

2013 DRAFTING REQUEST

Senate Amendment (SA-SB1)

Received: 2/1/2013 Received By: rkite
Wanted: As time permits Same as LRB:
For: Thomas Tiffany (608) 266-2509 By/Representing: Larry Konopacki
May Contact: Drafter: rkite
Subject: Nat. Res. - nav. waters Addl. Drafters:
Extra Copies: RCT

Submit via email: YES
Requester's email: Sen.Tiffany@legis.wi.gov
Carbon copy (CC) to: larry.konopacki@legis.wisconsin.gov
anna.henning@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Limits on applicability of navigable waters measures

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 2/1/2013			_____			
/P1	rkite 2/3/2013	wjackson 2/1/2013	jmurphy 2/1/2013	_____	srose 2/1/2013		
/1		chanaman	phenry	_____	chanaman	sbasford	

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/? rkite

/PI WLY 2/1

gm
2/1

gm
wls
2/1

FE Sent For:

<END>

Kite, Robin

From: Tradewell, Becky
Sent: Thursday, January 31, 2013 4:55 PM
To: Kite, Robin
Cc: Konopacki, Larry
Subject: FW: SB1-limits on applicability of navigable waters measures

Robin,

Can you do this one?

Becky

From: Konopacki, Larry
Sent: Thursday, January 31, 2013 4:51 PM
To: Tradewell, Becky
Cc: Henning, Anna
Subject: SB1-limits on applicability of navigable waters measures

Becky, please draft an amendment that does the following:

Create s. 295.605 (4) (bg) – “The department may not consider measures under par. (b) in its evaluation of a navigable waters activity in a navigable public water under par. (a) if the navigable public water is one of the following:

1. A perennial stream with a drainage area greater than 2 square miles at the location of the navigable water activity (define perennial stream to mean a stream that has continuous flow every day of the year in a year of average precipitation), or
2. A water other than a stream that is greater than 2 acres in size every day of the year in a year of average precipitation and that is not a freeze-out pond as defined in s. 29.001 (29).
3. A class 1, 2, or 3 trout stream.

Thanks,
Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO SENATE BILL 1**

D-N

- 1 At the locations indicated, amend the bill as follows:
- 2 ↓ 1. Page 156, line 19: after that line insert:
- 3 “(bg) *Measures excluded from consideration.* In determining if a navigable
- 4 water activity meets the requirements under par. (a) with regard to a navigable
- 5 water, the department may not consider any proposed measure under par. (b) if the
- 6 navigable water is any of the following:
- 7 1. A perennial stream, if the drainage area of the portion of the stream
- 8 upstream from the farthest downstream point of the navigable water activity is more
- 9 than 2 square miles. In this subdivision, “perennial stream” means a stream that
- 10 has a continuous flow every day of every year in which there is average precipitation.

1 2. A navigable water, other than a stream, that is more than 2 acres in area
2 every day of every year in which there is average precipitation and that is not a
3 freeze-out pond[√] as defined in s. 29.001 (29).

4 J. (c) A class I, class II, or class III trout stream.”[√]

5 (END)

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

LRBa00777?dn
RNK:.....

Wlj

Date

The language provided for this amendment uses the phrase "navigable public water". Because Senate Bill 1, and current law generally, uses only the phrase "navigable water" I did not use the phrase "navigable public water" in this amendment. If you wish to use that term, I think ~~that~~ the amendment must include a definition or some other language so that it is clear how a "navigable public water" differs from a "navigable water." *to clarify*

Because a navigable water activity that occurs in a stream could possibly occur for a considerable portion of the length of the stream I have assumed that the language provided related to the drainage area of a stream refers to the area that is upstream from the farthest downstream point at which the navigable water activity will occur. Accordingly, I have drafted this provision based on that assumption.

Please contact me if you would like to discuss these issues or have any other questions about this amendment.

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**

LRBa0077/P1dn
RNK:wlj:jm

February 1, 2013

The language provided for this amendment uses the phrase “navigable public water.” Because Senate Bill 1, and current law generally, uses only the phrase “navigable water” I did not use the phrase “navigable public water” in this amendment. If you wish to use that term, I think the amendment must include a definition or some other language to clarify how a “navigable public water” differs from a “navigable water.”

Because a navigable water activity that occurs in a stream could occur for a considerable portion of the length of the stream I have assumed that the language provided related to the drainage area of a stream refers to the area that is upstream from the farthest downstream point at which the navigable water activity will occur. Accordingly, I have drafted this provision based on that assumption.

Please contact me if you would like to discuss these issues or have any other questions about this amendment.

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



run
run
1

LRBa0077(P1)
RNK:wlj:jm

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**SENATE AMENDMENT ,
TO SENATE BILL 1**

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2 **1.** Page 156, line 19: after that line insert:

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9 than 2 square miles. In this subdivision, “perennial stream” means a stream that

10 has a continuous flow every day of every year in which there is average precipitation.

