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Lawmakers — not regulators — will have final say



Wisconsin Department of Natural Resources

have added a provision to the state budget that would require legislators, not Department of regulators, to decide whether new water levels can be set at sites like the Rest Lake dam in the Town of Manitowish Waters.

By Lee Bergquist of the Journal Sentinel

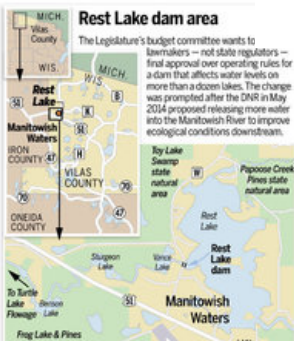
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The Legislature's budget committee wants to give lawmakers — not state regulators — final approval over operating rules for a dam that affects water levels on more than a dozen lakes.

The move by the Republican-controlled Joint Finance Committee is one of several natural resource issues that have advanced without citizen input this spring during lawmakers' work on the 2015-'16 budget.

While reviewing Gov. Scott Walker's budget, the finance panel also has inserted changes on shoreline zoning, fees charged in state parks and timber harvesting.

In the case of the Rest Lake dam in the Town of Manitowish Waters, Sen. Tom Tiffany (R-Hazelhurst) on May 29 added a provision requiring the Department of Natural Resources to obtain legislative approval before setting new water levels.

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The change is a departure from current practice and was prompted after the DNR in May 2014 [proposed releasing more water into the Manitowish River](#) to improve ecological conditions downstream.

John Gozdziwski, regional director of the DNR, said last week the agency was still trying to strike a compromise between groups with opposing views. With the Legislature now embroiled in the issue, "we're staying mum on that now," he said.

The DNR's current operating order for the dam calls for water levels to rise and fall in ways that run contrary to natural seasonal flows. A key point of conflict: Property owners living downstream now experience low water levels in the spring when snow melt usually creates high water.

The Rest Lake dam is owned by Minnesota-based Xcel Energy. Its beginnings go back to 1887 when the dam was used for logging. The structure has been operating under state orders dating to the 1930s.

The DNR sought to change the current operating order after completing a lengthy [environmental assessment](#), which found that water levels created under existing orders were "highly disruptive to the river ecosystem" in parts of Vilas and Iron counties.

Altogether, the affected waterways have more than a 1,000 homes, 56 lodges and resorts and 11 restaurants, according to the DNR's environmental assessment. The region generates an estimated \$20 million annually from tourism and local residents.

As early as 2002, then-Natural Resources Board member Trygve Solberg of Minocqua, a [grocery store owner](#) and influential figure on hunting and fishing policy, told officials of his concern that low water levels in spring caused by the dam were harming spawning conditions for lake sturgeon.

But property owners above the dam worried the changes would damage their shoreline and upend lake conditions that had been in place for more than 75 years. Water levels are now operated to ensure there is more water above the dam in the summer and lower levels in the winter so property owners don't need to remove docks or boathouses.

Most owners of lakefront property in Wisconsin must remove the structures in the fall to avoid ice damage.

The changes would affect lake levels upstream on Rest, Clear, Fawn, Stone, Spider, Island, Wild Rice, Alder, Manitowish and Little Star lakes.

The lakes are in a popular tourist area where homes of \$500,000 and higher are not uncommon, [according to real estate listings](#).

"My constituents elected me to get results," Tiffany said in an interview last week.

"There are a variety of ways we can accomplish the goal with tools we have as legislators, and this is one way to do it."

Tiffany said he inserted a provision for legislative oversight after the DNR and other parties were not able to strike a compromise, despite a decade of effort and public input.

The draft order from the DNR a year ago "wasn't acceptable," Tiffany said. "It would have destroyed up to millions of dollars of property by having lake levels significantly higher during the winter."

Tiffany and others also argue that water bodies in the region have essentially adjusted to the situation.

"When you have a system in place for 75 years and people have their piers and someone comes along and says we are going to change it, it makes it almost impossible for people to comply," said John Hanson, chairman of the Manitowish Town Board and a member of the [Manitowish Chain Defense Fund](#).

"I think you have a very well-connected constituency," said Helen Sarakinos, policy and advocacy director of the River Alliance of Wisconsin. "It's another attack on a process where the public had a say and now you just pick the winners and losers."

The downstream waters affect Vance, Sturgeon and Benson lakes and the Manitowish River, and farther downstream, the Turtle-Flambeau Flowage.

The Turtle-Flambeau Flowage & Trude Lake Property Owners Association Inc. opposes the action by the finance panel.

"There was a lot of time and taxpayer money that has gone into trying to find the best solution," said [Terry Daulton](#), president of the association.

An artist, she lives on an island in the flowage with her husband.

"And then to have this done in a less than transparent way sets a bad precedent," she said. "What if other water bodies want to have the same thing?"

In addition to the Rest Lake dam issue, the Joint Finance Committee has tucked other items into the budget during deliberations when no public testimony is taken.

They include:

- [Prohibiting counties from imposing stiffer zoning requirements](#) along shorelines than standards in state law.



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About 20 counties — many of them northern counties with an abundance of lakes — have adopted more protective standards than the state's minimum standards as tools to safeguard water quality. If passed, the counties would have to relax their requirements.

■ [Approving price increases for state parks](#), and siding with Walker by shifting reliance to user fees and away from taxpayer support for parks.

■ [Subjecting nearly 37,500 additional acres of state forest land to logging](#).

The plan to increase logging would add fresh supplies of timber for use by the state's paper industry. Environmentalists believe the change could imperil some rivers such as the Bois Brule in Douglas County, a prized trout fishery fished by five presidents. Members of the panel exempted Gov. Knowles State Forest, which is in the district of a Sen. Sheila Harsdorf (R-River Falls).

The actions came under fire from conservationists and Democrats, with Democratic members of the finance committee complaining they didn't see the changes until they were introduced.

"You are going to do it without allowing the public to weigh in and you are going to do it without letting us hear from the industries that are impacted," Rep. Chris Taylor (D-Madison) told the committee on the logging issue.

"This is not the right way to make law."



About Lee Bergquist

Lee Bergquist covers environmental issues and is author of "Second Wind: The Rise of the Ageless Athlete."

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