

1 1. The applicant.

2 2. Each representative of a local governmental unit required to receive notice
3 under s. 30.04 ⁽³⁾ ✓ ~~(2)~~ ✓

4 3. Any person who is required ^{by law} to receive notice, under s. 30.18 (4) (a) or 30.19 ✓
5 ~~(3b)~~

6 4. ~~Any other person who is required to receive notice, as determined by the~~
7 ~~department.~~ ✓

8 (b) The department shall ^{also} post the notice on the Internet at a site determined
9 by the department.

10 (c) After notice has been given as required under pars. (a) and (b), the applicant,
11 or any other person authorized by the department, shall publish the notice of receipt
12 of the application as a class 1 notice, under ch. 985, in a newspaper designated by the
13 department as ^{that is} being likely to give notice in the area to be affected by the permit or
14 contract. The applicant shall file proof of publication under this paragraph with the
15 department.

***NOTE: Do you want a deadline for publishing the first notice under s. 30.246(2)
(c)? ~~No~~

16 (3) REQUEST FOR HEARING. (a) ~~After notice has been given as provided under~~

17 ~~sub. (2)~~ ² any person may request in writing a contested case hearing on an ✓
18 application for a permit or contract within 30 days after the notice is published under ✓
19 ~~sub. (2)~~ ^{page} (c). ~~(c).~~ ^{STEF}

20 (b) If ^a the person requesting the contested case hearing is not the applicant for ✓
21 the permit or contract, the request shall describe the requester's objection to the ✓
22 permit or contract. ^{request and} The ~~objection~~ shall contain all of the following:

1 1. A description of the legal issues involved that is sufficiently specific to allow
2 the department to determine which provisions of this subchapter may be violated if
3 the permit is issued or the contract is entered into.

4 2. A description of the facts supporting the objection that is sufficiently specific
5 to allow the department to determine how ~~the permit or contract~~ ^{the objector believes} will result in a
6 violation of the provisions of this subchapter as described in subd. 1.

7 3. A commitment by the person requesting the contested case hearing under
8 this paragraph to appear at the contested case hearing and present information
9 supporting the requester's objection.

****NOTE: Why would an applicant request such a hearing? Would he or she request
a hearing only if the application were being denied? See below.

10 (c) ~~If the request for a contested case hearing does not comply with any of the~~
11 ~~requirements under pars. (a) and (b) or if the objection contained in the request is not~~
12 ~~a substantive objection, the department shall do one of the following:~~

- 13 1. Approve the application without a hearing.
- 14 2. Deny the application.

15 ~~(d) If the department denies an application under par. (c) 2., the procedures~~
16 ~~under sub. (1) apply.~~

17 (d) ~~(e)~~ The department shall determine that an objection is substantive if the
18 department determines that the supporting facts contained in the objection under
19 par. (b) 2. appear to be substantially true and raise reasonable doubts as to whether
20 provisions of this subchapter may be violated if the permit is issued or the contract
21 is entered into.

22 (e) ~~(d)~~ In making the determination under par. ~~(e)~~ ^(d) the department may request
23 additional information from the person requesting a contested case hearing, and the

project, ✓
as proposed, ✓
the objector believes
may

rethink
this

INSERT
65-14

M.P.
"as proposed"
"Project"

1 person shall submit the requested information within 14 days after receiving the
2 request. If the person fails to submit the requested information within 14 days, the
3 department shall make a determination that the objection is not a substantive
4 objection.

****NOTE: Does the last sentence in s. 30.246 (3) (f) comply with your intent?

✓
INSERT
66-4
✓

5 (4) REFERRAL FOR HEARING. Except as provided in sub^(b) (5), if the request for a
6 contested case hearing complies with sub. (3) (a) and (b) and the objection contained
7 in the request is a substantive objection, the department shall authorize the
8 contested case hearing and notify the division of hearings and appeals under s.
9 227.43 (2) (a). *(At anytime before a contested case hearing)*

10 (5) MEDIATION. (a) ~~Before notifying the division of hearings and appeals under~~
11 ~~sub. (4), the department shall allow for mediation if all of the following apply:~~

12 1. The applicant for the permit or contract and each person who has requested
13 a contested hearing agree to be participants in the mediation.

****NOTE: I deleted "any person with a substantial interest in the permit or contract" because this could be many persons, and who determines who these people are?

put in
MP's

14 2. The participants have agreed on a method for selecting and compensating
15 the mediator.

earlier
DNR certified
has failed

****NOTE: Who chooses the mediator?

16 (b) If the mediator ~~or all of the participants~~ ^S determining that they cannot reach
17 an agreement ^{cannot be reached} by mediation, the mediator shall certify the mediation as having
18 ended. Within 30 days after the date on which the mediation is certified as having
19 ended, any participant may request in writing to the department that the
20 department authorize the ^a contested case hearing. Upon receipt of the request, the
21 department shall notify the division of hearings and appeals under s. 227.43 (2) (a).

INSERT
66-15

Subsection (3) ~~shall apply to~~ the request for the contested case hearing ~~shall~~

1 (c) If none of the participants requests a contested case hearing within the
2 30-day period specified in par. (b), the department shall either approve the
3 application without a hearing or deny the application. ~~If the department denies the~~
4 ~~application, the procedures under sub. (1) apply.~~

5 (6) HEARING. (a) Upon receiving notification from the department under sub.
6 (4) or (5) (b), the division of hearings and appeals shall assign a hearing examiner
7 and shall ensure that the hearing is conducted within 60 days after the notification
8 is received.

9 (b) The division of hearings and appeals shall give notice of the hearing at least
10 10 days before the hearing to the applicant, to each person who was given notice
11 under sub. (2) (a), and to each person who requested a contested case hearing.

12 (c) The applicant shall publish a class 1 notice, under ch. 985, of the contested
13 case hearing in a newspaper ⁽¹⁾ designated by the department ⁽²⁾ as ^{that is} being likely to give ✓
14 notice in the area to be affected by the permit or contract. The notice shall be
15 published at least 10 days before the hearing. The applicant shall file proof of
16 publication under this paragraph with the hearing examiner at or before the
17 hearing.

NOTE: The notice and hearing provisions in current s. 30.02 are repealed and recreated here. The basic structure of this statute remains the same: the notice and hearing procedures apply to any permit or contract in which a notice and hearing is required by direct cross-reference to this section. In any other statute that provides a permit or contract for activities in navigable waters, the DNR may apply the notice and hearing procedures if the substantial interests of any party may be adversely affected by the proceeding. The statute provides a time frame within a contested case hearing may be requested and requires various notices to be mailed or published.

Proposed s. 30.245 has several major additions compared to the current statute. The first difference is that the current statute does not expressly provide that the DNR may deny the application for a permit or contract. The current statute requires the DNR either to schedule a hearing or issue notice that it will proceed without a hearing unless a request for hearing is made. As a result, an individual who opposes a permit must request a hearing, even if the DNR expects to deny the application. The new procedure allows the DNR to deny the application for a permit or contract, and the applicant may request a contested case hearing on this decision.

SS. 30.244,
30.245, and
30.246

have

The 2nd difference is that the DNR is directed to post notice of the complete permit or contract application and the opportunity to request a hearing on the Internet. In addition, a provision in the current statute requiring the DNR to provide notice to any person who requests notice of projects of that type, location or other classification is eliminated. Also, notice is required to affected town sanitary districts, public inland lake protection and rehabilitation districts and county drainage boards.

The 3rd difference is that a mediation option is provided. There is no comparable provision in the current statute. The applicant and DNR must agree to be a party to the mediation. The mediation process is primarily expected to address issues of concern to owners of property near the proposed project. If an agreement is not reached in mediation, the parties to the mediation may request a contested case hearing.

The 4th difference is that the requirement of a substantive written objection, which is a condition for obtaining a contested case hearing under the current statute, is clarified and made more detailed. The current statute requires the objector to state why the project may violate statutory provisions applicable to the project. The purpose of this requirement is to avoid contested case hearings when there is not merit to the challenge--i.e., the facts alleged by the objector are not true or do not relate to the legal standards for issuing or denying the permit. The special committee believes that the current statute, as administered by DNR, has not been sufficient to avoid challenges to permits in contested case hearings that are ultimately determined to be without merit. This bill adds to the information that must be submitted by the objector, allows the department to request additional information from the objector, and requires the department to do a thorough evaluation of the grounds for the objection, both legal and factual.

This provision omits the option for the department to schedule a public hearing upon receipt of an application, rather than providing notice of the application. This option is no longer necessary if the department is given authority to deny an application, as provided in this section.

1 **SECTION 215.** 30.25 of the statutes is renumbered 30.269.

2 **SECTION 216.** 30.253 of the statutes is created to read:

3 **30.253 Permit or contract conditions.** The department may impose
4 additional conditions on a permit or contract under this subchapter if the
5 department determines that the conditions are necessary to ensure compliance with
6 any applicable provision under this subchapter.

~~****NOTE: Concerning conditions on permits and contracts: note that the last sentence in s. 30.19 (5) giving a general standard for conditions on a permit is being stricken but similar language in s. 30.20 (2) (a) and (b) is being retained. Does this comply with your intent?~~

~~****NOTE: Do you want to broaden the language in s. 30.253 to include compliance with the public trust doctrine?~~

7 **SECTION 217.** 30.26 of the statutes is renumbered 30.271.

8 **SECTION 218.** 30.263 (title) and (1) (title) of the statutes are created to read:

1 **30.263** (title) **Duck Creek Drainage District.** (1) (title) DECLARATION OF
2 NAVIGABILITY.

3 **SECTION 219.** 30.265 of the statutes is renumbered 30.375.

4 **SECTION 220.** 30.266 (1) (intro.) of the statutes is created to read:

5 30.266 (1) DEFINITIONS. (intro.) In this section:

6 **SECTION 221.** 30.27 of the statutes is renumbered 30.273.

7 **SECTION 222.** 30.275 of the statutes is renumbered 30.359.

8 **SECTION 223.** 30.277 of the statutes is renumbered 30.361.

9 **SECTION 224.** 30.28 of the statutes is renumbered 30.243, and 30.243 (1), (2)
10 (a) (intro.) and (b), (2m) (am), (b) and (d) and (2r) (b), as renumbered, are amended
11 to read:

12 30.243 (1) FEES REQUIRED. The department shall charge a permit or approval
13 fee for carrying out its duties and responsibilities under ~~ss. 30.10 to 30.205, 30.207~~
14 ~~and 30.21 to 30.27~~ this subchapter. The permit or approval fee shall accompany the
15 permit application, notice, or request for approval.

16 (2) (a) (intro.) For fees charged for permits and approvals under ~~ss. 30.10 to~~
17 ~~30.205 and 30.21 to 30.27~~ this subchapter, except s. 30.223, the department shall
18 classify the types of permits and approvals based on the estimated time spent by the
19 department in reviewing, investigating, and making determinations whether to
20 ~~grant~~ issue the permits or approvals. The department shall then set the fees as
21 follows:

22 (b) 1. For an application for a general permit submitted under s. ~~30.207~~ 30.223
23 (3), the fee shall be \$2,000.

24 2. For a notice submitted under s. ~~30.207~~ 30.223 (7), the fee shall be \$100.

1 (2m) (am) The department shall refund 50% of the fee specified in sub. (2) (b)
2 1. if the department denies an application for a general permit under s. ~~30.207~~ 30.223
3 (3) (d) 1. or does not issue a general permit under s. ~~30.207~~ 30.223 (6).

4 (b) If the applicant applies for a permit, requests an approval, or submits a
5 notice under s. ~~30.207~~ 30.223 (7) after the project is begun or after it is completed,
6 the department shall charge an amount equal to twice the amount of the fee that it
7 would have charged under this section.

8 (d) The department, by rule, may increase any fee specified in sub. (2) (a). The
9 department, by rule, may increase a fee specified in sub. (2) (b) only if the increase
10 is necessary to meet the costs incurred by the department in acting on general
11 permits or on notices submitted under s. ~~30.207~~ 30.223.

12 (2r) (b) If the department promulgates a rule under par. (a), the rule shall
13 contain a time limit for each type of permit or approval classified under sub. (2) (a)
14 for determining whether the department will ~~grant~~ issue the permit or approval.

15 SECTION 225. 30.29 of the statutes is renumbered ^{30.86} ~~30.227~~. ✓

16 SECTION 226. 30.292 of the statutes is repealed.

NOTE: The repealed provision relates to parties to a violation. An identical provision that applies to ch. 30 in its entirety already exists in s. 30.99.

17 SECTION 227. 30.294 of the statutes is renumbered ⁸⁶ ~~30.275~~. ✓

18 SECTION 228. 30.298 (title) of the statutes is renumbered 30.381 (title).

****NOTE: Take out the creation of s. 30.381 (title), which is in the 2nd half of the draft.

19 SECTION 229. 30.298 (1) of the statutes is renumbered 30.381 (1) and amended
20 to read:

21 30.381 (1) GENERAL PENALTY. Any person who violates any provision of ss. 30.12
22 ~~to 30.21~~ 30.095, 30.123, 30.135 to 30.20, 30.217, 30.223, 30.266, 30.276 to 30.293,

30.355

1

30.313, or 30.85 for which a penalty is not provided under the applicable section or by sub. (2) or (3) subs. (2) to (7) shall forfeit not less than \$100 nor more than \$10,000 for the first offense and shall forfeit not less than \$500 nor more than \$10,000 upon conviction of the same offense a 2nd or subsequent time.

30.98 (3)

~~SECTION 230.~~ 30.298 (2) of the statutes is renumbered 30.381 (6).

Keep

~~SECTION 231.~~ 30.298 (3) of the statutes is renumbered 30.381 (7).

INS 71-5
INS 71-6

~~SECTION 232.~~ 30.298 (4) of the statutes is renumbered 30.381 (9).

~~SECTION 233.~~ 30.298 (5) of the statutes is renumbered 30.381 (10) and amended

to read:

30.381 (10) ADDITIONAL ORDERS. In addition to the any forfeitures or fines specified under subs. (1) to (3) (8) the court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest in navigable waters. The court may order abatement of a nuisance, restoration of a natural resource, or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

****NOTE: Mark — Please check the internal cross-reference in s. 30.381 (10) to make sure it complies with your intent. It results in a substantive change from current law and your draft.

that

~~SECTION 234.~~ Subchapter III (title) of chapter 30 [precedes 30.30] of the statutes is renumbered subchapter IV (title) of chapter 30 [precedes 30.491].

~~SECTION 235.~~ 30.30 of the statutes is renumbered 30.491, and 30.491 (5) and (7), as renumbered, are amended to read:

30.491 (5) ACQUISITION OF LAND. Acquire such lands or interests therein as it deems necessary for properly carrying out its powers under this ~~chapter~~ subchapter, including such lands outside the municipal limits as are necessary to protect its

1 property or to carry out its powers under sub. (3). Such acquisition may be by
2 condemnation proceedings.

3 (7) DOING OF WORK. Contract for the doing of the work authorized by this section
4 or purchase the necessary equipment for the doing of the work itself, but if the
5 municipality has established a board of harbor commissioners such board shall have
6 charge of the letting of contracts and shall supervise the doing of the work, except
7 as provided in ss. ~~30.31~~ 30.492 (1) and ~~30.32~~ 30.493 (2).

8 **SECTION 236.** 30.31 of the statutes is renumbered 30.492, and 30.492 (1), (4)
9 and (6), as renumbered, are amended to read:

10 30.492 (1) SUPERVISION OF WORK. In exercising the powers granted by s. ~~30.30~~
11 30.491 (1) to (3), a municipality shall be governed by the law governing the laying out,
12 improvement, and repair of streets and bridges in such municipality, so far as
13 applicable, except that no petition of property owners for doing any such work is
14 necessary. If the municipality has established a board of harbor commissioners, such
15 board shall be in charge of the work unless the board determines that it is not
16 equipped to supervise the work and by resolution delegates such function to the
17 agency which ordinarily performs such function for the municipality. If the
18 municipality does not have a board of harbor commissioners, the municipality's
19 board of public works or, in the event there is no such board, the municipality's
20 governing body shall be in charge of the work.

21 (4) ACQUISITION OF LAND. In acquiring land by condemnation for any of the
22 purposes specified in this ~~chapter~~ subchapter, a municipality shall be governed by
23 the law relating to condemnation of land for public grounds or street purposes.
24 Whenever land is acquired through a land contract arrangement, such contract may

1 create a lien on such lands for the purchase price and interest thereon but shall not
2 create any liability therefor on the part of the municipality.

3 (6) SPECIAL ASSESSMENTS. Special assessments for benefits to lands, when
4 authorized by s. ~~30.30~~ 30.491 (4), shall be made and enforced as provided by s.
5 66.0703, except that at any time within the 90-day period immediately following the
6 publication of the final resolution as required by s. 66.0703 (8) (d), the owner of any
7 property along which such improvement is to be made may elect to make the
8 improvement along the owner's property at the owner's expense in accordance with
9 the approved plans and specifications or in a manner which conforms to good
10 engineering practice and which provides for materials and designs which, with
11 respect to strength and permanence, are at least equal to the requirements of the
12 approved plans and specifications. If the owner makes the improvement at the
13 owner's expense, no assessment of benefits shall be made therefor. If such owner
14 fails to commence the work within the 90-day period specified herein or fails to carry
15 on and complete the work with due diligence, the work may be done or completed by
16 the municipality and assessment of benefits made therefor.

17 **SECTION 237.** 30.32 of the statutes is renumbered 30.493.

18 **SECTION 238.** 30.323 (title) of the statutes is created to read:

19 **30.323 (title) Pierhead Lines.**

20 **SECTION 239.** 30.327 (title) of the statutes is created to read:

21 **30.327 (title) Municipal duty to report violations.**

22 **SECTION 240.** 30.33 of the statutes is renumbered 30.494.

23 **SECTION 241.** 30.34 of the statutes is renumbered 30.495, and 30.495 (1), (2),
24 (3) (a) and (4), as renumbered, are amended to read:

1 30.495 (1) HARBOR FUND TO BE CREATED. All municipalities operating a public
2 harbor through a board of harbor commissioners shall establish in the municipal
3 treasury a revolving fund to be known as the “harbor fund”. Moneys for such fund
4 may be raised by appropriation from the general fund or by taxation or loan as other
5 moneys in the general fund are raised. Moneys in such fund may be expended only
6 as provided in s. ~~30.38~~ 30.498 (13).

7 (2) FINANCING DOCK WALLS AND SHORE PROTECTION WALLS. A municipality may
8 pay either or both the assessable and nonaccessible parts of the cost of the
9 construction, maintenance, or repair of any dock wall or shore protection wall,
10 authorized by s. ~~30.30~~ 30.491 (3), out of its general fund or other available funds, or
11 it may finance such work through the issuance of its negotiable bonds as provided
12 in ch. 67, except that it is not necessary to include such bonds in the municipal budget
13 or to submit the question of their issuance to a referendum vote of the electors. The
14 bonds shall be serial bonds, shall be payable at any time within 10 years, and shall
15 bear interest payable either annually or semiannually as the governing body
16 determines. The bonds shall be a direct obligation of the municipality and the full
17 faith and credit of the municipality shall be pledged for their payment. No such
18 bonds shall be issued unless at or before the time of their issuance the governing body
19 levies a direct annual tax sufficient to pay the principal and interest thereon as they
20 fall due.

21 (3) (a) Any municipality may, with the consent of its board of harbor
22 commissioners, finance the cost of acquisition, construction, alteration, or repair of
23 any harbor facility by issuing evidences of indebtedness payable only out of the
24 revenue obtained from the public harbor facilities. Such evidences of indebtedness
25 may be revenue bonds, refunding bonds, or bond anticipation notes issued under s.

1 30.35 30.496 or 66.1103 or may be pledges or assignments of net profits, issued
2 pursuant to s. 66.0621 (5) as if the harbor facility were a public utility.

3 (4) EMERGENCY REPAIR FUND. Any municipality having established a board of
4 harbor commissioners to operate its harbor facilities may create a contingent fund
5 for the purpose of permitting the secretary of the board to pay for repairs to harbor
6 facilities which constitute emergency repairs within the meaning of s. ~~30.32~~ 30.493

7 (4). The secretary may pay for such repairs out of such fund on the secretary's
8 signature alone.

9 SECTION 242. 30.341 (title) of the statutes is created to read:

10 30.341 (title) **Activities of department of transportation.**

11 SECTION 243. 30.341 (1) of the statutes is created to read:

12 ✓ 30.341 (1) In this section, "^{inland}waters of the state" has the meaning given in s. ✓
13 ~~29.001(45)~~
~~28.101(10)~~ _____ INSERT
75-13

14 SECTION 244. 30.343 (title) of the statutes is created to read:

15 30.343 (title) **Activities of board of commissioners of public lands.**

16 SECTION 245. 30.35 of the statutes is renumbered 30.496, and 30.496 (6), as
17 renumbered, is amended to read:

18 30.496 (6) BONDHOLDERS AND NOTEHOLDERS HAVE LIEN. Title to all of the harbor
19 facilities for which revenue bonds, refunding bonds, or bond anticipation notes are
20 issued remains in the municipality, but a statutory lien exists in favor of the
21 bondholders and noteholders against the facilities which have been acquired,
22 constructed, altered, or remodeled and the cost of which has been financed with
23 funds obtained through the issuance of such bonds and notes. To provide further
24 security for the bondholders and noteholders, the ordinance or resolution
25 authorizing the issuance of revenue bonds, refunding bonds, or bond anticipation

1 notes may provide for a pledge of the revenues of the facilities, including, if the
2 facilities are leased under sub. ~~(6)~~ this subsection, an assignment of all or part of the
3 municipality's rights as lessor.

4 SECTION 246. 30.37 of the statutes is renumbered 30.497, and 30.497 (6) and
5 (7), as renumbered, are amended to read:

6 30.497 (6) EFFECT OF REVISION ON EXISTING HARBOR BOARDS. Boards of harbor
7 commissioners, harbor commissions, or dock and harbor boards in existence on
8 January 1, 1960, are deemed to be valid boards of harbor commissioners as if created
9 pursuant to this section and are vested with all of the powers and duties conferred
10 upon boards of harbor commissioners by this ~~chapter~~ subchapter. The members of
11 such boards may continue to hold office until their terms expire, notwithstanding
12 any provision of this section which would otherwise disqualify them, but
13 appointments made after January 1, 1960, shall be made only in accordance with
14 this section. Nothing in this subsection is intended to prevent a municipality by
15 resolution from abolishing its board of harbor commissioners, harbor commission, or
16 dock and harbor board.

17 (7) MILWAUKEE COUNTY. Milwaukee County, with respect to the land ceded or
18 granted to Milwaukee County as described in 1997 Wisconsin Act 70, section 3, may
19 directly exercise all of the powers and perform all of the duties conferred on a board
20 of harbor commissioners under ss. ~~30.34, 30.35 and 30.38~~ 30.495, 30.496, and 30.498,
21 but Milwaukee County may not create a board of harbor commissioners if sub. (1) (b)
22 applies. Milwaukee County shall have exclusive jurisdiction over the operation,
23 administration, maintenance, improvement, alteration, and repair of any marina
24 facility or marina related anchorage located on this land.

1 **SECTION 247.** 30.38 of the statutes is renumbered 30.498, and 30.498 (3) and
2 (13) (a) and (b), as renumbered, are amended to read:

3 **30.498 (3) CONTRACT PROCEDURES.** In the letting of work relative to the
4 construction, repair, or maintenance of a harbor or harbor facility or in the purchase
5 of equipment, supplies, or materials relative to carrying out its powers and duties,
6 a board of harbor commissioners shall be governed by the procedures and
7 requirements set forth in s. ~~30.32~~ 30.493.

8 **(13) (a)** All moneys appropriated to a board of harbor commissioners, all
9 revenues derived from the operation of the public harbor except in the case of a joint
10 harbor revenue from joint improvements before division thereof, and all other
11 revenues of the board shall be paid into the municipal treasury and credited to the
12 harbor fund, except that revenues assigned or pledged under s. ~~30.35~~ 30.496 (6) or
13 66.1103 shall be paid into the fund or funds provided for in the ordinance or
14 resolution authorizing the issuance of the bonds and shall be applied in accordance
15 with that ordinance or resolution.

16 **(b)** Subject to the limitations and conditions otherwise expressed in this section
17 and to a budget approved by the municipal governing body, moneys in the harbor
18 fund may be used for the acquisition, construction, improvement, repair,
19 maintenance, operation, and administration of the public harbor and harbor
20 facilities and for the acquisition, chartering, and operation of vessels under sub. (8)

21 **(b) 3.** Except as provided in s. ~~30.34~~ 30.495 (4), such moneys shall be paid out of the
22 harbor fund only on orders signed by the president and secretary of the board, or
23 some other official authorized by the board, after the allowance of claims by the board
24 or on orders entered in the minutes of the board. Disbursements from the harbor
25 fund shall be audited as other municipal disbursements are audited; however, the

1 board may determine on some other procedure it deems appropriate for the
2 consideration of claims and the reporting thereof notwithstanding the provisions of
3 this paragraph. If a procedure other than that set forth in this paragraph is
4 prescribed by the board, the approval of the chief auditing officer shall be obtained.

5 SECTION 248. 30.381 ⁽⁴⁾ ~~(2)~~ (title) of the statutes is created to read:

6 30.381 ⁽⁴⁾ ~~(2)~~ (title) STRUCTURES AND DEPOSITS.

7 SECTION 249. 30.381 ⁽⁴⁾ ~~(2)~~ (b) of the statutes is created to read:

8 30.381 ⁽⁴⁾ ~~(2)~~ (b) Any person who violates s. 30.12 shall be fined not more than
9 \$1,000 or imprisoned for not more than 6 months or both, upon conviction of the same
10 offense a 2nd or subsequent time within 5 years.

NOTE: ⁽⁴⁾ The criminal penalty in current law for violating s. 30.12 permit requirements is the only criminal penalty in subch. II. This provision keeps the criminal penalty for repeat violators and adds a forfeiture (civil penalty) as the basic penalty under s. 30.381 ⁽⁴⁾ ~~(2)~~ (a), renumbered from s. 30.15 (1) (d).

11 SECTION 250. 30.381 (3) (title) of the statutes is created to read:

12 30.381 (3) (title) FISHING RAFTS.

13 SECTION 251. 30.381 ⁽⁵⁾ ~~(4)~~ of the statutes is created to read:

14 30.381 ⁽⁵⁾ ~~(4)~~ WHARVES, PIERS, AND SWIMMING RAFTS. Any person who constructs or
15 places a wharf, pier, or swimming raft in navigable waters in violation of s. 30.13
16 shall forfeit not less than \$100 nor more than \$500 for each offense. Each day during
17 which a wharf, pier, or swimming rafts exists in violation of s. 30.13 is a separate
18 offense.

19 SECTION 252. 30.381 (6) (title) of the statutes is created to read:

20 30.381 (6) (title) DIVERSIONS OF WATER; CHANGING OF STREAM COURSES.

21 SECTION 253. 30.381 (7) (title) of the statutes is created to read:

22 30.381 (7) (title) GENERAL PERMITS.

23 SECTION 254. 30.381 (9) (title) of the statutes is created to read:

1 30.381 (9) (title) VIOLATIONS OF PERMITS, CONTRACTS, AND ORDERS.

2 **SECTION 255.** Subchapter IV (title) of chapter 30 [precedes 30.40] of the
3 statutes is renumbered subchapter III (title) of chapter 30 [precedes 30.40].

4 **SECTION 256.** 30.772 (3) (d) 4. of the statutes is amended to read:

5 30.772 (3) (d) 4. The provisions and procedures of ch. 68 shall apply to the ~~grant~~
6 issuance, denial, or revocation of a mooring permit by a municipality.

7 **SECTION 257.** 30.772 (3) (e) of the statutes is amended to read:

8 30.772 (3) (e) Any mooring, mooring anchor, or mooring buoy which is placed
9 or used in any navigable water in violation of this section or any local regulation
10 adopted by a municipality under this subsection constitutes a public nuisance
11 subject to s. ~~30.294~~ ~~30.976~~ ^{30.86}. A municipality may, by ordinance, provide that any ✓
12 person who violates any local regulation adopted under this subsection is subject to
13 a forfeiture not to exceed \$50 for each such violation. The ordinance may also provide ✓
14 that each day during which the violation exists is a separate offense.

INSERT
79-14

15 **SECTION 258.** 31.03 of the statutes is amended to read:

16 **31.03 Permits for the Lower Wisconsin State Riverway.** For activities in
17 the Lower Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining~~
18 the department shall include a condition in a permit issued under this chapter that
19 the person obtaining the permit may not start or engage in the activity for which the
20 permit was issued unless the person obtains any permit that is required for the
21 activity under s. 30.44 or 30.445.

22 **SECTION 259.** 60.782 (2) (d) of the statutes is amended to read:

23 60.782 (2) (d) Lease or acquire, including by condemnation, any real property
24 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
25 or ~~30.275~~ 30.359 (4).

1 **SECTION 260.** 66.0133 (3) of the statutes is amended to read:

2 66.0133 (3) NOTICE. Notwithstanding ss. 27.065 (5) (a), ~~30.32~~ 30.493, 38.18,
3 43.17 (9) (a), 59.52 (29) (a), 59.70 (11), 60.47 (2) to (4), 60.77 (6) (a), 61.55, 61.56, 61.57,
4 62.15 (1), 62.155, 66.0131 (2), 66.0923 (10), 66.0925 (10), 66.0927 (11), 66.1333 (5) (a)
5 2., 200.11 (5) (d), and 200.47 (2), before entering into a performance contract under
6 this section, a local governmental unit shall solicit bids or competitive sealed
7 proposals from qualified providers. A local governmental unit may only enter into
8 a performance contract if the contract is awarded by the governing body of the local
9 governmental unit. The governing body shall give at least 10 days' notice of the
10 meeting at which the body intends to award a performance contract. The notice shall
11 include a statement of the intent of the governing body to award the performance
12 contract, the names of all potential parties to the proposed performance contract, and
13 a description of the energy conservation and facility improvement measures
14 included in the performance contract. At the meeting, the governing body shall
15 review and evaluate the bids or proposals submitted by all qualified providers and
16 may award the performance contract to the qualified provider that best meets the
17 needs of the local governmental unit, which need not be the lowest cost provider.

18 **SECTION 261.** 200.35 (4) of the statutes is amended to read:

19 200.35 (4) DELIVERY OF DEEDS; ~~DNR~~ DEPARTMENT OF NATURAL RESOURCES PERMITS.
20 Upon application of the commission the proper officers of this state shall execute,
21 acknowledge, and deliver to the proper officers of the district any deed or other
22 instrument as that may be proper for the purpose of fully confirming the grants
23 under subs. (2) and (3). Notwithstanding s. ~~30.05~~ 30.233, the district may not
24 commence an action under sub. (2) or (3) without obtaining all of the necessary
25 permits from the department of natural resources under ch. 30.

1 **SECTION 262.** 281.35 (1) (b) 2. of the statutes is amended to read:

2 281.35 (1) (b) 2. If subd. 1. does not apply, the highest average daily water loss
3 over any 30-day period that is reported to the department or the public service
4 commission under sub. (3) (c) or s. 30.18 (6) (e) (bm), 196.98, 281.17 (1), or 281.41.

5 **SECTION 263.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

6 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
7 withdrawal or increase the amount of an existing withdrawal, the person shall apply
8 to the department under s. 30.18, 281.17 (1), or 281.41 for a new permit or approval
9 or a modification of its existing permit or approval if either of the following conditions
10 applies:

11 **SECTION 264.** 293.65 (2) (a) of the statutes is amended to read:

12 293.65 (2) (a) Any person intending to divert surface waters for prospecting or
13 mining shall apply to the department for a permit. The forms and procedures used
14 under s. 30.18 apply to the extent practicable.

****NOTE: Mark — Should the last sentence in s. 293.65 (2) (a) be amended or
deleted?

15 **SECTION 265.** 293.65 (2) (b) of the statutes is amended to read:

16 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
17 determine the minimum stream flow or lake level necessary to protect public rights,
18 the minimum flow or level necessary to protect the rights of affected riparians
19 riparian owners, the point downstream beyond which riparian rights are not likely
20 to be injured by the proposed diversion, and the amount of surplus water, as defined
21 in s. 30.01 (6d), if any, at the point of the proposed diversion.

22 **SECTION 266.** 295.16 (2) of the statutes is amended to read:

1 295.16 (2) NONMETALLIC MINING IN OR NEAR NAVIGABLE WATERWAYS. A nonmetallic
2 mining reclamation ordinance, and requirements of this subchapter other than the
3 standards established under s. 295.12 (1) (a), do not apply to any nonmetallic mining
4 site or portion of a nonmetallic mining site that is subject to permit and reclamation
5 requirements of the department under ss. 30.19, 30.195, 30.20, ~~30.30~~ 30.491, and
6 ~~30.31~~ 30.492. The nonmetallic mining standards established under s. 295.12 (1) (a)
7 do apply to a nonmetallic mining site that is subject to permit and reclamation
8 requirements of the department under ss. 30.19, 30.195, 30.20, ~~30.30~~ 30.491, and
9 ~~30.31~~ 30.492.

10 **SECTION 267.** 295.16 (4) (j) of the statutes is amended to read:

11 295.16 (4) (j) Removal of material from the bed of Lake Michigan or Lake
12 Superior by a public utility pursuant to a permit under s. ~~30.21~~ 30.293.

13 **SECTION 268.** 299.05 (1) of the statutes is amended to read:

14 299.05 (1) The department shall promulgate rules under which the
15 department refunds fees paid by an applicant for a permit, license, or approval that
16 is issued under ~~ss. 30.10 to 30.205 or 30.21 to 30.27~~ subch. II of ch. 30, chs. 280 to 292,
17 or subch. II of ch. 295 and that is of a type specified in the rule if the department fails
18 to make a determination on the application within the time limit specified in the rule
19 for that type of permit, license, or approval. The rules under this subsection do not
20 apply to an applicant for a license or other approval related to mining, as defined in
21 s. 293.01 (9), prospecting, as defined in s. 293.01 (18), or nonmetallic mining, as
22 defined in s. 295.11 (3).

23 **SECTION 269.** 299.05 (2) (a) of the statutes is amended to read:

24 299.05 (2) (a) Permits and other approvals under ~~ss. 30.10 to 30.205 and 30.21~~
25 ~~to 30.27~~ subch. II of ch. 30.

***NOTE: Mark- Do you agree with the changes in s. 299.095?

1
2
3
4

SECTION 270. 943.13 (4m) (c) of the statutes is amended to read:

943.13 (4m) (c) A person entering or remaining on any exposed shore area of
a stream as authorized under s. 30.134 ^{30.85} ~~(30.295)~~.

***NOTE: This statute must be deleted; and the cross-reference table must be corrected to show "~~30.295~~". [See RNK's draft LRB-0139/P2.]

***NOTE: In the nonstatutory provision in RNK's portion of the draft regarding an advisory committee for rules on navigability, the reference to s. 30.04 ~~(3)~~ must be changed to s. 30.04 ⁽¹⁾ ~~(2)~~.

(END)

30.85

stat

~~30.04 (3)~~

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0131/P5ins
MGG::

1 **Insert REL**

2 ~~Not~~ determinations concerning the navigability of bodies of water; determinations
3 as to whether bodies of waters are lakes or streams; procedures, requirements, and
4 exemptions that apply to granting, modifying, and denying permits, contracts, and
5 other approvals for activities that affect navigable waters; maintenance of bridges
6 over navigable streams; liability for changing the courses of streams; rights of the
7 public and riparian owners in navigable waters; the recodification of ch. 30;
8 ~~eliminate~~ ^{elimination of} obsolete provisions of ch. 30; requiring the exercise of rule-making
9 authority; and providing a penalty

10 **Insert 10-19**

11 **SECTION 1.** 30.035 (1) (b) of the statutes is created to read:

12 30.035 (1) (b) A stream is navigable in fact if it is capable of floating any boat,
13 skiff, or canoe that is of the shallowest draft and is of a type ^e used for recreational
14 purposes.

15 ^{CR;}
~~SEC. #.~~ 30.035 (3) and (4)
Insert 11-3 ✓

16 ~~Not~~ (a) The department may determine whether a stream is navigable in fact by
17 means of actual navigation. If the department does so, the department shall use a
18 boat, skiff, or canoe ^{carrying one adult} that is of the shallowest draft ^{and} that is of a type
19 used for recreational purposes.

20 **Insert 11-5** ✓

***NOTE: I added "in fact by means of navigation" in s. 30.035 (3) (a) (intro.). OK?

21 **Insert 11-16** ✓

1 (c) The department may determine whether a stream ^{is} ~~is~~ navigable in fact based
2 on reliable records that show a history of actual navigation.

3 (d) In addition to the department, any person may determine whether a stream
4 is navigable in fact by using a method described ^e in pars. (a) to (c). A stream is
5 presumed to be navigable as a matter of law if it ^{is} ~~is~~ determined to be navigable in fact
6 using a method described in pars. (a) to (c).

****NOTE: Mark - I tried to use the language in the LC draft to the extent possible. I took out the reference to "lake" since there is no method in this section for determining whether a lake is navigable in fact. I tried to make a distinction between "navigable in fact" and navigable for purposes of ch. 30 and the public trust doctrine. If we don't make the distinction, the sentence seems circular, and I still feel it conflicts with the result of using the methods specified in s. 30.035 (3) (a), (b) and (c). That is, can a stream ~~be~~ navigable in fact but not navigable as a matter of law? ^{that} ^{be}

7 **Insert 14-2** ✓

8 **(1)** The department may promulgate rules under this chapter.

9 **Insert 15-6** ✓

****NOTE: Mark - I know we discussed putting back in the phrase found in the LC draft at page 11, line 2, which begins with "where any procedure...." However, I find this redundant given that there is a cross-reference throughout the subchapter back to s. 30.04 (3) wherever notice to a local governmental unit is required. See s. 30.107 (2), as renumbered in this draft, 30.11(5), as renumbered in this draft, 30.135(2) (a), and 30.246 (2)2. However, I'll include the phrase if you wish. ✓

(a) ^{s.} **NOTE:** Mark - Note that s. 30.04 (2) (d) and (e) ^{and s.} ~~uses~~ the phrase "activity or structure," and s. 30.014 (3) (intro.) uses "project or activity". ^I ^{OK?} ^{used}

10 **Insert 18-6**

11 **SECTION 2.** 30.10 (title) of the statutes is renumbered 30.035 (title) and
12 amended to read:

13 **30.035 (title) Declarations and determinations of navigability.**

History: 1977 c. 190, 272, 418; 1981 c. 339; 1991 a. 316; 1999 a. 9.

14 **SECTION 3.** 30.10 (1) (title) of the statutes is renumbered 30.035 (1) (title) and
15 amended to read:

16 **30.035 (1) (title) LAKES AND STREAMS.**

9
~~(title)~~

1 SECTION 4. 30.10 (1) of the statutes is renumbered 30.035 (1) (a) and
2 amended to read:

3 ~~30.035 (1) (a) All lakes wholly or partly within this state which~~ Lakes and
4 streams that are navigable in fact for any purpose whatsoever are declared to be
5 navigable ^{plain space} ~~and public waters, and all persons have the same rights therein and~~
6 ~~thereto as they have in and to any other navigable or public waters.~~ plain

History: 1977 c. 190, 272, 418; 1981 c. 339; 1991 a. 316; 1999 a. 9.

7 SECTION 5. 30.10 (2) of the statutes is repealed.

8 SECTION 6. 30.10 (3) of the statutes is renumbered 30.035 (2) and amended to
9 read:

10 30.035 (2) ENLARGEMENTS ~~OR IMPROVEMENTS~~ IN NAVIGABLE WATERS. All
11 enlargements in navigable waters, including inner and outer harbors, turning
12 basins, waterways, slips, and canals ~~created by any municipality to be used by the~~
13 ~~public for purposes of navigation, and all outer harbors connecting interior~~
14 ~~navigation with lake navigation,~~ are declared to be navigable waters ^{plain space} ~~and are subject~~
15 ~~to the same control and regulation that navigable streams are subjected to as regards~~
16 ~~improvement, use and bridging.~~

History: 1977 c. 190, 272, 418; 1981 c. 339; 1991 a. 316; 1999 a. 9.

17 **Insert 22-16** ✓

****NOTE: Mark - I took out the list of exemptions in s. 30.12 (1m) because I felt that
there are other exemptions, and we should avoid listing some but not all. Also, under
current law or in this draft, all of these exemptions are exempted under the provisions
that specifically cover them. (See s. 30.12 (3) (bt), as renumbered for Wolf and Fox River
seawalls, 30.12 (4) (a), as renumbered for DOT activities, s. 30.123 (1), as renumbered for
municipal highway bridges, 30.13 (1) and (1m) for wharves, piers, and swimming rafts,
and s. 30.135 (1) for water ski platforms and jumps.

(I)

River

18 **Insert 24-9** ✓

19 SECTION 7. 30.12 (3) (am) of the statutes is created to read:

1 30.12 (3) (am) The department may promulgate rules that identify deposits or
2 structures, in addition to those listed in par. (a), to which the permitting procedures
3 under this subsection apply.

4 **Insert 24-18** ✓

5 (Not) The procedures under ss. 30.244, 30.245, and 30.246 do not apply to a permit
6 application submitted under this subsection.

7 **Insert 25-10** ✓

 ****NOTE: In s. 30.12, I have used the phrase "structure or deposit" since the term
"activity" is not used under current law except in s. 30.12 (4), which deals with DOT
activities and which has been removed in this draft. In s. 30.04, I have consistently used
the phrase "activity, deposit, or structure". See, s. 30.04 (d) and (e) and (3). The terms
"fill" and "project" are used elsewhere in ch. 30. Please let me know if you want any
changes in s. 30.04 or 30.12 or in other sections in light of this.

8 **Insert 35-23** ✓

9 **SECTION 8.** 30.135 (1) (title) of the statutes is repealed and recreated to read:

10 30.135 (1) (title) PLACEMENT ALLOWED WITHOUT PERMIT UNDER CERTAIN
11 CIRCUMSTANCES..

 ****NOTE: I made this title consistent with the title found in s. 30.13 (1).

12 **Insert 37-23** ✓

13 (b) Unlawfully places in any navigable waters or in any tributary thereof
14 any substance that may float into and obstruct any such waters navigable water or
15 that may impede their free navigation of any navigable water.

16 **Insert 38-21** ✓

 ****NOTE: The language in the definition of "major (formerly "large") diversion" is the
same as the language found in s. 30.18 (3) except that I added "at least" OK?

17 **Insert 39-14** ✓

 ****NOTE: Mark - In this redraft, I redid s. 30.18 so that the permits are not divided
between streams and lakes. Instead, I used the structure that is under current law,
streams, and "major" diversions from either lakes or streams.

18 **Insert 42-8** ✓

1 SECTION 9. 30.18 (5) (b) of the statutes is amended to read:

2 30.18 (5) (b) ~~Streams~~ Major diversions from streams or lakes. The department
3 shall ~~approve an application for issue~~ a permit required under sub. (2) (b) for a major
4 diversion if the grounds for approval specified under s. 281.35 (5) (d) are met ~~and, if~~
5 ~~the~~. If a permit is also required under sub. (2) (a), if the department makes the
6 determinations specified under par. (a) shall issue a permit under this paragraph
7 only if the conditions for a permit under par. (a) apply to the major diversion.

8 History: 1979 c. 221; 1985 a. 60; 1987 a. 374; 1995 A. 227.

Insert 47-19 ✓

****NOTE: Mark - Under current law, s. 30.19 (1) (a), but not s. 30.19 (1) (b), uses ✓
the verb "enlarge". However, under current law, the exemption under s. 30.19 (1m) ✓
applies to "enlargements" under s. 30.19 (1) (a) and (b), although no such enlargements ✓
are authorized under s. 30.19 (1) (b). Under this draft, the activities under s. 30.19 (1) ✓
(a) and (am) (s. 30.19 (1) (a) is divided into pars. (a) and (am) in the draft) are covered by ✓
this exemption; activities under s. 30.19 (1) (b) are not. Please let me know if you want
any changes.

9 **Insert 48-9** ✓

10 SECTION 10. 30.19 (2) (e) of the statutes is renumbered 30.19 (3b) (b) and
11 amended to read:

12 30.19 (3b) (b) ~~The name and address of the secretary of any property owners'~~ ✓
13 ~~association pertaining~~ formed with respect to the bodies of water affected by the ✓
14 ~~project or if there is no such association, the names and addresses of.~~ If no property ✓
15 owner's association exists, the department shall give notice to at least 5 persons who ✓
16 own real property located adjacent to the bodies of water. If fewer than 5 persons own
17 real property located adjacent to the bodies of water, ^{plain} the names and addresses of such
18 ~~persons that own real estate so located shall be given~~ the department shall give
19 notice to all of these persons.

20 History: 1971 c. 273; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227.

Insert 48-22 ✓

Fix
com 1

SECTION 11. 30.19 (3) (a) of the statutes is renumbered 30.19 (3b) (a) and amended to read:

30.19 (3b) (a) ~~Section 30.02 (3) and (4) applies to permit applications under sub. (1) (b) and (c). Notice shall be provided to the clerks~~ ~~The clerk~~ of the county and The clerk of each municipality in which the project or affected body of water is located ^{plain space} and to the persons under sub. (2) (e). For any permit application which affects the

(c) The Milwaukee Metropolitan Sewerage District for a project that would affect ^{the} Milwaukee River, the Menomonee River, the Kinnickinnic River, the Root River or any tributary of those rivers, ~~special notice shall be given to the Milwaukee metropolitan sewerage district.~~ ~~The metropolitan sewerage district shall have 30 days to respond to the special notice.~~

History: 1971 c. 273; 1979 c. 34 s. 2102 (History: 39) (g); 1979 c. 221; 1983 a. 36; 1987 s. 374; 1995 a. 227.

Insert 49-7

30.19 (3b) NOTICE AND HEARING. Upon receipt of a complete application for a permit under sub. (1g), the department shall follow the procedure allowing the department to give notice under s. 30.245 or shall deny the application as provided in s. 30.246 (1). Upon receipt of a complete application for a permit under sub. (1g) (b) or (c) for a project in which there is or will be an effect on navigable waters other than an effect on water quality, the department shall give notice of receipt of the application as provided in s. 30.244 or shall deny the application as provided in s. 30.246 (1). In addition to the notice requirements under s. 30.246 (2), the department shall give notice to all of the following:

Insert 49-22

****NOTE: Mark - Since "artificial water body" is a defined term, I think we should avoid the phrase "natural or artificial water body". However, to use the phrase "natural water body or artificial water body that is affected by the project" could possible be interpreted so that the qualifying phrase "that is affected by the project" only applies to

Y

an "artificial water body". Therefore, I just used the phrase "any water body" since that covers both types of water bodies (and I assume there are no others) and it is similar to the language under current law. Let me know if you want any changes.

1

Insert 61-2 ✓

****NOTE: Mark - In giving me redraft instructions for s. 30.207 (5) you indicated that the last sentence of that subsection was still necessary and not just another way of stating the requirement in the first sentence of that subsection. Rereading it, I still feel that it is redundant. Let's discuss this.

2

Insert 65-14 ✓

After

3

(c) The department shall approve or deny the application without a hearing if

4

any of the following ~~sub~~: *applies*

5

1. The request for a contested case hearing does not comply with all of the

6

requirements under pars. (a) and (b).

7

2. The objection contained in the request is not a substantive written objection.

8

Insert 66-4 ✓

par. (c) or

9

(f) If the department denies an application under sub. (1) ~~or sub. (5) (c)~~ ✓

10

the applicant may request in writing a contested case hearing within 30 days after

11

receiving the denial.

12

Insert 66-15 ✓

13

(5) MEDIATION. (a) At any time after notice has been given under sub. (2) and

14

before the date *on which* the contested case hearing will begin, the department shall allow for ✓

15

mediation if the department, the applicant for the permit or contract, any person who

16

requests a contested case hearing on the permit or contract, and any person with a ✓

17

substantial interest in the permit or the contract all agree to mediation. The

18

participants shall determine how the mediator is to be selected and compensated.

19

Insert 71-6 ✓

20

SECTION 12. 30.298 (3) of the statutes is renumbered 30.381 (7) and amended

21

to read:

1 30.381 (7) Any person who violates s. ~~30.206~~ 30.221 shall forfeit not less than
 2 \$10 nor more than \$500 for the first offense and shall forfeit not less than \$50 nor
 3 more than \$500 upon conviction of the same offense a 2nd or subsequent time.

History: 1987 a. 374.

4 **Insert 75-13** ✓

 ****NOTE: "Outlying waters" is already defined for purposes of ch. 30. See s. 30.01
 (4r). Ⓢ

5 **Insert 79-14** ✓

6 **SECTION 13.** 30.98 (title) of the statutes is created to read:

7 **30.98 (title) Penalties.** ✓

8 **SECTION 14.** 30.98 (3) (title) of the statutes is created to read:

9 30.98 (3) (title) VIOLATION OF PERMIT, CONTRACT, OR ORDER. ✓

 ****NOTE: Section 30.98 (3) (1) (title) (which is the same as this title except for the
 numbering) must be deleted from Robin's draft.

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

LRB-0131/P5dn

MGG:

King

C
I have included the language in the Legislative Council draft under s. 30.04 (1). However, that language is not necessary because DNR already has the authority to promulgate rules under the subchapter under ch. 227. The language also raises the inference that in other areas of the statutes, state agencies do not have this power when it is not specifically granted. Therefore, I recommend deleting the provision.

MGG