



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/04/2013 (Per: RCT)

Compile Draft – Appendix F **... Part I**

- | | |
|-------------------------------------------------------|-------------------------------------------------------|
| A ☞ The <u>2013</u> drafting file for LRBa0045 | F ☞ The <u>2013</u> drafting file for LRBa0055 |
| B ☞ The <u>2013</u> drafting file for LRBa0046 | G ☞ The <u>2013</u> drafting file for LRBa0057 |
| C ☞ The <u>2013</u> drafting file for LRBa0047 | H ☞ The <u>2013</u> drafting file for LRBa0074 |
| D ☞ The <u>2013</u> drafting file for LRBa0050 | I ☞ The <u>2013</u> drafting file for LRBa0081 |
| E ☞ The <u>2013</u> drafting file for LRBa0052 | J ☞ The <u>2013</u> drafting file for LRBa0082 |

2013 LRBa0055 has been copied/added to the drafting file for

2013 LRBa0085

2013 DRAFTING REQUEST

Senate Amendment (SA-SB1)

Received: **1/30/2013** Received By: **btradewe**
Wanted: **Soon** Same as LRB:
For: **Legislative Council - IND** By/Representing: **Larry Konopacki (Leg Council)**
May Contact: Drafter: **btradewe**
Subject: **Environment - mining** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **larry.konopacki@legis.wisconsin.gov**
Carbon copy (CC) to: **Anna.henning@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Venue for judicial review of DNR decisions

Instructions:

Require that all judicial review proceedings related to DNR decisions under the new ferrous mining subchapter under the bill be brought in the county in which the majority of the exploration, bulk sampling, or mining will occur (make this the same as the bill currently provides for mining and the mandamus action if DNR does not meet its decision deadline). It is important that it apply to any judicial review under the subchapter, instead of just specifying the addition of exploration and bulk sampling, because an argument has been raised that even though there is a specific judicial review provision in the bill for after the mining contested case hearing, there could be an opportunity for judicial review immediately following the DNR permit decision. So, the intent is to insert a catch-all provision for the subchapter on venue.

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>
/P1	btradewe 1/30/2013	kfollett 1/30/2013	phenry 1/31/2013	_____	srose 1/31/2013		

FE Sent For:

<END>

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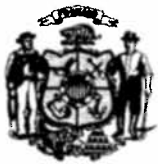
Require that all judicial review proceedings related to DNR decisions under the new ferrous mining subchapter under the bill be brought in the county in which the majority of the exploration, bulk sampling, or mining will occur (make this the same as the bill currently provides for mining and the mandamus action if DNR does not meet its decision deadline). It is important that it apply to any judicial review under the subchapter, instead of just specifying the addition of exploration and bulk sampling, because an argument has been raised that even though there is a specific judicial review provision in the bill for after the mining contested case hearing, there could be an opportunity for judicial review immediately following the DNR permit decision. So, the intent is to insert a catch-all provision for the subchapter on venue.

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/P1	btradewe	1/15/13	F	==			

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE

There is, 1/30, if possible



LRBa0055/P1
RCT...

made

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO SENATE BILL 1

✓

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 198, line 25: delete the material beginning with “, in the” and ending
- 3 with “located,” on page 199, line 1.
- 4 2. Page 199, line 10: after that line insert:
- 5 “(4) Notwithstanding s. 227.53 (1) (a) 3., any person seeking judicial review of
- 6 the decision on a contested case under sub. (2) or (3) or of any decision of the
- 7 department under this subchapter shall bring the action in the circuit court for the
- 8 county in which the majority of the bulk sampling site or mining site is located or in
- 9 which the majority of the exploration will occur.”.
- 10 (END)

made

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

LRBa0055/P1dn

RCT. *gf*

Date

Larry Konopacki:

I did not remove the language from proposed s. 295.57 (7) (c) about where the action for mandamus must be brought because that action does not involve a decision of the department. ✓

Also, it seems as though the decision in the contested case is sometimes, but not always, a decision of ~~the department~~. See s. 227.46 (8), stats., and s. NR 2.155 (1) and (2), Wis. Adm. Code. I am not certain of the best way to take that into account in this draft. *OK*

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

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

LRBa0055/P1dn
RCT:kjf:ph

January 31, 2013

Larry Konopacki:

I did not remove the language from proposed s. 295.57 (7) (c) about where the action for mandamus must be brought because that action does not involve a decision of the department.

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