

 **07hr\_SC-ENR\_sb0127\_pt01**



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2007-08**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Environment and Natural  
Resources (SC-ENR)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (~~August 2012~~)

June-2014

## Senate

### Record of Committee Proceedings

#### **Committee on Environment and Natural Resources**

##### **Senate Bill 127**

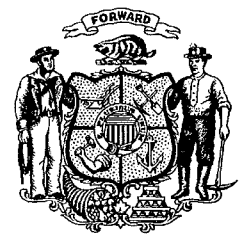
Relating to: removal of abandoned dams.

By Senators Leibham, Grothman and A. Lasee; cosponsored by Representatives Kestell, Lothian, Musser, Hahn, Petrowski, LeMahieu, Mursau, Albers and Townsend.

April 03, 2007      Referred to Committee on Environment and Natural Resources.

March 13, 2008      Failed to pass pursuant to Senate Joint Resolution 1.

Elizabeth Bier  
Committee Clerk



2007  
SB 127  
File

testimony from last session

**2005 Assembly Bill 132, Committee on Natural Resources  
Department of Natural Resources Testimony  
Richard Wedepohl, Chief, Dam Safety/Floodplain/Shoreland Section  
March 30, 2005**

AB132 provides language that describes what should be current practice by the Department of Natural Resources in handling dam removal cases. Our standard for granting a permit to remove a dam includes making sure conditions are included to preserve public rights in navigable waters, to promote safety and to protect life, health and property. Therefore, while we are not sure the language is necessary, we do not oppose the legislation as it essentially reinforces our existing process.

**Background**

- Depending upon how a dam was authorized, different procedures are used when the owner or the department seeks to remove the dam. While each procedure is slightly different, they all provide the opportunity for a public information hearing or a contested case hearing prior to the removal.
- Where there is significant public interest in the removal we also try to have more public information meetings than the minimal requirement. These meetings provide those that may be affected by the removal an opportunity to voice their concerns.
- Information from public input is used to help the department place conditions on the removal to mitigate affects to safety, life, health or property. The formal approval of the removal will present these conditions and provide an opportunity to appeal the decision if someone feels they are harmed by the decision.
- The removal of a large dam requires an EA under NR 150. The EA process is designed to look at the effect the project will have on the safety, health, or welfare of persons who will be affect by the project, in addition to the impact of the project on the surrounding environment.
- Small dam removals do not necessarily require an EA, however, review of the projects typically require that the same issues are addressed issues are addressed.
- It is important to remember that even if we find that a removal may have an impact on the safety, health or welfare of persons, our only option is usually to try to mitigate the impact by placing appropriate conditions on the removal.
- We cannot force the owner of a dam to keep the dam in place forever, solely for the benefit of others. We can require the owner to take reasonable steps to promote safety and protect life, health and property.
- If we are dealing with an ownerless or unauthorized dam, we cannot leave the dam in the waterway where it poses a threat to life and property unless a responsible owner comes forward, who is willing to comply with statutes and operate and maintain the dam in a safe manner.

**Summary**

- This legislation essentially describes our existing process.
- The legislation should be fiscally neutral, as we already should be doing this work in relation to dam removal projects.
- There may be cases where opponents of dam removal might try to use the language to force extensive studies related to possible consequences of removal. We will need to use our best professional judgment on what analysis is necessary to come to a decision and set appropriate conditions on the removal. If affected parties still disagree, they can use the appeal process to address those issues.

## **Dam Facts**

- Approximately 3700 dams in the state.
- Approximately 1200 are large dams (enough potential energy to damage areas downstream if they fail).
- Dams were built for many uses and still serve important functions.
- Having a dam in a navigable waterway is a privilege under the Public Trust because they disrupt the natural process, hinder navigation and can be a safety hazard.
- The owner of a dam is responsible for its safe operation and continued maintenance. They can potentially be held liable for any damage resulting from the failure or poor operation of their dam.
- Through our inspection program for large dams, the department works with dam owners to make sure their dams are in compliance and operated in an appropriate manner.
- Many older dam have reached a point of deterioration and/or design obsolescence where the only option is to reconstruct the dam or remove it from the river.
- The majority of the dam removals in the state are precipitated by the fact the costs to reconstruct the dam are beyond the means of the owner or surrounding community
- About 5% of the dams in the state have ownership issues. In these cases we work with the adjacent property owners and community to try and find a responsible owner who will operate and maintain the dam. Availability of funding for repairs/reconstruction and ongoing maintenance are the biggest roadblock to finding a new owner. If we cannot find that we look for a means to remove the dam and restore the stream.
- Over the last several years, on average we have annually
  - Approved plans for about 50 new dams
  - Approved the major repair/reconstruction of about 25 dams
  - Approved the removal for about 3-5 dams