



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment VII

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2011 LRB-1446/1 (For: Senator Kedzie)

has been copied/added to the drafting file for

☞ **2011 LRB-3169** (For: Sen. Fitzgerald)

&

2011 LRB-3170 (For: Rep. Fitzgerald) (please refer to the drafting file for LRB-3169)

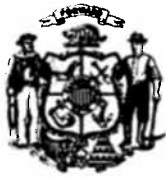
☞ Are These “Companion Bills” ?? ... Yes



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 10/12/2011 (Per: RNK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



10/5 (Wed)
State of Wisconsin
2011 - 2012 LEGISLATURE



RM
R
P6

LRB-1446/RS
RNK&MGG:cjs:jf

Skays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In
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D-Note

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1 AN ACT *to repeal* 30.12 (1k) (b) 1., 30.12 (1k) (b) 2., 30.12 (1k) (b) 3., 30.12 (1k)
2 (c), 30.12 (1k) (d), 30.12 (3) (br), 30.123 (6) (a), 30.123 (7) (b), 30.1235, 30.19 (3r)
3 (b), 30.20 (1t) (b), 30.206 (1g) and 30.206 (1m); *to renumber* 30.123 (7) (a) and
4 30.19 (3r) (a); *to renumber and amend* 30.12 (1g) (f), 30.12 (1k) (b) (intro.),
5 30.12 (3) (a) 6., 30.20 (1t) (a) and 30.208 (2); *to amend* 30.01 (1am) (c), 30.10
6 (4) (a), 30.12 (1j) (c), 30.12 (1k) (cm) (intro.), 30.12 (1k) (cm) 1., 30.12 (1k) (cm)
7 2., 30.12 (1k) (e) 2., 30.121 (3), 30.121 (3g), 30.121 (3r), 30.18 (4) (a), 30.206 (1)
8 (a), 30.208 (3) (a), 30.208 (3) (b), 30.208 (3) (c), 30.208 (3) (e), 30.208 (4) (a),
9 30.208 (5) (a) (intro.), 30.208 (5) (a) 1., 30.208 (5) (b) (intro.), 30.208 (5) (b) 4.,
10 30.208 (5) (b) 5., 30.209 (2) (a), 30.209 (2) (b), 30.209 (2) (c), 30.209 (2) (d) (intro.),
11 30.2095 (1) (b), 84.01 (23), 227.01 (13) (rt), 281.344 (9) (b) 1. a., 281.346 (9) (b)
12 1. a., 283.39 (1) (a), 283.53 (1), 285.61 (5) (c), 285.62 (3) (c), 285.76 (2) (a), 289.25
13 (3), 289.31 (4) (a), 289.41 (1m) (g) 1., 291.87 (3), 291.87 (6) (a) and 292.31 (3) (f);
14 *to repeal and recreate* 299.05; and *to create* 30.102, 30.106, 30.11 (4m), 30.12
15 (1g) (f) 1. d., 30.12 (1h), 30.12 (3) (a) 6. c., 30.12 (3) (a) 14., 30.12 (3) (d), 30.121

1 (1), 30.121 (3c), 30.19 (1m) (f), 30.19 (1m) (g), 30.20 (1g) (b) 3., 30.20 (1t) (a) 2.,
 2 30.20 (1t) (a) 3., 30.206 (1) (am) and (ar), 30.206 (1) (b), 30.206 (1r), 30.206 (2b),
 3 30.206 (2m), 30.208 (2) (d), 30.208 (3) (f), 30.208 (4m), 30.209 (2) (e), 31.12 (5),
 4 281.41 (5), 285.63 (11), 299.06 and 299.17 of the statutes; **relating to:**

INSERT
REL

5 information required to be published on the Department of Natural Resources
 6 Internet Web site; identification of areas of significant scientific value for
 7 purposes of regulating the placement of deposits and structures on the beds of
 8 navigable waters and the removal of materials from the beds of navigable
 9 waters; requirements for the placement of certain piers and wharves; repair
 10 and maintenance of boat houses and fixed houseboats; permit exemptions for
 11 land grading activities and for persons who place piers and wharves in
 12 navigable waters; placement of fill or structures within a bulkhead line;
 13 procedures for issuing individual permits, contracts, and general permits and
 14 contracts for structures, deposits, and other activities in or near navigable
 15 waters; expedited procedures for plan approvals for dams and for water and
 16 sewerage systems; and granting rule-making authority.

← stays

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

INS.
ANL

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

17 **SECTION 1.** 30.01 (1am) (c) of the statutes is amended to read:

18 30.01 (**1am**) (c) An area that possesses significant scientific value, as identified
 19 by the department under s. 30.106.

20 **SECTION 2.** 30.10 (4) (a) of the statutes is amended to read:

1 30.10 (4) (a) This section does not impair the powers granted by law ~~under s.~~
2 ~~30.1235 or by other law~~ to municipalities to construct highway bridges, arches, or
3 culverts over streams.

***NOTE: Section 30.10 (4) (a) has to be amended to delete the cross reference to
s. 30.1235. I am not sure that this provision has any effect; you may wish to repeal it.

4 **SECTION 3.** 30.102 of the statutes is created to read:

5 ~~30.102 Navigability determination and ordinary high-water mark~~
6 **identification.** If the department makes a determination that a waterway is

7 navigable or is not navigable or identifies the ordinary high-water mark of a
8 navigable waterway, the department shall publish that information on the
9 department's Internet Web site. Any person may rely on the information posted
10 under this section as accurate.

11 **SECTION 4.** 30.106 of the statutes is created to read:

12 **30.106 Areas of significant scientific value.** In identifying areas that
13 possess significant scientific value, the department may include only the following:

14 (1) Specific portions of waters that contain critical habitat for endangered or
15 threatened species.

16 (2) Specific portions of waters that are immediately adjacent to an area of
17 critical habitat for endangered or threatened species and that directly affect that
18 habitat.

19 (3) Wild rice waters as identified in a written agreement between the
20 department and the Great Lakes Indian Fish and Wildlife Commission.

21 (4) Waters in ecologically significant coastal wetlands along Lakes Michigan
22 and Superior as identified in the most recent assessment conducted by the
23 department.

INS
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INS
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17

SECTION 4

1 (5) Rivers that are included in the national wild and scenic rivers system and
2 rivers that are designated as wild rivers under s. 30.26.

3 **SECTION 5.** 30.11 (4m) of the statutes is created to read:

4 30.11 (4m) PLACEMENT OF FILL AND STRUCTURES. (a) A riparian owner may place
5 additional fill or a structure on the filled ^{portion of a} bed of a navigable water ~~landward of~~ ^{within} an
6 established bulkhead line for any purpose without obtaining an approval under this
7 chapter if the ^{filled portion of the} bed of the navigable water was filled before the effective date of this
8 paragraph [LRB inserts date], and the filled ^{portion was} area is not subject to a lease under
9 s. 24.39. before the effective date of this paragraph. ... [LRB inserts date] ^{Sec 24.39}

10 (b) If the bed ^{or portion of a bed} of a navigable water ~~landward of~~ ^{within} an established bulkhead line was
11 not filled before the effective date of this paragraph [LRB inserts date], a riparian
12 owner may place fill or a structure on the bed of that navigable water without
13 obtaining an approval under this chapter if the ^{the} riparian owner places the fill or the
14 structure in ^a ~~an area~~ ^{portion of the bed of navigable water} that ~~is~~ ^{was} not subject to a lease under s. 24.39 ^{and} places the fill
15 or structure for a public purpose. (5)

****NOTE: The term "public purpose" is not defined. Do you want to include a definition or otherwise describe this term?

16 **SECTION 6.** 30.12 (1g) (f) of the statutes is renumbered 30.12 (1g) (f) 1. (intro.)
17 and amended to read:

18 30.12 (1g) (f) 1. (intro.) A pier or wharf that is no to which all of the following
19 apply:

- 20 a. It is no more than 6 feet wide, that extends.
- 21 b. It extends no further than to a point where the water is 3 feet at its maximum
22 depth as measured at summer low levels, or to the point where there is adequate

1 depth for mooring a boat or using a boat hoist or boat lift, whichever is farther from
2 the shoreline, ~~and that has,~~

3 c. It has no more than 2 boat slips for the first 50 feet of the riparian owner's
4 shoreline footage and no more than one additional boat slip for each additional 50
5 feet of the riparian owner's shoreline footage.

6 2. Notwithstanding the width limitation in ~~this paragraph subd. 1,~~ a pier may
7 have an area as a loading platform that is more than 6 feet wide if the surface area
8 of the platform is not more than 8 feet wide, it extends perpendicular to one or both
9 sides of the pier, and it is located at the lakeward end of the pier or at the end of the
10 pier that extends into a stream does not exceed 200 square feet.

11 **SECTION 7.** 30.12 (1g) (f) 1. d. of the statutes is created to read:
12 30.12 (1g) (f) 1. d. ^{It} It has ~~no more than 2 areas~~ ^{berths}, other than boat slips, for mooring
13 ^{it has no more than} personal watercraft for the first 50 feet of the riparian owner's shoreline footage and
14 no more than one additional ^{berth} ~~area~~ for mooring personal watercraft for each additional
15 50 feet of the riparian owner's shoreline footage.

16 **SECTION 8.** 30.12 (1h) of the statutes is created to read:
17 30.12 (1h) EXEMPTION FOR RIPRAP. The exemptions under sub. (1g) (i) and (j)
18 apply only if the riprap was placed before January 1, 2011, or the riprap was placed
19 pursuant to a permit issued under this section.

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20 **SECTION 9.** 30.12 (1j) (c) of the statutes is amended to read:
21 30.12 (1j) (c) If the riparian owner or owners of a property described in par. (a)
22 are eligible and propose to place a pier or wharf with the number of boat slips
23 specified in par. (a), the riparian owner or owners shall apply to the department for
24 an individual permit under s. 30.208 authorizing the configuration of the pier or
25 wharf unless the configuration is authorized by the department under a general

SECTION 9

1 permit under s. 30.206 (1g). The department may not deny the permit on the basis
2 of the number of slips proposed by the riparian owner or owners if the number of slips
3 proposed does not exceed the number allowed under par. (a). A riparian owner or
4 owners who apply for a permit under this paragraph shall be presumed to be entitled
5 to the number of slips allowed under par. (a).

6 **SECTION 10.** 30.12 (1k) (b) (intro.) of the statutes is renumbered 30.12 (1k) (b)
7 and amended to read:

8 30.12 (1k) (b) In addition to the exemptions under sub. (1g), a riparian owner
9 of a pier or wharf that was placed on the bed of a navigable water ~~on or before~~
10 ~~February 6, 2004~~ the effective date of this paragraph [LRB inserts date], is exempt
11 from the permit requirements under this section if ~~all of the following apply: the pier~~
12 or wharf does not interfere with the riparian rights of other riparian owners.

13 **SECTION 11.** 30.12 (1k) (b) 1. of the statutes is repealed.

14 **SECTION 12.** 30.12 (1k) (b) 2. of the statutes is repealed.

15 **SECTION 13.** 30.12 (1k) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
16 25, is repealed.

17 **SECTION 14.** 30.12 (1k) (c) of the statutes is repealed.

18 **SECTION 15.** 30.12 (1k) (cm) (intro.) of the statutes is amended to read:

19 30.12 (1k) (cm) (intro.) ~~Except as provided in par. (d), the~~ The department may
20 not take any enforcement action under this chapter against a riparian owner for the
21 placement of any of the following:

22 **SECTION 16.** 30.12 (1k) (cm) 1. of the statutes is amended to read:

23 30.12 (1k) (cm) 1. A structure for which the department has issued a permit
24 under this section ~~on or before February 6, 2004~~, if the structure is in compliance with
25 that permit.

1 **SECTION 17.** 30.12 (1k) (cm) 2. of the statutes is amended to read:

2 30.12 (1k) (cm) 2. A structure for which the department has issued a written
3 authorization ~~on or before February 6, 2004~~, if the structure is in compliance with
4 that written authorization.

5 **SECTION 18.** 30.12 (1k) (d) of the statutes is repealed.

6 **SECTION 19.** 30.12 (1k) (e) 2. of the statutes is amended to read:

7 30.12 (1k) (e) 2. If the exempt structure is a pier or wharf, relocate or
8 reconfigure the pier or wharf if the riparian owner does not enlarge the pier or wharf,
9 ~~the riparian owner registered the pier or wharf with the department under par. (b)~~
10 ~~3. and, before relocating or reconfiguring the pier or wharf, the riparian owner~~
11 ~~registers the reconfigured or relocated pier or wharf with the department under this~~
12 ~~subdivision.~~

13 **SECTION 20.** 30.12 (3) (a) 6. of the statutes is renumbered 30.12 (3) (a) 6. (intro.)
14 and amended to read:

15 30.12 (3) (a) 6. (intro.) Place a permanent boat shelter adjacent to the owner's
16 property for the purpose of storing or protecting watercraft and associated materials,
17 except that no general or individual permit may be issued for a permanent boat
18 shelter that is constructed after May 3, 1988, if the any of the following apply:

19 a. The property on which the permanent boat shelter is to be located also
20 contains a boathouse within 75 feet of the ordinary high-water mark ~~or if there.~~

21 b. There is a boathouse over navigable waters adjacent to the owner's property.

22 **SECTION 21.** 30.12 (3) (a) 6. c. of the statutes is created to read:

23 30.12 (3) (a) 6. c. The permanent boat shelter extends beyond the length of the

24 ~~pier~~ ^{owner's} or the waterward side of the ~~owner's~~ ^{owner's} wharf

25 **SECTION 22.** 30.12 (3) (a) 14. of the statutes is created to read:

waterward
end

SECTION 22

1 30.12 (3) (a) 14. Place a pier^{or wharf} on the bed of a navigable water that is in, or that
 2 would directly affect, an area of special natural resource interest and that is adjacent
 3 to the owner's property if the pier^{or wharf} meets the requirements of sub. (1g) (f).

4 **SECTION 23.** 30.12 (3) (br) of the statutes is repealed.

5 **SECTION 24.** 30.12 (3) (d) of the statutes is created to read:

6 30.12 (3) (d) The department may impose conditions ~~on general permits issued~~
 7 ~~under par. (a) 14.~~ but may not prohibit a riparian owner from placing a pier.

8 **SECTION 25.** 30.121 (1) of the statutes is created to read:

9 30.121 (1) DEFINITION. In this section, the terms "maintain" and "repair"
 10 include replacing structural elements, including roofs, doors, walls, windows,
 11 beams, porches, and floors.

*or wharf that
 meets the
 requirement of the
 general permit*

12 **SECTION 26.** 30.121 (3) of the statutes is amended to read:

13 30.121 (3) MAINTENANCE AND REPAIR. The riparian owner of any boathouse or
 14 fixed houseboat extending beyond the ordinary high-water mark of any navigable
 15 waterway may repair and or maintain the boathouse or fixed houseboat if the cost
 16 of the repair or maintenance to repair or maintain the boathouse or fixed houseboat
 17 does not exceed 50% of the equalized assessed value of the boathouse or fixed
 18 houseboat. If the boathouse or fixed houseboat is not subject to assessment, the
 19 owner may make repairs repair or maintain the boathouse or the fixed houseboat if
 20 the cost of the repair or maintenance does not exceed 50% of the current fair market
 21 value of the boathouse or fixed houseboat.

22 **SECTION 27.** 30.121 (3c) of the statutes is created to read:

23 30.121 (3c) EXCEPTION; CERTAIN BOATHOUSES. Subsection (3) does not apply to
 24 repairing or maintaining a boathouse if the boathouse was in existence on December
 25 16, 1979, and the repairing or maintaining does not affect the size, location, or

or wharf

*relating to the location, design, construction, and installation
 of a pier placed under the authority of a general permit
 issued under par. (a) 14.*

1 configuration of the boathouse and does not result in the boathouse being converted
2 into living quarters.

3 SECTION 28. 30.121 (3g) of the statutes is amended to read:

4 30.121 (3g) EXCEPTION: HISTORICAL OR CULTURAL VALUE. Subsection (3) does not
5 apply to the repair or maintenance of repairing or maintaining a boathouse or a fixed
6 houseboat if the boathouse or fixed houseboat has a historic or cultural value, as
7 determined by the state historical society or a local or county historical society
8 established under s. 44.03.

9 SECTION 29. 30.121 (3r) of the statutes is amended to read:

10 30.121 (3r) EXCEPTION: DAMAGES AFTER JANUARY 1, 1984. Subsections (2) and (3)
11 do not apply to the repair or reconstruction of repairing or reconstructing a damaged
12 boathouse if the boathouse was damaged by violent wind, vandalism or fire and if the
13 damage occurs after January 1, 1984.

14 SECTION 30. 30.123 (6) (a) of the statutes is repealed. x

15 SECTION 31. 30.123 (7) (a) of the statutes is renumbered 30.123 (7). x

16 SECTION 32. 30.123 (7) (b) of the statutes is repealed. x

17 SECTION 33. 30.1235 of the statutes is repealed. x

....NOTE: I repealed ss. 30.123 (6) (a) and 30.1235. General permitting for
municipal bridges is authorized under the general authority found in s. 30.206 (1) (am).
The last sentence of s. 30.1235, with changes, is moved to s. 84.01 (23). Note that the
mandatory general permits for bridges will also apply to "municipal" bridges. "Municipal
bridges" will no longer be exempt from individual or general permits. OK?

18 SECTION 34. 30.18 (4) (a) of the statutes is amended to read:

19 30.18 (4) (a) ~~Upon receipt of a complete application, the department shall~~
20 ~~follow the notice and hearing procedures under s. 30.208 (3) to (5)~~ The notice and
21 hearing provisions of s. 30.208 (3) to (5) shall apply to an application under sub. (3).

22 In addition to providing notice as required under s. 30.208 (3) to (5), the department

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1 shall mail a copy of the notice to every person upon whose land any part of the canal
2 or any other structure will be located, to the clerk of the next town downstream, to
3 the clerk of any village or city in which the lake or stream is located and which is
4 adjacent to any municipality in which the withdrawal will take place and to each
5 person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

6 **SECTION 35.** 30.19 (1m) (f) of the statutes is created to read:

7 30.19 (1m) (f) Any land grading activity authorized under a stormwater
8 discharge permit issued under s. 283.33.

9 **SECTION 36.** 30.19 (1m) (g) of the statutes is created to read:

10 30.19 (1m) (g) Any land grading activity authorized by a permit issued by a
11 county under a shoreland zoning ordinance enacted under s. 59.692.

12 **SECTION 37.** 30.19 (3r) (a) of the statutes is renumbered 30.19 (3r).

13 **SECTION 38.** 30.19 (3r) (b) of the statutes is repealed.

14 **SECTION 39.** 30.20 (1g) (b) 3. of the statutes is created to read:

15 30.20 (1g) (b) 3. The amount of material removed is less than 10 cubic yards,
16 the removal is necessary to allow access to place or remove a pier or wharf, and the
17 removal occurs not more than once per year.

18 **SECTION 40.** 30.20 (1t) (a) of the statutes is renumbered 30.20 (1t) (a) (intro.)
19 and amended to read:

20 30.20 (1t) (a) (intro.) The department shall issue statewide general permits
21 under s. 30.206 that authorize any all of the following:

22 1. Any person to remove material for maintenance purposes from an area from
23 which material has been previously removed.

24 **SECTION 41.** 30.20 (1t) (a) 2. of the statutes is created to read:

1 30.20 (1t) (a) 2. Any riparian owner to remove 50 cubic yards or less of material
2 from a lake or stream adjacent to the riparian owner's property, by means other than
3 blasting, for the purpose of placing or maintaining a boatlift on a pier or wharf.

4 **SECTION 42.** 30.20 (1t) (a) 3. of the statutes is created to read:

5 30.20 (1t) (a) 3. Any person to annually remove not more than 500 cubic yards
6 of plant or animal nuisance deposits, ~~(as defined by the department by rule)~~, from a
7 stream, inland lake, or outlying waters if the plant or animal nuisance deposits
8 impede navigation or access to the stream, inland lake, or outlying waters.

9 **SECTION 43.** 30.20 (1t) (b) of the statutes is repealed.

10 **SECTION 44.** 30.206 (1) (a) of the statutes is amended to read:

11 30.206 (1) (a) The department shall issue the statewide general permits as
12 ~~rules promulgated under ch. 227 required under ss. 30.12 (3) (a), 30.123 (7) (a), 30.19~~
13 ~~(3r), and 30.20 (1t) (a). The statewide general permits required under ss. 30.12 (3)~~
14 ~~(a), 30.123 (7) (a), and 30.20 (1t) (a) shall be promulgated within 540 days after~~
15 ~~February 6, 2004. The department shall submit in proposed form the rule containing~~
16 ~~the statewide general permit under s. 30.19 (3r) (a) and the rule under s. 30.19 (1d)~~
17 ~~to the legislative council staff under s. 227.15 (1) no later than August 1, 2004.~~
18 ~~General permits issued under s. 30.206, 2001 stats., shall remain valid until the date~~
19 ~~upon which the rules issuing these statewide general permits are promulgated~~
20 ~~under this paragraph.~~

21 **SECTION 45.** 30.206 (1) (am) and (ar) of the statutes are created to read:

22 30.206 (1) (am) Upon compliance with the requirements under subs. (2b) and
23 (2m) and in addition to the general permits required under par. (a), the department
24 may issue a general permit authorizing an activity for which an individual permit
25 is issued, or a contract is entered into, under this subchapter.

1 (ar) A permit issued under par. (a) or (am) is in lieu of any permit or contract
2 that would otherwise be required for that activity under this subchapter.

3 **SECTION 46.** 30.206 (1) (b) of the statutes is created to read:

4 30.206 (1) (b) A general permit issued under par. (a) or (am) is valid for a period
5 of 5 years, and an activity that the department determines is authorized by a general
6 permit remains authorized under the general permit until the activity is completed
7 regardless of whether the general permit expired before the activity is completed.
8 The department may renew or modify, or revoke a general permit issued under par.
9 (a) or (am) upon compliance with the requirements under subs. (2b) and (2m); and
10 until such renewal, modification, or revocation, the general permit shall remain in
11 effect.

12 **SECTION 47.** 30.206 (1g) of the statutes is repealed.

13 **SECTION 48.** 30.206 (1m) of the statutes is repealed.

14 **SECTION 49.** 30.206 (1r) of the statutes is created to read:

15 30.206 (1r) TRANSITIONS BETWEEN PERMITS. Any general permit issued under
16 this subchapter that is valid on the effective date of this subsection [LRB inserts
17 date], shall remain valid until the date upon which a general permit issued under
18 sub. (1) (a) or (am) that authorizes the same activity becomes effective.

19 **SECTION 50.** 30.206 (2b) of the statutes is created to read:

20 30.206 (2b) PUBLIC NOTICE. (a) The department shall circulate to interested
21 and potentially interested members of the public notices of its intention to issue a
22 general permit under sub. (1) (a) or (am). Procedures for ^{circulating} ~~providing~~ public notices
23 shall include all of the following:

24 1. A procedure for publishing a class 1 notice under ch. 985 or circulating the
25 notice by use of an electronic notification system established by the department.

1 2. A procedure under which a copy of the notice is provided to any person or
2 group upon request of the person or group.

3 (b) The department shall provide a period of not less than 30 days ^{after} ~~following~~
4 date of the public notice during which time interested persons may submit their
5 written ^{comments} ~~views~~ on the department's intention to issue a general permit under sub. (1)
6 (a) or (am). All written comments submitted during the period for comment shall be
7 retained by the department and considered in the issuance of the general permit.

8 (c) Every notice issued by the department of the department's intention to issue
9 a general permit under sub. (1) (a) or (am) shall include a description of the activities
10 proposed to be authorized under the general permit.

11 **SECTION 51.** 30.206 (2m) of the statutes is created to read:

12 30.206 (2m) PUBLIC HEARING. (a) 1. The department shall provide an
13 opportunity for any interested state agency or federal agency or person or group of
14 persons to request a public hearing with respect to the department's intention to
15 issue a general permit under sub. (1) (a) or (am). Such request for a public hearing
16 shall be filed with the department within 30 days after the circulation of the public
17 notice under sub. (2b) and shall indicate the interest of the party filing the request
18 and the reasons why a hearing is warranted.

19 2. The department shall hold a public hearing upon a request under subd. 1.
20 if the department determines that there is a significant public interest in holding
21 such a hearing. Hearings held under this section are not contested cases under s.
22 227.01 (3).

23 (b) Public notice of any hearing held under this subsection shall be circulated
24 in accordance with the requirements under sub. (2b).

1 **SECTION 52.** 30.208 (2) of the statutes is renumbered 30.208 (2) (a) and
2 amended to read:

3 30.208 (2) (a) Review; no additional information required. In issuing
4 individual permits or entering contracts under this subchapter, the department shall
5 ~~initially determine whether a complete application for the permit or contract has~~
6 ~~been submitted and, no later than~~ review an application, and within 30 days after
7 the application is submitted, the department shall determine that either the
8 application is complete or that additional information is needed. If the department
9 determines that the application is complete, the department shall notify the
10 applicant in writing ~~about the initial determination of completeness of that fact~~
11 ~~within the 30-day period, and the date on which the notice under this paragraph is~~
12 ~~sent shall be considered the date of closure for purposes of sub. (3) (a).~~

13 (b) Additional information requested. If the department determines that the
14 application is incomplete, the department shall notify the applicant in writing and
15 may make only one request for additional information during the 30-day period
16 specified in par. (a). Within 10 days after receiving all of the requested information
17 from the applicant, the department shall notify the applicant in writing as to
18 whether the application is complete. The date on which the 2nd notice under this
19 paragraph is sent shall be set as the date of closure for purposes of sub. (3) (a). The
20 department may request additional information from the applicant to supplement
21 the application, but the department may not request items of information that are
22 outside the scope of the original request unless the applicant and the department
23 both agree. A request for any such additional information may not affect the date
24 of closure.

1 ~~(c) *Specificity of notice; limits on information.* Any notice stating that an~~
2 ~~application has been determined to be incomplete or any other request for~~
3 ~~information that is sent under par. (b) shall state the reason for the determination~~
4 ~~or request and the specific items of information necessary to make the application~~
5 ~~complete. An applicant may supplement and resubmit an application that the~~
6 ~~department has determined to be incomplete. There is no limit on the number of~~
7 ~~times that an applicant may resubmit an application that the department has~~
8 ~~determined to be incomplete under this section. The department may not demand~~
9 ~~items of information that are not specified in the notice as a condition for determining~~
10 ~~whether the application is complete unless both the department and the applicant~~
11 ~~agree or unless the applicant makes material additions or alterations to the activity~~
12 ~~or project for which the application has been submitted. The rules promulgated~~
13 ~~under s. 299.05 apply only to applications for individual permits or contracts under~~
14 ~~this subchapter that the department has determined to be complete that are still~~
15 ~~needed.~~

16 **SECTION 53.** 30.208 (2) (d) of the statutes is created to read:

17 30.208 (2) (d) *Failure to meet time limits.* If the department fails to meet the
18 30-day time limit under par. (a) or 10-day time limit under par. (b), the application
19 shall be considered to have a date of closure that is the last day of that 30-day or
20 10-day time period for purposes of sub. (3) (a).

21 **SECTION 54.** 30.208 (3) (a) of the statutes is amended to read:

22 30.208 (3) (a) ~~Upon determination by the department under sub. (2), that an~~
23 ~~application submitted under sub. (1) is complete Within 15 days after the date of~~
24 ~~closure, as determined under sub. (2) (a) or (b), the department shall provide notice~~
25 ~~of complete pending application to interested and potentially interested members of~~

1 the public, as determined by the department. ~~The department shall provide the~~
2 ~~notice within 15 days after the determination that the application is complete.~~ If the
3 applicant has requested a public hearing as part of the submitted application, a
4 notice of public hearing shall be part of the notice of ~~complete~~ pending application.

5 **SECTION 55.** 30.208 (3) (b) of the statutes is amended to read:

6 30.208 (3) (b) If the notice of ~~complete~~ pending application does not contain a
7 notice of public hearing, any person may request a public hearing in writing or the
8 department may decide to hold a public hearing with or without a request being
9 submitted if the department determines that there is a significant public interest in
10 holding a hearing.

11 **SECTION 56.** 30.208 (3) (c) of the statutes is amended to read:

12 30.208 (3) (c) A request for a public hearing under par. (b) must be submitted
13 to the department or the department's decision to hold a public hearing must occur
14 within ~~30~~ 20 days after the department ~~completes providing~~ provides the notice of
15 ~~complete~~ pending application. The department shall provide notice of public hearing
16 within 15 days after the request for public hearing is submitted or the department
17 makes its ~~determination~~ decision to hold a public hearing.

18 **SECTION 57.** 30.208 (3) (e) of the statutes is amended to read:

19 30.208 (3) (e) Within ~~30~~ 20 days after the ~~public hearing is held~~ period for public
20 comment under sub. (4) (b) has ended or if no public hearing is held, within 30 days
21 of the 30-day comment period under sub. (4) (a), the department shall render a
22 decision, issuing, denying, or modifying the permit or approving or disapproving the
23 contract that is the subject of the application submitted under sub. (1).

24 **SECTION 58.** 30.208 (3) (f) of the statutes is created to read:

1 30.208 (3) (f) If the department fails to comply with the time periods under par.
2 (e), a decision issuing the permit, modifying the permit, or approving the contract
3 shall be considered to be rendered. The permit that is issued or is modified, or the
4 contract that is approved, shall authorize the activity as proposed by the applicant,
5 but the department may impose terms and conditions on the permit or contract that
6 are consistent with the applicant's basic proposal.

7 **SECTION 59.** 30.208 (4) (a) of the statutes is amended to read:

8 30.208 (4) (a) The department shall provide a period for public comment after
9 the department has provided a notice of ~~complete~~ pending application under sub. (3)
10 (a), during which time any person may submit written comments with respect to the
11 application for the permit or contract. The department shall retain all of the written
12 comments submitted during this period and shall consider all of the comments in the
13 formulation of the final decision on the application. The period for public comment
14 shall end on the 30th day following the date on which the department completes
15 providing the notice of ~~complete~~ pending application, except as provided in par. (b).

16 **SECTION 60.** 30.208 (4m) of the statutes is created to read:

17 30.208 (4m) DENIALS. If a decision is issued by the department under this
18 section that denies a permit or a modification of a permit or disapproves a contract,
19 the notice of denial or disapproval shall set forth the specific reasons as to how the
20 applicable provisions of this subchapter were not met. The notice of denial or
21 disapproval may not be based on a determination that the application for the permit
22 or contract was incomplete.

23 **SECTION 61.** 30.208 (5) (a) (intro.) of the statutes is amended to read:

24 30.208 (5) (a) (intro.) The department shall, by rule, establish procedures for
25 providing notices of ~~complete~~ pending applications and notices of public hearings to

1 be provided under sub. (3), and notices of administrative hearings to be provided
2 under s. 30.209 (1m). The procedures shall require all of the following:

3 **SECTION 62.** 30.208 (5) (a) 1. of the statutes is amended to read:

4 30.208 (5) (a) 1. That the notice be published as a class 1 notice under ch. 985
5 or by an electronic notification system established by the department.

6 **SECTION 63.** 30.208 (5) (b) (intro.) of the statutes is amended to read:

7 30.208 (5) (b) (intro.) The department shall, by rule, prescribe the form and
8 content of notices of ~~complete~~ pending applications and notices of public hearings to
9 be provided under sub. (3), and notices of administrative hearings to be provided
10 under s. 30.209 (1m). Each notice shall include all of the following information:

11 **SECTION 64.** 30.208 (5) (b) 4. of the statutes is amended to read:

12 30.208 (5) (b) 4. For a notice of ~~complete~~ pending application and a notice of
13 public hearing under sub. (3), a statement of the tentative determination to issue,
14 modify, or deny a permit for the activity or project described in the application.

15 **SECTION 65.** 30.208 (5) (b) 5. of the statutes is amended to read:

16 30.208 (5) (b) 5. For a notice of ~~complete~~ pending application and a notice of
17 public hearing under sub. (3), a brief description of the procedures for the
18 formulation of final determinations, including a description of the comment period
19 required under sub. (4).

20 **SECTION 66.** 30.209 (2) (a) of the statutes is amended to read:

21 30.209 (2) (a) An administrative hearing under this ~~subsection~~ section shall be
22 treated as a contested case under ch. 227.

23 **SECTION 67.** 30.209 (2) (b) of the statutes is amended to read:

24 30.209 (2) (b) If a stay under sub. (1m) (c) is in effect, the hearing examiner
25 shall, within 30 days after receipt of the referral under sub. (1m) (g), determine

1 whether continuation of the stay is necessary to prevent significant adverse impacts
2 or irreversible harm to the environment pending completion of the administrative
3 hearing. The hearing examiner shall make the determination based on the request
4 under sub. (1m) (c), any response from the applicant under sub. (1m) (e), and any
5 testimony at a public hearing or any public comments. The determination shall be
6 made without a hearing.

7 **SECTION 68.** 30.209 (2) (c) of the statutes is amended to read:

8 30.209 (2) (c) ~~A~~ An administrative hearing under this section shall be
9 completed within 90 days after receipt of the referral of the petition under sub. (1m)
10 (g), unless all parties agree to an extension of that period. In addition, a hearing
11 examiner may grant a one-time extension for the completion of the hearing of up to
12 60 days on the motion of any party and a showing of good cause demonstrating
13 extraordinary circumstances justifying an extension.

14 **SECTION 69.** 30.209 (2) (d) (intro.) of the statutes is amended to read:

15 30.209 (2) (d) (intro.) Notwithstanding s. 227.44 (1), the department shall
16 provide a notice of the administrative hearing at least 30 days before the date of the
17 hearing to all of the following:

18 **SECTION 70.** 30.209 (2) (e) of the statutes is created to read:

19 30.209 (2) (e) In an administrative hearing under this section, the petitioner
20 shall proceed first with the presentation of evidence and shall have the burden of
21 proof.

22 **SECTION 71.** 30.2095 (1) (b) of the statutes is amended to read:

23 30.2095 (1) (b) The department may specify a time limit of less than 3 years
24 for ~~a~~ an individual permit or contract issued under ss. 30.01 to 30.29. ~~For good cause,~~
25 ~~the~~ The department ~~may~~ shall extend the time limit for ~~a~~ an individual permit or

1 contract issued under ss. 30.01 to 30.29 for no longer than 2 an additional 5 years if
2 the grantee requests an extension prior to expiration of the initial time limit.

***NOTE: I redrafted this to be limited to individual permits in light of s. 30.206
(1) (b), as created in this draft.

3 **SECTION 72.** 31.12 (5) of the statutes is created to read:

4 31.12 (5) The department shall ~~promulgate rules that~~ establish an expedited
5 procedure for approval of plans for low hazard dams, as defined in s. 31.19 (1g) (b),
6 under this section. The expedited procedure shall apply, in lieu of the procedure
7 under this section, if all of the following are satisfied:

8 (a) The plan design is of a common construction and size or is for a minor
9 addition to an existing dam.

10 (b) The plan design is submitted by a registered professional engineer.

11 (c) The plan design is submitted by a person who has designed similar dams
12 and none of those similar dams has caused adverse impacts to the environment.

13 (d) The plan design contains no unusual siting requirements or other unique
14 design features.

15 (e) The plan design is for a dam that is located entirely on land that the permit
16 grantee owns or that is located entirely on land for which the permit grantee has
17 acquired an easement.

18 **SECTION 73.** 84.01 (23) of the statutes is amended to read:

19 84.01 (23) BRIDGE STANDARDS. The department shall adopt standards and
20 specifications for the design and construction of county, town, village, and city
21 bridges, arches or culverts. The standards and specifications shall be developed after
22 consultation with the department of natural resources, and shall be directed at
23 preventing undue impairment of public rights in navigable waters. All highway

1 bridges, arches, and culverts constructed or reconstructed by a county, town, village,
2 or city shall be done in accordance with these standards and specifications.

****NOTE: I made changes in this language to make it consistent.

3 SECTION 74. 227.01 (13) (rt) of the statutes is amended to read:

4 227.01 (13) (rt) Is a general permit issued under s. 30.206 or 30.2065.

5 SECTION 75. 281.344 (9) (b) 1. a. of the statutes is amended to read:

6 281.344 (9) (b) 1. a. Publication of the notice as a class 1 notice under ch. 985
7 or as a notice on its Internet Web site.

8 SECTION 76. 281.346 (9) (b) 1. a. of the statutes is amended to read:

9 281.346 (9) (b) 1. a. Publication of the notice as a class 1 notice under ch. 985
10 or as a notice on its Internet Web site.

11 SECTION 77. 281.41 (5) of the statutes is created to read:

12 281.41 (5) The department shall promulgate rules that establish an expedited
13 procedure for approval of plans under this section. The expedited procedure shall
14 apply, in lieu of the procedure under sub. (1) (b) if all of the following are satisfied:

15 (a) The plan design is of a common construction and size or is for a minor
16 addition to an existing facility.

17 (b) The plan design is submitted by a registered professional engineer.

18 (c) The plan design is submitted by a person who has designed similar facilities
19 and none of those similar facilities has caused adverse impacts to the environment.

20 (d) The plan design contains no unusual siting requirements or other unique
21 design features.

****NOTE: My notes from the May 3rd meeting indicate that more information will
be provided in order to make these criteria more narrow in scope.

22 SECTION 78. 283.39 (1) (a) of the statutes is amended to read:

1 283.39 (1) (a) Publication of the notice as a class 1 notice under ch. 985 or as
2 a notice on its Internet Web site;

3 **SECTION 79.** 283.53 (1) of the statutes is amended to read:

4 283.53 (1) No permit issued by the department under s. 283.31 or 283.33 shall
5 have a an initial term for more than 5 years. Upon the request of a permit holder,
6 the department may renew the permit. There is a no limit on the number of times
7 that a permit may be renewed.

8 **SECTION 80.** 285.61 (5) (c) of the statutes is amended to read:

9 285.61 (5) (c) *Newspaper notice.* The department shall publish a class 1 notice
10 under ch. 985, or shall publish notice on its Internet Web site, announcing the
11 opportunity for written public comment and the opportunity to request a public
12 hearing on the analysis and preliminary determination.

13 **SECTION 81.** 285.62 (3) (c) of the statutes is amended to read:

14 285.62 (3) (c) The department shall publish the notice prepared under par. (a)
15 as a class 1 notice under ch. 985 in a newspaper published in the area that may be
16 affected by emissions from the stationary source, or shall publish the notice on its
17 Internet Web site.

18 **SECTION 82.** 285.63 (11) of the statutes is created to read:

19 285.63 (11) MODELING. The department is not required to use air dispersion
20 modeling as a basis for making its findings under subs. (1) to (3).

21 **SECTION 83.** 285.76 (2) (a) of the statutes is amended to read:

22 285.76 (2) (a) Publish a class 1 notice, under ch. 985, of the proposed
23 redesignation and request for consultation with the state in a newspaper of general
24 circulation in the area that would be affected by the redesignation, as determined
25 using standards established by the federal environmental protection agency, or

1 publish a notice on the department's Internet Web site; and publish a class 1 notice,
2 under ch. 985, in the official state newspaper; and provide a written statement
3 concerning the proposed redesignation to ~~these newspapers~~ each newspaper in
4 which it publishes a class 1 notice under this subsection.

5 **SECTION 84.** 289.25 (3) of the statutes is amended to read:

6 289.25 (3) NOTIFICATION ON FEASIBILITY REPORT AND PRELIMINARY ENVIRONMENTAL
7 IMPACT STATEMENT DECISIONS. Immediately after the department issues a preliminary
8 determination that an environmental impact statement is not required or, if it is
9 required, immediately after the department issues the environmental impact
10 statement, the department shall publish a class 1 notice under ch. 985 in the official
11 newspaper designated under s. 985.04 or 985.05 or, if none exists, in a newspaper
12 likely to give notice in the area of the proposed facility, or shall publish a notice on
13 its Internet Web site. The notice shall include a statement that the feasibility report
14 and the environmental impact statement process are complete. The notice shall
15 invite the submission of written comments by any person within 30 days after the
16 notice for a solid waste disposal facility or within 45 days after the notice for a
17 hazardous waste facility is published. The notice shall describe the methods by
18 which a hearing may be requested under ss. 289.26 (1) and 289.27 (1). The
19 department shall distribute copies of the notice to the persons specified under s.
20 289.32.

21 **SECTION 85.** 289.31 (4) (a) of the statutes is amended to read:

22 289.31 (4) (a) Publishing a class 1 notice, under ch. 985, in a newspaper likely
23 to give notice in the area where the facility is located or publishing a notice on its
24 Internet Web site.

25 **SECTION 86.** 289.41 (1m) (g) 1. of the statutes is amended to read:

1 289.41 (1m) (g) 1. The owner of an approved mining facility may apply, at any
2 time at least 40 years after the closing of the facility, to the department for
3 termination of the owner's obligation to maintain proof of financial responsibility for
4 long-term care of the facility. Upon receipt of an application under this subdivision,
5 the department shall publish a class 1 notice under ch. 985 in the official newspaper
6 designated under s. 985.04 or 985.05 or, if none exists, in a newspaper likely to give
7 notice in the area of the facility, or shall publish a notice on its Internet Web site. The
8 notice shall include a statement that the owner has applied to terminate the owner's
9 obligation to maintain proof of financial responsibility for the long-term care of the
10 facility. The notice shall invite the submission of written comments by any person
11 within 30 days after the notice is published. The notice shall describe the methods
12 by which a hearing may be requested under subds. 2. and 3. The department shall
13 distribute a copy of the notice to the owner of the facility. In any hearing on the
14 matter, the burden is on the owner to prove by a preponderance of the evidence that
15 continuation of the requirement to provide proof of financial responsibility for
16 long-term care is not necessary for adequate protection of human health or the
17 environment. Within 120 days after the publication of the notice or within 60 days
18 after any hearing is adjourned, whichever is later, the department shall determine
19 whether proof of financial responsibility for long-term care of the facility continues
20 to be required. A determination that proof of financial responsibility for long-term
21 care is no longer required terminates the owner's obligation to maintain proof of
22 financial responsibility for long-term care. The owner may not submit another
23 application under this subdivision until at least 5 years after the previous
24 application has been rejected by the department.

25 **SECTION 87.** 291.87 (3) of the statutes is amended to read:

1 291.87 (3) If the licensee requests a hearing within 45 days after receiving the
2 notice under sub. (2), the department shall schedule a hearing and give notice of the
3 hearing by publishing a class 1 notice, under ch. 985, or by publishing a notice on its
4 Internet Web site, at least 45 days prior to the date scheduled for the hearing. If the
5 licensee requests a contested case hearing and if the conditions specified under s.
6 227.42 (1) (a) to (d) are satisfied, the department shall conduct the hearing as a
7 contested case; otherwise, the department shall conduct the hearing as an
8 informational hearing. There is no statutory right to any hearing concerning the
9 denial, suspension or revocation of a license for the reasons stated under sub. (1m)
10 (b) to (f) except as provided under this subsection.

11 **SECTION 88.** 291.87 (6) (a) of the statutes is amended to read:

12 291.87 (6) (a) Publishing a class 1 notice, under ch. 985, in a newspaper likely
13 to give notice in the area where the facility is located or publishing a notice on its
14 Internet Web site.

15 **SECTION 89.** 292.31 (3) (f) of the statutes is amended to read:

16 292.31 (3) (f) *Notice; hearing.* The department shall publish a class 1 notice,
17 under ch. 985 or shall publish a notice on its Internet Web site, prior to taking
18 remedial action under this subsection and subs. (1) and (7), which describes the
19 proposed remedial action and the amount and purpose of any proposed expenditure.
20 Except as provided under par. (d), the department shall provide a hearing to any
21 person who demands a hearing within 30 days after the notice is published for the
22 purpose of determining whether the proposed remedial action and any expenditure
23 is within the scope of this section and is reasonable in relation to the cost of obtaining
24 similar materials and services. The department is not required to conduct more than
25 one hearing for the remedial action proposed at a single site or facility.

1 Notwithstanding s. 227.42, the hearing shall not be conducted as a contested case.
2 The decision of the department to take remedial action under this section is a final
3 decision of the agency subject to judicial review under ch. 227.

INSERT 26-5

4 SECTION 90. 299.05 of the statutes is repealed and recreated to read:

5 **299.05 Deadlines for action on certain applications.** (1) DEADLINES. The (a) x

6 department, by rule, shall establish periods within which the department intends to
7 approve or disapprove an application for any of the following:

- 8 (a) ^{1.} A well driller or pump installer registration under s. 280.15.
- 9 (b) ^{2.} A water system or septage servicing vehicle operator certification under s.
- 10 281.17 (3).

****NOTE: My notes from the May 3rd meeting with regard to this draft indicate that the water system referenced in this provision should refer only to a "domestic" water system. I did not make that change because I don't know what makes a water system a "domestic" water system. Do you have more information on this issue?

- 11 (c) ^{3.} A license for servicing septic tanks and similar facilities under s. 281.48 (3).
- 12 (d) ^{4.} A solid waste incinerator operator certification under s. 285.51 (2).
- 13 (e) A solid waste disposal facility operator certification under s. 289.42 (1).
- 14 (f) A hazardous waste transportation license under s. 291.23.
- 15 (g) An oil or gas exploration license under s. 295.33 (1).
- 16 (h) ^{5.} A laboratory certification or registration under s. 299.11.

17 (i) ~~A medical waste transportation license under s. 299.51 (3) (c).~~

INS. 26-17

18 (2) FAILURE TO MEET DEADLINE. (a) Subject to sub. (4), the department shall

19 refund fees paid by the applicant for a ~~license or other~~ ^{an} approval specified in sub. (1) ~~(1)~~
20 if the department fails to provide the applicant with written notice that the
21 department has approved or disapproved the application for the ~~license or other~~
22 approval, including the specific facts upon which any disapproval is based, before the
23 expiration of the period established under sub. (1) ⁽²⁾ for the ~~license or other~~ approval.

1 (b) Subject to sub. (4), if the department fails to provide the applicant for ~~an~~
2 ~~license or other~~ approval ~~specified in sub. (1)~~ with written notice that the department
3 has approved or disapproved the application before the expiration of the period
4 established under sub. ~~(1)~~ ⁽²⁾ for the ~~license or other~~ approval, the applicant may choose
5 to proceed under ch. 227 as though the department had disapproved the application
6 by providing the department with written notice of that choice no later than 45 days
7 after the expiration of the period established under sub. ~~(1)~~ ⁽²⁾.

8 (c) The department may not disapprove an application for ~~a license or other~~
9 approval solely because the department is unable to complete its review of the
10 application within the period established under sub. ~~(1)~~ ⁽²⁾.

11 (3) NOTICE OF DEADLINE. Upon receiving an application for ~~a license or other~~
12 approval ~~specified in sub. (1)~~, the department shall inform the applicant of the period
13 established under sub. ~~(1)~~ ⁽²⁾ for the license or other approval.

14 (4) PERMITTED EXTENSION OF DEADLINE. The department may extend the period
15 established under sub. ~~(1)~~ ⁽²⁾ because an application is incomplete if all of the following
16 apply:

17 (a) Within 14 days after receiving the application, the department provides
18 written notice to the applicant describing specifically the information that must be
19 provided to complete the application.

20 (b) The information under par. (a) is directly related to eligibility for the license
21 or other approval or to terms or conditions of the license or other approval.

22 (c) The information under par. (a) is necessary to determine whether to approve
23 the application or is necessary to determine the terms or conditions of the license or
24 other approval.

1 (d) The extension is not longer than the period equal to the number of days from
2 the day on which the department provides the notice under par. (a) to the day on
3 which the department receives the information.

4 **SECTION 91.** 299.06 of the statutes is created to read:

5 **299.06 Automatic approval of certain applications.** (1) DEFINITION. In
6 this section, "approval" means a permit, ~~contract~~^{license,} approval ~~for other determination~~^{or}
7 specified in sub. (1m).

8 (1m) DEADLINES. The department, by rule, shall establish periods within which
9 the department intends to approve or disapprove an application for any of the
10 following:

11 (a) A high-capacity well approval under s. 281.34 (2).

12 (b) A prospecting permit under s. 293.45.

13 (c) An oil or gas production license under s. 295.33 (2).

14 (2) FAILURE TO MEET DEADLINE. (a) Subject to subs. (4) (b) and (5), failure by the
15 department to provide the applicant for an approval with written notice that the
16 department has approved or disapproved the application for the approval, including
17 the specific facts upon which any disapproval is based, before the expiration of the
18 period established under sub. (1m) for the approval constitutes approval of the
19 application. An approval approved under this paragraph is subject to any terms or
20 conditions specified by statute or rule for the approval and the department may
21 suspend, limit, revoke, or withdraw the approval for substantial failure to comply
22 with those terms or conditions. The department may not make the approval subject
23 to any term or condition that is not specified by statute or rule. Within 30 days after
24 the expiration of the period established under sub. (1m) for the approval, the

1 department shall provide the applicant with a statement showing that the approval
2 is approved and specifying any terms and conditions that apply to that approval.

3 (b) The department may not disapprove an application for an approval solely
4 because the department is unable to complete its review of the application within the
5 period established under sub. (1m).

6 (3) NOTICE OF DEADLINE. Upon receiving an application for an approval the
7 department shall inform the applicant of the period established under sub. (1m) for
8 the approval.

9 (4) OPTIONAL PROVISIONS OF RULES. The department may include any of the
10 following in the rules required under sub. (1m):

11 (a) A longer period under sub. (1m) for an application for an approval for which
12 an environmental impact statement is required under s. 1.11 than for other
13 applications.

14 (b) Extensions of the period established under sub. (1m) because the applicant
15 makes a material modification to the application if the department notifies the
16 applicant in writing of the extension within 30 days after the applicant makes the
17 modification.

18 (c) Deadlines for the department to complete intermediate steps in the process
19 of completing its review of an application.

20 (5) EXTENSIONS AUTHORIZED. (a) During the period established under sub. (1m),
21 the department and the applicant may jointly agree to a different period for acting
22 on an application for an approval. The department may not require an applicant to
23 agree to a different period as a condition of approving an application.

24 (b) The department may extend a period established under sub. (1m) (a) to (c)
25 because an application is incomplete if all of the following apply:

1 1. Within 14 days after receiving the application, the department provides
2 written notice to the applicant describing specifically the information that must be
3 provided to complete the application.

4 2. The information under subd. 1. is directly related to eligibility for the
5 approval or to terms or conditions of the approval.

6 3. The information under subd. 1. is necessary to determine whether to approve
7 the application or is necessary to determine the terms or conditions of the approval.

8 4. The extension is not longer than the period equal to the number of days from
9 the day on which the department provides the notice under subd. 1. to the day on
10 which the department receives the information.

11 (c) The department may extend a period established under sub. (1m) (a) to (c)
12 for an application by not more than 30 days if, within the period established under
13 sub. (1m) (a) to (c), the department finds that there is a substantial likelihood that
14 the activity proposed to be conducted under the application would result in
15 substantial harm to human health or human safety and that the department cannot
16 adequately review the application within the period established under sub. (1m) (a)
17 to (c) and, upon making those findings, provides written notice to the applicant that
18 states with particularity the facts on which those findings are based.

19 **SECTION 92.** 299.17 of the statutes is created to read:

20 **299.17 Web site information.** ^{To the greatest extent possible,} (The department shall publish on the
21 department's Internet Web site the current status of any application filed with the
22 department for a permit, license, or other approval under chs. 30, 281 to 285, or 289
23 to 299. The information shall include notice of any hearing scheduled by the
24 department with regard to the application. ✓

25 **SECTION 93. Initial applicability.**

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INSERT 3-6

1 **30.102 Web site information.** (1) NAVIGABILITY DETERMINATION AND ORDINARY
2 HIGH-WATER MARK IDENTIFICATION. ✓

INSERT 3-10A

3 This section does not restrict the ability of a person to challenge ~~determination~~
4 ~~made by the department as described in~~ ^{the accuracy of the information} this section.
posted under

no 91

INSERT 3-10B

5 (2) APPLICATION STATUS. To the greatest extent possible, the department shall
6 publish on the department's Internet Web site the current status of any application
7 filed with the department for a permit, license, or other approval under ch. 30. The
8 information shall include notice of any hearing scheduled by the department with
9 regard to the application.

INSERT 5-19


10 **SECTION 1.** 30.12 (1h) of the statutes is created to read:
11 **30.12 (1h) PERSONAL WATERCRAFT SECURED TO PIERS ALLOWED.** A riparian owner
12 may secure to a pier up to 2 personal watercraft for the first 50 feet of the riparian
13 owner's shoreline property and one additional personal watercraft for each
14 additional 50 feet of the riparian owner's shoreline property without affecting the
15 riparian owner's eligibility for an exemption under sub. (1g) (f). For the purpose of
16 this subsection, "personal watercraft" has the meaning given in s. 30.50 (9d).
17

or wharf

footage

INSERT 26-5

footage

1  (1) DEFINITION. In this section, "approval" means a license, registration, or
2 certification specified in sub. (2).

INSERT 26-17

3 (b) The department shall approve or disapprove an application for any of the
4 following within 30 days from the date on which the department receives the
5 application:

- 6 1. A solid waste disposal facility operator certification under s. 289.42 (1).
- 7 2. A hazardous waste transportation license under s. 291.23.
- 8 3. A medical waste transportation license under s. 299.51 (3) (c).

9 (c) The department shall approve or disapprove an application for an oil or gas
10 exploration license under s. 295.33 (1) within 60 days from the date on which the
11 department receives the application.

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1446/P6insMG
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SECTION 1. 30.123 (6) (a) of the statutes is amended to read:

~~30.123 (6) (a) The construction and maintenance of highway bridges to which s. 30.1235 applies~~
by municipalities

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374; 2003 a. 118.

SECTION 2. 30.123 (7) (a) of the statutes is renumbered 30.123 (7).

SECTION 3. 30.123 (7) (b) of the statutes is repealed.

SECTION 4. 30.123 (7) (d) of the statutes is created to read:

30.123 (7) (d) Construct and maintain bridges and culverts that are part of a transportation project that is carried out under the direction and supervision of a municipality.

***NOTE: The suggested language exceeds the scope of s. 30.123, which is limited only to bridges and culverts. I did not include the concept of "reconstruction" since that is found in repealed s. 30.1235. I assume, for purposes of s. 30.123, either "construction" or "maintenance" includes reconstruction. If you want to add the term "reconstruction" the other provisions in s. 30.123 will need to be amended for consistency.

***NOTE: The renumbering of s. 30.123 (7) (a) to 30.123 (7) is necessary because there no longer a par. (b). This automatically results in s. 30.123 (7) (a) 1., 2., and 3. becoming pars. (a), (b), and (c). Paragraph (d) is then created to require a general permit for municipal bridges. The required permits under 30.123 (7) (a) 1., 2., and 3. remain in current law. Is that the desired intent?

SECTION 5. 30.1235 of the statutes is repealed.

SECTION 6. 30.133 (1) of the statutes is renumbered 30.133 (1) (a).

SECTION 7. 30.133 (1)(b) of the statutes is created to read:

30.133 (1) (b) The prohibition under par. (a) does not apply to an easement or similar conveyance that was granted before April 7, 1994.

***NOTE: Paragraph (b) seems redundant. If there is a specific problem to be addressed, this probably needs to be redrafted. The proposed language is too broad. For example, an easement granted before the April date could be invalid for various reasons such as the grantor of the easement was not the owner of the property.

9

close paren

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

INS, ANL RUK

, and for certain other environmental approvals for which a specific approval period is established in the bill,

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1446/P6inANL
RNK&MGG:.....

1 **Insert REL**

2 the issuance of, and exemptions from, certain individual permits, contracts,
3 and general permits for structures, deposits, and other activities in or near navigable
4 waters; areas of significant scientific value that are areas of special natural resource
5 interest; repair and maintenance of boathouses and fixed houseboats; easements
6 and similar conveyances of riparian rights; information required to be published on
7 the Department of Natural Resources Internet Web site, expedited procedures for
8 certain plan approvals; deadlines for action on certain approval applications, and
9 granting rule-making authority.

10 **Insert ANL**

Under current law, the Department of Natural Resources (DNR) regulates certain activities that occur in or near navigable waterways. DNR also administers environmental laws, including laws relating to air and water quality.

REGULATION OF ACTIVITIES IN OR NEAR NAVIGABLE WATERWAYS

In order for a person to conduct an activity in or near a navigable waterway, the person may be required to obtain one or more permits from DNR. Among the permits that DNR issues are permits to place structures or deposit material into navigable waters, and permits to remove material from the beds of navigable waters. Under current law, some activities are exempted from these permitting requirements, some activities require that the person be issued an individual permit for the activity, and some activities are authorized under general permits. Under current law, a person must seek authorization from DNR to proceed under a general permit. If DNR does not inform the person within a certain time frame that an individual permit is required, the person may conduct the activity pursuant to the general permit. DNR may also require that a person be issued an individual permit for an exempt activity or for an activity authorized under a general permit under certain circumstances.

Procedures in issuing individual permits

In issuing an individual permit, DNR reviews the application, determines whether it is complete, and notifies the applicant within 30 days after receiving the application whether the application is complete (30-day review period). If the application is incomplete, the applicant may supplement the application, but DNR may not demand items of information that are not specified in the notice as a condition for determining whether the application is complete, with limited

exceptions. Current law imposes no time limits on this process for determining whether an application is complete other than the 30-day review period.

Once DNR determines the application is complete, current law imposes time limits on the notice and public hearing procedures that apply to the application. Within 15 days, DNR must provide notice to the public that the application is complete (application notice). If the applicant has requested a public hearing as part of the application, a notice of public hearing ~~shall~~ ^{must} be included in the application notice.

If the application notice does not contain a notice of public hearing, any person may request a public hearing, or DNR may decide on its own to hold a public hearing if DNR determines that there is a significant public interest in holding a hearing. The public hearing request must be submitted by the interested person, or DNR's decision to hold a public hearing must occur, within 30 days after DNR provides the application notice. Within 15 days after the public hearing request is submitted by an interested person or DNR makes its decision, DNR must give notice of the public hearing (separate notice of hearing). DNR must hold the hearing within 30 days after the notice of public hearing is ~~either~~ issued, as part of the application notice or as an independent separate notice of hearing.

Also, DNR must provide a period to receive public comments. This period lasts for 30 days after the date on which DNR provides notice to the public that the application is complete or for ten days after the date that a public hearing ends, if one is held. Within 30 days after the public hearing is held or, if no public hearing is held, within 30 days of the 30-day comment period, DNR must ~~render~~ ^{must} a decision ^S issuing the individual permit or contract.

Under the bill, the time limits for giving application notice and notice of public hearing are not totally dependent on the date that the application is determined by DNR to be complete. If, upon reviewing the application, DNR determines that the application is complete and that no additional information is needed, DNR ~~shall~~ ^{must} inform the applicant of that fact within the 30-day review period. The date on which this notice is sent triggers the time limits for the public hearing process and for receiving public comments.

If DNR determines that the application is not complete, it may make only one request for additional information during the 30-day review period. There is no time limit on the applicant for providing the additional information but once it is submitted, DNR must notify the applicant within ten days as to whether the application is complete. Even if the application is not complete, the date on which this second notice is sent triggers the time limits for the public hearing process and for receiving public comments. Under the bill, the term used for such a date that triggers the time limits is ^a "date of closure." DNR may ask for information to supplement the one-time request for information, but such a request may not affect the date of closure.

The bill shortens the 30-day time period for an interested party to request a public hearing or for DNR to make a decision on its own to hold a public hearing ^{is} ~~shortened~~ to 20 days.

either to issue or not to issue

notify

Under the bill, if DNR fails to comply with 30-day and ten-day time limits relating to determining whether an application is complete, the date of closure shall be the last day of the 30-day or ten-day time period. If DNR fails to comply with the time limits relating to the public hearing and comment process, the application for the permit or contract shall be considered to have been approved.

Procedures in issuing general permits

Under current law, DNR is required to issue by rule statewide general permits authorizing placement of certain structures and deposits in navigable waters, the construction and maintenance of certain bridges, enlargement and connection of waterways, and removal of material from the beds of navigable waters. Current law allows DNR to issue by general permits for certain other waterway activities.

Under this bill, DNR must reissue these statewide general permits for these waterway activities without using the rule-making process. The permits that were issued by rule will remain in effect until the new rules are issued. The bill also gives DNR authority to issue a general permit outside of the rule-making process for any other waterway activity for which an individual permit is issued.

The bill requires DNR to circulate a public notice of its intention to issue a general permit. This includes a procedure for circulating the notice, for receiving comments, and holding a public hearing. These procedures are in lieu of those that occur under the rule-making process. Under the procedure, DNR must provide up to 30 days after date of the public notice for interested persons to submit written comments on the proposed general permit and must hold a public hearing if a request for a public hearing is received within 30 days of the circulation of the notice and DNR determines that there is significant public interest in holding a public hearing.

Piers and wharves

This bill modifies current law under which a waterfront property owner (riparian owner) may obtain an exemption to the general permit requirement for placing a pier or wharf on the bed of a navigable water. Under current law, in order for the permit exemption to apply, the pier or wharf may not be in an area of special natural resource interest, may not extend beyond a specified point, may not interfere with the riparian rights of other riparian owners, and may only have a specified number of boat slips. Current law also specifies that for the exemption to apply, the pier or wharf must comply with width limitations except that the pier may have an area as a loading platform that exceeds these limitations if the platform meets certain other size and configuration requirements.

The bill changes the size and configuration requirements for loading platforms on piers. Under the bill, a loading platform meets the exemption requirements, regardless of its configuration, as long as the surface area of the platform does not exceed 200 square feet. The bill also provides that a riparian owner may secure a specified number of personal watercraft to a pier without affecting the riparian owner's eligibility for the exemption.

Current law also grants an exemption to a riparian owner who placed a pier or wharf on the bed of a navigable water on or before February 6, 2004, if the pier or wharf meets certain size and configuration requirements, does not interfere with the

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riparian rights of other riparian owners and if the riparian owner registers the pier or wharf with DNR no later than April 1, 2011 (grandfathering exemption).

This bill changes the grandfathering exemption so that any pier or wharf that was placed on the bed of a navigable water before the effective date of this bill is exempt from the permit requirement if the pier or wharf does not interfere with the riparian rights of other riparian owners. The bill eliminates the requirement that the pier or wharf be registered to be eligible for the grandfathering exemption.

* Current law also prohibits DNR from taking any enforcement action against a riparian owner (enforcement exemption) for the placement of a pier, wharf, boat shelter, boat hoist, or boat lift (structure) on the bed of a navigable water before February 6, 2004, if DNR issued a permit or written authorization for the structure before that date and the structure is in compliance with the permit or authorization. This bill provides that the enforcement exemption applies regardless of the date on which DNR issued the permit or written authorization for the structure provided that the structure is in compliance with the permit or authorization.

* Current law also requires DNR to issue statewide general permits that allow a riparian owner to conduct certain activities on the bed of a navigable water. This bill requires DNR to issue a statewide general permit to allow a riparian owner to place a pier or wharf on the bed of a navigable water that is in, or that would directly affect, an area of special natural resource interest (if the pier or wharf) if the pier or wharf meets requirements for an exemption for the placement of a pier by a riparian owner. The bill also specifies that DNR may impose conditions relating to a pier that is placed under the authority of a general permit but may not prohibit placement if the pier meets the requirements of the general permit.

Placement of fill or structures within a bulkhead line

Generally, under current law, no person may, without a permit, deposit any material or place any structure on the bed of a navigable water beyond a lawfully established bulkhead line. A bulkhead line is a shoreline established by a municipality by ordinance. This bill allows a riparian owner, under certain circumstances, to place fill or structures on the bed of a navigable water within a bulkhead line without obtaining an approval from DNR.

Land grading activities and removal of materials

Current law prohibits, with certain exceptions, a person from engaging in construction, dredging, or enlargement activities with regard to certain artificial water bodies and navigable waterways without a permit. This bill creates an additional permit exemption. The bill allows a person to engage in land grading activity that is authorized under a stormwater discharge permit or under a permit issued by a county under a shoreland zoning ordinance.

Current law also requires, with certain exceptions, a person to have a permit in order to remove any material from the bed of a lake or navigable stream. This bill creates an additional exemption to the permit requirement for a removal of no more than a specified amount of material if the removal is necessary to allow access to place or remove a pier or wharf. The bill also creates an exemption for the removal of a specified amount of material by a riparian owner for the purpose of placing or maintaining a boat lift and creates an exemption for the removal of not more than

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requires the department to issue a general permit.

inland lake for outlying water

a specified amount of plant or animal deposits that impede navigation or access to a stream.

Bridges and culverts

requirements

Under current law, a city, village, town, or county is exempt from the individual and general permitting requirements for the construction or reconstruction of a highway bridge. This bill repeals this exemption. Instead, DNR must issue a general permit authorizing the construction and maintenance of bridges and culverts that are part of a transportation project that is carried out under the direction and supervision of a city, village, town, or county

Areas of special natural resource interest

(an)

Under current law, certain exemptions for waterway activities do not apply in areas of special natural resource interest (ASNRI). Current law defines, for purposes of exempting certain waterway activities from the individual and permitting requirements, an ASNRI to be a state natural area, a trout stream or other surface water that is identified by DNR as being an outstanding or exceptional resource water, or other area that has significant scientific value as identified by DNR. DNR has identified by rule various areas as having significant scientific values, including wild rice waters, waters that contain endangered or threatened species, and coastal wetlands. This bill incorporates most of these areas designated by rule into the statutes as having significant scientific value and prohibits DNR from identifying waters other than the ones specified in the statutes.

OTHER CHANGES

Deadlines for action on certain approvals

that the Department has approved or disapproved the application including

This bill makes various changes to procedures that DNR is required to follow in issuing certain licenses, permits, registrations, and other approvals (approvals).

Under current law, DNR is required to promulgate rules to establish periods within which it intends to approve or disapprove applications for most environmental approvals. Current law provides that if DNR fails to make a determination on an application within the specified time limit, DNR must refund the fees paid by the applicant for the approval.

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This bill specifies that for certain environmental approvals for which DNR establishes deadlines by rule, DNR must, in addition to refunding the fees paid by the applicant, provide the applicant with written notice of the specific facts upon which any disapproval is based. The bill requires DNR to provide this notice before expiration of the relevant deadline. The bill specifies that if DNR fails to provide this notice, then the applicant may seek administrative review of the application as if the application had been denied. The bill provides that for certain other approval applications, the failure to meet the deadline for approval or disapproval of an application constitutes approval of the application.

approval periods

No expiration of the relevant approval period

Expedited procedures STET: leave as typed

Under current law, a person to whom DNR issues a permit to construct a dam must submit specified documents and information to DNR including detailed plans and specifications for the proposed dam. Current law establishes a procedure under which DNR must examine this information and determine whether it is satisfactory

DNR must refund the fees paid by the applicant and

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or whether modifications are required before DNR approves the plans and specifications. Current law also establishes a procedure for the approval by DNR of plans for water and sewerage systems and sewage and refuse disposal plants (water and sewage plants). This bill requires DNR to establish an expedited procedure for the approval of plans for low hazard dams and for the approval plans for water and sewage plants.

Internet publication

Current law requires DNR to publish a newspaper notice containing specified information relating to certain laws that it administers. The types of notices that DNR must publish include notices of scheduled hearings, of the opportunity to submit a written comment, of the opportunity to request a public hearing, and to provide certain other information to the public. This bill allows DNR, instead of publishing these notices in the newspaper, to publish these notices on its Internet Web site.

This bill also requires DNR to publish on its Internet Web site any determination that it makes that a waterway is navigable or not navigable, any determination that it makes that identifies the ordinary high-water mark of a navigable water, and, to the greatest extent possible, the current status of any application filed with DNR for a permit, license, or other approval relating to navigable waters or the environment.

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

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

LRB-1446/P6dn
RNK&MGG: /?...

- Kite -

93

This draft remains in preliminary form because it contains embedded notes.

With regard to the Department of Natural Resources' (DNR's) authority to publish certain notices on the Internet under the draft, please note that there are other notices required to be published in the newspaper under chs. 30 and 31 for which this draft does not authorize Internet publication. Did you intend to give DNR the authority to publish all required notices under chs. 30 and 31 on the Internet?

Please feel free to contact me or Mary Gibson-Glass if you have any questions with regard to this draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

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

LRB-1446/P6dn
RNK&MGG:cjs:rs

October 5, 2011

This draft remains in preliminary form because it contains embedded notes.

With regard to the Department of Natural Resources' (DNR's) authority to publish certain notices on the Internet under the draft, please note that there are other notices required to be published in the newspaper under chs. 30 and 31 for which this draft does not authorize Internet publication. Did you intend to give DNR the authority to publish all required notices under chs. 30 and 31 on the Internet?

Please feel free to contact me or Mary Gibson-Glass if you have any questions with regard to this draft.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Gibson-Glass, Mary

From: Johnson, Dan
Sent: Friday, October 07, 2011 1:58 PM
To: Gibson-Glass, Mary; Kite, Robin
Cc: Gary, Tim
Subject: LRB 1446/P6 - response to embedded notes

Mary and Robin,

Below are the responses to the remaining notes for LRB 1446/P6. If it is now possible to move this bill to an introducible /1 once any necessary revisions are made, that would be our request. We also grant permission to the office of Representative Jeff Mursau to make request for a companion draft of this bill.

Thank you, and please contact me with any questions you may have.

Dan Johnson
Chief of Staff
State Senator Neal Kedzie
11th Senate District
608.266.2635

**LRB 1446/P6 – Response to Embedded Notes
October 7, 2011**

NOTE: Did you intend to give DNR the authority to publish all required notices under chs. 30 and 31 on the Internet?

Response: Yes, that is the intent.

Page 15, between lines 3-4

NOTE: The suggested language exceeds the scope of s. 30.123, which is limited only to bridges and culverts. I did not include the concept of “reconstruction” since that is found in repealed s. 30.1235. I assume, for purposes of s. 30.123, either “construction” or “maintenance” includes reconstruction. If you want to add the term “reconstruction,” the other provisions in s. 30.123 will need to be amended for consistency.

Response: The term “reconstruction” should be in 30.123. There is associated road work that is part of a bridge or culvert reconstruction or construction project, hence my use of the term “municipal transportation project”. If that term affects the rest of 30.123, I think the P6 language is adequate if “reconstruction” is added to the new par. (d).

NOTE: The renumbering of s. 30.123 (7) (a) to 30.123 (7) is necessary because there no longer is a par. (b). This automatically results in s. 30.123 (7) (a) 1., 2., and 3. becoming pars. (a), (b), and (c). Paragraph (d) is then created to require a general permit for municipal bridges. The required permits under 30.123 (7) (a) 1., 2., and 3. remain in current law. Is that the desired intent?

Response: Yes, the intent is to add a requirement for a new General Permit for municipal bridges and culverts; the rest of that section is unchanged.

Page 15, after line 8 *Per Dan Johnson, delete*

NOTE: Paragraph (b) seems redundant. If there is a specific problem to be addressed, this probably needs to be redrafted. The proposed language is too broad. For example, an easement granted before the April date could be invalid for various reasons such as the grantor of the easement was not the owner of the property.

Response: Below are two options to consider for redrafting this section. If you believe neither are acceptable, this provision may have to be removed.

- Option 1 -- Notwithstanding sub. (1)(a), an easement or similar conveyance that grants a riparian right in the land to another person, shall be effective in conveying such riparian rights regardless of subsequent activity affecting the conveyance.
- Option 2 -- Notwithstanding sub. (1)(a), an easement or similar conveyance that grants a riparian right in the land to another person, shall be presumed to be in compliance with this chapter.

Page 26, top of that page

NOTE: I redrafted this to be limited to individual permits in light of s. 30.206 (1) (b), as created in this draft.

Response: Okay.

Kite, Robin

From: Johnson, Dan
Sent: Monday, October 10, 2011 10:08 AM
To: Kite, Robin
Subject: LRB 1446/P6 analysis concern

Hi Robin,

An issue has been brought to my attention regarding the LRB analysis of LRB 1446/P6, specifically as it relates to bulkhead lines. The current analysis reads as follows:

Placement of fill or structures within a bulkhead line

Generally, under current law, no person may, without a permit, deposit any material or place any structure on the bed of a navigable water beyond a lawfully established bulkhead line. A bulkhead line is a shoreline established by a

municipality by ordinance. This bill allows a riparian owner, under certain circumstances, to place fill or structures on the bed of a navigable water within a bulkhead line without obtaining an approval from DNR.

The concern is that there is no acknowledgement in the analysis of what is allowed under current law as it relates to bulkhead lines. Under 30.11(4), riparian owners may place solid structures up to that line. Thus, a request has been made of our office to not only include that current law allowance in the analysis, but to also expand on what the provision under 1446 seeks to do. The requested language would read as follows:

Placement of fill or structures within a bulkhead line

Generally, under current law, no person may, without a permit, deposit any material or place any structure on the bed of a navigable water beyond a lawfully established bulkhead line. A bulkhead line is a shoreline established by a municipality by ordinance. Under current law, within a bulkhead line, a riparian owner may place structures or fill without a permit. This bill provides a riparian owner may continue to place fill or structures within a bulkhead line on those portions filled prior to the effective date of the bill without a permit, but restricts such placements on those portions after the effective date of the bill unless the fill or structure is for a public purpose. ~~This bill allows a riparian owner, under certain circumstances, to place fill or structures on the bed of a navigable water within a bulkhead line without obtaining an approval from DNR.~~

If that change seems reasonable to you, and can still be made at this time, we would request it be made. If you have any concerns with that change, please let me know. Thank you!

Dan Johnson
Chief of Staff
State Senator Neal Kedzie
11th Senate District
608.266.2635