

State of Misconsin 2011 - 2012 LEGISLATURE



2011 ASSEMBLY BILL 43

March 8, 2011 – Introduced by Representatives Kestell, Bies, Lemahieu, Mursau, Ziegelbauer and Petrowski, cosponsored by Senator Leibham. Referred to Committee on Natural Resources.

- 1 AN ACT to amend 31.187 (1) and 31.253 (1) of the statutes; relating to: removal
- 2 of abandoned dams.

Analysis by the Legislative Reference Bureau

Current law sets forth two procedures that the Department of Natural Resources (DNR) must follow before DNR has a dam removed from a waterway. For an abandoned dam, DNR must give 60 days' written notice to the dam's owner, if the owner can be found. If not, DNR must publish a public notice three times in the county in which the dam is located.

Also for the removal of any dam by DNR, whether the dam is abandoned or not, DNR must hold a public informational hearing or publish a class 2 notice stating that DNR will remove the dam without a hearing unless one is requested in writing within 30 days.

This bill requires that, prior to beginning any of these procedures, DNR consider the results the dam removal will have on the safety, health, and welfare of the persons who will be affected by the removal.

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

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

ASSEMBLY BILL 43

31.187(1) The department may remove or cause to be removed, in such manner as it deems considers fit, old and abandoned dams in streams in this state, upon giving after the department considers the results the removal will have on the safety, health, and welfare of the persons who will be affected by the removal. Before beginning the removal, the department shall give 60 days' notice in writing to the owner thereof, if the owner can be found. If the owner of the dam is unknown or cannot, by due diligence, be found, the department shall publish a class 3 notice, under ch. 985, in the county in which the dam is situated.

Section 2. 31.253 (1) of the statutes is amended to read:

31.253 (1) Opportunity for hearing prior to department action. Except as provided under sub. (4), prior to seeking or causing the removal of a dam under this chapter, the department shall consider the results the removal will have on the safety, health, and welfare of the persons who will be affected by the removal and shall hold a public informational hearing on the proposed removal or publish a class 2 notice under ch. 985 stating that it will seek or cause the removal of the dam without holding a public informational hearing unless a hearing is requested in writing within 30 days after the last publication of the notice. The department may hold further hearings or give further notice as it deems appropriate.