

1993 Assembly Bill 980

Date of enactment: **March 26, 1994**

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1993 WISCONSIN ACT 167

AN ACT *to repeal* 33.26 (4), 33.30 (3) (d) and 33.30 (3) (g); *to renumber* 33.01 (1), 33.25 (1), 33.30 (3) (c) and 33.30 (3) (e); *to renumber and amend* 30.131, 33.22 (3) and 33.30 (3) (f); *to amend* 29.09 (8m) (b), 30.62 (2) (f), 30.64 (1), 30.77 (1) (a) and (b), 30.77 (3) (title) and (a) to (d), 30.77 (3) (e) (intro.), 1. (intro.) and 2, 30.77 (4), 30.78 (1g), 30.78 (3) (a), 30.81 (1) to (3), 33.01 (9) (b) (intro.), 33.26 (3), 33.27 (3), 33.30 (3) (intro.), (a) and (b), 33.31 (3), 33.32 (2m), 33.475, 60.74 (4) (a), 60.74 (5) (b), 66.119 (1) (a), 66.119 (2) (a), 66.119 (3) (c) and (d), 66.119 (3) (e), 66.12 (title), 66.12 (1) (a), 66.12 (1) (b), 66.12 (1) (c), 66.12 (2), 66.12 (3) (title), 66.12 (3) (b), 165.85 (2) (d), 814.63 (2) and 814.63 (4); and *to create* 30.131 (2), 30.133, 33.01 (1c), 33.01 (1g), 33.01 (9) (ar), 33.01 (9m), 33.22 (3) (b), 33.22 (4r), 33.25 (1) (b), 33.25 (5), 33.27 (1m), 33.28 (2m), 33.30 (4) (intro.), 33.30 (4) (d) and 60.74 (5m) of the statutes, **relating to:** public inland lake protection and rehabilitation districts, local regulation of boating, seaplanes, and boats and other vehicles on icebound inland lakes, enforcement of boating laws, conveyance of riparian rights, town sanitary districts and the selection of town sanitary district commissioners.

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

SECTION 1. 29.09 (8m) (b) of the statutes is amended to read:

29.09 (8m) (b) A person holding a current fishing license and a trolling permit or a permit issued under sub. (9) (c) 1. may fish or troll in the waters of this state using an electric motor with no more than 36 pounds of thrust, notwithstanding any ~~municipal ordinances or local regulations adopted~~ enacted under s. 30.77 (3) that prohibit the use of motor boats on navigable waters.

SECTION 2m. 30.131 of the statutes is renumbered 30.131 (1), and 30.131 (1) (intro.) and (d), as renumbered, are amended to read:

30.131 (1) (intro.) ~~-A-~~ Notwithstanding s. 30.133, a wharf or pier of the type which does not require a permit under ss. 30.12 (1) and 30.13 that abuts riparian land and that is placed in a navigable water by a person other than the owner of the riparian land may not be considered to be an unlawful structure on the grounds that it is not placed and maintained by the owner if all of the following requirements are met:

(d) The wharf or pier has been placed seasonally in the same location at least once every 4 years since the written easement described in ~~sub. (1) par. (a)~~ was recorded.

SECTION 2r. 30.131 (2) of the statutes is created to read:

30.131 (2) Notwithstanding s. 30.133, an easement under sub. (1) may be conveyed if it is conveyed at the same time, and to the same person, that the land to which the easement is appurtenant is conveyed.

SECTION 3. 30.133 of the statutes is created to read:

30.133 Prohibition against conveyance of riparian rights. (1) Beginning on the effective date of this section ... [revisor inserts date], no owner of riparian land that abuts a navigable water may convey, by easement or by a similar conveyance, any riparian right in the land to another person, except for the right to cross the land in order to have access to the navigable water. This right to cross the land may not include the right to place any structure or material in the navigable water.

(2) This section does not apply to riparian land located within the boundary of any hydroelectric project licensed or exempted by the federal government, if the

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conveyance is authorized under any license, rule or order issued by the federal agency having jurisdiction over the project.

SECTION 4. 30.62 (2) (f) of the statutes is amended to read:

30.62 (2) (f) (title) *Local ordinances.* No political subdivision of this state may establish, continue in effect or enforce any ordinance ~~or regulation which that~~ prescribes noise levels for motorboats or which imposes any requirement for the sale or use of marine engines at prescribed noise levels unless the ordinance ~~or regulation~~ is identical to the provisions of this subsection or rules promulgated by the department under this subsection.

SECTION 5. 30.64 (1) of the statutes is amended to read:

30.64 (1) The operator of a duly authorized patrol boat, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law, need not comply with state ~~or local regulations~~ law or local ordinances fixing maximum speed limits when a siren is being sounded and if due regard is given to the safety of other persons in the vicinity. If a light is used in conjunction with a siren it shall be the oscillating or flashing type and be fitted with a blue lens.

SECTION 6. 30.77 (1) (a) and (b) of the statutes are amended to read:

30.77 (1) (a) Enact any ordinance or local regulation requiring local numbering, registration or licensing of boats or any ordinance or local regulation charging fees for inspection, except as provided in sub. (3) ~~(b)~~ (e); or

(b) Except as provided in subs. (2) and (3), enact any ordinance or local regulation ~~which that~~ in any manner excludes any boat from the free use of the waters of this state or ~~which that~~ pertains to the use, operation or equipment of boats or which governs any activity regulated by ss. 30.50 to 30.71.

SECTION 7. 30.77 (3) (title) and (a) to (d) of the statutes are amended to read:

30.77 (3) (title) **ORDINANCES.** (a) Any town, village or city may, in the interest of public health, safety or welfare, ~~adopt local regulations~~ enact ordinances applicable on any waters of this state within its jurisdiction if the ~~regulation is~~ ordinances are not contrary to or inconsistent with this chapter and if the ~~regulation relates~~ ordinances relate to the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71. Except as provided under s. 33.455 (3) (b), no such ~~local regulation which ordinance that~~ pertains to the equipment, use or operation of a boat on an inland lake is valid unless all towns, cities and villages having jurisdiction on the waters of the lake have enacted an identical ~~local regulation ordinance~~.

(am) 1. A public inland lake protection and rehabilitation district may, in the interest of public health, safety or welfare, ~~adopt~~ enact and enforce ~~local regulations~~ ordinances applicable to a lake entirely within its bound-

aries if each town, village and city having jurisdiction on the lake adopts a resolution authorizing the lake district to do so.

2. ~~A local regulation adopted~~ An ordinance enacted under subd. 1 must not be contrary to or inconsistent with this chapter and must relate to the equipment, use or operation of boats or to an activity regulated by ss. 30.60 to 30.71.

3. If a public inland lake protection and rehabilitation district ~~adopts a regulation~~ enacts an ordinance under this paragraph, the lake district ~~regulation ordinance~~ ordinance supersedes all conflicting provisions of a town, village or city ~~regulation adopted~~ ordinance enacted under par. (a) that are applicable to the lake.

4. If a town, village or city having jurisdiction on the lake rescinds the resolution authorizing the public inland lake protection and rehabilitation district to ~~adopt~~ enact and enforce ~~regulations~~ ordinances under this paragraph, the lake district ~~regulations~~ ordinances are void.

(b) Any county may, in the interest of public health, safety or welfare, ~~adopt local regulations~~ enact an ordinance applicable on any river or stream within its jurisdiction if the ~~regulation ordinance~~ ordinance is not contrary to or inconsistent with this chapter, and if the ~~regulation ordinance~~ ordinance relates to the equipment, use or operation of boats or to any activity regulated by ss. 30.60 to 30.71. If a county ~~adopts a regulation~~ enacts an ordinance under this paragraph, the county ~~regulation ordinance~~ ordinance supersedes all provisions of a town, village or city ~~regulation adopted~~ ordinance enacted under par. (a) that is inconsistent with the county ~~regulation ordinance~~.

(c) If any county operates any marina development adjacent to any waters of this state, the authority conferred upon any town, village or city under par. (a) shall exclusively vest in the county in respect to ~~adoption~~ enactment of local ~~regulations~~ ordinances that relate to the development, operation and use of the marina facility and its adjoining waters.

(d) ~~Local regulations~~ Ordinances pertaining to the equipment, use or operation of boats on inland lakes shall be subject to advisory review by the department as provided under this paragraph. Proposed ~~local regulations~~ ordinances subject to review under this paragraph shall be submitted by the local town, village or city clerk or by a public inland lake protection and rehabilitation district to the department at least 60 days prior to final action thereon by the town, village or city governing body. Advisory reports regarding town, village or city or lake district ~~regulation of ordinances that regulate~~ the equipment, use or operation of boats on inland lakes shall be based on consideration of the effect of the ~~local regulation ordinance~~ ordinance on the state from the standpoint of uniformity and enforcement and the effect of the ~~local regulation ordinance~~ ordinance on an affected town, village, city or lake district in view of pertinent local conditions. Advisory reports shall state in what regard such ~~regulations~~ are

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deemed ~~ordinances are considered~~ consistent or inconsistent with this chapter as to public health, safety or welfare and shall be accompanied by suggested changes, if any. No later than 20 days after receipt by the department of proposed ~~local regulations~~ ordinances, the department shall advise the town, village, city or lake district in writing as to the results of its advisory review under this paragraph. The department shall address the results sent to a town, village or city to its clerk.

SECTION 8. 30.77 (3) (e) (intro.), 1. (intro.) and 2 of the statutes are amended to read:

30.77 (3) (e) (intro.) Notwithstanding the prohibition in sub. (1) ~~(b)~~ against ordinances or local regulations that exclude any boat from the free use of the waters of the state:

1. (intro.) A municipality or a public inland lake protection and rehabilitation district that has in effect a ~~local regulation adopted~~ an ordinance under par. (am) may charge boat operators reasonable fees for any of the following:

2. A town, village or city may enact ordinances to regulate the operation, equipment, use and inspection of those boats carrying passengers for hire that operate from a base within its jurisdiction and may charge reasonable fees for such inspection.

SECTION 9. 30.77 (4) of the statutes is amended to read:

30.77 (4) (title) PUBLICIZING ORDINANCES. All ~~local regulations adopted~~ ordinances enacted under sub. (3) shall be prominently posted by the local authority which enacted them at all public access points within the local authority's jurisdiction and also shall be filed with the department.

SECTION 10. 30.78 (1g) of the statutes is amended to read:

30.78 (1g) LAKE DISTRICT ORDINANCES. (a) A public inland lake protection and rehabilitation district ~~may adopt by ordinance,~~ after public hearing ~~and,~~ may enact and enforce local ~~regulations~~ ordinances applicable to a lake entirely within its boundaries if each town, village and city having jurisdiction on the lake adopts a resolution authorizing the lake district to do so.

(b) Ordinances authorized under par. (a) are limited to the type of ~~regulation~~ ordinances authorized under sub. (1) (a) to (c).

(c) If any town, village or city having jurisdiction on the lake rescinds the resolution authorizing the public inland lake protection and rehabilitation district to ~~adopt by ordinance~~ enact and enforce ~~regulations~~ ordinances under this paragraph, the lake district ordinances are void.

SECTION 11. 30.78 (3) (a) of the statutes is amended to read:

30.78 (3) (a) If a public inland lake protection and rehabilitation district ~~adopts~~ enacts an ordinance under sub. (1g), the lake district ordinance supersedes all con-

flicting provisions of a town, village or city ordinance ~~adopted~~ enacted under sub. (1) that are applicable to that lake.

SECTION 12. 30.81 (1) to (3) of the statutes are amended to read:

30.81 (1) TOWN, VILLAGE AND CITY ORDINANCES. Any town, village or city ~~may by ordinance,~~ in the interest of public health or safety, ~~adopt local regulations~~ may enact ordinances that are not inconsistent with this chapter, relative to the use or operation of boats and other craft, including snowmobiles and other motor vehicles, on icebound inland lakes, but ~~the local regulation~~ an ordinance is not valid unless each town, village and city having jurisdiction over any portion of the lake has enacted an identical ~~local regulation~~ ordinance. When the identical ~~local regulations~~ ordinances have been enacted, the ~~regulation~~ ordinance of any individual town, village or city is in effect on the entire lake.

(1m) LAKE DISTRICT ORDINANCES. (a) A public inland lake protection and rehabilitation district ~~may,~~ in the interest of public health or safety, ~~adopt by ordinance~~ may enact and enforce ~~local regulations~~ ordinances applicable to a lake entirely within its boundaries if each town, village and city having jurisdiction on the lake adopts a resolution authorizing the lake district to do so.

(b) An ordinance ~~adopted~~ enacted under par. (a) must be consistent with this chapter and must relate to the use or operation of boats and other craft, including snowmobiles and other motor vehicles, on icebound inland lakes.

(c) If a public inland lake protection and rehabilitation district ~~adopts~~ enacts an ordinance under this subsection, the district ordinance supersedes all conflicting provisions of a town, village or city ordinance ~~adopted~~ enacted under sub. (1) that are applicable to the lake.

(d) If a town, village or city having jurisdiction on the lake rescinds the resolution authorizing the public inland lake protection and rehabilitation district to ~~adopt by ordinance~~ enact and enforce ~~regulations~~ ordinances under this paragraph, the lake district ~~regulations~~ ordinances are void.

(2) COUNTY ORDINANCES. Any county ~~may by ordinance,~~ in the interest of public health or safety, ~~adopt local regulations~~ may enact ordinances not inconsistent with this chapter, relative to the use or operation of boats and other craft, including snowmobiles and other motor vehicles, on any of the icebound inland waters over which it has jurisdiction, except inland icebound lakes ~~which that~~ that are regulated by valid local ordinances enacted pursuant to sub. (1) or (1m).

(3) LIABILITY OF LOCAL GOVERNMENT. All traffic on icebound, inland waters shall be at the risk of the traveler. An ordinance by any municipality or any public inland lake protection and rehabilitation district that is enacted under this section permitting traffic on icebound inland waters shall not render the municipality or lake district ~~adopting~~ enacting the ordinance liable for any accident to

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those engaged in permitted traffic while the ordinance is in effect.

SECTION 13. 33.01 (1) of the statutes is renumbered 33.01 (1r).

SECTION 14. 33.01 (1c) of the statutes is created to read:

33.01 (1c) "Capital costs" means the cost of acquiring equipment and other capital assets, including sewerage system capital costs, for a program undertaken under ss. 33.001 to 33.37.

SECTION 15. 33.01 (1g) of the statutes is created to read:

33.01 (1g) "Costs of operation" means all costs of a program undertaken under ss. 33.001 to 33.37, except capital costs.

SECTION 16. 33.01 (9) (ar) of the statutes is created to read:

33.01 (9) (ar) For the purpose of voting at meetings of the district, a person who is a U.S. citizen and 18 years of age or older and who meets any of the following requirements:

1. The person's name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year.

2. The person owns title to real property but the person's name does not appear as an owner of real property on the tax roll specified in subd. 1.

3. The person is the official representative, officer or employe who is authorized to vote on behalf of a trust, foundation, corporation, association or organization that owns real property in the district.

SECTION 17. 33.01 (9) (b) (intro.) of the statutes is amended to read:

33.01 (9) (b) (intro.) For the purpose of ~~voting at meetings and~~ holding office in the district, a person who is a U.S. citizen and 18 years of age or older and either:

SECTION 18. 33.01 (9m) of the statutes is created to read:

33.01 (9m) "Sewerage system capital costs" has the meaning given for capital costs in s. 66.88 (1).

SECTION 19. 33.22 (3) of the statutes is renumbered 33.22 (3) (a) 1. and amended to read:

33.22 (3) (a) 1. ~~Any~~ Except as provided in par. (b) 1., any district organized under this chapter may have ~~such~~ the powers of a town sanitary district under ss. 60.77 and 60.78, other than the power under s. 60.77 (6) (b), as ~~that~~ are authorized by resolution of the board of the town having the largest portion by valuation of the district. ~~Any town sanitary district powers that a district is authorized to exercise by resolution of the town board shall be exercised under the terms and procedures of this chapter. Requests for such powers shall be made by resolution adopted by the annual or by a special meeting of the district. Prior to adopting such resolution, the town board shall conduct a hearing on the issue of granting such pow-~~

~~ers. The procedures specified under s. 60.71 (4) (b) and (c) shall apply to the hearing.~~

2. The board of commissioners of a district that has the powers of a sanitary district under subd. 1 shall possess the powers of town sanitary district commissioners under s. 60.77 as that are authorized by resolution of the town board, ~~except that the annual or a special meeting of the district shall approve or disapprove by majority vote any work or project having a cost to the district in excess of \$5,000 that adopts the resolution under subd. 1.~~

SECTION 20. 33.22 (3) (b) of the statutes is created to read:

33.22 (3) (b) 1. Beginning on the effective date of this subdivision [revisor inserts date], any district organized under this chapter may assume the powers of a town sanitary district under ss. 60.77 and 60.78, other than the power under s. 60.77 (6) (b), that are authorized by resolution by the annual meeting of the district.

2. The board of commissioners of a district that assumes the powers of a sanitary district under subd. 1 shall possess the powers of town sanitary district commissioners that are authorized by resolution by the annual meeting of the district.

SECTION 21. 33.22 (4r) of the statutes is created to read:

33.22 (4r) If authorized by an annual meeting of a district, the district may appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the district or beneficial to the district.

SECTION 22. 33.25 (1) of the statutes is renumbered 33.25 (1) (a).

SECTION 23. 33.25 (1) (b) of the statutes is created to read:

33.25 (1) (b) For a landowner that is a trust, foundation, corporation, association or organization, a petition under par. (a) shall be signed by an official representative, officer or employe who is authorized to do so by that landowner.

SECTION 24. 33.25 (5) of the statutes is created to read:

33.25 (5) WITHDRAWING FROM PETITION. Any landowner who is considered to have signed the petition under sub. (1) may withdraw from the petition if the landowner files a written notice of the withdrawal with the county clerk at least 10 days before the date of the hearing under s. 33.26.

SECTION 25. 33.26 (3) of the statutes is amended to read:

33.26 (3) ~~Following the hearing, the~~ The committee shall report to the county board within 3 months after the date of the hearing. Within 6 months after the date of the hearing, the board shall issue its order under this subsection. If it appears to the board finds, after consideration of all objections the committee's report and any other evi-

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dence submitted to the board, that the petition is signed by the requisite owners as provided in s. 33.25, that the proposed district is necessary, that the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district, that the property to be included in the district will be benefited by the establishment thereof, and that formation of the proposed district will not cause or contribute to long-range environmental pollution as defined in s. 144.01 (3), the board, by formal order, shall declare its findings, shall establish the boundaries and shall declare the district organized and give it a corporate name by which it shall be known. Thereupon the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out this chapter. If the board does not so find, the board, by order, shall declare its findings and deny the petition.

SECTION 26. 33.26 (4) of the statutes is repealed.

SECTION 27. 33.27 (1m) of the statutes is created to read:

33.27 (1m) If no resident is willing to serve as required under sub. (1), the residency requirement shall be waived for the initial district board of commissioners.

SECTION 28. 33.27 (3) of the statutes is amended to read:

33.27 (3) Within the At any time following the making of the order establishing a district, but no later than 60 days following the expiration of time for appeal to the circuit court, or, if appealed, no later than 60 days following the final judgment in any appeal, the district board shall hold an organizational meeting, shall select officers to serve until the first annual meeting, and may commence conducting the affairs of the district.

SECTION 29. 33.28 (2m) of the statutes is created to read:

33.28 (2m) (a) An annual meeting may permanently increase the number of members of the board of commissioners to be elected under sub. (2) (c) from 3 to 5.

(b) If no resident is willing to be elected as required under sub. (2) (c) for a given term, the residency requirement shall be waived until the end of that term.

SECTION 30. 33.30 (3) (intro.), (a) and (b) of the statutes are amended to read:

33.30 (3) (intro.) At the annual meeting, electors and property owners shall do all of the following:

(a) Elect by secret ballot one or more commissioners to fill vacancies occurring in the elected membership of the district board;

(b) Approve a budget for the coming year; The budget shall separately identify the capital costs and the costs of operation of the district, shall conform with the applicable requirements under s. 65.90 and shall specify any item that has a cost to the district in excess of \$10,000.

SECTION 31. 33.30 (3) (c) of the statutes is renumbered 33.30 (4) (a).

SECTION 32. 33.30 (3) (d) of the statutes is repealed.

SECTION 33. 33.30 (3) (e) of the statutes is renumbered 33.30 (4) (b).

SECTION 34. 33.30 (3) (f) of the statutes is renumbered 33.30 (4) (c) and amended to read:

33.30 (4) (c) Establish compensation, ~~if any,~~ to be paid the district board commissioners.

SECTION 35. 33.30 (3) (g) of the statutes is repealed.

SECTION 36. 33.30 (4) (intro.) of the statutes is created to read:

33.30 (4) (intro.) At the annual meeting, electors and property owners may do any of the following:

SECTION 37. 33.30 (4) (d) of the statutes is created to read:

33.30 (4) (d) Create a nonlapsible fund to finance specifically identified capital costs.

SECTION 38. 33.31 (3) of the statutes is amended to read:

33.31 (3) The district shall levy an annual, irrevocable tax to pay the principal and interest of the indebtedness incurred under subs. (1) and (2) when they are due. The district shall levy this tax without limitation as to rate or amount on all taxable property within the district. The tax shall be reported in accordance with s. 33.30 (3) (e), (4) (a) and shall may not be included nor includable in the operations tax limit of s. 33.30 (3) (e) (4) (a).

SECTION 39. 33.32 (2m) of the statutes is amended to read:

33.32 (2m) Any delinquent special assessment or special charge that is collected under s. 66.60 (15) or (16) (b) shall be levied without limitation as to rate or amount on all taxable property within the district, shall be reported in accordance with s. 33.30 (3) (e) (4) (a) and shall not be included or includable in the operations tax limit of s. 33.30 (3) (e) (4) (a).

SECTION 40. 33.475 of the statutes is amended to read:

33.475 Boating fees. Notwithstanding the prohibition in s. 30.77 (1) against ordinances and local regulations that exclude any boat from the free use of the waters of the state, and in addition to the powers granted the county under ss. 30.77 (3) (e) and 59.07 (42), the county may charge boat operators reasonable fees for the costs of providing other recreational boating services not specified in ss. 30.77 (3) (e) and 59.07 (42).

SECTION 41. 60.74 (4) (a) of the statutes is amended to read:

60.74 (4) (a) If the commissioners of a district have been appointed, a petition requesting that commissioners be elected may be submitted, subject to sub. (5m) (b), to the town board responsible for the selection of commissioners under sub. (1) or (2). The petition shall state whether the petitioners wish to have the first commissioners elected at a special election or at the spring election. The petition shall conform to the requirements of s. 8.40 and shall be signed by qualified electors of the dis-

district equal to at least 20% of the vote cast for governor in the district at the last gubernatorial election.

SECTION 42. 60.74 (5) (b) of the statutes is amended to read:

60.74 (5) (b) A petition conforming to the requirements of s. 8.40 signed by qualified electors of the district equal to at least 20% of the vote cast for governor in the district at the last gubernatorial election, requesting a change to appointment of commissioners, may be submitted to the town board, subject to sub. (5m) (a). Upon receipt of the petition, the town board shall submit the question to a referendum at the next regular spring election or general election, or shall call a special election for that purpose. The inspectors shall count the votes and submit a statement of the results to the commission. The commission shall canvass the results of the election and certify the results to the town board which has authority to appoint commissioners.

SECTION 43. 60.74 (5m) of the statutes is created to read:

60.74 (5m) FREQUENCY OF CHANGES BETWEEN ELECTION AND APPOINTMENT RESTRICTED. (a) If the commissioners have been elected as a result of a petition and election under sub. (4), no petition may be submitted under sub. (5) (b) to change the method of selection from election to appointment within 5 years after the date on which the election of the commissioners was held.

(b) If the commissioners have been appointed as the result of a petition and referendum under sub. (5), no petition may be submitted under sub. (4) (a) to change the method of selection from appointment to election within 5 years after the date on which the results of a referendum held under sub. (5) have been certified under sub. (5) (b).

SECTION 44. 66.119 (1) (a) of the statutes is amended to read:

66.119 (1) (a) The governing body of any county, town, city or village or public inland lake protection and rehabilitation district may by ordinance adopt and authorize the use of a citation to be issued for violations of ordinances, including ordinances for which a statutory counterpart exists.

SECTION 45. 66.119 (2) (a) of the statutes is amended to read:

66.119 (2) (a) Citations authorized under this section may be issued by law enforcement officers of the county, town, city or village or public inland lake protection and rehabilitation district. In addition, the governing body of a county, town, city or village or public inland lake protection and rehabilitation district may designate by ordinance or resolution other county, town, city or village or public inland lake protection and rehabilitation district officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority to issue citations may delegate, with the approval of the governing body, the authority to

employees. Authority delegated to an official or employee shall be revoked in the same manner by which it is conferred.

SECTION 46. 66.119 (3) (c) and (d) of the statutes, as affected by 1993 Wisconsin Act 16, are amended to read:

66.119 (3) (c) If the alleged violator makes a cash deposit and fails to appear in court, the citation may serve as the initial pleading and the violator shall be considered to have tendered a plea of no contest and submitted to a forfeiture, the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1) and any applicable domestic abuse assessment imposed by s. 973.055 (1) not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly or reject the plea. If the court finds the violation meets the conditions in s. 800.093 (1), the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093. If the court accepts the plea of no contest, the defendant may move within 10 days after the date set for the appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty if the defendant shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If the plea of no contest is accepted and not subsequently changed to a plea of not guilty, no costs or fees may be taxed against the violator, but a penalty assessment, a jail assessment and, if applicable, a domestic abuse assessment shall be assessed. If the court rejects the plea of no contest, an action for collection of the forfeiture, penalty assessment, jail assessment and any applicable domestic abuse assessment may be commenced. A city or village or public inland lake protection and rehabilitation district may commence action under s. 66.12 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment, jail assessment and any applicable domestic abuse assessment.

(d) If the alleged violator does not make a cash deposit and fails to appear in court at the time specified in the citation, the court may issue a summons or warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment accordingly if service was completed as provided under par. (e) or the municipality county, town, city, village or public inland lake protection and rehabilitation district may commence an action for collection of the forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment. A city or village or public inland lake protection and rehabilitation district may commence action under s. 66.12 (1) and a county or town may commence action under s. 778.10. The citation may be used as the complaint in the action for the collection of the forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment. If the court con-

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siders the nonappearance to be a plea of no contest and enters judgment accordingly, the court shall promptly mail a copy or notice of the judgment to the defendant. The judgment shall allow the defendant not less than 20 days from the date of the judgment to pay any forfeiture, penalty assessment and jail assessment and any applicable domestic abuse assessment imposed. If the defendant moves to open the judgment within 6 months after the court appearance date fixed in the citation, and shows to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect, the court shall reopen the judgment, accept a not guilty plea and set a trial date.

SECTION 47. 66.119 (3) (e) of the statutes is amended to read:

66.119 (3) (e) A judgment may be entered under par. (d) if the summons or citation was served as provided under s. 968.04 (3) (b) 2. or by personal service by a municipal county, town, city, village or public inland lake protection and rehabilitation district employe.

SECTION 48. 66.12 (title) of the statutes is amended to read:

66.12 (title) Actions for violation of ordinances.

SECTION 49. 66.12 (1) (a) of the statutes is amended to read:

66.12 (1) (a) An action for violation of a ~~municipal an ordinance, resolution or bylaw enacted by a city, village or public inland lake protection and rehabilitation district~~ is a civil action. All forfeitures and penalties imposed by any ordinance, ~~resolution or bylaw of the municipality~~ city, village or public inland lake protection and rehabilitation district, except as provided in ss. 345.20 to 345.53, may be collected in an action in the name of the ~~municipality~~ city or village before the municipal court or in an action in the name of the city, village or public inland lake protection and rehabilitation district before a court of record. If the action is in municipal court, the procedures under ch. 800 apply and the procedures under this section do not apply. If the action is in a court of record, it shall be commenced by warrant or summons under s. 968.04 or, if applicable, by citation under s. 778.25 or 778.26. ~~The marshal, constable or police~~ A law enforcement officer may arrest the offender in all cases without warrant under s. 968.07. The affidavit where the action is commenced by warrant may be the complaint. The affidavit or complaint shall be sufficient if it alleges that the defendant has violated an ordinance, ~~resolution or bylaw of the municipality~~, specifying the ~~same~~ ordinance or bylaw by section, chapter, title or otherwise with sufficient plainness to identify the ~~same~~ ordinance or bylaw. The judge may release a defendant without bail or may permit him or her to execute an unsecured appearance bond upon arrest. In arrests without a warrant or summons a statement on the records of the court of the offense charged shall stand as the complaint unless the court directs that formal complaint be issued.

In all actions under this paragraph the defendant's plea shall be guilty, not guilty or no contest and shall be entered as not guilty on failure to plead, which plea of not guilty shall put all matters in the case at issue, any other provision of law notwithstanding.

SECTION 50. 66.12 (1) (b) of the statutes, as affected by 1993 Wisconsin Act 16, section 1643, is amended to read:

66.12 (1) (b) Local ordinances, except as provided in this paragraph or ss. 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any or all violations under those ordinances, and may designate the manner in which the stipulation is to be made and fix the penalty to be paid. When a person charged with a violation for which stipulation of guilt or no contest is authorized makes a timely stipulation and pays the required penalty and pays the penalty assessment imposed by s. 165.87, the jail assessment imposed by s. 302.46 (1) and any applicable domestic abuse assessment imposed by s. 973.055 (1) to the designated official, the person need not appear in court and no witness fees or other additional costs may be taxed unless the local ordinance so provides. A court appearance is required for a violation of a local ordinance in conformity with s. 346.63 (1). The official receiving the penalties shall remit all moneys collected to the treasurer of the ~~county, city, town or village~~ or public inland lake protection and rehabilitation district in whose behalf the sum was paid, except that all jail assessments shall be remitted to the county treasurer, within 20 days after its receipt by him or her; and in case of any failure in the payment, the treasurer may collect the payment of the officer by action, in the name of the office, and upon the official bond of the officer, with interest at the rate of 12% per year from the time when it should have been paid. In the case of the penalty assessment imposed by s. 165.87, the driver improvement surcharge imposed by s. 346.655 (1) and any applicable domestic abuse assessment imposed by s. 973.055 (1), the treasurer of the ~~county, city, town or village~~ or public inland lake protection and rehabilitation district shall remit to the state treasurer the sum required by law to be paid on the actions so entered during the preceding month on or before the first day of the next succeeding month. The governing body of the ~~county, city, town, village or other municipal subdivision~~ public inland lake protection and rehabilitation district shall by ordinance designate the official to receive the penalties and the terms under which the official shall qualify.

SECTION 51. 66.12 (1) (c) of the statutes is amended to read:

66.12 (1) (c) If the circuit court finds a defendant guilty in a forfeiture action based on a violation of a ~~municipal an~~ ordinance, the court shall render judgment as provided under ss. 800.09 and 800.095. If the court finds the violation meets the conditions in s. 800.093 (1)

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(a) and (b), the court may hold a hearing to determine if restitution shall be ordered under s. 800.093.

SECTION 52. 66.12 (2) of the statutes is amended to read:

66.12 (2) APPEALS. Appeals in actions in courts of record to recover forfeitures and penalties imposed by any ordinance, ~~resolution~~ or bylaw of the ~~municipality a city, village or public inland lake protection and rehabilitation district~~ may be taken either by the defendant or by the ~~municipality city, village or public inland lake protection and rehabilitation district~~. Appeals from circuit court in actions to recover forfeitures for ordinances enacted under ch. 349 shall be to the court of appeals. An appeal by the defendant shall include a bond to the ~~municipality city, village or public inland lake protection and rehabilitation district~~ with surety, to be approved by the judge, conditioned that if judgment is affirmed in whole or in part the defendant will pay the judgment and all costs and damages awarded against the defendant on the appeal. If the judgment is affirmed in whole or in part, execution may issue against both the defendant and the surety.

SECTION 53. 66.12 (3) (title) of the statutes is amended to read:

66.12 (3) (title) COSTS AND FEES; FORFEITURES TO GO TO TREASURY.

SECTION 54. 66.12 (3) (b) of the statutes is amended to read:

66.12 (3) (b) All forfeitures and penalties recovered for the violation of any ordinance, ~~resolution~~ or bylaw of any city ~~or~~ village ~~or public inland lake protection and rehabilitation district~~ shall be paid into the city ~~or~~ village ~~or public inland lake protection and rehabilitation district~~ treasury for the use of the city ~~or~~ village ~~or public inland lake protection and rehabilitation district~~, except as otherwise provided in par. (c), sub. (1) (b) and s. 165.87. The judge shall report and pay into the treasury, quarterly, or at more frequent intervals if so required, all moneys collected belonging to the city ~~or~~ village ~~or public inland lake protection and rehabilitation district~~, which report shall be certified and filed in the office of the treasurer;

and the judge shall be entitled to duplicate receipts for such moneys, one of which he or she shall file with the city or village clerk.

SECTION 56. 165.85 (2) (d) of the statutes is amended to read:

165.85 (2) (d) "Political subdivision" means counties, cities, villages ~~and~~ towns ~~and public inland lake protection and rehabilitation districts~~.

SECTION 57. 814.63 (2) of the statutes is amended to read:

814.63 (2) Upon the disposition of a forfeiture action in circuit court for violation of a ~~municipal county, town, city, village or public inland lake protection and rehabilitation district~~ ordinance, except an action for a safety belt use violation under s. 347.48 (2m), the ~~municipality county, town, city, village or public inland lake protection and rehabilitation district~~ shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

SECTION 58. 814.63 (4) of the statutes is amended to read:

814.63 (4) In forfeiture actions in which a ~~municipality county, town, city, village or public inland lake protection and rehabilitation district~~ prevails, costs and disbursements shall be allowed to the ~~municipality county, town, city, village or public inland lake protection and rehabilitation district~~ subject only to sub. (2) and such other limitation as the court may direct.

SECTION 59. Initial applicability. (1) PETITIONS. The treatment of sections 33.01 (9) (ar) and (b) (intro.) and 33.25 (1) (b) and (5) of the statutes first applies to petitions filed with the county clerk on the effective date of this subsection.

(2) HEARINGS. The treatment of section 33.26 (3) and (4) of the statutes first applies to hearings on the establishment of public inland lake protection and rehabilitation districts that are held on the effective date of this subsection.

SECTION 60. Effective date. This act takes effect on January 1, 1994, or on the day after publication, whichever is later.