

**CHAPTER 237****FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY**

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**237.01 Definitions.** In this chapter:

(1) “Authority” means the Fox River Navigational System Authority.

(2) “Board of directors” means the board of directors of the authority.

(3) “Fiscal year” means the period beginning on July 1 and ending on the following June 30.

(4) “Lock” includes any spillway associated with the lock.

(5) “Navigational system” means locks, harbors, real property, structures, and facilities related to navigation that are located on or near the Fox River, including locks, harbors, real property, structures, and facilities that were under the ownership or control of the federal government on April 1, 1984. “Navigational system” does not include dams on the Fox River.

**History:** 2001 a. 16 ss. 1337, 3128; 2001 a. 104.

**237.02 Creation and organization of authority.**

(1) There is created a public body corporate and politic to be known as the “Fox River Navigational System Authority.” The board of directors of the authority shall consist of the following members:

(a) Six members nominated by the governor, and with the advice and consent of the senate appointed, for 3–year terms.

(b) The secretary of natural resources, or his or her designee.

(c) The secretary of transportation, or his or her designee.

(d) The director of the state historical society, or his or her designee.

(1m) (a) Two of the 6 members appointed under sub. (1) (a) shall be residents of Brown County, 2 shall be residents of Outagamie County, and 2 shall be residents of Winnebago County.

(b) At least one of the 2 members appointed from each of the counties specified in par. (a) shall be a resident of a city, village, or town in which is located a lock that is part of the navigational system.

(2) A vacancy on the board of directors shall be filled in the same manner as the original appointment to the board of directors for the remainder of the unexpired term, if any.

(3) A member of the board of directors may not be compensated for his or her services but shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of his or her duties.

(4) No cause of action of any nature may arise against and no civil liability may be imposed upon a member of the board of directors for any act or omission in the performance of his or her powers and duties under this chapter, unless the person asserting liability proves that the act or omission constitutes willful misconduct.

(5) The members of the board of directors shall annually elect a chairperson and may elect other officers as they consider appropriate. Five voting members of the board of directors constitute a quorum for the purpose of conducting the business and exercising

the powers of the authority, notwithstanding the existence of any vacancy. The board of directors may take action upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number.

(6) The board of directors shall appoint a chief executive officer who shall not be a member of the board of directors and who shall serve at the pleasure of the board of directors. The authority may delegate by resolution to one or more of its members or its executive director any powers and duties that it considers proper. The chief executive officer shall receive such compensation as may be determined by the board of directors. The chief executive officer or other person designated by resolution of the board of directors shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The chief executive officer or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

**History:** 2001 a. 16.

**237.03 Duties of authority.** (1) **GENERAL DUTIES.** In addition to all other duties imposed under this chapter, the authority shall do all of the following:

(a) Adopt bylaws and policies and procedures for the regulation of its affairs and the conduct of its business.

(b) Contract for any legal services required for the authority.

(c) Establish the authority’s annual budget and monitor the fiscal management of the authority.

(d) Procure liability insurance covering its officers and employees and procure insurance against any loss in connection with its property and other assets.

(e) Make every reasonable effort to contract with one or more corporations to provide the services specified under s. 237.09 (2).

(2) **DUTIES UPON LEASING.** Upon entering into the lease under s. 237.06, the authority shall rehabilitate, repair, replace, operate, and maintain the navigational system.

**History:** 2001 a. 16.

**237.04 Powers of authority.** The authority shall have all the powers necessary or convenient to carry out the purposes and provisions of this chapter. In addition to all other powers granted by this chapter, the authority may:

(1) Incur debt, except as restricted under s. 237.05 (1).

(2) Sue and be sued.

(3) Hire employees, define their duties, and fix their rate of compensation.

(4) Have a seal and alter the seal at pleasure; have perpetual existence; and maintain an office.

(5) Appoint any technical or professional advisory committee that the authority finds necessary to assist the authority in exercising its duties and powers. The authority shall define the duties of the committee, and provide reimbursement for the expenses of the committee.

(6) Enter into contracts with 3rd parties as are necessary for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system.

(7) Acquire, lease, subject to s. 237.05 (2), and dispose of property as is necessary for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system.

(8) Accept gifts and other funding for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system.

(9) Charge user fees for services the authority provides to the operators of watercraft using the navigational system.

(10) Charge fees for use of facilities of the navigational system as provided in s. 16.845.

History: 2001 a. 16.

**237.05 Restrictions on authority.** (1) The authority may not issue bonds.

(2) The authority may not sublease all, or any part of, the navigational system without the approval of the department of administration.

History: 2001 a. 16.

**237.06 Lease.** Upon transfer of the ownership of the navigational system by the federal government to the state, the department of administration on behalf of the state and the authority shall enter into a lease agreement under which the state shall lease the navigational system to the authority for nominal consideration. The secretary of administration shall determine the amount of the rental payments.

History: 2001 a. 16.

**237.07 Management plan; financial statements.** (1)

(a) The authority shall submit to the department of administration a plan that does all the following:

1. Addresses the costs of and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system.

2. Describes how the authority will manage its funds to ensure that sufficient funding is available to abandon the navigational system if the operation of the navigational system is no longer feasible.

(b) The authority shall submit the plan under par. (a) within 180 days after the date on which the state and the authority enter into the lease agreement specified in s. 237.06.

(2) The authority shall update and resubmit the plan under sub. (1) upon the request of the department of administration.

(3) (a) For each fiscal year, the authority shall submit to the department of administration an audited financial statement of the funding received by the authority from the department of natural resources under s. 237.08 (2) and by the authority from contributions and other funding accepted by the authority under s. 237.08 (3).

(b) The financial statement under par. (a) shall include notes that explain in detail the specific sources of funding contained in the financial statement.

(4) For each fiscal year in which moneys are to be released to the authority by the department of natural resources under s. 237.08, each corporation specified in s. 237.09 shall submit to the authority an audited financial statement of the amount raised by the corporation under s. 237.09 (2) (b) for that fiscal year.

History: 2001 a. 16.

**237.08 Sources of funding.** (1) FEDERAL FUNDING. The authority shall accept federal funding for the rehabilitation, repair,

replacement, operation, and maintenance of the navigational system and shall agree with any conditions attached to the funding.

(2) STATE FUNDING. From the appropriation under s. 20.370 (5) (cq) and before applying the percentages under s. 30.92 (4) (b) 6., the department of natural resources shall set aside for the rehabilitation and repair of the navigational system \$400,000 in each fiscal year to be matched by the moneys raised under s. 237.09 (2) (b). The funding shall be set aside beginning with the first fiscal year beginning after the submittal of the initial management plan submitted under s. 237.07 (1) and shall continue to be set aside in each of the next 6 consecutive fiscal years. From the funding that is set aside, the department shall release to the authority for each fiscal year an amount equal to the total amount raised by each corporation under s. 237.09 (2) (b) for which matching funding has not been previously released.

(3) OTHER FUNDING. The authority shall encourage and may accept contributions and funding for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system. The authority shall also accept funding raised by each corporation under s. 237.09 (2).

History: 2001 a. 16.

**237.09 Requirements for nonprofit corporations.**

(1) Each corporation contracted with under s. 237.03 (1) (e) shall be a nonprofit corporation as described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code and shall be based in one or more of the counties in which the navigational system is located.

(2) Each corporation contracted with under s. 237.03 (1) (e) shall do all of the following:

(a) Provide marketing and fund-raising services for the authority.

(b) Make every reasonable effort to raise \$2,750,000 of local or private funding for the rehabilitation and repair of the navigational system.

(c) Accept for investment moneys received by the authority for rehabilitation and repair under s. 237.08 and invest the moneys at a rate of return that the authority finds adequate to enable the authority to exercise its duties and powers in rehabilitating and repairing the navigational system.

(3) If the authority contracts with more than one corporation under s. 237.03 (1) (e), all of the corporations shall make the effort to raise the total of \$2,750,000.

History: 2001 a. 16.

**237.10 Rapide Croche lock.** (1) Upon entering into the lease under s. 237.06, the authority shall maintain the sea lamprey barrier at the Rapide Croche lock according to specifications of the department of natural resources in order to prevent sea lampreys and other aquatic nuisance species from moving upstream.

(2) If the authority decides to construct a means to transport watercraft around the Rapide Croche lock, the authority shall develop a plan for the construction that includes steps to be taken to control sea lampreys and other aquatic nuisance species. The authority shall submit the plan to the department of natural resources and may not implement the plan unless it has been approved by the department.

History: 2001 a. 16, 104.

**237.11 Political activities.** (1) No employee of the authority may directly or indirectly solicit or receive subscriptions or contributions for any partisan political party or any political purpose while engaged in his or her official duties as an employee. No employee of the authority may engage in any form of political activity calculated to favor or improve the chances of any political party or any person seeking or attempting to hold partisan political office while engaged in his or her official duties as an employee or engage in any political activity while not engaged in his or her official duties as an employee to such an extent that the person's efficiency during working hours will be impaired or that he or she

will be tardy or absent from work. Any violation of this section is adequate grounds for dismissal.

(2) If an employee of the authority declares an intention to run for partisan political office, the employee shall be placed on a leave of absence for the duration of the election campaign and if elected shall no longer be employed by the authority on assuming the duties and responsibilities of such office.

(3) An employee of the authority may be granted, by the chief executive officer, a leave of absence to participate in partisan political campaigning.

(4) Persons on leave of absence under sub. (2) or (3) shall not be subject to the restrictions of sub. (1), except as they apply to the solicitation of assistance, subscription, or support from any other employee in the authority.

**History:** 2001 a. 16, 104.

**237.12 Liability limited.** (1) Neither the state nor any political subdivision of the state nor any officer, employee, or agent of the state or a political subdivision who is acting within the scope of employment or agency is liable for any debt, obligation, act, or omission of the authority.

(2) All of the expenses incurred by the authority in exercising its duties and powers under this chapter shall be payable only from funds of the authority.

**History:** 2001 a. 16.

**237.13 Exemption.** (1) In this section, “lock structure” includes a spillway of a lock and excludes the canal body of a lock.

(2) Any activity or work that is performed on a lock structure that is part of the navigational system is exempt from any permit or other approval required under ch. 30 or 31.

**History:** 2001 a. 16.

**237.14 Abandonment.** If the authority determines the operation of the navigational system is no longer feasible, the authority shall submit a plan to the department of administration and to the department of natural resources describing the steps the authority will take in abandoning the navigational system. The navigational system may not be abandoned unless both the department of administration and the department of natural resources determine that the plan for abandonment will preserve the public rights in the

Fox River, will ensure safety, and will protect life, health, and property.

**History:** 2001 a. 16.

**237.15 Transitional provisions.** (1) **FUNDING.** The department of administration shall transfer the unencumbered balances in the appropriation accounts under s. 20.370 (9) (jL) and (ju) to the authority on the day after the date on which the state and the authority enter into the lease agreement specified in s. 237.06.

(2) **TRANSFERS.** (a) The chairperson of the Fox River management commission and the chairperson of the board of directors of the authority, acting jointly, shall identify all of the following that will transfer from the commission to the authority:

1. Any assets and liabilities of the commission.
2. Any tangible personal property, including records, of the commission.

3. Any contracts entered into by the commission, and any policies and procedures of the commission that will be in effect on the day after the date on which the state and the authority enter into the lease agreement specified in s. 237.06.

(b) On the day after the date on which the state and the authority enter into the lease agreement specified in s. 237.06, all of the assets, liabilities, and personal property identified for transfer under par. (a) 1. and 2. shall become the assets, liabilities, and personal property of the authority.

(c) On the day after the date on which the state and the authority enter into the lease agreement specified in s. 237.06, all the contracts identified under par. (a) 3. shall remain in effect and the authority shall, beginning on that day, carry out any such contractual obligations until modified or rescinded to the extent allowed under the contract.

(d) On the day after the date on which the state and the authority enter into the lease agreement specified in s. 237.06, all policies and procedures identified in par. (a) 3. shall become policies and procedures of the authority and shall remain in effect until their expiration date or until modified or rescinded by the authority.

(e) In case of disagreement with respect to any matter specified in pars. (a) to (d), the secretary of administration shall determine the matter and shall develop a plan for an orderly transfer of the item subject to the disagreement.

**History:** 2001 a. 16.