



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBs0276/1
ZDW&FFK:amn

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 501**

February 12, 2020 - Offered by Senators TESTIN, COWLES and BEWLEY.

1 **AN ACT** *to renumber* 709.03 (form) F18. and F19. and 709.033 (form) E17. to
2 E21.; and *to create* 30.132, 709.03 (form) F18. and F19. and 709.033 (form)
3 E17. and E18. of the statutes; **relating to:** riparian rights.

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

4 **SECTION 1.** 30.132 of the statutes is created to read:

5 **30.132 Riparian rights. (1) DEFINITIONS.** In this section:

6 (a) "Commission" means the public service commission.

7 (b) "Hydroelectric operator" means an operator of a project.

8 (c) "Project riparian" means an owner of land that abuts a navigable waterway,
9 the abutting bed of which is owned by a hydroelectric operator.

10 (d) "Project" means a hydroelectric project regulated by the federal energy
11 regulatory commission or the department.

1 **(2) PRESUMPTION OF RIPARIAN RIGHTS.** An owner of land that abuts a navigable
2 waterway is presumed to be a riparian owner and is entitled to exercise all rights
3 afforded to a riparian owner, including the right to place a pier, other structures, or
4 deposits, even if the bed of the waterway is owned in whole or in part by another,
5 unless those rights are specifically prohibited by the deed to the land, written
6 agreement, or other recorded instrument. The exercise of these riparian rights is
7 subject to the requirements of this chapter and, if the waterway is within the
8 boundaries of a project, the reasonable restrictions imposed by the hydroelectric
9 operator necessary for the hydroelectric operator to comply with requirements
10 imposed under state or federal law or a federal energy regulatory commission
11 license.

12 **(3) PROJECT RIPARIAN RIGHTS.** (a) *Application to exercise riparian rights.* A
13 project riparian may make written application to the applicable hydroelectric
14 operator for permission to exercise a riparian right in a waterway within the
15 boundaries of a project, including the right to place a pier or other structures or
16 deposits and the right to modify an existing structure authorized under par. (b),
17 subject to the requirements of this chapter. The hydroelectric operator shall approve
18 or deny an application under this paragraph no later than 60 days after receiving the
19 application. The hydroelectric operator may deny an application under this
20 paragraph only if necessary for the hydroelectric operator to comply with
21 requirements imposed under state or federal law or a federal energy regulatory
22 commission license but may approve the application subject to reasonable
23 restrictions necessary for the hydroelectric operator to comply with requirements
24 imposed under state or federal law or a federal energy regulatory commission
25 license. The hydroelectric operator may charge an applicant a reasonable fee to cover

1 the hydroelectric operator's administrative costs related to a structure or deposit
2 that is approved under this paragraph.

3 (b) *Existing structures.* Notwithstanding par. (a), a project riparian may
4 maintain a structure that was placed in a waterway within the boundaries of a
5 project prior to the effective date of this paragraph [LRB inserts date], subject to
6 the requirements of this chapter and the reasonable restrictions imposed by the
7 hydroelectric operator necessary for the hydroelectric operator to comply with
8 requirements imposed under state or federal law or a federal energy regulatory
9 commission license. A hydroelectric operator may not charge a fee related to a
10 structure authorized under this paragraph unless a fee is provided for in an
11 agreement between the hydroelectric operator and the project riparian that existed
12 prior to the effective date of this paragraph [LRB inserts date].

13 (c) *Appeal to the commission.* A project riparian whose application is denied
14 or approved with restrictions or who is charged an unreasonable fee under this
15 subsection may appeal in writing to the commission. The commission may
16 investigate the appeal and issue an order based on its investigation. The commission
17 may not issue an order under this paragraph without a public hearing conducted in
18 accordance with s. 196.26 (2).

19 (d) *Immunity from liability.* A hydroelectric operator is not liable to any person
20 for any injury or damage arising from a project riparian's use of the hydroelectric
21 operator's property as provided in this section.

22 (4) EFFECT ON ENFORCEABLE INTERESTS. Nothing in this section invalidates any
23 interest, whether designated as an easement, covenant, equitable servitude,
24 restriction, or otherwise, which is otherwise enforceable under the laws of this state.

1 **SECTION 2.** 709.03 (form) F18. and F19. of the statutes are renumbered 709.03
2 (form) F20. and F21.

3 **SECTION 3.** 709.03 (form) F18. and F19. of the statutes are created to read:
4 **709.03** (form)

F18. Are you aware of a written agreement affect-
 ing riparian rights related to the property?

F19. Are you aware that the property abuts the bed
 of a navigable waterway that is owned by a
 hydroelectric operator?

Under Wis. Stat. s. 30.132, the owner of a
property abutting the bed of a navigable
waterway that is owned by a hydroelectric
operator, as defined in s. 30.132 (1) (b), may
be required to ask the permission of the
hydroelectric operator to place a structure on
the bed of the waterway.

5 **SECTION 4.** 709.033 (form) E17. to E21. of the statutes are renumbered 709.033
6 (form) E19. to E23.

7 **SECTION 5.** 709.033 (form) E17. and E18. of the statutes are created to read:
8 **709.033** (form)

E17. Are you aware of a written agreement affect-
 ing riparian rights related to the property?

E18. Are you aware that the property abuts the bed
of a navigable waterway that is owned by a
hydroelectric operator?

Under Wis. Stat. s. 30.132, the owner of a property abutting the bed of a navigable waterway that is owned by a hydroelectric operator, as defined in s. 30.132 (1) (b), may be required to ask the permission of the hydroelectric operator to place a structure on the bed of the waterway.

1 **SECTION 6. Nonstatutory provisions.**

2 (1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS.

3 Notwithstanding s. 709.035, a property owner who furnished to a prospective buyer
4 of the property an original or amended report before the effective date of this
5 subsection need only submit an amended report with respect to the information
6 required under s. 709.03 (form), 2017 stats., or under s. 709.033 (form), 2017 stats.

7 **SECTION 7. Initial applicability.**

8 (1) REAL ESTATE CONDITION AND VACANT LAND DISCLOSURE REPORTS. The creation
9 of ss. 709.03 (form) F18. and F19. and 709.033 (form) E17. and E18. and the
10 renumbering of ss. 709.03 (form) F18. and F19. and 709.033 E17. to E21. first apply
11 to reports that are furnished on the effective date of this subsection.

12 **SECTION 8. Effective dates.** This act takes effect on the day after publication,
13 except as follows:

14 (1) REAL ESTATE DISCLOSURE FORMS. The creation of ss. 709.03 (form) F18. and
15 F19. and 709.033 (form) E17. and E18. and the renumbering of ss. 709.03 (form) F18.

1 and F19. and 709.033 E17. to E21. and SECTIONS 6 (1) and 7 (1) of this act take effect
2 on July 1, 2020.

3 (END)