

1 (9) HEARINGS. (a) *Ordinances*. A local governmental unit shall hold a public
2 hearing under this subsection before enacting, amending, or repealing an ordinance. ✓

3 (b) *Resolutions*. A local governmental unit shall hold a public hearing under
4 this subsection before rescinding a resolution that is adopted under sub. (4) (d). ✓

5 (c) *Procedures*. 1. A public hearing under this subsection shall be held at least
6 30 days before an ordinance is enacted, amended, or repealed or a resolution is
7 rescinded. If the action on an ordinance or resolution is proposed by more than one
8 local governmental unit, the local governmental units may publish the notice and
9 conduct the public hearing jointly. ✓

10 2. At least 30 days before the public hearing, a local governmental unit shall
11 publish a class 1 notice, under ch. 985, of the hearing under this subsection in one
12 or more newspapers likely to give notice of the hearing in all cities, villages, towns,
13 and counties that have shoreline of the lake or stream within their boundaries. ✓

14 3. A local governmental unit that publishes a notice of a public hearing under
15 subd. 1. shall send a copy of the notice, at least 30 days before the hearing, to the
16 department, to each city, village, town, and county that has shoreline of the lake or
17 stream within its boundaries and, if the proposal relates to an inland lake, to each
18 lake association for the lake and each public inland lake protection and
19 rehabilitation district for the lake. ✓

NOTE: This provision expands and harmonizes the current requirements for a public hearing. This bill requires a public hearing each time an ordinance is proposed to be enacted, amended, or repealed, or a resolution rescinded, rather than the more limited requirements in the current statute. A public hearing must be held under this bill for all ordinances, rather than only those affecting inland lakes, as under the current statute. This bill applies the public hearing requirement to the amendment or repeal of an ordinance, rather than to only the enactment of an ordinance, as under the current statute. This bill requires all local governmental units to give notice of the public hearing, rather than only the one with the most shoreline, as under the current statute. ✓

1 (10) REVIEW BY DEPARTMENT. (a) *Review required.* 1. The department shall
2 review each ordinance or amendment to an ordinance proposed under this section
3 to determine if the ordinance complies with this section. ✓

NOTE: This expands the scope of DNR review so that it applies to all ordinances enacted or amended under s. 30.77. The current statute applies DNR review only to ordinances regarding the equipment, use or operation of boats and only to inland lakes. This expands DNR review to apply to streams and outlying waters as well, and to any other ordinances regarding boating.

4 2. This paragraph does not apply to the repeal of an ordinance. ✓

5 (b) *Copy of ordinance to department.* The local governmental unit shall submit
6 a proposed ordinance to the department at least 60 days prior to final action on the
7 ordinance. ✓

8 (c) *Report by department.* The department shall prepare a report of its review.
9 The report shall include findings regarding compliance of the ordinance with this
10 section. If the department determines that the ordinance does not comply with this
11 section, the report shall contain suggestions for changes that would bring the
12 ordinance into compliance with this section. ✓

13 (d) *Deadline for review.* The department shall complete its review within 20
14 days after receiving a copy of a proposed ordinance under par. (b). ✓

15 (e) *Distribution of report.* The department shall send a copy of any report
16 prepared under par. (c) to each local governmental unit affected by the ordinance. ✓

17 (f) *Modifications.* If a local governmental unit modifies an ordinance following
18 receipt of a department report under par. (c), whether or not the modification is in
19 response to the department report, the local governmental unit shall submit the
20 modified, proposed ordinance in final form to the department prior to enactment.
21 The department is not required to review the modified ordinance under this

1 subsection if the modifications relate to the subject matter of the ordinance
2 submitted to the department under par. (b).

NOTE: This provision is not expressly stated in the current statute. However, it is implied by the statement in current s. 30.77 (3) (d) that local regulations must be submitted to the DNR at least 60 days prior to "final action" by the local governmental unit.

3 (g) *Validity of ordinance.* 1. An ordinance is not valid unless the local
4 governmental unit complies with all procedural requirements imposed on local
5 governmental units by this section and the contents of the ordinance comply with
6 this section.

NOTE: This provides an express statement of the requirement for a local governmental unit to comply with procedural and substantive requirements of s. 30.77. This requirement can be reasonably implied from the language in the current statute. Ordinances must also conform to the constitutional public trust in navigable waters.

7 2. A department report under this subsection is advisory only and does not
8 affect the validity of an ordinance.

NOTE: This provision is new. Although not expressed in the current statute, this appears to be the legal effect of DNR review. The phrase "advisory review" is used in current s. 30.77 (3) (d).

9 (h) *Filing copies.* A local governmental unit that enacts, amends, or repeals an
10 ordinance under this section shall file a signed copy of the ordinance, amendment,
11 or repeal with the department. The department shall retain a copy of each ordinance,
12 amendment, or repeal submitted under this paragraph.

13 (11) OBJECTION PROCEDURE. (a) Any of the following may file with the
14 department an objection to an ordinance enacted under this section, on the grounds
15 that any portion of the ordinance does not comply with this section:

- 16 1. A local governmental unit.
- 17 2. A qualified lake association, as defined in s. 281.68 (1) (b).
- 18 3. A nonprofit conservation organization, as defined in s. 23.0955 (1).

1 4. A local governmental unit, as defined in s. 66.0131 (1) (a), that is established
2 for the purpose of lake management.

3 5. A nonstock corporation organized under ch. 181 whose primary purpose is
4 to promote boating activities. ✓

5 6. The department. ✓

NOTE: The current statute allows an objection on the grounds that an ordinance is contrary to or inconsistent with ch. 30. The reference to all of ch. 30 does not appear to be appropriate because s. 30.77 relates only to a local authority to enact ordinances related to ss. 30.50 to 30.71. Therefore, this reference is changed to “this section” which incorporates the new definition of “state law”.

The grounds for objection in current law are that the ordinance is “contrary to or inconsistent with” the statute. The proposal above allows an objection on the grounds that the ordinance “does not comply with” the statute. This expands the scope of the current grounds for objection by allowing objection based on any failure of a local governmental unit to comply with s. 30.77, such as failure to comply with procedural requirements.

The current statute allows an objection to an ordinance that applies to a river or stream on the grounds that the ordinance is “not necessary for public health, safety, welfare or the public’s interest in preserving the state’s natural resources”. This standard sets a much lower threshold for challenging ordinances, making it much more difficult for a local governmental unit to defend the ordinance. As redrafted, the standards in this section provide sufficient guidance and limitations for protecting the public by reference to compliance with s. 30.77. Therefore, the “not necessary” standard is deleted.

6 (b) 1. Upon receipt of an objection under par. (a), the department shall order
7 a hearing on the objection under ch. 227. The hearing shall be a contested case
8 hearing, and the administrator of the division of hearings and appeals in the
9 department of administration shall assign a hearing examiner to the hearing as
10 provided in s. 227.43. Persons who are not parties to the contested case may present
11 testimony and evidence at the hearing.

12 2. The hearing examiner shall issue an order on the objection within 90 days
13 after the date on which the hearing is ordered. ✓

14 3. If the hearing examiner finds in favor of the objecting party, the hearing
15 examiner shall issue an order declaring the ordinance or a portion of it void and
16 prohibiting the enforcement of the ordinance or that portion of the ordinance. ✓

1 (c) The procedure under this subsection does not supersede any other legal
2 right or procedure that a person has to contest an ordinance enacted under this
3 section. ✓

4 SECTION 306. 30.771 of the statutes is created to read:

5 **30.771 Emergency powers; local regulation of boating.** (1) A sheriff may
6 issue an emergency regulation applicable to boating on any waters of this state
7 within the sheriff's county. The emergency regulation shall be issued in written
8 form, and the sheriff shall include with the emergency regulation findings of fact that
9 support the need for the emergency regulation. ✓ The emergency regulation may
10 establish slow-no-wake zones and may prohibit boats from designated areas. The
11 emergency regulation may not be more restrictive than is necessary to address the
12 emergency condition. The emergency regulation shall apply for a term specified by
13 the sheriff, not to exceed 30 days. The sheriff may reissue an emergency regulation,
14 for a term not to exceed 30 days, upon expiration of any prior emergency regulation
15 or reissued emergency regulation. The sheriff shall publish and post the emergency
16 regulation in a manner likely to give notice to users of the waters of this state that
17 are subject to the emergency regulation and may mark or require the marking of the
18 waters subject to the regulation by regulatory markers, if appropriate for the
19 purpose of the regulation. ✓

20 (2) A city, village, or town may issue an emergency regulation in connection
21 with a construction project in any waters of this state that are within the jurisdiction
22 of or adjacent to the city, village, or town. The city, village, or town shall issue the
23 emergency regulation in writing. The emergency regulation may establish a
24 slow-no-wake zone and may prohibit boats from designated areas. ✓ The emergency
25 regulation may not be more restrictive than is necessary to address the conditions

1 related to the construction project. The emergency regulation shall apply for the
2 duration of the construction project or 30 days, whichever is less. If necessary, the
3 city, village, or town may reissue the emergency regulation upon expiration of the
4 prior emergency regulation. The city, village, or town shall publish and post the
5 emergency regulation in a manner likely to give notice to users of the waters of this
6 state that are subject to the emergency regulation, and shall mark or require the
7 marking of the waters subject to the regulation by appropriate regulatory markers. ✓

8 (3) Emergency regulations under this section are not subject to the procedures
9 in s. 30.77, except that objection may be made to emergency regulations under this
10 section using the procedures in s. 30.77 (11). ✓

11 (4) If waters subject to emergency regulations under sub. (1) or (2) ✓ are marked
12 with regulatory markers, the sheriff or the city, village, or town shall obtain
13 department approval of the regulatory markers. ✓ The sheriff or the city, village, or
14 town may place the markers after obtaining department approval or, in cases
15 requiring immediate placement of markers, the sheriff or the city, village, or town
16 may place the markers and immediately notify the boating law administrator of the
17 department that the emergency regulation is in effect and the markers have been
18 placed. ✓ The department shall approve or decline to approve a regulatory marker
19 under sub. (1) or (2) ✓ within 2 working days after receiving a request for approval from
20 the sheriff or the city, village, or town. If the department declines to approve a
21 regulatory marker after the sheriff or the city, village, or town has placed the marker,
22 the marker shall be immediately removed. ✓

NOTE: This section codifies what apparently is the current practice of sheriffs in this state, and places some limits on the emergency regulations. Although the emergency regulations are not subject to the procedures and standards for local ordinances under s. 30.77, there should be a means to object to unreasonable emergency regulations. This

provision allows an objection using the procedures in s. 30.77. However, the grounds for objection are the standards in new s. 30.771, rather than the standards in s. 30.77.

1 **SECTION 307.** 30.772 (3) (d) 4. of the statutes is amended to read:

2 30.772 (3) (d) 4. The provisions and procedures of ch. 68 shall apply to the grant
3 issuance, denial, or revocation of a mooring permit by a municipality.

4 **SECTION 308.** 30.772 (4) of the statutes is amended to read:

5 30.772 (4) DEPARTMENT PERMITS. The department may issue a permit
6 authorizing the placement or use of a mooring beyond 150 feet from the ordinary
7 high-water mark if the municipality does not have an established permit procedure,
8 or more than 200 feet from the ordinary high-water mark if sub. (3) (a) 5. applies.

9 The department may place conditions or restrictions on any permit issued under this
10 subsection. The decision of the department under this subsection is subject to the
11 time limits in s. 30.251. ~~30.251~~ 30.221

12 **SECTION 309.** 30.78 (1) (intro.) of the statutes is repealed and recreated to read:

13 30.78 (1) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit
14 that has authority to enact an ordinance under s. 30.77 (4) may, after public hearing,
15 by ordinance do any of the following:

16 **SECTION 310.** 30.78 (1g) of the statutes is repealed.

NOTE: The amendments to s. 30.78 expand the scope of local regulation of seaplanes, so that any local governmental unit may also enact ordinances for seaplanes. This authority applies to the same waters that may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate seaplanes, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

17 **SECTION 311.** 30.78 (1r) and (2) of the statutes are amended to read:

18 30.78 (1r) NOTICE TO DEPARTMENT OF TRANSPORTATION. The department of
19 transportation shall receive timely notice of the public hearing required under subs.
20 sub. (1) and (1g) and shall have an opportunity to present testimony on the proposed

1 ordinance. An ordinance under sub. (1) (b) ~~or (1g)~~ that regulates or restricts an area
2 of surface waters for landing or take-off purposes shall be filed with the department
3 of transportation.

4 **(2) MARKING OF REGULATED OR RESTRICTED AREAS.** Any ordinance that regulates
5 or restricts an area of surface waters under sub. (1) ~~or (1g)~~ shall direct that the area
6 be marked by standard marking devices.

7 **SECTION 312.** 30.78 (3) of the statutes is repealed.

8 **SECTION 313.** 30.79 (1) (a) of the statutes is repealed.

NOTE: The definition of "local governmental unit" in s. 30.79 (1) (a) is no longer
necessary. See s. 30.50 (4u) as created in this bill.

9 **SECTION 314.** 30.79 (1) (b) 1. and 2. of the statutes are amended to read:

10 30.79 (1) (b) 1. A unit within an existing municipal law enforcement agency or
11 a separate municipal agency, created by a municipality or by a number of
12 municipalities riparian to a single body of water for the purpose of enforcing ss. 30.50
13 to 30.80 and any ~~rules promulgated and ordinances enacted under ss. 30.50 to 30.80~~
14 s. 30.77 and for the purpose of conducting search and rescue operations.

15 2. A unit created by ~~a public inland lake protection and rehabilitation district,~~
16 ~~by a lake sanitary district or by a number of~~ one or more local governmental units
17 riparian to a single lake, ~~at least one of which is a lake district or a lake sanitary~~
18 ~~district,~~ for the purposes specified in subd. 1.

19 **SECTION 315.** 30.79 (2), (3) and (4) of the statutes are amended to read:

20 30.79 (2) STATE AID. In order to protect public rights in navigable waters and
21 to promote public health, safety, and welfare and the prudent and equitable use of
22 the navigable waters of the state, a system of state aids for local enforcement of ss.

1 30.50 to 30.80 and ordinances enacted under ss. ~~30.50 to 30.80~~ s. 30.77 and for
2 conducting search and rescue operations is established.

3 (3) ENFORCEMENT POWERS. Officers patrolling the waters as part of a water
4 safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50
5 to 30.80 or any rules promulgated or ordinances enacted under ss. ~~30.50 to 30.80~~ s.
6 30.77 and for conducting search and rescue operations, if the officers have reasonable
7 cause to believe there is a violation of the sections, ~~rules~~ or ordinances or the stopping
8 and boarding of any boat is essential to conduct a search and rescue operation.

9 (4) JURISDICTION. Upon petition by any local governmental unit or group of local
10 governmental units operating or intending to operate a water safety patrol unit, the
11 department shall, if it finds that it is in the interest of efficient and effective
12 enforcement to do so, by rule define the waters which may be patrolled by the unit,
13 including waters lying within the territorial jurisdiction of some other ~~town~~ city,
14 village, or city town if the town city, village, or city town consents to the patrol of its
15 waters. Such consent is not required if the petitioner is a local governmental unit
16 containing a population of 5,000 or more, bordering upon the waters to be affected
17 by the rule in counties having a population of less than 500,000. Officers patrolling
18 the waters as part of the water safety patrol unit shall have the powers of sheriff in
19 enforcing ss. 30.50 to 30.80, or ~~rules promulgated~~ or ordinances enacted under ss.
20 ~~30.50 to 30.80~~ s. 30.77 and in conducting search and rescue operations, on any of the
21 waters so defined, whether or not the waters are within the jurisdiction of the local
22 governmental unit for other purposes.

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority
of DNR to promulgate rules under this subchapter. The specific reference to DNR
rule-making authority is repealed. ✓

23 ✓ **SECTION 316.** 30.80 (2) of the statutes is amended to read:

1 30.80 (2) Any person violating s. 30.68 (2) shall be fined not more than \$200
2 or imprisoned for not more than 6 months or both. ~~Any person violating s. 30.68 shall~~
3 ~~be required to obtain a certificate of satisfactory completion of a safety course under~~
4 ~~s. 30.74 (1).~~

NOTE: The stricken language duplicates s. 30.80 (2m).

5 **SECTION 317.** 30.80 (3) of the statutes is amended to read:

6 30.80 (3) Any person violating s. 30.71 ~~or any rule promulgated under that~~
7 ~~section~~ shall forfeit not more than \$100 for the first offense and shall forfeit not more
8 than \$200 upon conviction of the same offense a 2nd or subsequent time within one
9 year.

10 **SECTION 318.** 30.80 (4) of the statutes is amended to read:

11 30.80 (4) Any person violating any provision of s. 30.72 ~~or the rules~~
12 ~~promulgated under s. 30.72~~ shall forfeit not more than \$100 for the first offense and
13 shall forfeit not more than \$200 upon conviction of the same offense a 2nd or
14 subsequent time within one year.

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority of DNR to promulgate rules under this subchapter. The specific reference to DNR rule-making authority in s. 30.80 (3) and (4) is deleted.

15 **SECTION 319.** 30.81 (1) (intro.) of the statutes is repealed and recreated to read:

16 30.81 (1) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit
17 that has authority to enact an ordinance under s. 30.77 (4) may, after public hearing,
18 enact an ordinance that is not inconsistent with this chapter, relative to the use or
19 operation of boats and other craft, including snowmobiles and other motor vehicles,
20 on icebound inland waters.

21 **SECTION 320.** 30.81 (1m) and (2) of the statutes are repealed.

22 **SECTION 321.** 30.81 (3) of the statutes is amended to read:

1 30.81 (3) LIABILITY OF LOCAL GOVERNMENT. All traffic on icebound, inland waters
2 shall be at the risk of the traveler. An ordinance ~~by any municipality or any public~~
3 ~~inland lake protection and rehabilitation district that is~~ enacted under this section
4 permitting traffic on icebound inland waters shall not render the ~~municipality or~~
5 ~~lake district~~ local governmental unit enacting the ordinance liable for any accident
6 to those engaged in permitted traffic while the ordinance is in effect. ✓

7 **SECTION 322.** 30.81 (4) of the statutes is amended to read:

8 30.81 (4) ENFORCEMENT. A law enforcement officer of a ~~town, village or city~~ local
9 governmental unit that is ~~subject to~~ enacts an ordinance enacted under sub. (1) or
10 (1m) has the powers of sheriff in enforcing the ordinance on any portion of the ~~lake~~
11 waters, whether or not that portion of the ~~lake~~ waters is within the jurisdiction of the
12 ~~town, village or city~~ local governmental unit for other purposes.

NOTE: The amendments to s. 30.81 expand the scope of local regulation of icebound waters, so that any local governmental unit that has jurisdiction and current authority to enact local ordinances under s. 30.77 may also enact ordinances for icebound waters. This authority applies to the same waters that may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate icebound waters, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

13 **SECTION 323.** 30.90 (1) of the statutes is amended to read:

14 30.90 (1) As long as ~~Lake Lions~~ Lake in the town of Alban, Portage County,
15 continues to be used as a recreational area for the physically handicapped, all of the
16 following shall apply:

17 (a) Neither the county or town may provide, nor shall any subdivider be
18 required or permitted to provide, public access to ~~Lake Lions~~ Lake, if the public
19 access will in any way interfere with the use of the lake as a recreational area for the
20 physically handicapped.

Insert
10-13

1 (b) The department may stock ~~Lake Lions Lake~~ [✓] Lake with fish, any provision in ch.
2 29 to the contrary notwithstanding.

3 **SECTION 324.** 30.90 (2) of the statutes is amended to read:

4 30.90 (2) The town board of the town of Alban shall have jurisdiction over ~~Lake~~
5 Lions Lake and may enact and enforce any ordinances necessary to prevent any
6 deterioration of the waters of ~~Lake Lions Lake~~ [✓] or any nuisances that would adversely
7 affect the public health or safety of the ~~people~~.

30.94

8 **SECTION 325.** Subchapter VI (title) of chapter 30 [precedes ~~30.95~~ ^{30.94}] of the
9 statutes is created to read:

10 **CHAPTER 30**

11 **SUBCHAPTER VI**

12 **ENFORCEMENT; PENALTIES** ✓

13 **SECTION 326.** 30.96 (title) of the statutes is created to read:

14 **30.96 (title) Infringement of public rights.** ✓

15 **SECTION 327.** 30.98 (title) of the statutes is created to read:

16 **30.98 (title) Penalties.** ✓

17 ~~SECTION # 30.98 (1) (title) of the statutes is created to read: 30.98 (1)~~

17 **SECTION 328.** 30.98 (3) (title) of the statutes is created to read: (title) **OBSTRUCTIONS** ✓

18 30.98 (3) (title) **VIOLATION OF PERMIT, CONTRACT, OR ORDER.** ✓

19 **SECTION 329.** 31.03 of the statutes is amended to read:

20 **31.03 Permits for the Lower Wisconsin State Riverway.** For activities in

21 the Lower Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining~~ ✓

22 the department shall include a condition in a permit issued under this chapter that ✓

23 the person obtaining the permit may not start or engage in the activity for which the

24 permit was issued unless the person obtains any permit that is required for the

25 activity under s. 30.44 or 30.445.

1 **SECTION 330.** 31.93 of the statutes is created to read:

2 **31.93 Enforcement of forfeitures.** The district attorney of the appropriate
3 county or, at the request of the department, the attorney general shall institute
4 proceedings to recover any forfeiture imposed or to abate any nuisance committed
5 under this chapter. ✓

6 **SECTION 331.** 33.475 of the statutes is amended to read:

7 **33.475 Boating fees.** Notwithstanding the prohibition in s. 30.77 (1) against ✓
8 ordinances and local regulations that exclude any boat from the free use of the waters
9 of the state (2), and in addition to the powers granted the county under ss. 30.77 (3)
10 (e) (5) (f) 5. to 7. and 59.54 (2), the county may charge boat operators reasonable fees
11 for the costs of providing other recreational boating services not specified in ss. 30.77
12 (3) (e) (5) (f) 5. to 7. and 59.54 (2).

13 **SECTION 332.** 60.782 (1m) of the statutes is created to read:

14 **60.782 (1m)** For purposes of this section, a town sanitary district shall
15 determine footage of shoreline by use of a map wheel on the U.S. geological survey
16 7 1/2 minute series map. ✓

17 **SECTION 333.** 60.782 (2) (d) of the statutes is amended to read: ✓

18 **60.782 (2) (d)** Lease or acquire, including by condemnation, any real property
19 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
20 or ~~30.275~~ 30.359 (4). ✓

21 **SECTION 334.** 200.35 (4) of the statutes is amended to read: ✓

22 **200.35 (4) DELIVERY OF DEEDS; ~~DNR~~ DEPARTMENT OF NATURAL RESOURCES PERMITS.**
23 Upon application of the commission the proper officers of this state shall execute,
24 acknowledge, and deliver to the proper officers of the district any deed or other
25 instrument as that may be proper for the purpose of fully confirming the grants

1 under subs. (2) and (3). Notwithstanding s. ~~30.05~~ [✓] 30.233, the district may not
2 commence an action under sub. (2) or (3) without obtaining all of the necessary
3 permits from the department of natural resources under ch. 30.

4 **SECTION 335.** 236.16 (3) (d) (intro.) of the statutes, as affected by 2003
5 Wisconsin Act 118, is amended to read:

6 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
7 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
8 petition the city, village, town or county that owns the public access to construct
9 shoreline erosion control measures. Subject to par. (e), the city, village, town or
10 county shall construct the requested shoreline erosion control measures or request
11 the department of natural resources to determine the need for shoreline erosion
12 control measures. Upon receipt of a request under this paragraph from a city, village,
13 town or county, the department of natural resources shall follow the notice and
14 hearing procedures in s. ~~30.208~~ [✓] 30.244 (3) to (5). Subject to par. (e), the city, village,
15 town or county shall construct shoreline erosion control measures as required by the
16 department of natural resources if the department of natural resources determines
17 all of the following:

18 **SECTION 336.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

19 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
20 withdrawal or increase the amount of an existing withdrawal, the person shall apply
21 to the department under s. 30.18, ~~281.17 (1)~~ [✓] or 281.41 for a new permit or approval
22 or a modification of its existing permit or approval if either of the following conditions
23 applies:

24 **SECTION 337.** 293.65 (2) (b) of the statutes is amended to read:

as affected by 2003 Wisconsin Act 118

281.34

1 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
2 determine the minimum stream flow or lake level necessary to protect public rights,
3 the minimum flow or level necessary to protect the rights of affected ~~riparians~~
4 riparian owners, the point downstream beyond which riparian rights are not likely
5 to be injured by the proposed diversion, and the amount of surplus water, as defined
6 in ~~s. 30.01 (6d)~~, if any, at the point of the proposed diversion.

7 **SECTION 338.** 299.05 (1) of the statutes is amended to read:

8 299.05 (1) The department shall promulgate rules under which the
9 department refunds fees paid by an applicant for a permit, license, or approval that
10 is issued under ~~ss. 30.10 to 30.205 or 30.21 to 30.27~~, subch. II of ch. 30, except ss.
11 30.221 and 30.223; chs. 280 to 292; or subch. II of ch. 295 and that is of a type specified
12 in the rule if the department fails to make a determination on the application within
13 the time limit specified in the rule for that type of permit, license or approval. The
14 rules under this subsection do not apply to an applicant for a license or other approval
15 related to mining, as defined in s. 293.01 (9), prospecting, as defined in s. 293.01 (18),
16 or nonmetallic mining, as defined in s. 295.11 (3).

17 **SECTION 339.** 299.05 (2) (a) of the statutes, as affected by 2003 Wisconsin Act

18 118, is amended to read:

19 299.05 (2) (a) Permits, ^{plain}contracts, and other approvals under ~~ss. 30.10 to 30.205~~
20 ~~and 30.21 to 30.27~~ subch. II of ch. 30, except ss. 30.221 and 30.223.

21 ★ **SECTION 340.** 709.03 (form) C. 27. of the statutes is renumbered 709.03 (form)

22 C. 28.

23 **SECTION 341.** 709.03 (form) C. 27. of the statutes is created to read:

End
114-
20

1 **709.03** (form)

2 C. 27. I am aware that the property is located in a
3 drainage district or that legally binding
4 obligations may require that I contribute to
5 the cost of draining the property.

NOTE: This adds a provision to the seller's disclosure form for residential real estate transactions.

6 **SECTION 342. Nonstatutory provisions.**

7 (1) ADVISORY COMMITTEE; RULES ON NAVIGABILITY. The department of natural
8 resources shall appoint an advisory committee under section 227.13 of the statutes
9 to advise and assist the department with respect to the promulgation of rules under
10 section 30.04 (2) of the statutes, as created by this act. The department shall appoint
11 members to the advisory committee who collectively possess a wide range of
12 knowledge, experience, and interest in the navigable waters of this state. ✓

13 (2) REPORT ON DRAINAGE OF AGRICULTURAL LAND. The department of agriculture,
14 trade and consumer protection and the department of natural resources shall
15 prepare a joint report on the drainage of agricultural land, with particular emphasis
16 on the drainage that occurs in organized drainage districts. The report shall describe
17 all of the following: ✓

18 (a) A summary of the history of each department's involvement with the
19 supervision of and assistance to those involved in the drainage of land. ✓

20 (b) The current statutory authority and responsibilities of each department
21 with respect to the drainage of land. ✓

22 (c) The current efforts of each department to carry out its authority and
23 responsibility. ✓

1 (d) The efforts of the departments to cooperate with each other with respect to
2 the drainage of land, and the potential for increasing the level of cooperation between
3 the departments. ✓

4 (e) Any areas of disagreement between the departments regarding the
5 authorities and responsibilities of each. ✓

6 **SECTION 343. Cross-reference changes.** In the sections of the statutes
7 listed in Column A, the cross-references shown in Column B are changed to the
8 cross-references shown in column C:

A Statute Sections	B Old Cross-Reference	C New Cross-Reference
20.370 (1) (mu)	30.203, 30.277	30.355, 30.361
20.370 (4) (bi)	30.28	30.243 ✓
20.370 (4) (mu)	30.203 ✓ and 30.277 ✓	30.355 ✓ and 30.361 ✓
20.370 (6) (ca)	30.275	30.359 ✓
20.370 (7) (aa)	30.203	30.355 ✓
23.09 (2) (d) 16.	30.24	30.357 ✓
23.09 (2r) (b)	30.277	30.361 ✓
23.0915 (1g)	30.277	30.361 ✓
23.0915 (1r) (c)	30.277	30.361 ✓
23.0915 (1r) (c)	30.277 (2) (a)	30.361 (2) (a) ✓
23.0915 (2g)	30.277	30.361 ✓
23.0917 (3) (c) 1.	30.26	30.271 ✓
23.0917 (4) (b) 4.	30.277	30.361 ✓

1	23.0917 (7) (a)	30.24 (4) ✓ and 30.277 ✓	30.357 ✓ (4), and 30.361 ✓
2	23.0917 (7) (e)	30.277	30.361 ✓
3	23.096 (2) (a)	30.24 ✓ and 30.277 ✓	30.357 ✓, and 30.361 ✓
4	23.197 (2) (a)	30.277 (5)	30.361 (5) ✓
5	23.33 (13) (cg)	30.67 (3) (b)	30.67 (1g) (b) ✓
6	24.39 (4) (a) 1.	30.01	30.01 (3) ✓
7	24.39 (4) (a) 2.	30.01	30.01 (4) ✓
8	24.39 (4) (c), (f) and (h)	30.11 (5)	30.343 ✓
9	24.39 (4) (i)	30.11	30.343 ✓
10	29.193 (1m) (b)	30.77 (3)	30.77 ✓
11	29.519 (2) (fm)	30.50 (2)	30.01 (1bm) ✓
12	30.01 (1p)	30.121	30.281 ✓
13	30.40 (3)	30.50 (2)	30.01 (1bm) ✓
14	30.772 (3) (e)	30.294	30.80 ✓ 30.94
15	30.773 (2) and (3) (intro.)	30.11	30.321 ✓
16	30.80 (2g) (intro.)	30.67 (1)	30.67 (1m) ✓
17	30.92 (4) (b) 8. c. and d.	30.74 (2) (b)	30.50 (1b) ✓
18	31.39 (2m) (c)	30.28 (2) (a)	30.243 (2) (a) ✓
19	33.455 (3) (b)	30.77 (3) (a)	30.77 ✓
20	33.46 (2) (c)	30.77 (3) (e)	30.77 (5) (f) 5. to 7. ✓
21	60.0133 (3)	30.32	30.493 ✓
22	60.24 (3) (f)	30.37 (3)	30.497 (3) ✓

rod. 48 (1) (a) ✓

30.50 (1) ✓

30.01 (1) (b) ✓

1	61.351 (2m)	30.11	30.321 ✓
2	62.231 (2m)	30.11	30.321 ✓
3	84.18 (6)	30.2022	30.341 ✓
4	85.095 (1) (a)	30.37	30.497 ✓
5	100.42 (1) (b)	30.50 (2)	30.01 (1bm) ✓
6	281.22 (2) (c)	30.28 (2) (a)	30.243 (2) (a) ✓
7	281.35 (1) (b) 2.	30.18 (6) (c)	30.18 (6) (bm) ✓
8	281.37 (1) (a) 3.	30.26	30.271 ✓
9	281.37 (1) (a) 3.	30.275	30.359 ✓
10	295.16 (2)	30.30 ✓ and 30.31 ✓	30.491, and 30.492 ✓
11	295.16 (4) (j)	30.21	30.293 ✓
12	350.11 (2m)	30.67 (3) (b)	30.67 (1g) (b) ✓
13	422.413 (2g) (intro.)	30.50 (2)	30.01 (1bm) ✓
14	895.55 (2) (intro.)	subchs. II and IV	subchs. II and III ✓
15	938.17 (1) (intro.)	30.67 (1)	30.67 (1m) ✓
16	938.396 (3)	30.67 (1)	30.67 (1m) ✓
17	943.13 (4m) (c)	30.134	30.85 ✓, <u>30.264-265</u> 30.265
18	978.05 (6) (a)	30.03 (2)	30.97 ✓

SECTION 344. Initial applicability.

***NOTE: An initial applicability provision regarding the subch. II provisions will be provided in a later version.

66.0133 (3)

30.32
30.50 (2)

30.493 ✓

100.48 (1) (ag)

30.50 (2)

30.01 (1bm) ✓

- 1 (1) The treatment of section 30.77 of the statutes first applies to an ordinance
2 relating to the regulation of boating that is enacted or adopted on the effective date
3 of this subsection. ✓

NOTE: This provision relates to the applicability of amended s. 30.77 to preexisting boating ordinances. The general rule established above is that amended s. 30.77 applies prospectively only. That is, only local boating ordinances enacted after the effective date of the legislation are subject to the amended statute. This allows preexisting ordinances to be judged, in any challenge, by the statutory standards in place when the ordinance was adopted, and does not raise doubts about the authority for preexisting ordinances.

However, if a preexisting ordinance is amended after the effective date of this legislation, this provision makes the newly amended statute applicable to the entirety of the ordinance enacted before the effective date of the legislation. This avoids the confusion that would potentially result if preexisting portions of a boating ordinance were subject to the prior statute, and new or amended portions of the boating ordinance were subject to the amended statute. This does not mean that any portion of a preexisting ordinance must necessarily be amended when any portion of the ordinance is being amended or any new provision is being added to the ordinance. What it means is that a local governmental unit should review the preexisting ordinance in light of the amended statute, to determine if additional changes are necessary.

For the most part, the special committee believes that changes to preexisting ordinances will not be necessary. Most of the requirements in s. 30.77, as amended, are simply restatements and extensions of current statutory requirements.

4

(END) ✓

(d-n)

2005-2006 DRAFTING INSERT
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LEGISLATIVE REFERENCE BUREAU

LRB-0209/P1insRK
RNK:.....

INSERT 58-8

✓
SECTION 1. 30.50 (2) of the statutes is renumbered 30.01 (1bm) and amended to read:

30.01 (1bm) "Boat" or ~~"vessel"~~ means every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water and a fishing raft. ✓

History: 1979 c. 275; 1983 a. 27, 100; 1985 a. 279, 331; 1987 a. 3, 374; 1989 a. 145; 1991 a. 39, 257, 316; 1995 a. 290, 349, 436, 448; 1997 a. 198; 1999 a. 9; 2001 a. 16; 2003 a. 97.

INSERT 8-10

✓
SECTION 2. 30.01 (6r) of the statutes is created to read:

30.01 (6r) "Vessel" has the meaning given for "boat" in sub. (1bm).

SECTION 3. 30.90 (title) of the statutes is amended to read:

INSERT 110-13

SECTION # 30.90 (title) of the statutes is amended to read:
30.90 (title) **Public access to Lake Lions Lake.**

History: 2001 a. 103.

1

✓ **Insert 9-1**

2

~~30.025~~²⁹⁵ (1b) (b) "Permit" means an individual permit, a general permit, an approval, or a contract required under this subchapter ~~or subch. II~~, a permit or an approval required under ch. 31, a storm water discharge permit required under s. 283.33 (1) (a), or a water quality certification required under s. 281.36 or under rules promulgated under subch. II of ch. 281 to implement 33 USC 1341 (a).

History: 1975 c. 68; 1985 a. 332 s. 251 (1); 1997 a. 204; 2003 a. 89, 118.

7

✓ **Insert 20-18**

8

SECTION 1. 30.12 (3) (a) (intro.) of the statutes is amended to read:

9

30.12 (3) (a) (intro.) The department shall issue statewide general permits under s. ~~30.206~~ 30.221 that authorize riparian owners to do all of the following: ✓

History: 1975 c. 250, 421; 1977 c. 130, 447; 1981 c. 226, 330; 1981 c. 390 s. 252; 1987 a. 374; 1989 a. 31; 1993 a. 132, 151, 236, 491; 1995 a. 27, 201, 227; 1997 a. 35, 248; 1999 a. 9; 2001 a. 16; 2003 a. 118, 321, 326, 327.

11

Insert 22-11

12

SECTION 2. 30.123 (6) (a) of the statutes is amended to read:

13

30.123 (6) (a) The construction and maintenance of highway bridges to which

14

s. ~~30.1235~~ 30.213 applies.

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374; 2003 a. 118.

15

✓ **Insert 23-3**

16

SECTION 3. 30.123 (7) (a) (intro.) of the statutes is amended to read:

17

30.123 (7) (a) (intro.) The department shall issue statewide general permits

18

under s. ~~30.206~~ 30.221 that authorize any person to do all of the following:

History: 1977 c. 190; Stats. 1977 s. 30.122; 1977 c. 272; Stats. 1977 s. 30.123; 1987 a. 374; 2003 a. 118.

19

Insert 35-15

20

SECTION 4. 30.19 (3r) (a) (intro.) of the statutes is amended to read:

1 30.19 (3r) (a) (intro.) The department shall issue statewide general permits
2 under s. ~~30.206~~ 30.221 that authorize persons to do all of the following:

3 History: 1971 c. 273; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221; 1983 a. 36; 1987 a. 374; 1995 a. 227; 2003 a. 118.

3 ✓ **Insert 37-8**

4 **SECTION 5.** 30.20 (1t) (a) of the statutes is amended to read:

5 30.20 (1t) (a) The department shall issue statewide general permits under s.
6 ~~30.206~~ 30.221 that authorize any person to remove material for maintenance
7 purposes from an area from which material has been previously removed.

8 History: 1977 c. 391; 1979 c. 34 s. 2102 (39) (g); 1981 c. 330; 1983 a. 27 s. 2202 (38); 1985 a. 332 s. 251 (1); 1987 a. 374; 1999 a. 9, 185; 2003 a. 118.

8 **Insert 49-11**

9 ²⁵⁴
9 ~~30.291~~ (1) For purposes of determining whether an exemption is appropriate
10 under s. 30.12 (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether a general
11 permit is appropriate under s. ~~30.206~~ 30.221 (3), or whether authorization to proceed
12 under a general permit is appropriate under s. ~~30.206~~ 30.221 (3r), any employee or
13 other representative of the department, upon presenting his or her credentials, may
14 enter the site and inspect any property on the site.

15 (4) If the owner of the site refuses to give consent for an entry and inspection
16 to determine whether authorization to proceed under a general permit is appropriate
17 under s. ~~30.206~~ 30.221 (3r), the department shall deny authorization to proceed
18 under the general permit and shall allow an application to be submitted for an
19 individual permit for the activity.

20 History: 2003 a. 118.

20 **Insert 114-20**

21 **SECTION 6.** 299.85 (7) (a) 2. of the statutes is amended to read:

22 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
23 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
24 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), 30.381 (1), ~~30.298~~

1 (1), (2), and (3) 30.381 (1), (6), and (7), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98
 2 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95
 3 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m),
 4 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b) 1., 295.37 (2), 299.15 (4), 299.51
 5 (5), 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated entity that
 6 qualifies under sub. (2) for participation in the Environmental Improvement
 7 Program corrects violations that it discloses in a report that meets the requirements
 8 of sub. (3) within 90 days after the department receives the report that meets the
 9 requirements of sub. (3), the regulated entity may not be required to forfeit more than
 10 \$500 for each violation, regardless of the number of days during which the violation
 11 continues.

History: 2003 a. 276, 326.

12 **SECTION 7.** 299.85 (7) (a) 4. of the statutes is amended to read:

13 299.85 (7) (a) 4. Notwithstanding minimum or maximum forfeitures specified
 14 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
 15 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), ~~30.298 (1), (2), and~~
 16 ~~(3)~~ 30.381 (1), (6), and (7), 30.49 (1) (a) and (c), 31.23 (2), 281.75 (19), 281.98 (1),
 17 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57 (5), 285.59 (8), 285.87 (1), 287.95 (1),
 18 (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1) and (1m),
 19 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b) 1., 295.37 (2), 299.15 (4), 299.51
 20 (5), 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if the department approves
 21 a compliance schedule under sub. (6) and the regulated entity corrects the violations
 22 according to the compliance schedule, the regulated entity may not be required to

- 1 forfeit more than \$500 for each violation, regardless of the number of days during
- 2 which the violation continues.

History: 2003 a. 276, 326.

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0209/?ins
MGG:.....

LPS: INSERTS OUT OF ORDER!

Insert 6-1

SECTION 1. 20.370 (1) (mu) of the statutes is amended to read:

20.370 (1) (mu) *General program operations — state funds.* The amounts in the schedule for general program operations that do not relate to the management and protection of the state's fishery resources and that are conducted under ss. 23.09 to 23.11, 27.01, ~~30.203~~, ~~30.277~~ 30.355, 30.361, and 90.21, and chs. 29 and 169 and for transfers to the appropriation account under s. 20.285 (1) (kf).

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327.

Insert 41-22

★ **SECTION 2.** 30.207 (1m), (2) and (3) (title) of the statutes are renumbered 30.223 (1m), (2) and (3) (title).

SECTION 3. 30.207 (3) (a) of the statutes is renumbered 30.223 (3) (a) and amended to read:

Insert 42-2

★ **SECTION 4.** 30.207 (3) (b) and (c) (intro.) and 1. to 5. of the statutes are renumbered 30.223 (3) (b) and (c) (intro.) and 1. to 5.

★ **SECTION 5.** 30.207 (3) (c) 6. of the statutes is renumbered 30.223 (3) (c) 6. and amended to read:

Insert 42-6

★ **SECTION 6.** 30.207 (3) (d), (4) (intro.), (a) and (c) (intro.) of the statutes are renumbered 30.223 (3) (d), (4) (intro.), (a) and (c) (intro.)

☆ SECTION ~~7~~ 30.207 (4) (c) 1. of the statutes is renumbered 30.223 (4) (c) 1. and amended to read:

Insert 42-9

☆ SECTION ~~8~~ 30.207 (4) (c) 2. to 4. and (6) (title) of the statutes are renumbered 30.223 (4) (c) 2. to 4. and (6) (title).

☆ SECTION ~~9~~ 30.207 (6) (a) of the statutes is renumbered 30.223 (6) (a) and amended to read:

Insert 42-15

☆ SECTION ~~10~~ 30.207 (6) (b) and (7) (title) of the statutes are renumbered 30.223 (6) (b) and (7) (title).

☆ SECTION ~~11~~ 30.207 (7) (a) of the statutes is renumbered 30.223 (7) (a) and amended to read:

Insert 43-1

☆ SECTION ~~12~~ 30.207 (7) (b) of the statutes is renumbered 30.223 (7) (b) and amended to read:

Insert 43-8

☆ SECTION ~~13~~ 30.207 (7) (c) and (8) to (10) of the statutes are renumbered 30.223 (7) (c) and (8) to (10).

Insert 44-14

30.245 (title) ~~Contracts and individual~~ Individual permits and contracts; administrative and judicial review.

(1) DEFINITION. In this section, "applicant" means any person applying to receive a an individual permit or contract under this subchapter or any person who has received a permit or contract under this subchapter.

(1m) (b) (intro.) If the petitioner is not the applicant, the petition shall describe the petitioner's objection to the individual permit or contract and shall contain all of the following:

(1m) (b) 1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this subchapter may be violated if the proposed activity or project under the individual permit or contract is allowed to proceed.

Insert 46-3

SECTION ~~14~~ 30.246 of the statutes is created to read:

30.246 Mediation. (1) At any time after notice of complete application is provided by the department under s. ~~30.208~~^{30.244} (2) and before any administrative hearing under s. ~~30.209~~^{30.245} (2) will begin, the department shall allow for mediation if the department, the applicant for the individual permit or contract, any person requesting a public hearing under s. ~~30.208~~²⁴⁴ (3) (b), and any person filing a petition for administrative review under s. ~~30.209~~²⁴⁵ (1m) all agree to mediation and agree how the mediator is to be selected and compensated.

(2) An agreement for mediation will hold in abeyance any public hearing under s. ~~30.208~~²⁴⁴ (3) (b) and any administrative review under s. ~~30.209~~²⁴⁵ (1m). If the mediator determines that an agreement cannot be reached by mediation, the mediator shall certify the mediation as having ended. Within 30 days after the date on which the mediation is certified as having ended, any participant in the mediation may request in writing to the department that the department proceed on the application.

(3) If the department ~~not~~^{does} receive a request under sub. (2) within the 30-day period, the department shall either approve the application or deny the application without further public hearing or administrative review. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0209/1/dn

MGG:.....

IMK

(date)

Attention: Mark Patrosky

This draft is completed subject to any redrafting instructions and subject to your revising the LC notes in the draft. The notes have not been revised since they appeared in 2003 Assembly Bill 514, except for the one mentioned below.

1. 2003 Wisconsin Act 118 added s. 30.19 (1m) (cm). 2003 Assembly Bill 514 repealed s. 30.19 (1m) (c) and (d) and 30.195 (7). Do you want to include these repeals in this bill?

2. Regarding terms of permits and contracts: As a result of 2003 Wisconsin Act 118, contracts under s. 30.20 (1) (a) are restricted to five years with one extension of five years. Contracts under s. 30.20 (1) (b) are restricted to 75 years. I therefore have removed references to contracts under s. 30.2095 (1) (a) and (b) (renumbered to s. 30248 (1) and (2) in this draft.) I also limited the provisions to individual permits since general permits are promulgated as rules. Please review carefully and let me know if you want any changes.

302095 (2) 30.2095(2)

3. For modification or rescission of permits and contracts: I have also limited these provisions to individual permits and contracts. See ss. 30.2095 (2), as renumbered in this draft, and s. 30.249 (title) and (2), as created in this draft. Also, do you want the last sentence in s. 30.249 (1) as renumbered and treated in this draft? It exempts modifications by the department from the procedures under ss. 30.244 and 30.245, which are renumbered from ss. 30.208 and 30.209. Under current law, only modifications requested by other parties are covered by ss. 30.208 and 30.209. Also, please see and review the LC note that follows the creation of s. 30.249 (2).

to keep

4. For imposing conditions on permits and contracts: I have also limited these provisions to individual permits and contracts. Note that s. 30.245 applies to imposing conditions. See s. 30.209 (1m) (a) 2., which is renumbered to s. 30.245 (1m) (a) 2. in this draft.

5. In the current draft

→ INSERT

MGG

MGG → NEXT PAGE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0209/P1dn
MGG:.....

NOT
EDITED

6
2003 LRB 0365
5. In the current draft, ss. 30.29 (Operation of motor vehicles in waters prohibited) and s. 30.294 (Nuisances, abatement) were both renumbered to s. 30.86. Section 30.134 (use of exposed shore areas along streams) is renumbered to s. 30.85. I moved ss. 30.134 and 30.29 to subch. II since they deal with navigable waters and not "Regulation of Boating" under subch. IV. I also moved s. 30.294 to s. 30.94 under subch. VI, which is entitled "Enforcement; Penalties".

6. Section 299.85 was created in 2003 Wisconsin Act 276. Section 299.85 (7) (a) 2. and 4. have cross-references to the forfeitures specified in s. 30.298 under current law. I have changed these cross-references. Do you want any of the other forfeitures found under s. 30.381 in this draft to be included? These deal with boathouses and houseboats (s. 30.381 (2) as renumbered in this draft); fishing rafts (s. 30.381 (3) (a) and (b), as renumbered in this draft); wharves, piers, and swimming rafts (s. 30.381 (5), as created in this draft); and structures and deposits (s. 30.381 (4) (a), as renumbered in this draft).

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

D-note insert

D-Note Insert

LRB-0209/P1d1

renumbered and

Please note the following changes from 2003 Assembly Bill 514.

1. I have created separate, although identical, definitions for "boat" and "vessel" for purposes of clarity. See s. 30.01(1bm) as amended in the draft and s. 30.01(6r) as created in the draft.

2. The draft amends s. 30.74(2)(a) and, in doing so, creates 30.74(2)(bm). That provision, in 2003 Assembly Bill 514, contained an erroneous cross-reference. I have changed the cross-reference to s. 30.95. Please let me know if this is not correct.

3. This draft also changes an erroneous cross-reference in amended s. 30.772(4). That provision now contains a cross-reference to s. 30.22. Again, please let me know if this is not correct.

RNK

Navigable waters---2003 AB 514 reintroduction

These comments and questions relate to 2005 LRB-0209/P1

Mary:

Regarding the DN:

Item 1. Yes. The repeals should also include the NOTE from AB 514.

Item 2. OK. No changes.

Item 3. OK. No changes.

Item 4. OK. No changes.

Item 5. I want to discuss the numbering, other than s. 30.294, which is OK.

Item 6. Let's talk about this. I'm not sure what to do.

Wait for Mark
include all X-references

D-Note

in current law
30.20(1g)(a)
D-Note

Regarding the bill draft:

Mark

1. I need to strike a couple items in the pref note.

2. I can't find the provision that allows DNR to issue a denial after getting a complete application. See AB 514, page 65, line 19¹⁰ pars. (c) + (d)

Mark

3. I need to add some language to the pref note regarding the history of the bill and the changes made as the result of Act 118.

4. The draft should repeal s. 30.195 (4) and (7), and add the NOTE. See AB 514, page 52, line 19¹⁰ paragraph (d)

5. The sentence on page 54, lines 14 to 17 of AB 514 needs to be added to the draft. *OK*

6. The Internet posting provision in AB 514, page 64, lines 9 and 10 needs to be added. *notice of receipt of app.*

Mark

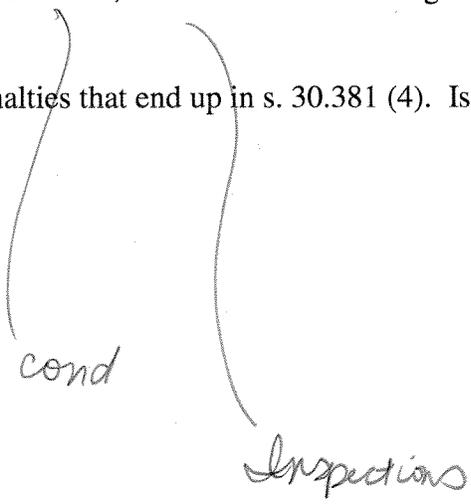
7. A NOTE on mediation needs to be added to the draft on page 47, line 18.

Mark

8. I need to figure out what parts of the NOTE after page 67, line 11 of AB 514 needs to be retained.

- ✓ 9. "Mediation" needs to be added on page 31, line 17 of the draft. See AB 514, page 42, line 14.
- 10. What about the permit procedure for utilities, in s. 30.025. It is renumbered in the draft but was repealed in AB 514.
- ✓ 11. Current s. 30.285 is not renumbered in the draft. I think it should be renumbered to s. 30.255.
- ✓ 12. I'd suggest changing the numbers of 30.253, 230.254 and 30.255 to get a little room between the numbers.
- 13. I had some trouble tracking the penalties that end up in s. 30.381 (4). Is this OK?

Mark Patrosky
March 25, 2005



30.381 Subchapter penalties:

- ✓ (7) General permits
- Nb (8) Add'l orders

- ✓ (1) General
- ✓ (2) B/houses + house/boats
- ~~(3)~~
- (4) Major repair abandoned
- (5)
- (6)
- no (3) Fishing Rafts
- ✓ (a)
- (b)
- ✓ (4) (a) Structures + Deposits
- ✓ (5) Wharves piers
- ✓ (6) Divisions of water

Nb (b) fine

Gibson-Glass, Mary

From: Gibson-Glass, Mary
Sent: Wednesday, April 13, 2005 10:28 AM
To: Patronsky, Mark
Subject: Chapter 30 bill LRB 05-0290

Mark:

Two things:

1. Regarding Point # 2 in your memo, the language that was in AB 514, page 65, line 10 is found in current law under s. 30.209 (1m) (f). I know under current law the substantive objection threshold comes in later in the process, that is it cannot be used as grounds to deny a complete application; it can only be used when a request for administrative review has been filed under s. 30.209 (1m). Do you want me to incorporate the language from page 65, line 10 of AB 514 into s. 30.208 (3) (c), that is that DNR can deny a complete application even if a public hearing has been requested? yo

2. Regarding Point # 5 in your memo, that concept appears in s. 30.20 (1g) (a) 2. under current law as shown below. Read this with s. 30.215 which is created in LRB 0209. I am amending s. 30.20 (1g) (a) 2. in LRB 0209 to include the phrase "for an agricultural purpose". See below

30.20(1g) Exemptions.

30.20(1g)(a)1.

1. A removal of material for an agricultural purpose from the bed of a farm drainage ditch which was not a navigable stream before ditching is exempt from the individual and general permit requirements under this section unless the department finds that the proposed removal may have a long-term adverse effect on cold-water fishery resources or may destroy fish spawning beds or nursery areas. ok 00 13

30.20(1g)(a)2.

2. A person who proposes a removal under subd. 1. which may have an effect on cold-water fishery resources or may affect fish spawning beds or nursery areas shall notify the department at least 10 days prior to the removal.

Let me know if you want any changes regarding farm drainage ditches.

Mary Gibson-Glass
Senior Legislative Attorney
Legislative Reference Bureau
608 267 3215