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~~None~~

D-Note

**2003 SENATE BILL 313**

November 11, 2003 - Introduced by Senators PANZER, STEPP, KANAVAS, KEDZIE, LEIBHAM, ZIEN, DARLING, ROESSLER and WELCH, cosponsored by Representatives GARD, KAUFERT, JOHNSRUD, GROTHMAN, MONTGOMERY, SUDER, KESTELL, NASS, J. FITZGERALD, TOWNS, FREESE, NISCHKE, HONADEL, MCCORMICK, D. MEYER, KRAWCZYK, KREIBICH, OWENS, J. WOOD, OTT, TOWNSEND, HUEBSCH, GIELOW, JESKEWITZ and GUNDERSON. Referred to Joint Committee on Finance.

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

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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)

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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 assurance;~~ ~~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

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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.

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*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.

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*This bill is prepared as a base for a substitute amendment. No analysis will be provided.*

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:

**SENATE BILL 313****SECTION 4**

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:

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SECTION 9

# (b)(m) A surface water identified

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

as a trout stream

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 ~~1p~~ 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 ~~1p~~ 30.01 (6b) of the statutes is repealed.

(insert), INSERT

18 SECTION ~~1p~~ 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

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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.

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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:

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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~~ <sup>#</sup> 30.12 (title) of the statutes is amended to read:

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

*change component*

7 SECTION ~~18~~ <sup>#</sup> 30.12 (1) (intro.) of the statutes is ~~renumbered 30.12 (1d) and~~  
8 amended to read:

9 30.12 ~~(1d)~~ <sup>(1) & (b)</sup> 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:

*change component*

15 SECTION ~~19~~ <sup>#</sup> 30.12 (1) (a) of the statutes is ~~renumbered 30.12 (1d) (a) and~~  
16 amended to read:

17 30.12 ~~(1a)~~ <sup>(1)</sup> (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,~~

*change component*

19 SECTION ~~20~~ <sup>#</sup> 30.12 (1) (b) of the statutes is ~~renumbered 30.12 (1d) (b) and~~  
20 amended to read:

21 30.12 ~~(1b)~~ <sup>(1)</sup> (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.~~

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SECTION 22

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SECTION ~~22~~ 30.12 (1g) (intro.), (a), (b), ~~and~~ (e), ~~and~~ (f), (i) and (j) of the statutes are created

to read:

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

(a) A deposit of sand, gravel, or stone that totals less than 2 cubic yards <sup>in any 5-year period</sup> and that is associated with any activity or project exempt from an individual permit or general permit under this subchapter

(b) A structure, other than a pier or a wharf, that is placed on a seasonal basis in accordance with <sup>rules</sup> promulgated by the department and that is less than 200 square feet in size and less than 38 inches in height

(e) A boat shelter, boat hoist, or boat lift that is placed on a seasonal basis adjacent to the riparian owner's pier or wharf or to the shoreline on the riparian owner's property, in accordance with rules promulgated by the department

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

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

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

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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 <sup>that is placed for the repair</sup> and if the riprap is located  
4 <sup>of existing riprap, that only involves the addition or distribu-</sup> within an area where riprap has been previously placed <sup>tion of rock and</sup>  
5 <sup>that is placed within the footprint of the existing location</sup>

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.

INS  
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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

INSERT  
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SECTION 28

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.

*move by  
sort*

*(1g)(k)*  
5 SECTION ~~29~~ 30.12 (3)(a)9. of the statutes is created to read:

INSERT  
28-4

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.

*move  
by sort*

*(1g)(L)*  
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.

INS  
28-19

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.

## SENATE BILL 313

## SECTION 36

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

## SENATE BILL 313

## SECTION 39

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~~<sup>#</sup>. 30.12 (3) (d) of the statutes is repealed.

4 SECTION ~~41~~<sup>#</sup>. 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. ~~(1c)~~<sup>(1)</sup> 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

**SENATE BILL 313**

1 ~~section or~~ 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:

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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 <sup>1</sup> ~~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).

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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~~ construct, place, or maintain a 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,~~

## SENATE BILL 313

## SECTION 55

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

3 SECTION ~~56~~<sup>#</sup> 30.123 (3) of the statutes is repealed.

4 SECTION ~~57~~<sup>#</sup> 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~~<sup>#</sup> 30.123 (5) of the statutes is repealed.

14 SECTION ~~59~~<sup>#</sup> 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 <sup>, placement,</sup> 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~~<sup>#</sup> 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:

INSERT  
34-21

SENATE BILL 313

*a clear-span*

1 1. Construct and maintain a bridge that will cross <sup>over</sup> a navigable water ~~that is less~~  
2 ~~than 35 feet wide~~ *that provides access to a principal structure, as defined*  
3 ~~by rule by the department~~

3 OK ← 2. Construct and maintain a culvert that has an inside diameter that does not  
4 exceed 60 inches ~~that~~ *replaces a culvert that is not exempt*  
5 *under sub. (6)(c) and that is in a navigable water that is*

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

*less than 35 feet wide*

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. ? + line 25

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

INS  
35-12

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.

*3. Construct and maintain a bridge that is supported only by culverts in a navigable water that is less than 35 feet wide*

## SENATE BILL 313

## SECTION 66

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

## SENATE BILL 313

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~~ <sup>an</sup> 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.

## SENATE BILL 313

## SECTION 79

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~~

## SENATE BILL 313

## SECTION 83

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~~<sup>#</sup>. 30.19 (1) (b) of the statutes is repealed.

7 SECTION ~~85~~<sup>#</sup>. 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~~<sup>#</sup>. 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~~<sup>#</sup>. 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~~<sup>#</sup>. 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~~<sup>#</sup>. 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~~<sup>#</sup>. 30.19 (1m) (c) of the statutes is amended to read:

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## 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~~ <sup>#</sup> 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~~ <sup>#</sup> 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~~ <sup>#</sup> 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~~ <sup>#</sup> 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~~ <sup>#</sup> 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

## SENATE BILL 313

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. \_\_\_\_\_ INS 41-8

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.

## SENATE BILL 313

## SECTION 98

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 <sup>riparian</sup> 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).

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SECTION 102

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 <sup>PLAIN</sup> 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 <sup>or straighten</sup> 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.

\*\*\* NOTE: "Straighten" was stucken  
in s. 30.195(1) but left in throughout the other provisions of  
s. 30.19. So I have restored "straightening" in s. 30.195(1). OK?  
MGS

## SENATE BILL 313

## 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 <sup>shall</sup> ~~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 applied 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.

## SENATE BILL 313

## SECTION 109

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.~~ <sup>#</sup> 30.195 (4) of the statutes is repealed.

12           ~~SECTION 111.~~ <sup>#</sup> 30.195 (7) of the statutes is repealed.

13           ~~SECTION 112.~~ <sup>#</sup> 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.~~ <sup>#</sup> 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.~~ <sup>#</sup> 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

## SENATE BILL 313

## 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~~<sup>#</sup>. 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) (e).~~

11 SECTION ~~116~~<sup>#</sup>. 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) (e)~~  
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~~<sup>#</sup>. 30.20 (1) (c) 3. of the statutes is renumbered 30.20 (1g) (a) 2.

21 SECTION ~~118~~<sup>#</sup>. 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) (e), remove material  
25 from a drain that the board operates in the Duck Creek Drainage District is exempt

## SENATE BILL 313

## SECTION 118

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~~<sup>118</sup>. 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.~~ *is the amount necessary to place*  
*to repair or maintain a structure that is exempt*  
*from any permitting requirements in this chapter.*

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.~~ *is by hand or by a hand-held*  
*device without the use of aid of external or auxiliary*  
*power.*

17 SECTION ~~120~~<sup>118</sup>. 30.20 (1r) of the statutes is created to read: INS 47-16

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 ~~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.~~ *mod r,* *for maintenance purposes*

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.

## SENATE BILL 313

## SECTION 120

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

4 SECTION ~~121~~<sup>11</sup> 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~~<sup>11</sup> 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. INS 48 -20

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

**SENATE BILL 313****SECTION 122**

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.~~ <sup>#</sup> 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.~~ <sup>#</sup> 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

**SENATE BILL 313****SECTION 124**

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. *INSERT 50-6*

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:

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1           **30.2022** (title) **Activities of department of transportation.**

2           ~~SECTION 129.~~ <sup>#</sup> 30.2026 (2) (d) of the statutes is amended to read:

3           30.2026 (2) (d) The village of Belleville shall create any artificial barrier under  
4 this section in compliance with all state laws that relate to navigable bodies of water,  
5 except s. 30.12 (1) and (2).

6           ~~SECTION 130.~~ <sup>#</sup> 30.2026 (3) (a) of the statutes is amended to read:

7           30.2026 (3) (a) The village of Belleville shall maintain any artificial barrier  
8 created as authorized under sub. (1). If a landowner of more than 500 feet of Lake  
9 Belle View shoreline, a portion of which is located within 1,000 feet of any such  
10 artificial barrier, is dissatisfied with the manner in which the village of Belleville is  
11 maintaining the barrier, the owner may maintain the barrier in lieu of the village,  
12 upon approval of the department. The village or a landowner who maintains the  
13 barrier shall comply with all state laws that relate to navigable bodies of water,  
14 except s. 30.12 (1) and (2). The department may require the village of Belleville or  
15 the landowner to maintain the barrier in a structurally and functionally adequate  
16 condition.

*material from p. 52*

17           ~~SECTION 131.~~ <sup>#</sup> 30.206 (1) (title) of the statutes is created to read:

18           30.206 (1) (title) PROCEDURE FOR ISSUING GENERAL PERMITS.

19           ~~SECTION 132.~~ <sup>#</sup> 30.206 (1) of the statutes is renumbered 30.206 (1) (a) and  
20 amended to read:

*as rules promulgated under  
ch. 227*

21           30.206 (1) (a) ~~For activities which require a permit or approval under ss. 30.12~~  
22 ~~(3) (a) and 30.19 (1) (a), the department may issue a general permit authorizing a~~  
23 ~~class of activities, according to rules promulgated by the department. Before The~~  
24 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

25

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SECTION 132

INSERT  
52-17

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 ~~Before issuing general permits, the department shall determine ~~provide~~~~  
 10 ~~after an environmental analysis and a 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:

move  
to p.  
51.

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

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INS  
52-17

18 30.206 (1) (c) 1. Construction and design requirements that are consistent with  
 19 the purpose of the activity authorized under the permit.

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

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

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

INS  
52-24