

RM

3630/2

Nov 11

2003 BILL

( Campaign - no changes )

Reger

1 AN ACT *to repeal* 19.52 (4), 30.01 (6b), 30.02, 30.12 (2), 30.12 (3) (b), 30.12 (3) (bn),  
2 30.12 (3) (d), 30.12 (4) (title), 30.12 (4m) (title), 30.12 (5), 30.123 (3), 30.123 (5),  
3 30.13 (1), 30.13 (2), 30.13 (4) (d), 30.135 (1) (title), 30.135 (2), (3) and (4), 30.18  
4 (9), 30.19 (1) (b), 30.19 (2), 30.19 (3), 30.195 (3) (title), 30.195 (4), 30.195 (7),  
5 30.206 (2), 30.206 (3m), 30.207 (4) (b), 30.207 (5), 227.45 (7) (a) to (d), 227.46 (2),  
6 227.46 (2m), 227.46 (3), 227.46 (4), 285.11 (6) (a) and (b), 285.21 (1) (a) (title),  
7 285.21 (1) (b), 285.60 (2m) and 285.63 (2) (d); *to renumber* 30.12 (3) (bt) 1. to  
8 9., 30.12 (4) (d), 30.135 (1) (a) 1., 30.135 (1) (a) 3., 30.20 (1) (c) 3., 285.61 (8) (a),  
9 285.62 (8) and 285.66 (2); *to renumber and amend* 30.015, 30.07, 30.12 (1)  
10 (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 2., 30.12 (3) (a) 2m., 30.12 (3) (bt)  
11 (intro.), 30.12 (4) (a), 30.12 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12  
12 (4m), 30.123 (1), 30.123 (4), 30.135 (1) (a) (intro.), 30.135 (1) (a) 2., 30.135 (1) (b),  
13 30.19 (1) (intro.), 30.19 (1) (a), 30.19 (1) (c), 30.19 (4), 30.195 (3), 30.20 (1) (d),  
14 30.206 (1), 30.206 (3), 30.206 (4), 227.45 (7) (intro.), 285.11 (6) (intro.), 285.21

**BILL**

1 (1) (a), 285.27 (2) (b), 285.61 (2) and 285.62 (2); **to consolidate, renumber and**  
2 **amend** 30.20 (1) (c) 1. and 2.; **to amend** 16.957 (2) (b) 1. (intro.), 16.957 (2) (c)  
3 2., 16.957 (3) (b), 19.52 (3), 25.96, 29.601 (5) (a), 30.01 (1p), 30.10 (4) (a), 30.11  
4 (4), 30.12 (title), 30.12 (3) (a) 6., 30.12 (3) (c), 30.123 (2), 30.13 (1m) (intro.), 30.13  
5 (1m) (b), 30.13 (4) (a), 30.13 (4) (b), 30.131 (1) (intro.), 30.18 (2) (a) (intro.), 30.18  
6 (2) (b), 30.18 (4) (a), 30.18 (6) (b), 30.19 (1m) (intro.), 30.19 (1m) (a), 30.19 (1m)  
7 (b), 30.19 (1m) (c), 30.19 (1m) (d), 30.19 (1m) (e), 30.19 (4) (title), 30.19 (5),  
8 30.195 (1), 30.196 (intro.), 30.20 (1) (a), 30.20 (1) (b), 30.20 (2) (title), 30.20 (2)  
9 (a) and (b), 30.20 (2) (c), 30.2026 (2) (d), 30.2026 (3) (a), 30.206 (6), 30.206 (7),  
10 30.207 (1), 30.207 (3) (d) 2., 30.28 (3) (b), 30.29 (3) (d), 30.298 (3), 31.39 (2m) (c),  
11 66.1001 (2) (e), 66.1001 (4) (a), 84.18 (6), 106.01 (9), 106.025 (4), 146.82 (2) (a)  
12 (intro.), 196.195 (10), 196.24 (3), 196.374 (3), 196.491 (1) (d), 196.491 (2) (a) 3.,  
13 196.491 (2) (a) 3m., 196.491 (2) (g), 221.0901 (3) (a) 1., 221.0901 (8) (a) and (b),  
14 227.14 (2) (a), 227.19 (2), 227.19 (3) (intro.), 227.19 (3) (a), 227.19 (3) (b), 227.46  
15 (1) (intro.), 227.46 (1) (h), 227.46 (6), 227.47 (1), 227.485 (5), 227.53 (1) (a) 3.,  
16 236.16 (3) (d) (intro.), 281.22 (2) (c), 285.11 (9), 285.17 (2), 285.21 (2), 285.21 (4),  
17 285.23 (1), 285.27 (1) (a), 285.27 (2) (a), 285.27 (4), 285.60 (1) (a) 1., 285.60 (1)  
18 (b) 1., 285.60 (2) (a), 285.60 (6), 285.61 (1), 285.61 (3), 285.61 (4) (a), 285.61 (4)  
19 (b) 2. and 3., 285.61 (5) (a) (intro.), 285.61 (5) (c), 285.61 (7) (a), 285.61 (8) (b),  
20 285.62 (1), 285.62 (3) (a) (intro.), 285.62 (3) (c), 285.62 (5) (a), 285.62 (6) (c) 1.,  
21 285.62 (7) (b), 285.63 (1) (d), 285.66 (3) (a), 285.69 (1) (a), 285.81 (1) (intro.),  
22 289.27 (5), 299.05 (2) (a), 448.02 (3) (b), 448.675 (1) (b), 452.09 (2) (a), 452.09 (2)  
23 (c) (intro.) and 452.09 (3) (d); **to repeal and recreate** 30.12 (3) (title), 30.12 (3)  
24 (a) (intro.), 30.123 (title), 30.195 (2), 30.20 (1) (title), 285.11 (17), 285.60 (3) and  
25 285.62 (9) (b); and **to create** 16.957 (2m), 30.01 (1am), 30.12 (1b), 30.12 (1g)

**BILL**

1 (intro.), (a), (b) and (e) to (j), 30.12 (3) (a) 9., 30.12 (3) (a) 10., 30.12 (3) (a) 11.,  
2 30.12 (3) (a) 12., 30.12 (3) (br), 30.12 (3) (bv), 30.12 (3m), 30.121 (3w), 30.123 (6),  
3 30.123 (7), 30.123 (8), 30.19 (1b), 30.19 (1m) (cm), 30.19 (1m) (g), 30.19 (1m) (h),  
4 30.19 (3r), 30.19 (4) (a), 30.19 (4) (b), 30.19 (4) (c) 1., 30.195 (1m), 30.20 (1g)  
5 (title) and (b), 30.20 (1r), 30.20 (2) (bn), 30.20 (2) (d), 30.20 (2) (e), 30.201,  
6 30.2022 (title), 30.206 (1) (title), 30.206 (1) (c) 1. to 3., 30.206 (3) (title), 30.206  
7 (3) (c), 30.206 (5) (title), 30.208, 30.209, 66.0628, 66.1001 (4) (e), 106.04, 146.82  
8 (2) (a) 22., 196.195 (5m), 196.374 (3m), 227.135 (1) (e) and (f), 227.137, 227.138,  
9 227.14 (2) (a) 3., 227.14 (2) (a) 4., 227.14 (2) (a) 5., 227.14 (2) (a) 6., 227.14 (4)  
10 (b) 3., 227.185, 227.19 (3) (am), 227.19 (3) (cm), 227.40 (4m), 227.43 (1g), 227.44  
11 (2) (d), 227.445, 227.483, 227.57 (11), 241.02 (3), 285.01 (12m), 285.14, 285.23  
12 (5), 285.23 (6), 285.27 (2) (b) 1. to 3., 285.27 (2) (d), 285.60 (2g), 285.60 (5m),  
13 285.60 (6m), 285.60 (6r), 285.60 (8), 285.60 (9), 285.60 (10), 285.61 (2) (b), 285.61  
14 (8) (a) 2., 285.61 (10), 285.61 (11), 285.62 (2) (b), 285.62 (7) (bm), 285.62 (8) (b),  
15 285.62 (12), 285.66 (2) (b), 285.755, 285.81 (1m), 295.13 (4) and 452.05 (3) of the  
16 statutes; **relating to:** administrative rules, guidelines, policies, and hearings;  
17 air pollution control; structures, deposits, and other activities in or near  
18 navigable waters; notice, hearing, and review procedures related to permits to  
19 place structures and materials and to conduct activities in or near navigable  
20 waters; nonmetallic mining reclamation financial assurances; strategic energy  
21 assessments; partial deregulation of telecommunications services;  
22 contributions by electric and gas utilities to the utility public benefits fund;  
23 grants for energy conservation and other programs; reciprocal agreements for  
24 real estate licenses; comprehensive planning by local governmental units; fees  
25 imposed by political subdivisions; the confidentiality of patient health care

**BILL**

1 records; apprentice-to-journeyman job-site ratios; the acquisition of in-state  
2 banks and in-state bank holding companies; credit agreements; extending the  
3 time limit for emergency rule procedures; and granting rule-making authority.

---

***Analysis by the Legislative Reference Bureau*****INTRODUCTION**

This bill makes various changes relating to administrative rule-making and procedures, the control of air pollution, the protection of navigable waters, nonmetallic mining reclamation financial assurances, strategic energy assessments, the partial deregulation of telecommunications services, contributions to and grants from the utility public benefits fund, reciprocal agreements for real estate licenses, comprehensive planning by local governmental units, fees imposed by political subdivisions, the confidentiality of patient health care records, apprentice-to-journeyman job-site ratios, the acquisition of in-state banks and in-state bank holding companies, and credit agreements and related documents.

**ADMINISTRATIVE RULE MAKING AND PROCEDURES**

This bill makes numerous changes relating to administrative rule making and procedures. The bill:

1. Expands the judicial review of the agency rule-making process as follows:
  - a. Requires a court, when determining if a promulgated rule is valid, to confine its review to the agency record unless it is necessary to supplement that record with additional evidence.
  - b. Expands the agency record subject to review to include any economic impact report and related analysis that the agency prepares in response to a petition from a group economically affected by the rule, the plain-language analysis of the rule printed at the time the rule is published, and the report submitted to the legislature when the proposed rule is in final draft form.
  - c. Allows a court to find a rule invalid if the agency's decision-making process related to the adequacy of the factual basis to support the rule was arbitrary and capricious, if the agency's required analysis and determinations were arbitrary and capricious, or if the rule-making process was impaired by a material error in the agency's procedure when promulgating the rule.
  - d. Requires that if the agency's authority to promulgate a rule requires the rule to be comparable with federal programs or requirements or to exceed federal programs or requirements based on need, the court shall conduct a review of the agency record to determine if the agency determination was supported by substantial evidence.
2. Requires an agency to prepare an economic impact report for a proposed rule if a municipality, an association that represents a farm, labor, business, or professional group, or five or more persons, who may be economically affected by a proposed rule asks the agency to prepare that report.

**BILL**

3. Requires the Department of Administration (DOA) to review a proposed rule if petitioned by affected persons or if an economic impact report is prepared and to determine if the agency has statutory authority to promulgate the proposed rule, if the rule is consistent with and not duplicative of other rules or federal regulations, that the proposed rule is consistent with the governor's positions, and that the agency used complete and accurate data when developing the rule. Under the bill, DOA may return the proposed rule to the agency for rewriting.

4. Requires an agency, when preparing the analysis of a proposed rule as required under current law, to include all of the following in that analysis, in addition to the currently required summary of the rule and references to the statutes that authorize the rule and that the rule interprets:

a. A summary of the legal interpretations and policy considerations underlying the rule.

b. A summary of existing federal regulatory programs that address similar matters.

c. A summary of the data, studies, and other sources of information on which the proposed rule is based.

d. A summary of the methodology used to obtain and analyze the data and how the data supports the regulatory approach and the agency's findings.

5. Requires the agency to submit a proposed rule in final form to the governor for review, modification, or rejection.

6. Requires the administrator of the division of hearings and appeals to randomly assign hearing examiners to preside over administrative hearings.

7. Allows a person to request the substitution of an administrative hearing examiner and provides a procedure for that substitution.

8. Prohibits a hearing examiner from making any decision regarding constitutional issues.

9. Removes the provision that allowed certain agencies to have the hearing examiner make a proposed decision and have designated officials of the agency review that proposed decision and issue a final decision. Instead, the hearing examiner's decision is final.

10. Allows a hearing examiner to award the successful party his or her costs, including attorney fees, if the hearing examiner finds that the other party's claim or defense is frivolous.

11. Allows the venue of judicial review of a contested case where the petitioner is a nonresident to be in the county where the property involved is located or if no property involved, in the county where the dispute arose, instead of in Dane County as is current law.

**AIR QUALITY MANAGEMENT*****Air quality standards and emission standards for hazardous pollutants***

Under the federal Clean Air Act (CAA), the Environmental Protection Agency (EPA) has established a national ambient air quality standard (NAAQS) for each of six air pollutants, including ozone. Under current state law, if EPA establishes an NAAQS for a substance, the Department of Natural Resources (DNR) must promulgate by rule a similar ambient air quality standard, which may not be more

**BILL**

restrictive than the federal standard. If EPA relaxes an NAAQS, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an ambient air quality standard for a substance for which EPA has not promulgated an NAAQS if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill eliminates DNR's authority to promulgate an ambient air quality standard for a substance for which EPA has not established an NAAQS. The bill also provides that if EPA modifies an NAAQS, DNR must alter the corresponding state standard accordingly.

The CAA requires EPA to establish national emission standards for hazardous air pollutants (NESHAPs). Under current state law, if EPA establishes an NESHAP for a substance, DNR must promulgate by rule a similar standard, which may not be more restrictive than the federal standard in terms of emission limitations. If EPA relaxes an NESHAP, DNR must alter the corresponding state standard unless it finds that the relaxed standard would not provide adequate protection for public health and welfare. Current law also authorizes DNR to promulgate an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP if DNR finds that the standard is needed to provide adequate protection for public health or welfare.

This bill provides that if EPA establishes an NESHAP for a substance, DNR must promulgate a rule that incorporates the NESHAP and related administrative requirements. The bill prohibits DNR from promulgating a rule that is more restrictive in terms of emission limitations or otherwise more burdensome to operators of sources affected by the rule than the NESHAP and related administrative requirements.

The bill prohibits DNR from promulgating an emission standard for a hazardous air contaminant for which EPA has not promulgated an NESHAP unless DNR conducts a public health risk assessment that identifies the sources in this state that emit the contaminant, shows that identified individuals are subjected to levels of the hazardous air contaminant that are above recognized environmental health standards, evaluates options for managing the risks caused by the contaminant, considering costs and other relevant factors, and finds that the compliance alternative chosen by DNR for the contaminant reduces risks in the most cost-effective manner practicable.

***State implementation plans and nonattainment areas***

Under the CAA, an area with levels of a pollutant above an NAAQS must be designated as a nonattainment area. Nonattainment areas are subject to more stringent requirements under the CAA than other areas.

The CAA requires each state to submit implementation plans to show how the state will ensure that air quality in the state complies with each NAAQS, including showing how the state will reduce the level of pollutants in its nonattainment areas. Current state law requires DNR to prepare plans for the prevention, abatement, and control of air pollution in this state. The law requires that the plans submitted to EPA for the control of ozone conform with the CAA, except that measures beyond

**BILL**

those required by the CAA may be included if they are necessary to comply with requirements to show that the state will make reductions in the levels of ozone in ozone nonattainment areas.

This bill specifies that when DNR prepares a state implementation plan for a pollutant for which EPA has established an NAAQS, DNR may only include provisions that are necessary to obtain EPA approval of the plan, including provisions that are necessary to comply with requirements to show that the state will make reductions in the levels of that pollutant in the state's nonattainment areas. The bill requires that, at least 90 days before DNR is required to submit a state implementation plan to EPA, DNR submit a report to the Joint Committee for Review of Administrative Rules (JCRAR) that describes the proposed plan and contains supporting documents for the plan. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not submit the state implementation plan to EPA until JCRAR agrees that DNR has adequately addressed the issues raised by JCRAR.

Current law authorizes DNR to identify nonattainment areas based on procedures and criteria that it establishes.

This bill prohibits DNR from identifying a county as part of a nonattainment area if the level of an air pollutant in the county does not exceed an ambient air quality standard, unless the CAA requires the county to be so designated. The bill requires that, at least 90 days before this state is required to provide a submission to EPA identifying an area as a nonattainment area, DNR submit a report to JCRAR that describes the area and contains supporting documents. The bill gives JCRAR 30 days to review the report. If, within that time, JCRAR returns the report to DNR with a written explanation of why the committee is returning the report, DNR may not provide the submission to EPA until JCRAR agrees that DNR has adequately addressed the issues JCRAR has raised.

When EPA replaced an NAAQS based on the concentration of particulate matter in the atmosphere measured as total suspended particulates with standards based on the size of particulate matter, DNR retained the state emission standard based on total suspended particulates and also adopted the federal standards based on the size of the particulate matter.

The bill prohibits DNR from designating an area as a nonattainment area based on the concentration of particulate matter in the atmosphere measured as total suspended particulates and requires DNR to end the designation of an area as a nonattainment area if the designation was based on the concentration of particulate matter in the atmosphere measured as total suspended particulates.

***New source review***

Under the CAA, a person must obtain a construction permit before beginning the construction of a stationary source of air pollution that meets certain criteria. These sources are generally called major sources. The CAA also requires a person to obtain a construction permit before making changes to a major source if the changes amount to what the CAA calls "modifications." If a source is required to obtain a construction permit, the CAA imposes air pollution control requirements

**BILL**

that are more stringent than those imposed on sources that are not required to obtain a construction permit, including those to which changes are made that do not amount to modifications. The part of the CAA that contains these provisions is often referred to as new source review.

Recently, EPA has promulgated regulations that revise the way in which it is determined under federal law whether changes to a major source are considered to be modifications, thus revising the situations in which major sources must obtain construction permits and implement more stringent pollution controls. States are not required to use the federal approach to determining whether changes are considered to be modifications, as long as their new source review provisions are at least as stringent as the federal new source review provisions.

This bill requires DNR to promulgate rules incorporating the recent revisions that EPA made in its regulations for determining whether changes to a major source amount to modifications and any future revisions that EPA makes. The bill requires DNR to make similar revisions to its rules for sources that are not covered by the CAA (minor sources) if the revisions reduce administrative requirements.

***Permit requirements***

The CAA requires states to require operation permits for major sources of air pollution and construction permits for the construction or modification of major sources of air pollution. Current state law generally requires operation permits for all stationary sources of air pollution and construction permits for the construction or modification of all stationary sources of air pollution.

Current state law authorizes DNR to promulgate rules exempting types of sources from the requirements to obtain permits if the potential emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment. This bill requires DNR to promulgate rules exempting minor sources from the requirement to obtain a construction permit and an operation permit if emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

This bill specifically exempts an agricultural source from the requirement to obtain a construction permit and an operation permit, unless the CAA requires permits for the source. The bill exempts from the construction permit requirement a source that is a component of a process, of equipment, or of an activity that is otherwise covered by a preexisting operation permit.

Current state law authorizes DNR to promulgate rules specifying types of sources that may obtain general construction permits and general operation permits, which may cover numerous similar sources. This bill requires DNR to promulgate rules for the issuance of general permits for similar stationary sources. The bill requires that within 15 days of receiving an application for coverage under a general permit DNR either notify the applicant whether the source qualifies for coverage or tell the applicant what additional information DNR needs to determine whether the source qualifies for coverage. The bill specifies that a person is not required to obtain a construction permit or to apply for coverage under a general permit before beginning to construct or modify a source that qualifies for a general permit, unless the CAA requires a construction permit for the source. The bill limits



**BILL**

DNR's ability to specify expiration dates for coverage under general permits. The bill also eliminates DNR's authority to promulgate rules providing for general construction permits.

The bill requires DNR to promulgate rules, which must be consistent with the CAA, providing a simplified process under which DNR issues a registration permit for a stationary source with low actual emissions. The bill requires that within 15 days of receiving an application for a registration permit DNR either grant or deny the registration permit or tell the applicant what additional information DNR needs to determine whether the source qualifies for a registration permit.

The bill requires DNR to grant a waiver from the requirement to obtain a construction permit for the construction or modification of a stationary source upon a showing by the owner or operator of the source that obtaining the permit would cause undue hardship, unless the CAA requires the owner or operator to obtain a construction permit. DNR must act on a waiver request within 15 days of its receipt.

The bill requires DNR to continually assess air pollution permit obligations and implement measures, consistent with the CAA, to lessen those obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers. The bill also requires DNR to take those measures in response to petitions.

***Permitting process***

Current state law specifies a process for DNR review of applications for construction permits for stationary sources of air pollution. Under this process, within 20 days after receiving an application for a construction permit, DNR must notify the applicant of any additional information needed to process the application. Once the additional information is received, DNR must complete an analysis of the effect of the proposed new source (or modification to an existing source) on air quality and a preliminary determination on the approvability of the application. DNR must make this determination within 120 days of receiving the additional information that it requested for a major source and within 30 days for a minor source.

This bill reduces those periods to 60 days for a major source and 15 days for a minor source. The bill also provides that if the additional information is not requested (by DNR or by a certified contractor, as described below) within 20 days after the application is received, additional information may be requested but the 60 and 15 day periods begin to run after the 20 days are up.

The bill provides that an application for an air pollution construction permit may be made to a private contractor certified by DOA. The certified contractor performs the determination of whether additional information is needed to process the application, the analysis of the effect of the proposed new source (or modification to an existing source) on air quality, and the preliminary determination on the approvability of the application. The bill requires DOA, in consultation with DNR, to specify minimum standards relating to staffing and professional expertise and other conditions applicable to certified contractors.

Current law requires DNR to distribute the analysis and preliminary determination for a construction permit application and to publish a newspaper

**BILL**

notice announcing the opportunity for public comment and a public hearing on an application for a construction permit. The bill requires DNR to publish the newspaper notice within ten days after DNR prepares the analysis and preliminary determination for a construction permit application or, if a certified contractor prepares them, within ten days after DNR receives them from the certified contractor.

Current law requires DNR to receive public comments on a construction permit application for 30 days after publishing the newspaper notice. DNR is authorized to hold a public hearing if requested by a person, an affected state, or EPA within 30 days after publishing the newspaper notice and is required to hold a public hearing if there is significant public interest in holding a hearing. The department must hold the hearing within 60 days after the end of the public comment period.

The bill specifies that DNR may hold a hearing if requested by a person who may be directly aggrieved by the issuance of the permit or by an affected state or EPA. It also requires that the hearing be held within 30, rather than 60, days after the end of the public comment period.

Current law requires DNR to act on a construction permit application within 60 days after the close of the public comment period or the public hearing, whichever is later, unless compliance with environmental impact statement requirements requires a longer time. This bill requires DNR to act within 60 days after it publishes the newspaper notice (30 days after the close of the public comment period), unless compliance with environmental impact statement requirements requires a longer time. The bill authorizes DNR to extend any time limit applicable to it or a certified contractor under this process at the request of an applicant for a permit.

Under the bill, if DNR does not act on an application within the required time limit, it must include in a report the reasons for the delay in acting on the application, including the names of the department's employees responsible for review of the application, and recommendations for how to avoid similar delays in the future. DNR must make these reports available to the public, and submit the reports to JCRAR on a quarterly basis.

The bill makes changes to the processing of applications for operation permits that are similar to the changes it makes to the processing of construction permits, including providing for the use of certified contractors. Under current law, DNR must act on an application for an operation permit within 180 days after the applicant submits to DNR the results of equipment testing and emission monitoring required by the construction permit. This bill reduces that deadline to 30 days.

Under current law, a permittee must apply for the renewal of an operation permit at least 12 months before the permit expires. This bill reduces that requirement to six months.

***Criteria for approval of permits***

Under current state law, DNR may approve an application for a construction permit or an operation permit if it finds that criteria specified in the law for the stationary source are met. This bill provides that DNR may not modify a preliminary determination of approvability made by a private contractor unless modification is necessary to comply with the CAA or unless information received from the public, an

**BILL**

affected state, or EPA or an environmental impact statement provide clear and convincing evidence that issuance of the permit would cause material harm to public health, safety, or welfare.

Under current law, one of the criteria for approving a permit for the construction or modification of a major source in a nonattainment area is a finding by DNR, based on an analysis of alternatives, that the benefits of the construction or modification significantly outweigh the environmental and social costs imposed as a result of the construction or modification. This bill eliminates that criterion.

***Continuation of operation***

Under current law, if a person timely submits a complete application for an operation permit and submits any additional information within the time set by DNR, the stationary source may continue to operate even if DNR has not yet issued the permit. Under this bill, if a person submits an application for renewal of an operation permit before the date that the operation permit expires, the stationary source may continue to operate, unless the CAA would prohibit continued operation.

***Other provisions related to air quality management***

Current law authorizes DNR to require owners and operators of sources of air pollution to monitor emissions from those sources or to monitor air quality in the areas of those sources. This bill prohibits DNR from including a monitoring requirement in an operation permit if the applicant demonstrates that the cost of compliance with the requirement would exceed the cost of compliance with monitoring requirements imposed on similar sources by an adjacent state or if the monitoring is not needed to provide assurance of compliance with requirements that apply to the source, unless the CAA requires the monitoring.

Current law specifies that an air pollution permit or part of a permit issued by DNR becomes effective unless the permit holder seeks a hearing on the permit or part of a permit. The bill specifies that if a permit holder or applicant challenges part of a permit, the remainder of the permit becomes effective and the permit holder or applicant may begin the activity for which the permit was issued.

This bill requires DNR to report to the legislature proposals for lessening air pollution permit obligations, including consolidating permits for sources at a facility into one permit, expanding permit exemptions, and expanding the availability of registration permits, general permits, and construction permit waivers and a description of requirements in the CAA that limit DNR's ability to take those actions. The bill also requires DNR to provide to JCRAR a description of provisions in this state's CAA implementation plans that may not have been necessary to obtain EPA approval and recommendations for removing those provisions from the state implementation plans.

**NAVIGABLE WATERS**

This bill makes changes in the permitting, decision, notice, hearing, and court procedures that apply to permits and contracts given by DNR in regulating structures, deposits, and other activities that occur in or near navigable waterways (waterway activities).

**BILL*****Permitting changes in general***

With limited exemptions, under current law, an owner of waterfront property (riparian owner) may not engage in a waterway activity unless the riparian owner has first obtained a permit or contract from DNR that is specific to the waterway activity (an individual approval) or unless the waterway activity is authorized under a general permit issued by DNR.

This bill restructures the substantive requirements for individual permits, general permits, and contracts for removing material from navigable waterways. It also creates exemptions from both of these types of permits and from these contracts for certain waterway activities. The types of permits that are affected by these new general and individual permitting, contracting, and exemption provisions are permits to place structures or deposit material (placement permits), permits to construct or maintain bridges (bridge permits), permits to enlarge or connect waterways or to grade or remove top soil from banks along navigable rivers and streams (enlargement permits), permits to change the courses of streams and rivers (stream course permits), and permits and contracts to remove material from beds of navigable waterways (removal approvals).

***General permits***

Under current law, DNR may, but is not required to, issue general permits for waterway activities that are covered by the abbreviated procedure described above and for certain activities that require an enlargement permit. Under current law, general permits may be issued in certain designated areas of the state for any waterway activity that requires a general permit. The bill expands the use of general permits by requiring DNR to issue statewide general permits for certain waterway activities and to allow DNR to promulgate rules to specify additional waterway activities that may be authorized under a general permit. The bill allows DNR to impose certain construction and design requirements, location requirements, and environmental restrictions on the general permits. Under current law, a person seeking to conduct a waterway activity under a general permit must notify DNR not less than 20 days before starting the activity. The bill requires this notification to be in writing and increases the 20 days to 30 days. If DNR does not act within 30 days of the notification, the waterway activity is considered to be authorized.

***Placement permits***

For placement permits, current law provides an abbreviated procedure for reviewing applications. Under the procedure, DNR may approve or disapprove the permit application without giving notice or conducting a hearing. Types of permit applications to which this abbreviated procedure applies include applications to place sand to improve recreational use and applications to place devices to improve fish habitat.

This bill repeals this abbreviated review procedure. Instead, under the bill the general permitting process applies to most of the waterway activities that are subject to the abbreviated procedure.

The bill also exempts certain waterway activities from both general and individual placement permits if they do not interfere with the rights of other riparian owners and if they are located outside an area of special natural resource interest

**BILL**

(exempt waterway activities). Under current law, some of these activities are subject to the abbreviated procedure and some must meet notice and hearing requirements before being issued. The bill defines an area of “special natural resource interest” to be a state natural area or an area identified by DNR as possessing scientific value or as being an outstanding or exceptional resource water. Examples of such waters include wild and scenic rivers and certain trout streams. If a waterway activity is not an exempt waterway activity, the individual permitting process applies unless the waterway activity is covered by a general permit.

Whether a waterway activity is subject to the individual placement permit process or the general placement permit process or is totally exempt from any type of placement permit depends on the placement or deposit meeting certain size and other criteria. Structures and deposits that are subject to these placement permit provisions include deposits of sand, crushed rock, gravel, or riprap; boat shelters and hoists; intake and outlet structures; piers; and wharves. Under current law, a riparian owner may construct a pier or wharf beyond the ordinary high-water mark or an established bulkhead line without a placement permit if the wharf or pier meets certain criteria. This bill eliminates this exemption.

Under current law, DNR may, but is not required to, issue placement permits for waterway activities that meet the requirements for the permit. Under the bill, DNR must issue placement permits for activities that meet these requirements.

***Enlargement permits***

Under current law, a person must be issued an enlargement permit to do any of the following:

1. Construct, dredge, or enlarge any artificial waterway in order to connect it with an existing navigable waterway (connection permit requirement). The bill limits this permit requirement to those artificial waterways that are already connected to the navigable waterway or that will connect with the navigable waterway upon completion of the construction.

2. Connect an artificial or natural waterway, whether or not navigable, with an existing navigable waterway. The bill repeals this provision.

3. Construct, dredge, or enlarge any part of an artificial waterway that is located within 500 feet of an existing navigable stream (500-foot permit requirement).

4. Grade or remove top soil from the bank of a navigable waterway if the exposed area will exceed 10,000 square feet (grading permit requirement).

The bill creates an exemption from the 500-foot permit requirement, if the artificial waterway's only surface connection to a navigable waterway is an overflow device and the construction, dredging, or enlargement is authorized by a storm water discharge permit or a water sewerage and facility plan authorized by DNR (storm water-sewerage projects).

The bill creates an exemption from the grading permit requirement if the grading or removal of top soil is not located in an area of special natural resource interest and is authorized by a storm water discharge permit, by a shoreland or wetland zoning ordinance, or by a construction site erosion control plan.

**BILL**

The bill requires DNR to issue a general permit to meet the connection permit requirement and the 500-foot permit requirement for construction, dredging, and enlargements that are part of an approved storm water-sewerage project, but that are not covered by the exemption described above. The bill requires DNR to issue a general permit to meet the connection permit requirement and the 500-foot requirement for construction, dredging, and enlargements that are designed to enhance wildlife habitat or wetlands or that affect a body of water less than one acre in size. The bill requires DNR to issue a general permit to meet the grading permit requirement for any grading or removing of top soil that is not covered by the exemption described above.

As to individual enlargement permits, the bill imposes the additional requirement that the activity not be detrimental to the public interest.

***Bridge permits***

The bill makes the following changes to current permitting procedures for the construction and maintenance of bridges:

1. Allows bridge construction and maintenance to be authorized by the legislature.
2. Subjects bridges that cross navigable streams that are less than 35 feet wide to the general permitting provisions. Under current law, such bridges are exempt from the bridge permitting requirements.
3. Changes the permitting provisions to specifically cover the placement of culverts.
4. Subjects culverts that have diameters of less than 60 inches to the general permitting provisions.
5. Exempts culverts that have a diameter of less than 48 inches and that are part of private roads or driveways from all of the bridge permitting requirements.
6. Repeals the requirement that the holder of a bridge permit construct and maintain a bridge that is used by the public to be in a safe condition.

***Stream course permits***

Under current law, a person must be issued a stream course permit to change or straighten the course of a stream or river. The bill requires DNR to issue a general permit under which riparian owners may change or straighten the course of streams or rivers if the change or straightening involves a relocation of less than a total of 500 feet or a relocation of a stream with an average flow of less than 2 cubic feet per second. The bill also repeals an exemption for municipal or county lands in Milwaukee County and a provision that states that compliance with a stream course permit is a presumption of the exercise of due care. The bill also allows the legislature to authorize the changing or straightening of stream or river courses.

***Removal approvals***

The bill makes the following changes to current provisions regarding removal approvals:

1. Allows the removal of materials to be authorized by the legislature.
2. Limits the scope of the general requirement for a removal contract to natural navigable lakes. Under current law, both natural and artificial lakes are subject to this requirement.

**BILL**

3. Limits the scope of the general requirement for a removal permit to navigable streams. Under current law, both navigable and nonnavigable streams are subject to this requirement.

4. Exempts removals for certain specified amounts if the removals are not from an area of natural resource interest, do not contain hazardous substances, and will be placed in an upland area.

5. Requires DNR to issue general permits for other removals that are within specified amounts.

***Boathouses***

Current law, with some exceptions, imposes a prohibition on placing a boathouse beyond the ordinary high-water mark of a navigable waterway. This bill creates an exemption for the construction, repair, or maintenance of a boathouse that is in compliance with all individual or general permitting requirements, that is used exclusively for commercial purposes, that is on land zoned exclusively for commercial or industrial purposes or is in a brownfield or blighted area, and that is located in a commercial harbor or on a tributary of Lake Michigan or Lake Superior. Current law defines a “brownfield” to be an industrial or commercial facility, the expansion or redevelopment of which is complicated by environmental contamination.

***Notice, hearing, and decision provisions for individual permits***

Under current law, for individual placement permits, bridge permits, removal permits, stream course permits, and enlargement permits, DNR must order a public hearing to be held within 60 days after receiving a complete application for the permit or provide notice (notice of application) that DNR will proceed on the application without a public hearing unless a substantive written objection is received within 30 days after the notice is published. DNR must provide the notice of application to various parties and to the applicant, who in turn must publish notice. Current law defines a “substantive written objection” to be one that gives the reasons why the issuance of the proposed permit will violate state law and that states that the person objecting will appear at the public hearing to present information supporting the objection. The applicant must publish the notice in a newspaper that is likely to give notice in the area where the waterway activity will be located (area newspaper).

If DNR does not receive a substantive written objection within the 30-day period, DNR proceeds on the permit application. If DNR receives such an objection, the public hearing must be held within 60 days after being ordered. At least 10 days before the hearing, the Division of Hearings and Appeals in the Department of Administration must mail a notice of the public hearing to the applicant, all of the parties who received the notice of application, and anyone who submitted a substantive written objection. The applicant again must publish the notice in an area newspaper.

Under current law, DNR may also use this notice and hearing procedure when it is not specifically required if DNR determines that substantial interests of any party may be adversely affected by the granting of the permit.

Under the bill, DNR must provide notice of a complete application to interested members of the public within 15 days after DNR determines that the application is

**BILL**

complete. DNR must provide a period for public comment after providing notice that the application is complete. If no hearing is requested, the public comment period ends in 30 days.

If a public hearing is requested, the comment period ends 10 days after the conclusion of the hearing. The permit application may contain a request for a public hearing or any other person may request a hearing. DNR may also decide on its own to hold a hearing if it determines that there is a significant public interest in the permit. A hearing request must be submitted to DNR within 30 days of the notice that the application is complete. DNR must then provide notice within 15 days, and the hearing must be held within 30 days of the notice being complete. DNR must issue its decision within 30 days after the hearing.

If no hearing is to be held, then DNR must issue its decision within 30 days after the close of the comment period.

The changes to the applicability of the hearing and notice procedures for individual permits under the bill include the following:

1. The procedure applies to removal approvals and stream course permits, as well as the permits covered under current law.
2. The procedure applies to permits to place water ski jumps, replacing the procedures that apply to these permits under current law.
3. The bill repeals the authority that allowed DNR to use these notice and hearing procedures when they were not required to do so in making determinations that affected navigable waters and navigation.
4. The procedures specifically apply to applications for modifications of individual permits.

***Administrative and court review of DNR decisions on individual permits***

Under current law, if a substantial interest of a person is injured by an agency action and there is a dispute of material fact, that person has the right to an administrative hearing before an impartial hearing officer. The notice requirements, procedures, rules of evidence, records, and right to judicial review are specified in detail under current law.

Under this bill, an applicant for or holder of an individual permit, or five or more persons, may ask DNR for an administrative hearing regarding the issuance, denial, or modification of an individual permit, or regarding a term or condition of an individual permit. If DNR determines that the request for a hearing gives specific reasons why the department's decision violates state law, DNR is required to hold an administrative hearing. The bill requires that the hearing be conducted as a contested case hearing and be subject to current law's administrative hearing requirements regarding contested case hearings, including the procedures, rules of evidence, records, and right to judicial review.

Instead of requesting an administrative hearing to review the DNR decision, any person who has the right to request such a hearing may bring a court action to review DNR's decision. The bill requires the court to review the evidence and examine witnesses, rather than review the record of DNR's action. In addition, the bill allows a party to the administrative hearing to stop an administrative hearing and have the court take jurisdiction over the issues raised in the hearing. If an



**BILL**

administrative hearing is removed to a court, that court is required by the bill to review the evidence and examine witnesses, independent of DNR's evidence review and witness examination.

**STRATEGIC ENERGY ASSESSMENTS**

Current law requires the Public Service Commission (PSC) to prepare a strategic energy assessment every two years that evaluates the adequacy and reliability of the state's electricity supplies. An assessment must describe, among other things, large electric generating facilities and high-voltage transmission lines on which utilities plan to begin construction within three years. The bill requires an assessment to describe large electric generating facilities and high-voltage transmission lines on which utilities plan to begin construction within seven years, rather than three years.

**PARTIAL DEREGULATION OF TELECOMMUNICATIONS SERVICES**

Under current law, a person may petition the PSC to begin proceedings for determining whether to partially deregulate certain telecommunications services. The PSC may also begin such proceedings on its own motion. If the PSC makes certain findings regarding competition for such telecommunications services, the PSC may issue an order suspending specified provisions of law. Current law does not impose any deadlines on such proceedings.

The bill requires the PSC to complete the proceedings no later than 120 days after a person files a petition. In addition, if the PSC begins proceedings based on its own motion, the proceedings must be completed no later than 120 days after the PSC provides notice of its motion. If the PSC fails to complete the proceedings and, if appropriate, issue an order within the deadline, the bill provides for the suspension of any provisions of law that are specified in the petition or in the PSC's motion.

**UTILITY PUBLIC BENEFITS FUND**

Under current law, certain electric and gas utilities are required to make contributions to the PSC in each fiscal year. The PSC deposits the contributions in the utility public benefits fund (fund), which also consists of monthly fees paid by utility customers. The fund is used by DOA to make grants for low-income assistance, energy conservation and efficiency, environmental research and development, and renewable resource programs. The amount that each utility must contribute to the PSC is the amount that the PSC determines that the utility spent in 1998 on its own programs that are similar to the programs awarded grants by DOA.

Under this bill, the PSC may allow a utility to retain a portion of the amount that it is required to contribute in each fiscal year under current law. However, the PSC may allow a utility to do so only if the PSC determines that the portion is used by the utility for energy conservation programs for industrial, commercial, and agricultural customers in the utility's service area. Also, the programs must comply with rules promulgated by the PSC. The rules must specify annual energy savings targets that the programs must be designed to achieve. The rules must also require a utility to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits of such a program will be equal to the portion of the contribution that the PSC allows the utility to retain. If the PSC allows a utility to

**BILL**

retain such a portion, the utility must contribute 1.75 percent of the portion to the PSC, which the PSC must deposit in the fund for DOA to use for programs for research and development for energy conservation and efficiency. In addition, the utility must contribute 4.5 percent of the portion to the PSC for deposit in the fund for DOA to use for renewable resource programs. The bill also prohibits a utility from paying for expenses related to administration, marketing, or delivery of services for the utility's energy conservation programs from the portion of a contribution the utility is allowed to retain.

The bill also requires the PSC to promulgate rules for the grants made by DOA from the fund for energy conservation and other programs. Under the bill, an applicant is not eligible for such a grant unless the applicant's proposal for the grant complies with rules promulgated by the PSC. The rules must require an applicant to demonstrate that, within a reasonable period of time determined by the PSC, the economic benefits resulting from the proposal will be equal to the amount of the grant. The rules must also specify annual energy savings targets that a such proposal must be designed to achieve.

**RECIPROCAL AGREEMENTS FOR REAL ESTATE LICENSES**

Under current law, the Department of Regulation and Licensing (DRL) grants licenses that allow persons to practice as real estate brokers or salespersons. Current law specifies the requirements a person must satisfy to obtain such a license. The Real Estate Board (board) advises DRL on rules regarding licensing and other matters.

This bill allows DRL to grant licenses to persons licensed as real estate brokers or salespersons in other states and territories, in addition to persons who satisfy the requirements specified under current law. Under the bill, DRL may, after consulting with the board, enter into reciprocal agreements with officials of other states or territories for granting licenses to persons licensed in those states or territories.

**COMPREHENSIVE PLANNING BY LOCAL GOVERNMENTAL UNITS**

Under the current law popularly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission) creates a comprehensive plan (a zoning development plan or a zoning master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use.

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

**BILL**

Before the plan may take effect, however, a local governmental unit must comply with a number of requirements, such as adopting written procedures that are designed to foster public participation in the preparation of the plan.

Under this bill, before the plan may take effect, a local governmental unit must provide written notice to all owners of property, and leaseholders who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources, in which the allowable use or intensity of use, of the property, is changed by the comprehensive plan, and must create written procedures that describe the methods the local governmental unit will use to distribute elements of a comprehensive plan to owners of, and other persons who have such interests in, such property.

**FEES IMPOSED BY POLITICAL SUBDIVISIONS**

Under current law, cities, villages, towns, and counties (political subdivisions) provide various services for which those political subdivisions may impose a fee. This bill requires that any fee imposed by a political subdivision bear a reasonable relationship to the service for which the fee is imposed and that, when a political subdivision first imposes or raises a fee, the political subdivision issue written findings that demonstrate that the fee bears a reasonable relationship to the service for which the fee is imposed.

**PATIENT HEALTH CARE RECORDS**

Under current state law, patient health care records must remain confidential and may be released by a health care provider only with the informed consent of the patient or of a person authorized by the patient. However, patient health care records are required to be released without informed consent by the health care provider in specified circumstances, including for patient treatment, health care provider payment and medical records management, and certain audits, program monitoring, accreditation, and health care services review activities by health care facility staff committees or accreditation or review organizations.

Under current federal law, patient health care information may be released without patient authorization by health care providers for, among other purposes, treatment, payment, and health care operations. "Health care operations" is defined in federal law to include quality assessment and improvement activities; credentialing or evaluating of health care practitioners and training; underwriting; medical review, legal services, and auditing; business planning and development; and business management and general administrative activities.

This bill modifies the requirement for release of patient health care records without patient consent to authorize, rather than require, release under specified circumstances, and to eliminate the requirement that a request for the records be received before release. The bill also increases the circumstances under which patient health care records are authorized to be released without patient informed consent, to include purposes of health care operations, as defined and authorized in federal law.

**APPRENTICESHIP-TO-JOURNEYMAN JOB-SITE RATIOS**

Under current law, the Department of Workforce Development (DWD) may determine reasonable classifications, promulgate rules, issue general or special

**BILL**

orders, hold hearing, make findings, and render orders as necessary to oversee the apprenticeship programs provided in this state.

This bill prohibits DWD from prescribing, whether by promulgating a rule, issuing a general or special order, or otherwise, the ratio of apprentices to journeymen that an employer may have at a job site.

**ACQUISITIONS OF IN-STATE BANKS AND BANK HOLDING COMPANIES**

Current law specifies certain requirements applicable to the acquisition of an in-state bank or in-state bank holding company by an out-of-state bank holding company. This bill applies those requirements to similar acquisitions by out-of-state banks.

**LAWSUITS CONCERNING FINANCIAL INSTITUTIONS**

With certain exceptions, this bill prohibits any person from bringing a lawsuit against a bank, savings bank, savings and loan association, or any affiliate of such an institution (financial institution) based upon any of the following promises or commitments of the financial institution, unless the promise or commitment is in writing, sets forth relevant terms and conditions, and is signed by the financial institution: 1) a promise or commitment to lend money, grant or extend credit, or make any other financial accommodation; or 2) a promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act (which generally regulates credit transactions of \$25,000 or less that are entered into for personal, family, or household purposes).

Currently, under the doctrine of promissory estoppel, the existence of an enforceable contract may be implied if a person makes a promise, the promise is one which the person should reasonably expect to induce action or forbearance of a definite and substantial character, the promise induces such action or forbearance, and injustice can be avoided only by enforcement of the promise. This bill provides that any promise or commitment described above may not be enforced under the doctrine of promissory estoppel. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act.

**FINANCIAL ASSURANCE FOR NONMETALLIC MINING RECLAMATION**

Current law requires counties to administer ordinances to ensure that nonmetallic mining sites are reclaimed. "Nonmetallic" mining means extracting substances like gravel and stone. Among other things, nonmetallic mining reclamation ordinances must require operators to provide financial assurance to ensure that the nonmetallic mine will be reclaimed. This bill provides that, if a city, village, or town requires an operator to provide financial assurance for nonmetallic mining reclamation, the county must credit the value of that financial assurance toward the amount that the operator is required to provide under the county ordinance.

**BILL**

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

---

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

1           **SECTION 1.** 16.957 (2) (b) 1. (intro.) of the statutes is amended to read:

2           16.957 (2) (b) 1. (intro.) Subject to subd. 2. and the rules promulgated under  
3 sub. (2m), after holding a hearing, establish programs for awarding grants from the  
4 appropriation under s. 20.505 (3) (s) for each of the following:

5           **SECTION 2.** 16.957 (2) (c) 2. of the statutes is amended to read:

6           16.957 (2) (c) 2. Requirements and procedures for applications for grants  
7 awarded under programs established under par. (a) or (b) 1. The rules for grants  
8 awarded under programs established under par. (b) 1. may not be inconsistent with  
9 the rules promulgated by the commission under sub. (2m).

10          **SECTION 3.** 16.957 (2m) of the statutes is created to read:

11          16.957 (2m) ENERGY CONSERVATION AND EFFICIENCY GRANTS. The commission  
12 shall promulgate rules that provide that a proposal for providing energy  
13 conservation or efficiency services is not eligible for a grant under sub. (2) (b) unless  
14 the applicant demonstrates that, no later than a reasonable period of time, as  
15 determined by the commission, after the applicant begins to implement the proposal,  
16 the economic value of the benefits resulting from the proposal will be equal to the  
17 amount of the grant. The rules shall also specify annual energy savings targets that  
18 a such proposal must be designed to achieve in order for the proposal to be eligible  
19 for a grant under sub. (2) (b).

20          **SECTION 4.** 16.957 (3) (b) of the statutes is amended to read:

**BILL**

1           16.957 (3) (b) The department shall, on the basis of competitive bids, contract  
2 with one or more nonstock, nonprofit corporations organized under ch. 181 to  
3 administer the programs established under sub. (2) (b) 1., including soliciting  
4 proposals, processing grant applications, selecting, based on criteria specified in  
5 rules promulgated under sub. (2) (c) 2m. and the standards established in the rules  
6 promulgated under sub. (2m), proposals for the department to make awards and  
7 distributing grants to recipients.

8           **SECTION 5.** 19.52 (3) of the statutes is amended to read:

9           19.52 (3) Chapters 901 to 911 apply to the admission of evidence at the hearing.  
10 The board hearing examiner shall not find a violation of this subchapter or subch.  
11 III of ch. 13 except upon clear and convincing evidence admitted at the hearing.

12           **SECTION 6.** 19.52 (4) of the statutes is repealed.

13           **SECTION 7.** 25.96 of the statutes is amended to read:

14           **25.96 Utility public benefits fund.** There is established a separate  
15 nonlapsible trust fund designated as the utility public benefits fund, consisting of  
16 deposits by the public service commission under s. 196.374 (3) and (3m), public  
17 benefits fees received under s. 16.957 (4) (a) and (5) (c) and (d) and contributions  
18 received under s. 16.957 (2) (c) 4. and (d) 2.

19           **SECTION 8.** 29.601 (5) (a) of the statutes is amended to read:

20           29.601 (5) (a) This section does not apply to any activities carried out under the  
21 direction and supervision of the department of transportation in connection with the  
22 construction, reconstruction, maintenance and repair of highways and bridges in  
23 accordance with s. ~~30.12 (4)~~ 30.2022.

24           **SECTION 9.** 30.01 (1am) of the statutes is created to read:

**BILL**

1           30.01 (1am) “Area of special natural resource interest” means any of the  
2 following:

3           (a) A state natural area designated or dedicated under ss. 23.27 to 23.29.

4           (b) A surface water identified by the department as an outstanding or  
5 exceptional resource water under s. 281.15.

6           (c) An area that possesses significant scientific value, as identified by the  
7 department.

8           **SECTION 10.** 30.01 (1p) of the statutes is amended to read:

9           30.01 (1p) “Fishing raft” means any raft, float or structure, including a raft or  
10 float with a superstructure and including a structure located or extending below or  
11 beyond the ordinary high-water mark of a water, which is designed to be used or is  
12 normally used for fishing, which is not normally used as a means of transportation  
13 on water and which is normally retained in place by means of a permanent or  
14 semipermanent attachment to the shore or to the bed of the waterway. “Fishing raft”  
15 does not include a boathouse or fixed houseboat regulated under s. 30.121 nor a  
16 wharf or pier regulated under ~~s.~~ ss. 30.12 and 30.13.

17           **SECTION 11.** 30.01 (6b) of the statutes is repealed.

18           **SECTION 12.** 30.015 of the statutes is renumbered 30.208 (2) and amended to  
19 read:

20           30.208 (2) ~~TIME LIMITS FOR ISSUING PERMIT DETERMINATIONS~~ PROCEDURE FOR  
21 COMPLETING APPLICATIONS. In issuing individual permits or entering contracts under  
22 this ~~chapter~~ subchapter, the department shall initially determine whether a  
23 complete application for the permit or contract has been submitted and, no later than  
24 ~~60~~ 30 days after the application is submitted, notify the applicant in writing about  
25 the initial determination of completeness. If the department determines that the

**BILL**

1 application is incomplete, the notice shall state the reason for the determination and  
2 the specific items of information necessary to make the application complete. An  
3 applicant may supplement and resubmit an application that the department has  
4 determined to be incomplete. There is no limit on the number of times that an  
5 applicant may resubmit an application that the department has determined to be  
6 incomplete under this section. The department may not demand items of  
7 information that are not specified in the notice as a condition for determining  
8 whether the application is complete unless both the department and the applicant  
9 agree or unless the applicant makes material additions or alterations to the activity  
10 or project for which the application has been submitted. The rules promulgated  
11 under s. 299.05 apply only to applications for individual permits or contracts under  
12 this subchapter that the department has determined to be complete.

13 **SECTION 13.** 30.02 of the statutes is repealed.

14 **SECTION 14.** 30.07 of the statutes is renumbered 30.2095, and 30.2095 (1) (a),  
15 as renumbered, is amended to read:

16 30.2095 (1) (a) Except as provided in par. (b), every permit or contract issued  
17 under ss. 30.01 to 30.29 for which a time limit is not provided by s. 30.20 (2) is void  
18 unless the activity or project is completed within 3 years after the permit or contract  
19 was issued.

20 **SECTION 15.** 30.10 (4) (a) of the statutes is amended to read:

21 30.10 (4) (a) This section does not impair the powers granted by law under s.  
22 ~~30.123~~ 30.1235 or by other law to municipalities to construct highway bridges,  
23 arches, or culverts over streams.

24 **SECTION 16.** 30.11 (4) of the statutes is amended to read:



**BILL**

1           30.11 (4) RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall  
2 not abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~  
3 owners may place solid structures or fill up to such line.

4           **SECTION 17.** 30.12 (title) of the statutes is amended to read:

5           **30.12 (title) Structures and deposits in navigable waters ~~prohibited;~~**  
6 **~~exceptions; penalty.~~**

7           **SECTION 18.** 30.12 (1) (intro.) of the statutes is renumbered 30.12 (1d) and  
8 amended to read:

9           30.12 (1d) ~~GENERAL PROHIBITION PERMITS REQUIRED.~~ (intro.) ~~Except as provided~~  
10 ~~under subs. (4) and (4m), unless a~~ Unless an individual or general permit has been  
11 granted by the department pursuant to statute or issued under this section or  
12 authorization has been granted by the legislature has otherwise authorized  
13 structures or deposits in navigable waters, it is unlawful, no person may do any of  
14 the following:

15           **SECTION 19.** 30.12 (1) (a) of the statutes is renumbered 30.12 (1d) (a) and  
16 amended to read:

17           30.12 (1d) (a) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon  
18 the bed of any navigable water where no bulkhead line has been established; ~~or,~~

19           **SECTION 20.** 30.12 (1) (b) of the statutes is renumbered 30.12 (1d) (b) and  
20 amended to read:

21           30.12 (1d) (b) ~~To deposit~~ Deposit any material or ~~to~~ place any structure upon  
22 the bed of any navigable water beyond a lawfully established bulkhead line.

23           **SECTION 21.** 30.12 (1b) of the statutes is created to read:

24           30.12 (1b) **DEFINITION.** In this section, “structure” includes a vessel for  
25 commercial storage and its anchoring device.

**BILL**

1           **SECTION 22.** 30.12 (1g) (intro.), (a), (b) and (e) to (j) of the statutes are created  
2 to read:

3           **30.12 (1g) EXEMPTIONS.** (intro.) A riparian owner is exempt from the permit  
4 requirements under this section for the placement of a structure or the deposit of  
5 material if the structure or material is located in an area other than an area of special  
6 natural resource interest, does not interfere with the rights of other riparian owners,  
7 and is any of the following:

8           (a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards in any  
9 5-year period.

10          (b) A structure, other than a pier or a wharf, that is placed on a seasonal basis  
11 and that is less than 200 square feet in size and less than 38 inches in height.

12          (e) A boat shelter, boat hoist, or boat lift that is placed on a seasonal basis  
13 adjacent to the riparian owner's pier or wharf or to the shoreline on the riparian  
14 owner's property.

15          (f) A pier that is no more than 6 feet wide, that extends no further than to a point  
16 where the water is 3 feet at its maximum depth, or to the point where there is  
17 adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is  
18 closer to the shoreline, and which has no more than 2 boat slips for the first 50 feet  
19 of riparian owner's shoreline footage and no more than one additional boat slip for  
20 each additional 50 feet of the riparian owner's shoreline.

21          (g) A wharf that extends no more than 30 feet.

22          (h) An intake or outfall structure that is authorized by a storm water discharge  
23 permit approved by the department under ch. 283 or a facility plan approved by the  
24 department under s. 281.41.

**BILL**

1 (i) Riprap in an amount not to exceed 75 linear feet and if the riprap is located  
2 outside an area where riprap has been previously placed.

3 (j) Riprap in an amount not to exceed 300 linear feet and if the riprap is located  
4 within an area where riprap has been previously placed.

5 **SECTION 23.** 30.12 (2) of the statutes is repealed.

6 **SECTION 24.** 30.12 (3) (title) of the statutes is repealed and recreated to read:

7 30.12 (3) (title) GENERAL PERMITS.

8 **SECTION 25.** 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to  
9 read:

10 30.12 (3) (a) (intro.) The department shall issue statewide general permits  
11 under s. 30.206 that authorize riparian owners to do all of the following:

12 **SECTION 26.** 30.12 (3) (a) 2. of the statutes is renumbered 30.12 (1g) (c) and  
13 amended to read:

14 30.12 (1g) (c) ~~Place a~~ A fish crib, spawning reef, wing deflector, or similar  
15 device that is placed on the bed of navigable waters for the purpose of improving fish  
16 habitat.

17 **SECTION 27.** 30.12 (3) (a) 2m. of the statutes is renumbered 30.12 (1g) (d) and  
18 amended to read:

19 30.12 (1g) (d) ~~Place a~~ A bird nesting platform, ~~a~~ wood duck house, or similar  
20 structure that is placed on the bed of a navigable water for the purpose of improving  
21 wildlife habitat.

22 **SECTION 28.** 30.12 (3) (a) 6. of the statutes is amended to read:

23 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property  
24 for the purpose of storing or protecting watercraft and associated materials, except  
25 that no general permit may be granted issued for a permanent boat shelter which is

**BILL**

1 constructed after May 3, 1988, if the property on which the permanent boat shelter  
2 is to be located also contains a boathouse within 75 feet of the ordinary high-water  
3 mark or if there is a boathouse over navigable waters adjacent to the owner's  
4 property.

5 **SECTION 29.** 30.12 (3) (a) 9. of the statutes is created to read:

6 30.12 (3) (a) 9. Place an intake or outfall structure that is less than 6 feet from  
7 the water side of the ordinary high-water mark and that is less than 25 percent of  
8 the width of the channel in which it is placed.

9 **SECTION 30.** 30.12 (3) (a) 10. of the statutes is created to read:

10 30.12 (3) (a) 10. Place a pier to replace a pier that has been in existence at least  
11 10 years before the effective date of this subdivision .... [revisor inserts date], does  
12 not exceed 10 feet in width, and does not exceed 500 square feet in area.

13 **SECTION 31.** 30.12 (3) (a) 11. of the statutes is created to read:

14 30.12 (3) (a) 11. Place a pier that does not exceed 500 square feet in area in a  
15 lake that is 500 acres or more in area.

16 **SECTION 32.** 30.12 (3) (a) 12. of the statutes is created to read:

17 30.12 (3) (a) 12. Place a vessel for commercial storage on Lake Michigan or Lake  
18 Superior or in any tributary of Lake Michigan or Lake Superior that is determined  
19 to be navigable by the federal government.

20 **SECTION 33.** 30.12 (3) (b) of the statutes is repealed.

21 **SECTION 34.** 30.12 (3) (bn) of the statutes is repealed.

22 **SECTION 35.** 30.12 (3) (br) of the statutes is created to read:

23 30.12 (3) (br) The department may promulgate rules that specify structures or  
24 deposits, in addition to those listed in par. (a), that may be authorized by statewide  
25 general permits.

**BILL**

1           **SECTION 36.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.2023 (intro.)  
2 and amended to read:

3           **30.2023 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian  
4 owner is exempt from the permit requirements under ~~sub. (2) and this subsection s.~~  
5 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River  
6 and Fox River basin area, as described in s. 30.207 (1), and that extends beyond the  
7 ordinary high-water mark, if the following conditions apply:

8           **SECTION 37.** 30.12 (3) (bt) 1. to 9. of the statutes are renumbered 30.2023 (1)  
9 to (9).

10          **SECTION 38.** 30.12 (3) (bv) of the statutes is created to read:

11          30.12 (3) (bv) Notwithstanding s. 30.07 (1), the department shall issue the first  
12 statewide general permit issued under par. (a) 12. for an initial term of not less than  
13 5 years and nor more than 10 years and shall renew the permit for terms of not less  
14 than 5 years nor more than 10 years.

15          **SECTION 39.** 30.12 (3) (c) of the statutes is amended to read:

16          30.12 (3) (c) The department may ~~promulgate rules deemed necessary to carry~~  
17 ~~out the purposes of~~ impose conditions on general permits issued under par. (a) 6.,  
18 ~~including rules to establish minimum standards~~ to govern the architectural features  
19 of boat shelters and the number of boat shelters that may be constructed adjacent  
20 to a parcel of land. The ~~rules~~ conditions may not govern the aesthetic features or color  
21 of boat shelters. The ~~standards~~ conditions shall be designed to ~~assure~~ ensure the  
22 structural soundness and durability of ~~a boat shelter~~ boat shelters. A municipality  
23 may enact ordinances ~~not inconsistent~~ that are consistent with this section or with  
24 ~~rules promulgated under this section regulating paragraph and with any conditions~~

**BILL**

1 imposed on general permits issued to regulate the architectural features of boat  
2 shelters that are under the jurisdiction of the municipality.

3 **SECTION 40.** 30.12 (3) (d) of the statutes is repealed.

4 **SECTION 41.** 30.12 (3m) of the statutes is created to read:

5 30.12 (3m) INDIVIDUAL PERMITS. (a) For a structure or deposit that is not exempt  
6 under sub. (1g) and that is not subject to a general permit under sub. (3), a riparian  
7 owner may apply to the department for the individual permit that is required under  
8 sub. (1d) in order to place the structure for the owner's use or to deposit the material.

9 (b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an  
10 application under par. (a).

11 (c) The department shall issue an individual permit to a riparian owner for a  
12 structure or a deposit pursuant to an application under par. (a) if the department  
13 finds that all of the following apply:

- 14 1. The structure or deposit will not materially obstruct navigation.
- 15 2. The structure or deposit will not be detrimental to the public interest.
- 16 3. The structure or deposit will not materially reduce the flood flow capacity  
17 of a stream.

18 **SECTION 42.** 30.12 (4) (title) of the statutes is repealed.

19 **SECTION 43.** 30.12 (4) (a) of the statutes is renumbered 30.2022 (1) and  
20 amended to read:

21 30.2022 (1) Activities affecting waters of the state, as defined in s. 281.01 (18),  
22 that are carried out under the direction and supervision of the department of  
23 transportation in connection with highway, bridge, or other transportation project  
24 design, location, construction, reconstruction, maintenance, and repair are not  
25 subject to the prohibitions or permit or approval requirements specified under this

**BILL**

1 ~~section of~~ s. 29.601, 30.11, 30.12, 30.123, 30.19, 30.195, 30.20, 59.692, 61.351, 62.231,  
2 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48. However, at the earliest  
3 practical time prior to the commencement of these activities, the department of  
4 transportation shall notify the department of the location, nature, and extent of the  
5 proposed work that may affect the waters of the state.

6 **SECTION 44.** 30.12 (4) (b) of the statutes is renumbered 30.2022 (2) and  
7 amended to read:

8 30.2022 (2) The exemption under ~~par. (a) sub. (1)~~ does not apply unless the  
9 activity is accomplished in accordance with interdepartmental liaison procedures  
10 established by the department and the department of transportation for the purpose  
11 of minimizing the adverse environmental impact, if any, of the activity.

12 **SECTION 45.** 30.12 (4) (c) of the statutes is renumbered 30.2022 (3) and  
13 amended to read:

14 30.2022 (3) If the department determines that there is reasonable cause to  
15 believe that an activity being carried out under this ~~subsection~~ section is not in  
16 compliance with the environmental protection requirements developed through  
17 interdepartmental liaison procedures, it shall notify the department of  
18 transportation. If the secretary and the secretary of transportation are unable to  
19 agree upon the methods or time schedules to be used to correct the alleged  
20 noncompliance, the secretary, notwithstanding the exemption provided in this  
21 ~~subsection~~ section, may proceed with enforcement actions as the secretary deems  
22 appropriate.

23 **SECTION 46.** 30.12 (4) (d) of the statutes is renumbered 30.2022 (4).

24 **SECTION 47.** 30.12 (4) (e) of the statutes is renumbered 30.2022 (5) and  
25 amended to read:

**BILL**

1           30.2022 (5) Except as may be required otherwise under s. 1.11, no public notice  
2 or hearing is required in connection with any interdepartmental consultation and  
3 cooperation under this ~~subsection~~ section.

4           **SECTION 48.** 30.12 (4) (f) of the statutes is renumbered 30.2022 (6) and amended  
5 to read:

6           30.2022 (6) This ~~subsection~~ section does not apply to activities in the Lower  
7 Wisconsin State Riverway, as defined in s. 30.40 (15).

8           **SECTION 49.** 30.12 (4m) (title) of the statutes is repealed.

9           **SECTION 50.** 30.12 (4m) of the statutes is renumbered 30.12 (1m), and 30.12  
10 (1m) (c) (intro.), as renumbered, is amended to read:

11           30.12 (1m) (c) (intro.) ~~Subsection (1) does not apply to a~~ A structure or deposit  
12 that the drainage board for the Duck Creek Drainage District places in a drain that  
13 the board operates in the Duck Creek Drainage District is exempt from the permit  
14 requirements under this section if either of the following applies:

15           **SECTION 51.** 30.12 (5) of the statutes is repealed.

16           **SECTION 52.** 30.121 (3w) of the statutes is created to read:

17           30.121 (3w) EXCEPTION; COMMERCIAL BOATHOUSES. Notwithstanding subs. (2)  
18 and (3), a person may construct, repair, or maintain a boathouse if all of the following  
19 apply:

20           (a) The boathouse is used exclusively for commercial purposes and does not  
21 contain any living quarters.

22           (b) The boathouse is located on land zoned exclusively for commercial or  
23 industrial purposes or the boathouse is located on a brownfield, as defined in s.  
24 560.13 (1) (a), or in a blighted area, as defined in s. 66.1331 (3) (a).



**BILL**

1 (c) The boathouse is located within a harbor that is being operated as a  
2 commercial enterprise or is located on a river that is a tributary of Lake Michigan  
3 or Lake Superior.

4 (d) The person has been issued any applicable individual permits under this  
5 subchapter and is in compliance with any applicable general permitting  
6 requirements under this subchapter.

7 **SECTION 53.** 30.123 (title) of the statutes is repealed and recreated to read:

8 **30.123 (title) Bridges and culverts.**

9 **SECTION 54.** 30.123 (1) of the statutes is renumbered 30.1235 and amended to  
10 read:

11 **30.1235 Municipal bridge construction.** Municipalities which construct or  
12 reconstruct highway bridges shall not be required to obtain permits under this  
13 section or s. 30.10 or s. 30.12 or 30.123 for such that construction or reconstruction.  
14 All municipal highway bridges shall be constructed or reconstructed in accordance  
15 with standards developed under s. 84.01 (23).

16 **SECTION 55.** 30.123 (2) of the statutes is amended to read:

17 **30.123 (2) PERMITS REQUIRED.** ~~Except as provided in sub. (1) and s. 30.12 (4)~~  
18 ~~Unless an individual or general permit has been issued under this section or~~  
19 ~~authorization has been granted by the legislature, no person may construct or~~  
20 ~~maintain a bridge or culvert in, on, or over navigable waters unless a permit has been~~  
21 ~~issued by the department under this section. The application for a permit shall~~  
22 ~~contain the applicant's name and address, the proposed location of the bridge, a cross~~  
23 ~~section and plan view of the navigable waters and adjacent uplands, a description~~  
24 ~~of materials to be used in construction of the bridge, plans for the proposed bridge,~~

**BILL**

1 ~~evidence of permission to construct the bridge from the riparian owners and any~~  
2 ~~other information required by the department.~~

3 **SECTION 56.** 30.123 (3) of the statutes is repealed.

4 **SECTION 57.** 30.123 (4) of the statutes is renumbered 30.123 (8) (c) and  
5 amended to read:

6 30.123 (8) (c) ~~The department shall review the plans for the proposed bridge~~  
7 ~~to determine whether the proposed bridge will be an obstruction to navigation or will~~  
8 ~~adversely affect the flood flow capacity of the stream. The department shall grant~~  
9 ~~the issue an individual permit if the proposed pursuant to an application under par.~~  
10 ~~(a) if the department finds that the bridge or culvert will not materially obstruct~~  
11 ~~navigation, will not materially reduce the effective flood flow capacity of a stream or~~  
12 ~~be, and will not be detrimental to the public interest.~~

13 **SECTION 58.** 30.123 (5) of the statutes is repealed.

14 **SECTION 59.** 30.123 (6) of the statutes is created to read:

15 30.123 (6) EXEMPTIONS. Subsection (2) does not apply to any of the following:

16 (a) The construction and maintenance of highway bridges to which s. 30.1235  
17 applies.

18 (b) The construction and maintenance of bridges by the department of  
19 transportation in accordance with s. 30.2022.

20 (c) The construction and maintenance of culverts that have an inside diameter  
21 that does not exceed 48 inches and that are part of private roads or private driveways.

22 **SECTION 60.** 30.123 (7) of the statutes is created to read:

23 30.123 (7) GENERAL PERMITS. (a) The department shall issue statewide general  
24 permits under s. 30.206 that authorize any person to do all of the following:

**BILL**

1           1. Construct and maintain a bridge that will cross a navigable water that is less  
2 than 35 feet wide.

3           2. Construct and maintain a culvert that has an inside diameter that does not  
4 exceed 60 inches.

5           (b) The department may promulgate rules that specify bridges or culverts, in  
6 addition to those listed in par. (a), that may be authorized by statewide general  
7 permits.

8           **SECTION 61.** 30.123 (8) of the statutes is created to read:

9           30.123 (8) INDIVIDUAL PERMITS. (a) For the construction and maintenance of a  
10 bridge or culvert that is not exempt under sub. (6) and that is not subject to a general  
11 permit under sub. (7), a person may apply to the department for the individual  
12 permit that is required under sub. (2) in order to construct or maintain a bridge or  
13 culvert.

14           (b) The notice and hearing provisions of s. 30.208 (3) to (5) shall apply to an  
15 application under par. (a).

16           **SECTION 62.** 30.13 (1) of the statutes is repealed.

17           **SECTION 63.** 30.13 (1m) (intro.) of the statutes is amended to read:

18           30.13 (1m) SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN  
19 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in  
20 a navigable waterway for swimming and diving purposes without obtaining a permit  
21 under s. 30.12 if all of the following conditions are met:

22           **SECTION 64.** 30.13 (1m) (b) of the statutes is amended to read:

23           30.13 (1m) (b) The swimming raft does not interfere with rights of other  
24 riparian ~~proprietors~~ owners.

25           **SECTION 65.** 30.13 (2) of the statutes is repealed.

**BILL**

1           **SECTION 66.** 30.13 (4) (a) of the statutes is amended to read:

2           30.13 (4) (a) *Interferes with public rights.* A wharf or pier which interferes with  
3 public rights in navigable waters constitutes an unlawful obstruction of navigable  
4 waters unless ~~a permit is issued for~~ the wharf or pier is authorized under a permit  
5 issued under s. 30.12 or unless other authorization for the wharf or pier is expressly  
6 provided.

7           **SECTION 67.** 30.13 (4) (b) of the statutes is amended to read:

8           30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes  
9 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction  
10 of navigable waters unless ~~a permit is issued for~~ the wharf or pier is authorized  
11 under a permit issued under s. 30.12 or unless other authorization for the wharf or  
12 pier is expressly provided.

13           **SECTION 68.** 30.13 (4) (d) of the statutes is repealed.

14           **SECTION 69.** 30.131 (1) (intro.) of the statutes is amended to read:

15           30.131 (1) (intro.) Notwithstanding s. 30.133, a wharf or pier of the type which  
16 does not require a permit under ss. 30.12 ~~(1)~~ (1d) and 30.13 that abuts riparian land  
17 and that is placed in a navigable water by a person other than the owner of the  
18 riparian land may not be considered to be an unlawful structure on the grounds that  
19 it is not placed and maintained by the owner if all of the following requirements are  
20 met:

21           **SECTION 70.** 30.135 (1) (title) of the statutes is repealed.

22           **SECTION 71.** 30.135 (1) (a) (intro.) of the statutes is renumbered 30.135 (1)  
23 (intro.) and amended to read:

24           30.135 (1) (intro.) A riparian ~~proprietor may place~~ owner placing a water ski  
25 platform or water ski jump in a navigable waterway ~~without obtaining a~~ is exempt

**BILL**

1 from the permit requirements under this chapter if all of the following requirements  
2 are met:

3 **SECTION 72.** 30.135 (1) (a) 1. of the statutes is renumbered 30.135 (1) (a).

4 **SECTION 73.** 30.135 (1) (a) 2. of the statutes is renumbered 30.135 (1) (b) and  
5 amended to read:

6 30.135 (1) (b) The platform or jump does not interfere with rights of other  
7 riparian ~~proprietors~~ owners.

8 **SECTION 74.** 30.135 (1) (a) 3. of the statutes is renumbered 30.135 (1) (c).

9 **SECTION 75.** 30.135 (1) (b) of the statutes is renumbered 30.135 (2) and  
10 amended to read:

11 30.135 (2) If the department determines that any of the requirements under  
12 ~~par. (a) sub. (1)~~ are not met, the riparian owner shall submit ~~a permit~~ an application  
13 for an individual permit to the department. The notice and hearing provisions under  
14 s. 30.208 (3) to (5) apply to the application.

15 **SECTION 76.** 30.135 (2), (3) and (4) of the statutes are repealed.

16 **SECTION 77.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

17 30.18 (2) (a) *Streams.* (intro.) No person may divert water from a stream in  
18 this state without ~~a~~ an individual permit under this section if the diversion meets  
19 either of the following conditions:

20 **SECTION 78.** 30.18 (2) (b) of the statutes is amended to read:

21 30.18 (2) (b) *Streams or lakes.* No person, except a person required to obtain  
22 an approval under s. 281.41, may divert water from any lake or stream in this state  
23 without ~~a~~ individual permit under this section if the diversion will result in a water  
24 loss averaging 2,000,000 gallons per day in any 30-day period above the person's  
25 authorized base level of water loss.

**BILL**

1           **SECTION 79.** 30.18 (4) (a) of the statutes is amended to read:

2           30.18 (4) (a) Upon receipt of a complete application, the department shall  
3 follow the notice and hearing procedures under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5).  
4 In addition to ~~the notice requirements providing notice as required under s. 30.02 (3)~~  
5 ~~and (4) 30.208 (3) to (5)~~, the department shall mail a copy of the notice to every person  
6 upon whose land any part of the canal or any other structure will be located, to the  
7 clerk of the next town downstream, to the clerk of any village or city in which the lake  
8 or stream is located and which is adjacent to any municipality in which the diversion  
9 will take place and to each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

10           **SECTION 80.** 30.18 (6) (b) of the statutes is amended to read:

11           30.18 (6) (b) *Use of water.* A person issued a permit under this section for the  
12 purpose of irrigation or agriculture may use the water on any land contiguous to the  
13 permittee's riparian land, but may not withdraw more water than it did before  
14 August 1, 1957, without applying to the department for a modification of the permit.

15           **SECTION 81.** 30.18 (9) of the statutes is repealed.

16           **SECTION 82.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)  
17 and amended to read:

18           30.19 (1g) PERMITS REQUIRED. (intro.) Unless ~~a~~ an individual or general permit  
19 has been granted by the department issued under this section or authorization has  
20 been granted by the legislature, ~~it is unlawful~~ no person may do any of the following:

21           **SECTION 83.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and  
22 amended to read:

23           30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial  
24 ~~waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the~~

**BILL**

1 ~~purpose is ultimate connection with an existing navigable stream, lake or other~~  
2 ~~navigable waters, or where~~ water body that connects with a navigable waterway.

3 (am) Construct, dredge, or enlarge any part of the an artificial waterway water  
4 body that is located within 500 feet of the ordinary high-water mark of an existing  
5 navigable stream, lake or other navigable waters waterway.

6 **SECTION 84.** 30.19 (1) (b) of the statutes is repealed.

7 **SECTION 85.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and  
8 amended to read:

9 30.19 (1g) (c) ~~To grade or otherwise~~ Grade or remove top soil topsoil from the  
10 bank of any navigable ~~stream, lake or other body of navigable water~~ waterway where  
11 the area exposed by ~~such~~ the grading or removal will exceed 10,000 square feet.

12 **SECTION 86.** 30.19 (1b) of the statutes is created to read:

13 30.19 (1b) DEFINITION. In the section, “artificial water body” means a proposed  
14 or existing body of water that does not have a history of being a lake or stream or of  
15 being part of a lake or stream.

16 **SECTION 87.** 30.19 (1m) (intro.) of the statutes is amended to read:

17 30.19 (1m) ~~EXCEPTION EXEMPTIONS.~~ (intro.) ~~Subsection (1) does not apply to A~~  
18 person is exempt from the permit requirements under this section for any of the  
19 following:

20 **SECTION 88.** 30.19 (1m) (a) of the statutes is amended to read:

21 30.19 (1m) (a) The construction ~~and or~~ repair of any public highways highway.

22 **SECTION 89.** 30.19 (1m) (b) of the statutes is amended to read:

23 30.19 (1m) (b) Any agricultural ~~uses~~ use of land.

24 **SECTION 90.** 30.19 (1m) (c) of the statutes is amended to read:

**BILL****SECTION 90**

1           30.19 (1m) (c) ~~Any~~ An activity that affects a navigable inland lake that is  
2 located wholly or partly in any county having a population of 750,000 or more.

3           **SECTION 91.** 30.19 (1m) (cm) of the statutes is created to read:

4           30.19 (1m) (cm) Any activity that affects a portion of Lake Michigan or of Lake  
5 Superior that is located within a county having a population of 750,000 or more.

6           **SECTION 92.** 30.19 (1m) (d) of the statutes is amended to read:

7           30.19 (1m) (d) ~~These portions~~ Any activity that affects a portion of a navigable  
8 ~~streams, Lake Michigan or Lake Superior~~ stream that is located within any a county  
9 having a population of 750,000 or more.

10          **SECTION 93.** 30.19 (1m) (e) of the statutes is amended to read:

11          30.19 (1m) (e) Any work required to maintain the original dimensions of an  
12 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a  
13 permit or legislative authorization under sub. ~~(1) (a) or (b)~~ (1g) (a) or (am).

14          **SECTION 94.** 30.19 (1m) (g) of the statutes is created to read:

15          30.19 (1m) (g) The construction, dredging, or enlargement of any artificial  
16 water body that is within 500 feet of the ordinary high-water mark of a navigable  
17 waterway, if the artificial water body does not have a surface connection to any  
18 navigable waterway other than an overflow device and if the construction, dredging,  
19 or enlargement is authorized by a storm water discharge permit approved by the  
20 department under ch. 283 or a facility plan approved or authorized by the  
21 department under s. 281.41.

22          **SECTION 95.** 30.19 (1m) (h) of the statutes is created to read:

23          30.19 (1m) (h) Grading or removal of topsoil from the bank of a navigable  
24 waterway that is not located in an area of special natural resource interest and where



**BILL**

1 the area exposed by the grading or removal will exceed 10,000 square feet, if any of  
2 the following applies:

3 1. The grading or removal is authorized by a storm water discharge permit  
4 approved by the department under ch. 283.

5 2. The grading or removal is authorized under an ordinance under s. 59.692,  
6 61.351, or 62.231.

7 3. The grading or removal is authorized by an erosion control plan pursuant  
8 to s. 101.653.

9 **SECTION 96.** 30.19 (2) of the statutes is repealed.

10 **SECTION 97.** 30.19 (3) of the statutes is repealed.

11 **SECTION 98.** 30.19 (3r) of the statutes is created to read:

12 30.19 (3r) GENERAL PERMITS. (a) The department shall issue statewide general  
13 permits under s. 30.206 that authorize persons to do all of the following:

14 1. Engage in an activity specified in sub. (1g) (a) or (am) that is not exempt  
15 under sub. (1m) if the construction, dredging, or enlargement is authorized by a  
16 storm water discharge permit approved by the department under ch. 283 or a facility  
17 plan approved by the department under s. 281.41.

18 2. Engage in an activity specified in sub. (1g) (a) or (am) if the construction,  
19 dredging, or enlargement is designed to enhance wildlife habitat or wetlands, as  
20 defined in s. 23.32 (1), or if the construction, dredging, or enlargement affects a body  
21 of water that is less than one acre in area.

22 3. Engage in an activity specified in sub. (1g) (c) that is not exempt under sub.  
23 (1m) (h) if the area exposed by the grading or removal will exceed 10,000 square feet.

**BILL**

1 (b) The department may promulgate rules that specify other types of activities,  
2 in addition to those listed in par. (a), that may be authorized by statewide general  
3 permits.

4 **SECTION 99.** 30.19 (4) (title) of the statutes is amended to read:

5 30.19 (4) (title) ~~ISSUANCE OF PERMIT~~ INDIVIDUAL PERMITS.

6 **SECTION 100.** 30.19 (4) of the statutes is renumbered 30.19 (4) (c) (intro.) and  
7 amended to read:

8 30.19 (4) (c) (intro.) ~~If the~~ The department finds that the project will not injure  
9 ~~public rights or interest, including fish and game habitat, that the project shall issue~~  
10 an individual permit pursuant to an application under par. (a) if the department  
11 finds that all of the following apply:

12 2. The activity will not cause environmental pollution, as defined in s. 299.01  
13 (4), that any.

14 3. Any enlargement connected to a navigable waterways conforms to the  
15 requirement of waterway complies with all of the laws for the relating to platting of  
16 land and for sanitation and that no.

17 4. No material injury will result to the rights of any riparian owners on any  
18 body of water affected will result, the department shall issue a permit authorizing  
19 the enlargement of the affected waterways of real property that abuts any water body  
20 that is affected by the activity.

21 **SECTION 101.** 30.19 (4) (a) of the statutes is created to read:

22 30.19 (4) (a) For activities that are not exempt under sub. (1m) and that are  
23 not subject to a general permit under sub. (3r), a person may apply to the department  
24 for an individual permit in order to engage in an activity for which a permit is  
25 required under sub. (1g).

**BILL**

1           **SECTION 102.** 30.19 (4) (b) of the statutes is created to read:

2           30.19 (4) (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to  
3 an application under par. (a).

4           **SECTION 103.** 30.19 (4) (c) 1. of the statutes is created to read:

5           30.19 (4) (c) 1. The activity will not be detrimental to the public interest.

6           **SECTION 104.** 30.19 (5) of the statutes is amended to read:

7           30.19 (5) ~~CONDITIONS OF PERMIT~~ REQUIREMENT FOR PUBLIC ACCESS. ~~The A permit~~  
8 issued under this section to construct an artificial water body and to connect it to a  
9 navigable waterway shall provide that all require that the artificial waterways  
10 constructed under this section which are connected to navigable waterways shall be  
11 water body be a public waterways. ~~The department may impose such further~~  
12 ~~conditions in the permit as it finds reasonably necessary to protect public health,~~  
13 ~~safety, welfare, rights and interest and to protect private rights and property~~  
14 waterway.

15           **SECTION 105.** 30.195 (1) of the statutes is amended to read:

16           30.195 (1) ~~PERMIT REQUIRED.~~ No Unless a permit has been issued under this  
17 section or authorization has been granted by the legislature, no person may change  
18 the course of or straighten a navigable stream without a permit issued under this  
19 section or without otherwise being expressly authorized by statute to do so.

20           **SECTION 106.** 30.195 (1m) of the statutes is created to read:

21           30.195 (1m) **GENERAL PERMITS.** (a) The department shall issue statewide  
22 general permits under s. 30.206 that authorize riparian owners to change the course  
23 of or straighten a navigable stream under the following circumstances:

24           1. The change or straightening involves a relocation of less than a total of 500  
25 feet in stream length.

**BILL****SECTION 106**

1           2. The change or straightening involves a relocation of a stream with an  
2 average flow of less than 2 cubic feet per second.

3           (b) The department may promulgate rules that specify other circumstances, in  
4 addition to those listed in par. (a), that may be authorized by statewide general  
5 permits.

6           **SECTION 107.** 30.195 (2) of the statutes is repealed and recreated to read:

7           30.195 (2) INDIVIDUAL PERMITS. (a) For activities that are not subject to a  
8 general permit under sub. (1m), a riparian owner may apply to the department for  
9 an individual permit in order to engage in activities for which a permit is required  
10 under sub. (1).

11           (b) The notice and hearing provisions of s. 30.208 (3) to (5) apply to an  
12 application under par. (a).

13           **SECTION 108.** 30.195 (3) (title) of the statutes is repealed.

14           **SECTION 109.** 30.195 (3) of the statutes is renumbered 30.195 (2) (c) and  
15 amended to read:

16           30.195 (2) (c) ~~Upon application therefor, the~~ The department shall grant a  
17 issue an individual permit to the applicant for under this section to a riparian owner  
18 if the department determines that all of the following apply:

19           1. The applicant is the owner of any land to change the course of or straighten  
20 a upon which the change in course or straightening of the navigable stream on such  
21 land, if such will occur.

22           2. The proposed change of course or straightening of the navigable stream will  
23 improve the economic or aesthetic value of the owner's applicant's land and will.

**BILL**

1           3. The proposed change of course or straightening of the navigable stream will  
2 not adversely affect the flood flow capacity of the stream or otherwise be detrimental  
3 to ~~public rights or~~ the public interest.

4           4. The proposed change of course or straightening of the navigable stream will  
5 not be detrimental to the rights of other ~~riparians~~ riparian owners located on the  
6 stream. ~~If the department finds that the rights of such riparians will be adversely~~  
7 ~~affected, it may grant the permit only with their consent. Such permit may be~~  
8 ~~granted on the department's own motion after its own investigation or after public~~  
9 ~~hearing and after giving prior notice of such investigation or hearing~~ or all of these  
10 riparian owners have consented to the issuance of the permit.

11           **SECTION 110.** 30.195 (4) of the statutes is repealed.

12           **SECTION 111.** 30.195 (7) of the statutes is repealed.

13           **SECTION 112.** 30.196 (intro.) of the statutes is amended to read:

14           **30.196 Enclosure of navigable waters; issuance of permits to**  
15 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,  
16 placing or restricting navigable waters into an enclosed drain, conduit, storm sewer  
17 or similar structure if the department grants the municipality ~~a~~ an individual  
18 permit. The department may grant this permit to a municipality after following the  
19 notice and hearing requirements under s. ~~30.02 (3) and (4)~~ 30.208 (3) to (5) if it finds  
20 that granting the permit:

21           **SECTION 113.** 30.20 (1) (title) of the statutes is repealed and recreated to read:

22           30.20 (1) (title) PERMITS OR CONTRACTS REQUIRED.

23           **SECTION 114.** 30.20 (1) (a) of the statutes is amended to read:

24           30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department  
25 under sub. (2) (a) or (b) or authorization has been granted by the legislature, no

**BILL****SECTION 114**

1 person may remove any material from the bed of ~~any a natural~~ navigable lake or from  
2 the bed of any outlying waters ~~of this state without first obtaining a contract as~~  
3 ~~provided in sub. (2).~~

4 **SECTION 115.** 30.20 (1) (b) of the statutes is amended to read:

5 30.20 (1) (b) ~~Except as provided under pars. (c) and (d),~~ Unless an individual  
6 or general permit has been issued by the department under this section or  
7 authorization has been granted by the legislature, no person may remove any  
8 material from the bed of any lake or navigable stream that is not mentioned  
9 described under par. (a) without first obtaining a permit from the department under  
10 sub. (2) (c).

11 **SECTION 116.** 30.20 (1) (c) 1. and 2. of the statutes are consolidated, renumbered  
12 30.20 (1g) (a) 1. and amended to read:

13 30.20 (1g) (a) 1. ~~Except as provided under subd. 2., a person may remove A~~  
14 removal of material from the bed of a farm drainage ditch which was not a navigable  
15 stream before ditching. 2. The department may require a permit under sub. (2) (c)  
16 for a removal under subd. 1. only if it is exempt from the individual and general  
17 permit requirements under this section unless the department finds that the  
18 proposed removal may have a long-term adverse effect on cold-water fishery  
19 resources or may destroy fish spawning beds or nursery areas.

20 **SECTION 117.** 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

21 **SECTION 118.** 30.20 (1) (d) of the statutes is renumbered 30.20 (1g) (c) and  
22 amended to read:

23 30.20 (1g) (c) ~~The A removal of material by the drainage board for the Duck~~  
24 Creek Drainage District may, without a permit under sub. (2) (c), remove material  
25 from a drain that the board operates in the Duck Creek Drainage District is exempt

**BILL**

1 from the individual and general permit requirements under this section if the  
2 removal is required, under rules promulgated by the department of agriculture,  
3 trade and consumer protection, in order to conform the drain to specifications  
4 imposed by the department of agriculture, trade and consumer protection after  
5 consulting with the department of natural resources.

6 **SECTION 119.** 30.20 (1g) (title) and (b) of the statutes are created to read:

7 30.20 (1g) (title) EXEMPTIONS.

8 (b) A removal of material is exempt from the permit and contract requirements  
9 under this section if the material does not contain hazardous substances, the  
10 material will be placed in an upland area, the material is not being removed from an  
11 area of special natural resource interest, and if any of the following applies:

12 1. The removal will be from an area from which material has been previously  
13 removed, the removal is for maintenance purposes, and the material to be removed  
14 does not exceed 1,000 cubic yards.

15 2. The removal will be from an area from which no material has been previously  
16 removed and the material to be removed does not exceed 100 cubic yards.

17 **SECTION 120.** 30.20 (1r) of the statutes is created to read:

18 30.20 (1r) GENERAL PERMITS. (a) The department shall issue statewide general  
19 permits under s. 30.206 that authorize any person to do all of the following:

20 1. Remove material from an area from which material has been previously  
21 removed, the removal is for maintenance purposes, and the material to be removed  
22 is 1,000 or more cubic yards.

23 2. Remove material from an area from which no material has been previously  
24 removed and the material to be removed is 100 or more cubic yards but less than  
25 1,000 cubic yards.

**BILL****SECTION 120**

1 (b) The department may promulgate rules that specify other types of removals,  
2 in addition to those listed in par. (a), that may be authorized by statewide general  
3 permits.

4 **SECTION 121.** 30.20 (2) (title) of the statutes is amended to read:

5 30.20 (2) (title) ~~CONTRACTS FOR REMOVAL AND INDIVIDUAL PERMITS.~~

6 **SECTION 122.** 30.20 (2) (a) and (b) of the statutes are amended to read:

7 30.20 (2) (a) The department, ~~whenever consistent with public rights,~~ may  
8 enter into ~~contracts~~ a contract on behalf of the state for the removal and lease or sale  
9 of any material from the bed of any navigable lake or of any of the outlying waters,  
10 and for the lease or sale of the material. Every if the contract is consistent with public  
11 rights. A person seeking to enter into such a contract shall apply to the department.  
12 Each contract entered into under this paragraph shall contain such any conditions  
13 as may be that the department determines are necessary for the protection of the  
14 public interest and the interests of the state and. Each contract entered into under  
15 this paragraph shall also fix the amount of compensation to be paid to the state for  
16 the material so to be removed, except that no the contract may not require that any  
17 compensation may be paid for the material if the contract is with a municipality as  
18 defined in s. 281.01 (6) and the material is to be used for a municipal purpose and  
19 not for resale. No if the material will not be resold. Each contract entered into under  
20 this paragraph may not run for a longer period more than 5 years.

21 (b) The department, ~~whenever consistent with public rights,~~ may enter into  
22 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any  
23 mineral, ore and, or other material from beneath the bed of a navigable lakes and  
24 waters, where the waters would water that the state may own if the contract will be  
25 consistent with public rights and if the navigable water will not be disturbed in the



**BILL**

1 removal operation and for the lease and sale of such mineral, material and ore and  
2 provide the necessary regulations for all acts incident thereto. ~~Every such.~~ A person  
3 seeking to enter into such a contract shall apply to the department. Each contract  
4 entered into under this paragraph shall contain such any conditions as may be that  
5 the department determines are necessary for the protection of the public interest and  
6 the interests interest of the state, and. Each contract entered into under this  
7 paragraph shall also fix the compensation to be paid to the state for the material,  
8 mineral and ore so mineral, ore, or other material to be removed. No Each contract  
9 entered into, pursuant to under this paragraph, shall may not run for a longer period  
10 more than 75 years. Should any doubt exist as to whether the state, in fact, owns  
11 such lake bed or stream bed such contract or lease shall be for such interests, if any,  
12 as the state may own. Title to the royalties to be paid when mining operations are  
13 begun shall be determined at such future time as royalties for ores so sold are paid  
14 or are due and payable.

15 SECTION 123. 30.20 (2) (bn) of the statutes is created to read:

16 30.20 (2) (bn) For a removal that is not exempt under sub. (1g) and that is not  
17 subject to a general permit under sub. (1r), a person may apply to the department  
18 for an individual permit that is required under sub. (1) (b) in order to remove material  
19 from the bed of any lake or stream not described under sub. (1) (a).

20 SECTION 124. 30.20 (2) (c) of the statutes is amended to read:

21 30.20 (2) (c) ~~A permit to remove material from the bed of any lake or stream~~  
22 ~~not included in sub. (1) (a) may be issued by the department if it~~ The department  
23 shall issue an individual permit pursuant to an application under par. (bn) if the  
24 department finds that the issuance of such a the permit will be consistent with the  
25 public interest in the water involved. A permit or contract issued under this

**BILL**

1 ~~paragraph may be issued for up to 10 years if the applicant notifies the department~~  
2 ~~at least 30 days before removing any material lake or stream.~~

3 **SECTION 125.** 30.20 (2) (d) of the statutes is created to read:

4 30.20 (2) (d) If an applicant for a permit under par. (bn) submits the application  
5 at least 30 days before the proposed date of the removal, the department may issue  
6 the permit for a period of up to 10 years.

7 **SECTION 126.** 30.20 (2) (e) of the statutes is created to read:

8 30.20 (2) (e) The notice and hearing provisions of s. 30.208 (3) to (5) apply to  
9 an application for a permit or contract under this subsection.

10 **SECTION 127.** 30.201 of the statutes is created to read:

11 **30.201 Financial assurance for nonmetallic mining.** (1) If the  
12 department requires that financial assurance be provided as a condition for a permit  
13 under s. 30.19, 30.195, or 30.20 or for a contract under s. 30.20 for nonmetallic mining  
14 and reclamation, the financial assurance may be a bond or alternative financial  
15 assurance. An alternative financial assurance may include cash or any of the  
16 following:

17 (a) A certificate of deposit.

18 (b) An irrevocable letter of credit.

19 (c) An irrevocable trust.

20 (d) An escrow account.

21 (e) A government security.

22 (f) Any other demonstration of financial responsibility.

23 (2) Any interest earned by the financial assurance shall be paid to the person  
24 operating the nonmetallic mining or reclamation project.

25 **SECTION 128.** 30.2022 (title) of the statutes is created to read:

**BILL****30.2022 (title) Activities of department of transportation.**

**SECTION 129.** 30.2026 (2) (d) of the statutes is amended to read:

30.2026 (2) (d) The village of Belleville shall create any artificial barrier under this section in compliance with all state laws that relate to navigable bodies of water, except s. 30.12 (1) and (2).

**SECTION 130.** 30.2026 (3) (a) of the statutes is amended to read:

30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier created as authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View shoreline, a portion of which is located within 1,000 feet of any such artificial barrier, is dissatisfied with the manner in which the village of Belleville is maintaining the barrier, the owner may maintain the barrier in lieu of the village, upon approval of the department. The village or a landowner who maintains the barrier shall comply with all state laws that relate to navigable bodies of water, except s. 30.12 (1) and (2). The department may require the village of Belleville or the landowner to maintain the barrier in a structurally and functionally adequate condition.

**SECTION 131.** 30.206 (1) (title) of the statutes is created to read:

30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

**SECTION 132.** 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and amended to read:

30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12 (3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a class of activities, according to rules promulgated by the department. Before The department shall issue the statewide general permits required under ss. 30.12 (3) (a), 30.123 (7) (a), 30.19 (3r) (a), 30.195 (1m) (a), and 30.20 (1r) (a) within 540 days~~

**BILL****SECTION 132**

1 after the effective date of this paragraph .... [revisor inserts date]. General permits  
2 issued under s. 30.206, 2001 stats., shall remain valid until the date upon which the  
3 statewide general permits are issued under this paragraph. Vessels for commercial  
4 storage that, on the effective date of this paragraph .... [revisor inserts date], are in  
5 place on Lake Michigan or Lake Superior or on any tributary of Lake Michigan or  
6 Lake Superior determined to be navigable by the federal government shall be  
7 considered to be placed in compliance with s. 30.12 until the date upon which the  
8 statewide general permit is issued under s. 30.12 (3) (a) 12.

9 (b) Before issuing general permits, the department shall ~~determine~~ provide,  
10 after an environmental analysis ~~and~~, notice and hearing under ss. 227.17 and  
11 227.18, ~~that~~.

12 (c) To ensure that the cumulative adverse environmental impact of the class  
13 of activity activities authorized by a general permit is insignificant and that the  
14 issuance of the general permit will not injure public rights or ~~interest~~ interests, cause  
15 environmental pollution, as defined in s. 299.01 (4), or result in material injury to the  
16 rights of any riparian owner, the department may impose any of the following  
17 conditions on the permit:

18 **SECTION 133.** 30.206 (1) (c) 1. to 3. of the statutes are created to read:

19 30.206 (1) (c) 1. Construction and design requirements that are consistent with  
20 the purpose of the activity authorized under the permit.

21 2. Location requirements that ensure that the activity will not materially  
22 interfere with navigation or have an adverse impact on the riparian property rights  
23 of adjacent riparian owners.

24 3. Restrictions to protect areas of special natural resource interest.

25 **SECTION 134.** 30.206 (2) of the statutes is repealed.