

2007 DRAFTING REQUEST

Bill

Received: **01/18/2007**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wavrunek**

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

Drafter: **btradewe**

May Contact:

Adtl. Drafters:

Subject: **Environment - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Wavrunek, BB0395 -

Topic:

Restore the public intervenor

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 01/18/2007	wjackson 01/18/2007		_____			State
/1			rschluet 01/19/2007	_____	cduerst 01/19/2007		

FE Sent For:

<END>

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1/18/18

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1/18/18
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<END>

FE Sent For:

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Restore the public intervenor
- Tracking Code: BR0395
- SBO team: General Government and Justice
- SBO analyst: Leah Wavrunek
 - Phone: 267-0370
 - Email: leah.wavrunek@wisconsin.gov
- Agency acronym: DOJ
- Agency number: 455
- Priority (Low, Medium, High): High

The intent of this request is to restore the public intervenor at the Department of Justice as it existed prior to the 1995-97 biennial budget. The language was under s. 165.07, s. 165.075 and s. 165.076 in the 1993-94 Wisconsin Statutes.

In 1/18

2007 BILL

will have budget heading

head ENVIRONMENT
subhead other environment
Do NOT GEN

1 AN ACT ~~to amend~~ 814.245 (2) (d); and *to create* 18.13 (4g), 165.07, 165.075 and
2 165.076 of the statutes; **relating to:** creating an Office of Public Intervenor in
3 the Department of Justice and making an appropriation

Analysis by the Legislative Reference Bureau

* This bill recreates an Office of Public Intervenor attached to the Department
* of Justice (DOJ), with the duties and authority that existed before 1995 Wisconsin
* Act 27. That act transferred the Office of Public Intervenor from DOJ to the
* Department of Natural Resources (DNR). The Office of Public Intervenor was
* eliminated by 1997 Wisconsin Act 27.

The bill requires the attorney general to appoint an assistant attorney general to serve as the public intervenor. The bill authorizes the public intervenor to do all of the following:

1. Formally commence or intervene in proceedings before any court whenever such intervention is necessary to protect the public rights in water and other natural resources of this state, and the bill requires the public intervenor to intervene in such matters when requested to do so by a division administrator in DNR.
2. Act as an interested party in actions in which he or she intervenes, with the power to present evidence, subpoena witnesses, cross-examine witnesses, file briefs, and do any other acts appropriate for a party to the proceedings.
3. Appeal administrative rulings to the courts.

The bill requires DNR personnel to notify the public intervenor of all administrative proceedings under the environmental protection chapters and to

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make investigations, studies, and reports to assist the public intervenor either before or during such formal intervention.

The bill also requires the attorney general to appoint a Public Intervenor Advisory Council consisting of seven to nine members who have backgrounds in or demonstrated experience or records relating to environmental protection or natural resource conservation. In addition, at least one member must have working knowledge of business and at least one member must have knowledge of agriculture. The advisory committee must hold open, publicized meetings and must advise the public intervenor consistent with his or her duties.

For further information see the *state* 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.** 18.13 (4g) of the statutes is created to read:

2 **18.13 (4g) PUBLIC INTERVENOR.** Notwithstanding s. 165.075, the public
3 intervenor does not have authority to initiate any action or proceeding concerning
4 the issuance of obligations by the building commission under this chapter.

5 **SECTION 2.** 165.07 of the statutes is created to read:

6 **165.07 Assistant attorney general — public intervenor. (1)** The attorney
7 general shall designate an assistant attorney general on the attorney general's staff
8 as public intervenor. The head of each agency responsible for proceedings under chs.
9 30, 31, 281 to 285, and 289 to 299, shall give notice of those proceedings to the public
10 intervenor, to the administrators of divisions primarily assigned the departmental
11 functions under chs. 29, 281, 285, and 289 to 299, and to the natural areas
12 preservation council.

13 **(2)** The public intervenor shall formally intervene in proceedings described in
14 sub. (1) when requested to do so by an administrator of a division primarily assigned
15 the departmental functions under chs. 29, 281, 285, or 289 to 299. The public
16 intervenor may, on the public intervenor's own initiative or upon request of any

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1 committee of the legislature, formally intervene in proceedings described in sub. (1)
2 whenever that intervention is needed for the protection of public rights in water and
3 other natural resources, as provided in chs. 30 and 31 and defined by the supreme
4 court.

5 (3) Personnel of the department of natural resources shall, upon the request
6 of the public intervenor, make such investigations, studies, and reports as the public
7 intervenor may request in connection with proceedings described in sub. (1), either
8 before or after formal intervention. Personnel of state agencies shall, at the public
9 intervenor's request, provide information, serve as witnesses in proceedings
10 described in sub. (1), and otherwise cooperate in the carrying out of the public
11 intervenor's intervention functions. The public intervenor shall formally intervene
12 by filing a statement to that effect with the examiner or other person immediately
13 in charge of the proceeding. Upon that filing, the public intervenor shall be
14 considered a party in interest with full power to present evidence, subpoena and
15 cross-examine witnesses, submit proof, file briefs, or do any other acts appropriate
16 for a party to the proceedings.

17 (4) The public intervenor may appeal from administrative rulings to the courts.
18 In all administrative proceedings and judicial review proceedings, the public
19 intervenor shall be identified as "public intervenor." This section does not preclude
20 or prevent any division of the department of natural resources, or any other
21 department or independent agency, from appearing by its staff as a party in any
22 proceedings.

23 **SECTION 3.** 165.075 of the statutes is created to read:

24 **165.075 Assistant attorney general; public intervenor; authority.** In
25 carrying out his or her duty to protect public rights in water and other natural

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1 resources, the public intervenor has the authority to initiate actions and proceedings
2 before any agency or court in order to raise issues, including issues concerning
3 constitutionality, present evidence and testimony, and make arguments.

4 **SECTION 4.** 165.076 of the statutes is created to read:

5 **165.076 Assistant attorney general; public intervenor; advisory**
6 **committee.** The attorney general shall appoint a public intervenor advisory
7 committee under s. 15.04 (1) (c). The public intervenor advisory committee shall
8 consist of not less than 7 nor more than 9 members. The attorney general may only
9 appoint members who have backgrounds in or demonstrated experience or records
10 relating to environmental protection or natural resource conservation. The attorney
11 general shall appoint at least one member who has working knowledge ^{of} in business
12 and at least one member who has working knowledge ^{of} in agriculture. The public
13 intervenor advisory committee shall advise the public intervenor consistent with his
14 or her duty to protect public rights in water and other natural resources. The public
15 intervenor advisory committee shall conduct meetings consistent with subch. V of
16 ch. 19 and shall permit public participation and public comment on public intervenor
17 activities.

18 **SECTION 5.** 814.245 (2) (d) of the statutes is amended to read:

19 814.245 (2) (d) “State agency” does not include the public intervenor or citizens
20 utility board.

21 **SECTION 6. Fiscal change.**

22 (1) In the schedule under section 20.005 (3) of the statutes for the appropriation
23 to the department of justice under section 20.455 (1) (a) of the statutes, as affected
24 by the acts of 2007, the dollar amount is increased by \$123,400 for fiscal year 2007–08
25 and the dollar amount is increased by \$110,400 for fiscal year 2008–09 to increase

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1 the authorized FTD positions for the department by 1.0 GPR attorney positions and
2 1.0 GPR legal secretary position for the public intervenor and for related costs.

3 **SECTION 7. Effective date.**

4 (1) This act takes effect on July 1, 2007, on the day after publication of the
5 2007-09 biennial budget act, or on the day after publication, whichever is latest.

6 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1575/1
RCT:lmk&wlj:rs

DOA:.....Wavrunek, BB0395 - Restore the public intervenor

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: creating an Office of Public Intervenor in the Department
2 of Justice.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

OTHER ENVIRONMENT

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