Sent:** Tuesday, January 07, 2003 1:58 PM  
**To:** Shovers, Marc  
**Subject:** RE: Drainage districts draft

Hi Marc:

Yes, we would like this bill "jacketed" so we can introduce it.

Thanks for putting this together.

Jack

-----Original Message-----

**From:** Shovers, Marc  
**Sent:** Thursday, December 26, 2002 3:52 PM  
**To:** Martz, Jack  
**Subject:** Drainage districts draft

Hi Jack:

Here's an electronic version of the draft. Do you mean that you want it "jacketed" -- meaning that you want to be able to introduce it?

Marc

<< File: 03-0811/1 >>

Marc E. Shovers

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