



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/09/2008 (Per: MGG)



Appendix A ... Pt. 02 of 05



 The 2007 drafting file for LRB-3993

has been transferred to the drafting file for

**2009 LRB-1031**

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin  
2007 - 2008 LEGISLATURE

RMnotR

LRB-3993/PI<sup>2</sup>

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen Cat

1 AN ACT *to repeal* 443.06 (2) (a), 443.06 (2) (b), 443.06 (2) (c) and 443.06 (2) (e);  
2 *to renumber and amend* 443.01 (4) and 443.14 (8) (a); *to amend* 15.405 (2)  
3 (intro.), (a) and (b), 26.09 (3) (b) 1., 30.11 (3), 30.13 (3) (a), 59.20 (2) (c), 59.43 (8),  
4 59.45 (1) (a) 2., 59.45 (1) (b), 59.45 (3), 59.46, 59.73 (2), 59.74 (2) (b) 1., 59.74 (2)  
5 (c), 59.74 (2) (g), 59.74 (2) (h), 59.74 (2) (j), 59.75, 60.84 (1), 84.095 (5), 157.07  
6 (1), 236.02 (2m), 236.13 (2m), 236.15 (1) (a), 236.15 (1) (d), 236.15 (2), 236.16 (4),  
7 236.20 (2) (g), 236.34 (1) (a), 440.03 (13) (b) 34., 440.08 (2) (a) 39., chapter 443  
8 (title), 443.01 (3), 443.02 (4), 443.06 (title), 443.06 (1) (title), 443.06 (1) (a),  
9 443.06 (1) (b), 443.06 (2) (intro.), 443.06 (2) (am), 443.06 (2) (bm), 443.06 (2)  
10 (cm), 443.06 (2) (d), 443.06 (2) (em), 443.06 (3), 443.10 (title), 443.10 (2) (b),  
11 443.10 (2) (b), 443.10 (5), 443.10 (5), 443.12 (title), 443.12 (1), 443.12 (3), 443.14  
12 (8) (b), 443.14 (8) (c), 443.14 (8) (d), 443.14 (9), 443.14 (11), 443.18 (2) (b), 470.025  
13 (7), 707.215 (5) (intro.), 709.02 (1), 709.07 and 893.37; *to repeal and recreate*  
14 440.08 (2) (a) 39.; and *to create* 59.001 (2k), 236.017, 443.01 (1g), 443.01 (1r),  
15 443.01 (3b), 443.01 (6s) (a) and (b), 443.01 (6s) (d) 3. and 4., 443.01 (6s) (f) to (h),

1 443.01 (7m), 443.135 and 895.477 of the statutes; **relating to:** professional land  
2 surveyors and the practice of professional land surveying and granting  
3 rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, a person may not practice land surveying or represent that he or she is a land surveyor unless the land surveyor section (section) of the examining board of architects, landscape architects, professional engineers, designers and land surveyors (board) has issued a certificate of registration or permit to the person. "Land surveying" is defined as determining the location of land boundaries and boundary corners; preparing maps that show the shape and area of tracts of land or subdivisions or the layout of roads, streets, or rights-of-way; or preparing official plats or maps of land in this state.

This bill replaces "land surveying" with the term "practice of professional land surveying" and defines the term as any of the following:

1. Establishing, restoring, or perpetuating private or public land boundaries and boundary corners.
2. Preparing maps for establishing the boundaries of interests in real property that depict any of the following: a) the shape and area of tracts of land or the subdivision or consolidation of tracts; b) the layout and rights-of-way of roads or streets; c) air, water, or property rights; or d) public or private easements.
3. Preparing assessors' or official plats or maps of lands in this state.
4. Measuring and analyzing a tract of land to determine its legal description.
5. Designing or coordinating designs for platting or subdividing tracts of land.
6. Applying knowledge or experience about land surveying to assist in the development, use, or management of geographic or land information systems.
7. Performing cartographic, construction, or geodetic surveying in connection with any of the practices described in the above items.
8. Providing consultation services related to any of the practices described in the above items.

The bill also replaces the certificate of registration requirement under current law with a licensure requirement. Therefore, under the bill with certain exceptions, a person may not engage in the practice of professional land surveying or represent that he or she is a professional land surveyor unless the person is issued a license or permit by the section. Also, after July 1, 2018, the bill requires employees of the federal government, this state and public utilities to obtain a license or permit to engage in the practice of professional land surveying. Such employees are exempt from the certificate of registration and permit requirements under current law.

In addition, the bill changes the name of the section to the professional land surveyor section and changes the name of the board to the examining board of architects, landscape architects, professional engineers, designers and professional

*establishment of the locations of*

*his or her*

land surveyors. The bill also replaces various references under current law to "registered land surveyor" with "licensed professional land surveyor."

For purposes of platting lands, the bill requires that ordinary high water marks be established only by licensed professional land surveyors. The bill establishes a methodology for determining an ordinary high water mark and requires only that these marks be approximated. Under the bill, licensed professional land surveyors are exempt from civil liability for any damages caused by failing to establish in good faith the approximate ordinary high water marks or approximate low and high water elevations unless their actions involve reckless, wanton, or intentional misconduct.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

*is*  
*his or her*

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

1           **SECTION 1.** 15.405 (2) (intro.), (a) and (b) of the statutes are amended to read:

2           15.405 (2)    EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS,  
3           PROFESSIONAL ENGINEERS, DESIGNERS, AND PROFESSIONAL LAND SURVEYORS. (intro.)

4           There is created an examining board of architects, landscape architects, professional  
5           engineers, designers, and professional land surveyors in the department of  
6           regulation and licensing. Any professional member appointed to the examining  
7           board shall be registered or licensed to practice architecture, landscape architecture,  
8           professional engineering, the design of engineering systems, or professional land  
9           surveying under ch. 443. The examining board shall consist of the following  
10          members appointed for 4-year terms: 3 architects, 3 landscape architects, 3  
11          professional engineers, 3 designers, 3 professional land surveyors, and 10 public  
12          members.

13          (a) In operation, the examining board shall be divided into an architect section,  
14          a landscape architect section, an engineer section, a designer section, and a  
15          professional land surveyor section. Each section shall consist of the 3 members of  
16          the named profession appointed to the examining board and 2 public members

1 appointed to the section. The examining board shall elect its own officers, and shall  
2 meet at least twice annually.

3 (b) All matters pertaining to passing upon the qualifications of applicants for  
4 and the granting or revocation of registration or licensure, and all other matters of  
5 interest to either the architect, landscape architect, engineer, designer, or  
6 professional land surveyor section shall be acted upon solely by the interested  
7 section.

8 **SECTION 2.** 26.09 (3) (b) 1. of the statutes is amended to read:

9 26.09 (3) (b) 1. A court shall award damages that equal the stumpage value of  
10 the raw forest products harvested if the person harvesting the raw forest products  
11 or the person giving consent for the harvesting reasonably relied upon a recorded  
12 survey that was done by a person who is ~~registered~~ licensed under ch. 443 as a  
13 professional land surveyor or who is issued a permit to engage in the practice of  
14 professional land surveying under s. 443.06 even if the recorded survey is  
15 determined, after the harvesting, to be in error.

16 **SECTION 3.** 30.11 (3) of the statutes is amended to read:

17 30.11 (3) HOW ESTABLISHED. Whenever any municipality proposes to establish  
18 a bulkhead line or to reestablish an existing bulkhead line, the municipality shall  
19 indicate both the existing shore and the proposed bulkhead line upon a map and shall  
20 file with the department for its approval 6 copies of the map and 6 copies of the  
21 ordinance establishing the bulkhead line. The map shall use a scale of not less than  
22 100 feet to an inch or any other scale required by the department. The map and a  
23 metes and bounds description of the bulkhead line shall be prepared by a person  
24 licensed as a professional land surveyor ~~registered in this state~~ under ch. 443. The  
25 department may require the installation of permanent reference markers to the

1 bulkhead line. Upon approval by the department, the municipality shall deliver the  
2 map, description, and ordinance to the office of the register of deeds of the county in  
3 which the bulkhead line lies, to be recorded by the register of deeds.

4 **SECTION 4.** 30.13 (3) (a) of the statutes is amended to read:

5 30.13 (3) (a) Any municipality authorized by s. 30.11 to establish a bulkhead  
6 line may also establish a pierhead line in the same manner as it is authorized to  
7 establish a bulkhead line, except that a metes and bounds legal description is not  
8 required nor is the map required to be prepared by a licensed professional land  
9 surveyor and except that if the municipality has created a board of harbor  
10 commissioners the municipality must obtain the approval of the board concerning  
11 the establishment of the pierhead line in addition to obtaining the approval of the  
12 department.

13 **SECTION 5.** 59.001 (2k) of the statutes is created to read:

14 59.001 (2k) "Licensed professional land surveyor" means a professional land  
15 surveyor licensed under ch. 443.

16 **SECTION 6.** 59.20 (2) (c) of the statutes, as affected by 2007 Wisconsin Act 158,  
17 is amended to read:

18 59.20 (2) (c) In counties that elect a surveyor, the surveyor shall be registered  
19 licensed professional land surveyor. In lieu of electing a surveyor in any county  
20 having a population of less than 500,000, the board may, by resolution, designate  
21 that the duties under ss. 59.45 (1) and 59.74 (2) be performed by any registered  
22 licensed professional land surveyor employed by the county.

23 **SECTION 7.** 59.43 (8) of the statutes is amended to read:

24 59.43 (8) REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR  
25 RECORDING. It is unlawful for the register of deeds of any county or any proper public

1 authority to file or record a map, plat, survey, or other document within the definition  
2 of the practice of professional land surveying under s. 443.01 (6s), which does not  
3 have impressed thereon, and affixed thereto, the personal signature and seal of a  
4 registered licensed professional land surveyor under whose responsible charge the  
5 map, plat, survey, or other document was prepared. This subsection does not apply  
6 to any deed, contract, or other recordable document prepared by an attorney, or to  
7 a transportation project plat that conforms to s. 84.095 and that is prepared by a state  
8 agency.

9 **SECTION 8.** 59.45 (1) (a) 2. of the statutes is amended to read:

10 59.45 (1) (a) 2. Make, personally or by a deputy, a record, in books or on  
11 drawings and plats that are kept for that purpose, of all corners that are set and the  
12 manner of fixing the corners and of all bearings and the distances of all courses run,  
13 of each survey made personally, by deputies or by other licensed professional land  
14 surveyors and arrange or index the record so it is an ~~easy-to-use~~ easy-to-use  
15 reference and file and preserve in the office the original field notes and calculation  
16 thereof. Within 60 days after completing any survey, the county surveyor shall make  
17 a true and correct copy of the foregoing record, in record books or on reproducible  
18 papers to be furnished by the county and kept in files in the office of the county  
19 surveyor to be provided by the county. In a county with a population of 500,000 or  
20 more where there is no county surveyor, a copy of the record shall also be filed in the  
21 office of the regional planning commission which acts in the capacity of county  
22 surveyor for the county.

23 **SECTION 9.** 59.45 (1) (b) of the statutes is amended to read:

24 59.45 (1) (b) Surveys for individuals or corporations may be performed by any  
25 licensed professional land surveyor who is employed by the parties requiring the

1 services, providing that within 60 days after completing any survey the land  
2 surveyor files a true and correct copy of the survey in the office of the county surveyor.  
3 In counties with a population of 500,000 or more the copy shall be filed in the office  
4 of the register of deeds and in the office of the regional planning commission which  
5 acts in the capacity of county surveyor for the county.

6 SECTION 10. 59.45 (3) of the statutes is amended to read:

7 59.45 (3) SURVEYOR; FEES. In addition to the regular fees of licensed professional  
8 land surveyors that are received from the parties employing the county surveyor, the  
9 county surveyor may receive a salary from the county.

10 SECTION 11. 59.46 of the statutes is amended to read:

11 59.46 **Penalty for nonfeasance.** Any county surveyor, any city, village, or  
12 town engineer, or any licensed professional land surveyor who fails or refuses to  
13 perform any duty required of that person by law shall forfeit not less than \$25 nor  
14 more than \$50 for each such failure or refusal.

15 SECTION 12. 59.73 (2) of the statutes is amended to read:

16 59.73 (2) SUBDIVIDING SECTIONS. Whenever a surveyor is required to subdivide  
17 a section or smaller subdivision of land established by the United States survey, the  
18 surveyor shall proceed according to the statutes of the United States and the rules  
19 and regulations made by the secretary of the interior in conformity to the federal  
20 statutes. While so engaged a surveyor and the surveyor's assistants shall not be  
21 liable as a trespasser and shall be liable only for any actual damage done to land or  
22 property. A professional land surveyor licensed under ch. 443 is immune from  
23 liability as provided in s. 895.477.

24 SECTION 13. 59.74 (2) (b) 1. of the statutes is amended to read:

1           59.74 (2) (b) 1. Whenever it becomes necessary to destroy, remove, or cover up  
2 in such a way that will make it inaccessible for use, any landmark, monument of  
3 survey, or corner post within the meaning of this subsection, the person including  
4 employees of governmental agencies who intend to commit such act shall serve  
5 written notice at least 30 days prior to the act upon the county surveyor of the county  
6 within which the landmark is located. Notice shall also be served upon the  
7 municipality's engineer if the landmark is located within the corporate limits of a  
8 municipality. The notice shall include a description of the landmark, monument of  
9 survey, or corner post and the reason for removing or covering it. In this paragraph,  
10 removal of a landmark includes the removal of railroad track by the owner of the  
11 track. In a county having a population of less than 500,000 where there is no county  
12 surveyor, notice shall be served upon the clerk. In a county with a population of  
13 500,000 or more where there is no county surveyor, notice shall be served upon the  
14 executive director of the regional planning commission which acts in the capacity of  
15 county surveyor for the county. Notwithstanding par. (c), upon receipt of the notice  
16 the clerk shall appoint a registered licensed professional land surveyor to perform  
17 the duties of a county surveyor under subd. 2.

18           **SECTION 14.** 59.74 (2) (c) of the statutes is amended to read:

19           59.74 (2) (c) In those counties where there are no county surveyors a petition  
20 can be made to the board by any resident of this state requesting the board to appoint  
21 a licensed professional land surveyor to act in the capacity of the county surveyor.  
22 The board, upon receipt of this petition, shall appoint a licensed professional land  
23 surveyor to act in the capacity of the county surveyor. In counties with a population  
24 of 500,000 or more, the board may appoint a governmental agency to act in the  
25 capacity of county surveyor.

1           **SECTION 15.** 59.74 (2) (g) of the statutes is amended to read:

2           59.74 (2) (g) Every licensed professional land surveyor and every officer of the  
3 department of natural resources and the district attorney shall enforce this  
4 subsection.

5           **SECTION 16.** 59.74 (2) (h) of the statutes is amended to read:

6           59.74 (2) (h) Any ~~registered~~ licensed professional land surveyor employed by  
7 the department of transportation or by a county highway department, may, incident  
8 to employment as such, assume and perform the duties and act in the capacity of the  
9 county surveyor under this subsection with respect to preservation and perpetuation  
10 of landmarks, witness monuments, and corner posts upon and along state trunk,  
11 county trunk, and town highways. Upon completing a survey and perpetuating  
12 landmarks and witness monuments under par. (b) 2., a licensed professional land  
13 surveyor employed by the state shall file the field notes and records in the district  
14 office or main office of the department of transportation, and a licensed professional  
15 land surveyor employed by a county shall file the field notes and records in the office  
16 of the county highway commissioner, open to inspection by the public, and in either  
17 case a true and correct copy of the field notes and records shall be filed with the  
18 county surveyor. In a county with a population of 500,000 or more where there is no  
19 county surveyor, a copy of the field notes and records shall also be filed in the office  
20 of the regional planning commission which acts in the capacity of county surveyor  
21 for the county.

22           **SECTION 17.** 59.74 (2) (j) of the statutes is amended to read:

23           59.74 (2) (j) The county surveyor may employ other licensed professional land  
24 surveyors to assist in this work and may accept reference checks for these corners  
25 from any licensed professional land surveyor.

1           **SECTION 18.** 59.75 of the statutes is amended to read:

2           **59.75 Certificates and records as evidence.** The certificate and also the  
3 official record of the county surveyor when produced by the legal custodian thereof,  
4 or any of the county surveyor's deputies, when duly signed by the county surveyor  
5 in his or her official capacity, shall be admitted as evidence in any court within the  
6 state, but the same may be explained or rebutted by other evidence. If any county  
7 surveyor or any of his or her deputies are interested in any tract of land a survey of  
8 which becomes necessary, such survey may be executed by any licensed professional  
9 land surveyor appointed by the board.

10          **SECTION 19.** 60.84 (1) of the statutes is amended to read:

11          60.84 (1) SURVEY, CONTRACT FOR. The town board may contract with the county  
12 surveyor or any ~~registered~~ person licensed under ch. 443 as a professional land  
13 surveyor to survey all or some of the sections in the town and to erect monuments  
14 under this section as directed by the board.

15          **SECTION 20.** 84.095 (5) of the statutes is amended to read:

16          84.095 (5) SURVEYOR'S CERTIFICATE. A plat prepared for filing or recording under  
17 this section shall include a certificate of a professional land surveyor ~~registered~~  
18 licensed under s. 443.06 that the plat is a correct representation of the project  
19 described and that the identification and location of each parcel can be determined  
20 from the plat. This subsection does not apply to plats prepared by the department.

21          **SECTION 21.** 157.07 (1) of the statutes is amended to read:

22          157.07 (1) A cemetery authority shall cause to be surveyed and platted by a  
23 professional land surveyor ~~registered in this state~~ licensed under ch. 443 those  
24 portions of the lands that are from time to time required for burial, into cemetery lots,  
25 drives, and walks, and record a plat or map of the land in the office of the register of

1 deeds. The plat or map may not be recorded unless laid out and platted to the  
2 satisfaction of the county board of the county, and the town board of the town in which  
3 the land is situated, or, if the land is situated within a 1st class city, then only by the  
4 common council of that city.

5 **SECTION 22.** 236.017 of the statutes is created to read:

6 **236.017 Ordinary high water marks.** For the purposes of ss. 236.13 (2m),  
7 236.15 (1) (a) and (d), and 236.20 (2) (g), a professional land surveyor licensed under  
8 ch. 443 shall establish the location of the approximate ordinary high water mark.  
9 The location of the approximate ordinary high water mark shall be the point on the  
10 bank of a stream or on the shore of a lake up to which the presence and action of  
11 surface water is so continuous as to leave a distinctive mark by erosion, destruction,  
12 prevention of terrestrial vegetation, predominance of aquatic vegetation, or other  
13 easily recognized characteristic. If the bank or shore is of such character that it is  
14 difficult or impossible <sup>to</sup> for the surveyor to ascertain the location of the approximate  
15 ordinary high water mark, the surveyor may refer to the opposite bank of the stream  
16 or to other places on the shore of the lake to establish the location of the approximate  
17 ordinary high water mark.

18 **SECTION 23.** 236.02 (2m) of the statutes is amended to read:

19 236.02 (2m) "Correction instrument" means an instrument drafted by a  
20 licensed professional land surveyor licensed under ch. 443, that complies with the  
21 requirements of s. 236.295, and that, upon recording, corrects a subdivision plat or  
22 a certified survey map.

23 **SECTION 24.** 236.13 (2m) of the statutes is amended to read:

24 236.13 (2m) As a further condition of approval when lands included in the plat  
25 lie within 500 feet of the approximate ordinary high-water mark of any navigable

1 stream, lake, or other body of navigable water or if land in the proposed plat involves  
2 lake or stream shorelands referred to in s. 236.16, the department of natural  
3 resources, to prevent pollution of navigable waters, or the department of commerce,  
4 to protect the public health and safety, may require assurance of adequate drainage  
5 areas for private sewage disposal systems and building setback restrictions, or  
6 provisions by the owner for public sewage disposal facilities for waters of the state,  
7 as defined in s. 281.01 (18), industrial wastes, as defined in s. 281.01 (5), and other  
8 wastes, as defined in s. 281.01 (7). The public sewage disposal facilities may consist  
9 of one or more systems as the department of natural resources or the department of  
10 commerce determines on the basis of need for prevention of pollution of the waters  
11 of the state or protection of public health and safety.

12 **SECTION 25.** 236.15 (1) (a) of the statutes is amended to read:

13 236.15 (1) (a) The external boundaries of a subdivision shall be monumented  
14 in the field by monuments of concrete containing a ferrous rod one-fourth inch in  
15 diameter or greater imbedded its full length, not less than 18 inches in length, not  
16 less than 4 inches square or 5 inches in diameter, and marked on the top with a cross,  
17 brass plug, iron rod, or other durable material securely embedded; or by iron rods or  
18 pipes at least 18 inches long and 2 inches in diameter weighing not less than 3.65  
19 pounds per lineal foot. Solid round or square iron bars of equal or greater length or  
20 weight per foot may be used in lieu of pipes wherever pipes are specified in this  
21 section. These monuments shall be placed at all corners, at each end of all curves,  
22 at the point where a curve changes its radius, at all angle points in any line and at  
23 all angle points along the meander line, said points to be not less than 20 feet back  
24 from the approximate ordinary high water mark of the lake or from the bank of the

1 stream, except that when such corners or points fall within a street, or proposed  
2 future street, the monuments shall be placed in the side line of the street.

3 **SECTION 26.** 236.15 (1) (d) of the statutes is amended to read:

4 236.15 (1) (d) The lines of lots, outlots, parks and public access and land  
5 dedicated to the public that extend to lakes or streams shall be monumented in the  
6 field by iron pipes at least 18 inches long and one inch in diameter weighing not less  
7 than 1.13 pounds per lineal foot, or by round or square iron bars at least 18 inches  
8 long and weighing not less than 1.13 pounds per lineal foot. These monuments shall  
9 be placed at the point of intersection of the lake or stream lot line with a meander  
10 line established not less than 20 feet back from the approximate ordinary high water  
11 mark of the lake or from the bank of the stream.

12 **SECTION 27.** 236.15 (2) of the statutes is amended to read:

13 236.15 (2) ACCURACY OF SURVEY. The survey shall be performed by a  
14 professional land surveyor registered in this state licensed under ch. 443, and if the  
15 error in the latitude and departure closure of the survey or any part thereof is greater  
16 than the ratio of one in 3,000, the plat may be rejected.

17 **SECTION 28.** 236.16 (4) of the statutes is amended to read:

18 236.16 (4) LAKE AND STREAM SHORE PLATS BEYOND THE WATER'S EDGE. The lands  
19 lying between the meander line, established in accordance with s. 236.20 (2) (g), and  
20 the water's edge, and any otherwise unplattable lands which lie between a proposed  
21 subdivision and the water's edge shall be included as part of lots, outlots or public  
22 dedications in any plat <sup>of a subdivision</sup> abutting a lake or stream. The plat shall contain a statement \* \*  
23 that the land between the meander line and the water's edge is subject to the public  
24 trust in navigable waters that is established under article IX, section 1, of the  
25 constitution unless the right of the public has been restricted by a valid conveyance

1 or by law. This subsection applies not only to lands proposed to be subdivided but  
2 also to all lands under option to the subdivider or in which the subdivider holds any  
3 interest and which are contiguous to the lands proposed to be subdivided and which  
4 abut a lake or stream.

5 **SECTION 29.** 236.20 (2) (g) of the statutes is amended to read:

6 236.20 (2) (g) All lake or stream shore meander lines established by the  
7 surveyor in accordance with s. 236.15 (1) (d), the distances and bearings thereof, and  
8 the distance between the point of intersection of such meander lines with lot lines  
9 and the approximate ordinary high water mark. INS 14-9

10 **SECTION 30.** 236.34 (1) (a) of the statutes is amended to read:

11 236.34 (1) (a) The survey shall be performed and the map prepared by a  
12 professional land surveyor registered in this state licensed under ch. 443. The error  
13 in the latitude and departure closure of the survey may not exceed the ratio of one  
14 in 3,000.

15 **SECTION 31.** 440.03 (13) (b) 34. of the statutes is amended to read:

16 440.03 (13) (b) 34. Land surveyor, professional.

17 **SECTION 32.** 440.08 (2) (a) 39. of the statutes is amended to read:

18 440.08 (2) (a) 39. Land surveyor, professional: February 1 of each  
19 even-numbered year; \$77.

20 **SECTION 33.** 440.08 (2) (a) 39. of the statutes, as affected by 2007 Wisconsin Acts  
21 20 and ... (this act), is repealed and recreated to read:

22 440.08 (2) (a) 39. Land surveyor, professional: February 1 of each  
23 even-numbered year.

24 **SECTION 34.** Chapter 443 (title) of the statutes is amended to read:

25 **CHAPTER 443**

1                                   **EXAMINING BOARD OF ARCHITECTS,**  
2   **LANDSCAPE ARCHITECTS,**  
3   **PROFESSIONAL ENGINEERS,**  
4                                   **DESIGNERS, AND PROFESSIONAL**  
5   **LAND SURVEYORS**

6           **SECTION 35.** 443.01 (1g) of the statutes is created to read:

7           443.01 (1g) "Cartographic surveying" means collecting topographic,  
8 hydrographic, aerial, anthropologic, forensic, architectural, or mining data that  
9 depicts areas and physical features on, below, or above the surface of the earth and  
10 compiling maps.

11          **SECTION 36.** 443.01 (1r) of the statutes is created to read:

12          443.01 (1r) "Construction surveying" means surveying or mapping in support  
13 of infrastructure design, improvements related to private and public boundary lines,  
14 construction layout or historic preservation, and establishing any postconstruction  
15 documentation related to such surveying or mapping.

16          **SECTION 37.** 443.01 (3) of the statutes is amended to read:

17          443.01 (3) "Examining board" means the examining board of architects,  
18 landscape architects, professional engineers, designers, and professional land  
19 surveyors.

20          **SECTION 38.** 443.01 (3b) of the statutes is created to read:

21          443.01 (3b) "Geodetic surveying" means surveying to determine the size and  
22 shape of the earth or the precise positions of points on the surface of the earth.

23          **SECTION 39.** 443.01 (4) of the statutes is renumbered 443.01 (6s) (intro.) and  
24 amended to read:

1           443.01 (6s) (intro.) "Land Practice of professional land surveying" means any  
2 service comprising the determination of the location of the following:

3           (c) Establishing, restoring, or perpetuating private or public land boundaries  
4 and land boundary corners; the preparation of

5           (d) Preparing maps showing the for the purpose of establishing the boundaries  
6 of interests in real property that depict any of the following:

7           1. The shape and area of tracts of land and their subdivisions into smaller  
8 tracts; the preparation of maps showing the or the subdivision or consolidation of  
9 tracts of land.

10          2. The layout and rights-of-way of roads, or streets and rights-of-way of same  
11 to give access to smaller tracts; and the preparation of

12          (e) Preparing assessors' or official plats, or maps, of land in this state.

13          **SECTION 40.** 443.01 (6s) (a) and (b) of the statutes are created to read:

14          443.01 (6s) (a) Measuring and analyzing a tract of land to determine its legal  
15 description.

16          (b) Designing or coordinating designs for the purpose of platting or subdividing  
17 land into smaller tracts.

18          **SECTION 41.** 443.01 (6s) (d) 3. and 4. of the statutes are created to read:

19          443.01 (6s) (d) 3. Air, water, or property rights.

20          4. Public or private easements.

21          **SECTION 42.** 443.01 (6s) (f) to (h) of the statutes are created to read:

22          443.01 (6s) (f) Applying knowledge or experience about land surveying to assist  
23 in the development, use, or management of geographic or land information systems  
24 that collect, organize, or disseminate data regarding land ownership or land  
25 resources.

1 (g) Performing cartographic, construction, or geodetic surveying in connection  
2 with any of the practices specified in pars. (a) to (e).

3 (h) Providing consultation services related to any of the practices specified in  
4 this subsection.

5 **SECTION 43.** 443.01 (7m) of the statutes is created to read:

6 443.01 (7m) "Professional land surveyor" means a person who, by reason of his  
7 or her knowledge of law, mathematics, physical sciences, and measurement  
8 techniques, acquired by education and practical experience, is granted a license or  
9 permit to engage in the practice of professional land surveying under this chapter.

10 **SECTION 44.** 443.02 (4) of the statutes is amended to read:

11 443.02 (4) No person may engage or offer to engage in the practice of  
12 professional land surveying in this state or use or advertise any title or description  
13 tending to convey the impression that the person is a professional land surveyor  
14 unless the person has been issued a certificate of registration or granted a license or  
15 permit to practice under this chapter.

16 **SECTION 45.** 443.06 (title) of the statutes is amended to read:

17 **443.06** (title) ~~Registration~~ **Licensure requirements for professional**  
18 **land surveyors.**

19 **SECTION 46.** 443.06 (1) (title) of the statutes is amended to read:

20 443.06 (1) (title) ~~REGISTRATION~~ **LICENSURE**, APPLICATION, QUALIFYING EXPERIENCE.

21 **SECTION 47.** 443.06 (1) (a) of the statutes is amended to read:

22 443.06 (1) (a) Application for ~~registration~~ licensure as a professional land  
23 surveyor or a permit to practice shall be made to the section under oath, on forms  
24 provided by the department, which shall require the applicant to submit such  
25 information as the section deems necessary. The section may require applicants to

1 pass written or oral examinations or both. Applicants who do not have an arrest or  
2 conviction record, subject to ss. 111.321, 111.322, and 111.335, shall be entitled to be  
3 ~~registered or issued a~~ granted a license or permit to practice as professional land  
4 surveyors when satisfactory evidence is submitted that the applicant has met one or  
5 more of the requirements of sub. (2).

6 **SECTION 48.** 443.06 (1) (b) of the statutes is amended to read:

7 443.06 (1) (b) Each year, but not more than 4 years, of work or training  
8 completed in a curriculum in land surveying approved by the professional land  
9 surveyor section, or of responsible charge of land surveying teaching may be  
10 considered as equivalent to one year of qualifying experience in land surveying work,  
11 and each year, but not more than 4 years, completed in a curriculum other than land  
12 surveying approved by the ~~land surveyor~~ section, may be considered as equivalent  
13 to one-half year of qualifying experience.

14 **SECTION 49.** 443.06 (2) (intro.) of the statutes is amended to read:

15 443.06 (2) ~~REQUIREMENTS; CERTIFICATE OF REGISTRATION LICENSE.~~ (intro.) The  
16 section may grant a ~~certificate of registration as a~~ professional land surveyor license  
17 to any person who has submitted to it an application, the required fees, and one or  
18 more of the following:

19 **SECTION 50.** 443.06 (2) (a) of the statutes is repealed.

20 **SECTION 51.** 443.06 (2) (am) of the statutes is amended to read:

21 443.06 (2) (am) Evidence satisfactory to the professional land surveyor section  
22 that he or she has received a bachelor's degree in a course in land surveying or a  
23 related field that has a duration of not less than 4 years and is approved by the ~~land~~  
24 ~~surveyor~~ section, and that he or she has engaged in at least 2 years of land surveying  
25 practice of satisfactory character that indicates that the applicant is competent to

1 engage in the practice of professional land surveying, if the applicant has passed an  
2 oral and written or written examination administered by the ~~land surveyor~~ section.  
3 This paragraph applies to actions of the ~~land surveyor~~ section on applications for  
4 professional land surveyors' ~~certificates~~ licenses that are submitted to the ~~land~~  
5 ~~surveyor~~ section after June 30, 2000.

6 SECTION 52. 443.06 (2) (b) of the statutes is repealed.

7 SECTION 53. 443.06 (2) (bm) of the statutes is amended to read:

8 443.06 (2) (bm) Evidence satisfactory to the professional land surveyor section  
9 that he or she has received an associate degree in a course in land surveying or a  
10 related field that has a duration of not less than 2 years and is approved by the ~~land~~  
11 ~~surveyor~~ section, and that he or she has engaged in at least 4 years of land surveying  
12 practice of satisfactory character that indicates that the applicant is competent to  
13 engage in the practice of professional land surveying, if the applicant has passed an  
14 oral and written or written examination administered by the ~~land surveyor~~ section.  
15 This paragraph applies to actions of the ~~land surveyor~~ section on applications for  
16 professional land surveyors' ~~certificates~~ licenses that are submitted to the ~~land~~  
17 ~~surveyor~~ section after June 30, 2000.

18 SECTION 54. 443.06 (2) (c) of the statutes is repealed.

19 SECTION 55. 443.06 (2) (cm) of the statutes is amended to read:

20 443.06 (2) (cm) Evidence satisfactory to the professional land surveyor section  
21 that he or she has engaged in at least 10 years of land surveying practice of  
22 satisfactory character that indicates that the applicant is competent to engage in the  
23 practice of professional land surveying, if the applicant has passed an oral and  
24 written or written examination administered by the ~~land surveyor~~ section. This  
25 paragraph applies to actions of the ~~land surveyor~~ section on applications for

1 professional land surveyors' ~~certificates~~ licenses that are submitted to the ~~land~~  
2 ~~surveyor~~ section after June 30, 2000.

3 **SECTION 56.** 443.06 (2) (d) of the statutes is amended to read:

4 443.06 (2) (d) An unexpired certificate of registration, certificate of  
5 certification, or license as a land surveyor or professional land surveyor issued to the  
6 applicant by the proper authority in any state or territory or possession of the United  
7 States or in any other country whose requirements meet or exceed the requirement  
8 for ~~registration~~ licensure in this subsection, if the applicant has passed an oral and  
9 written or written examination administered by the professional land surveyor  
10 section.

11 **SECTION 57.** 443.06 (2) (e) of the statutes is repealed.

12 **SECTION 58.** 443.06 (2) (em) of the statutes is amended to read:

13 443.06 (2) (em) Evidence satisfactory to the professional land surveyor section  
14 that he or she has completed an apprenticeship training course in land surveying  
15 prescribed by the department of workforce development, and has engaged in a period  
16 of additional land surveying practice of satisfactory character that indicates that the  
17 applicant is competent to engage in the practice of professional land surveying and  
18 that, when added to the period of the apprenticeship, totals at least 8 years of land  
19 surveying practice, if the applicant has passed an oral and written or written  
20 examination administered by the ~~land surveyor~~ section. This paragraph applies to  
21 actions of the ~~land surveyor~~ section on applications for professional land surveyors'  
22 ~~certificates~~ licenses that are submitted to the ~~land surveyor~~ section after June 30,  
23 2000.

24 **SECTION 59.** 443.06 (3) of the statutes is amended to read:

1           443.06 (3) PERMIT TO PRACTICE. The examining board may grant a permit to  
2           engage in the practice of professional land surveying during the time an application  
3           is pending to a person who is not ~~registered~~ licensed in this state, if the person has  
4           submitted an application for ~~registration as a professional~~ land surveyor license and  
5           paid the required fee and holds an unexpired certificate of registration, certificate of  
6           certification, or license which in the opinion of the examining board meets the  
7           requirements of sub. (2). The permit shall be revocable by the section at its pleasure.

8           **SECTION 60.** 443.10 (title) of the statutes is amended to read:

9           **443.10 (title) Applications, certificates, licenses, rules, and roster.**

10          **SECTION 61.** 443.10 (2) (b) of the statutes is amended to read:

11          443.10 (2) (b) The fees for examinations and licenses credentials, as defined in  
12          s. 440.01 (2) (a), granted or renewed under this chapter are specified in ss. 440.05 and  
13          440.08.

14          **SECTION 62.** 443.10 (2) (b) of the statutes, as affected by 2007 Wisconsin Acts  
15          20 and .... (this act), is amended to read:

16          443.10 (2) (b) The fees for examinations and credentials, as defined in s. 440.01  
17          (2) (a), granted under this chapter are specified in s. 440.05, and the fee for renewal  
18          of such licenses credentials is determined by the department under s. 440.03 (9) (a).

19          **SECTION 63.** 443.10 (5) of the statutes is amended to read:

20          443.10 (5) FEES; RENEWALS. The professional land surveyor's surveyor section  
21          shall grant a ~~certificate of registration as a professional~~ land surveyor license to any  
22          applicant who has met the applicable requirements of this chapter. The renewal date  
23          and renewal fee for the ~~certificate~~ license are specified under s. 440.08 (2) (a).

24          **SECTION 64.** 443.10 (5) of the statutes, as affected by 2007 Wisconsin Acts 20  
25          and .... (this act), is amended to read:

1           443.10 (5) FEES; RENEWALS. The professional land surveyor section shall grant  
2 a professional land surveyor license to any applicant who has met the applicable  
3 requirements of this chapter. The renewal date for the license is specified under s.  
4 440.08 (2) (a), and the renewal fee for the ~~certificate~~ license is determined by the  
5 department under s. 440.03 (9) (a).

6           **SECTION 65.** 443.12 (title) of the statutes is amended to read:

7           **443.12 (title) Disciplinary proceedings against professional land**  
8 **surveyors.**

9           **SECTION 66.** 443.12 (1) of the statutes is amended to read:

10           443.12 (1) The section may reprimand a licensed professional land surveyor,  
11 or limit, suspend, or revoke the ~~certificate of registration~~ license of any professional  
12 land surveyor, for the practice of any fraud or deceit in obtaining the ~~certificate~~  
13 license, or any gross negligence, incompetence, or misconduct in the practice of  
14 professional land surveying.

15           **SECTION 67.** 443.12 (3) of the statutes is amended to read:

16           443.12 (3) If after a hearing 3 members vote in favor of reprimand or limiting,  
17 suspending, or revoking the ~~certificate of registration~~ license of a professional land  
18 surveyor, the section shall notify the surveyor to that effect. The surveyor shall  
19 return the ~~certificate~~ license to the examining board immediately on receipt of notice  
20 of a revocation. The action of the section may be reviewed under ch. 227.

21           **SECTION 68.** 443.135 of the statutes is created to read:

22           **443.135 Cartographic, construction, and geodetic surveying.** Nothing  
23 in this chapter shall be construed to prohibit a person who has not been granted a  
24 license or permit to practice professional land surveying under this chapter from  
25 performing cartographic, construction, or geodetic surveying, unless the

1 performance of cartographic, construction, or geodetic surveying also involves a  
2 practice specified in s. 443.01 (6s) (a) to (e).

3 **SECTION 69.** 443.14 (8) (a) of the statutes is renumbered 443.14 (8) and  
4 amended to read:

5 443.14 (8) An employee of a professional land surveyor ~~registered~~ licensed in  
6 this state or authorized to practice under a permit, while ~~working~~ doing surveying  
7 work under the supervision of the employer. Such exempt employee shall not be in  
8 responsible charge of the practice of professional land surveying.

9 **SECTION 70.** 443.14 (8) (b) of the statutes is amended to read:

10 443.14 (8) (b) Officers and employees of the federal government while engaged  
11 in land surveying for the federal government. This paragraph does not apply after  
12 July 1, 2018.

13 **SECTION 71.** 443.14 (8) (c) of the statutes is amended to read:

14 443.14 (8) (c) Employees of this state while engaged in land surveying for the  
15 state. This paragraph does not apply after July 1, 2018.

16 **SECTION 72.** 443.14 (8) (d) of the statutes is amended to read:

17 443.14 (8) (d) Employees of public utilities regulated by the public service  
18 commission in land surveying for such utilities. This paragraph does not apply after  
19 July 1, 2018.

20 **SECTION 73.** 443.14 (9) of the statutes is amended to read:

21 443.14 (9) A license or permit shall not be required for an owner to survey his  
22 or her own land for purposes other than for sale.

23 **SECTION 74.** 443.14 (11) of the statutes is amended to read:

1           443.14 (11) Any professional land surveyor ~~registered~~ licensed under s. 443.06  
2 who is engaged in the planning, design, installation, or regulation of land and water  
3 conservation activities under ch. 92 or s. 281.65.

4           **SECTION 75.** 443.18 (2) (b) of the statutes is amended to read:

5           443.18 (2) (b) If it appears upon complaint or is known to the section that any  
6 person who is not authorized is ~~practicing~~ engaged or offering to engage in the  
7 practice of professional land surveying in this state, the section, the department of  
8 justice, or the district attorney of the proper county may, in addition to other  
9 remedies, bring an action in the name and on behalf of the state to enjoin the person  
10 from ~~practicing~~ engaging or offering to engage in the practice of professional land  
11 surveying.

12           **SECTION 76.** 470.025 (7) of the statutes is amended to read:

13           470.025 (7) A professional land surveyor ~~registered~~ licensed under ch. 443 who  
14 is engaged in the planning, design, installation, or regulation of land and water  
15 conservation activities under ch. 92 or s. 281.65.

16           **SECTION 77.** 707.215 (5) (intro.) of the statutes is amended to read:

17           707.215 (5) SURVEYOR'S CERTIFICATE. (intro.) A plat is sufficient for the purposes  
18 of this chapter if attached to or included in the plat is a certificate of a professional  
19 land surveyor ~~licensed to practice in this state~~ under ch. 443, and the certificate  
20 provides all of the following:

21           **SECTION 78.** 709.02 (1) of the statutes is amended to read:

22           709.02 (1) In regard to transfers described in s. 709.01, the owner of the  
23 property shall furnish, not later than 10 days after acceptance of a contract of sale  
24 or option contract, to the prospective buyer of the property a completed copy of the  
25 report under s. 709.03, subject to s. 709.035, except that the owner may substitute

1 for any entry information supplied by a licensed engineer, professional land surveyor  
2 licensed under ch. 443, or structural pest control operator, or by an individual who  
3 is a qualified 3rd party, as defined in s. 452.23 (2) (b), or by a contractor about matters  
4 within the scope of the contractor's occupation if the information is in writing and  
5 is furnished on time and if the entry to which it relates is identified, and except that  
6 the owner may substitute for any entry information supplied by a public agency, as  
7 defined in s. 66.0825 (3) (h). Information that substitutes for an entry on the report  
8 under s. 709.03 and that is supplied by a person specified in this section may be  
9 submitted and certified on a supplemental report prepared by the person, as long as  
10 the information otherwise satisfies the requirements under this section. A  
11 prospective buyer who does not receive a report within the 10 days may, within 2  
12 business days after the end of that 10-day period, rescind the contract of sale or  
13 option contract by delivering a written notice of rescision to the owner or to the owner's  
14 agent.

15 **SECTION 79.** 709.07 of the statutes is amended to read:

16 **709.07 Liability precluded.** An owner is not liable for an error or omission  
17 in a report under s. 709.03 if the owner had no knowledge of that error or omission,  
18 if the error or omission was based on information provided by a public agency, as  
19 defined in s. 66.0825 (3) (h), or by a licensed engineer, professional land surveyor  
20 licensed under ch. 443, structural pest control operator, or qualified 3rd party, as  
21 defined in s. 452.23 (2) (b), or by a contractor about matters within the scope of the  
22 contractor's occupation.

23 **SECTION 80.** 893.37 of the statutes is amended to read:

24 **893.37 Survey.** No action may be brought against an engineer or any  
25 professional land surveyor licensed under ch. 443 to recover damages for negligence,

1 errors, or omission in the making of any survey nor for contribution or indemnity  
2 related to such negligence, errors, or omissions more than 6 years after the  
3 completion of a survey.

*as a result of the surveyor's establishment of an approximate*

4 SECTION 81. 895.477 of the statutes is created to read:

5 **895.477 Civil liability exemption; professional land surveyors. (1) Any**

6 professional land surveyor licensed under ch. 443 is immune from civil liability for  
7 any damages caused ~~by the failure to establish the location of the approximate~~  
*in establishing*

*as a result*

8 ordinary high water mark of any lake or stream ~~or the failure to establish the~~  
9 ~~approximate high and low water elevations of any lake or stream if the surveyor was~~  
*or of his or her establishment of*  
10 acting under ch. 236 and if the surveyor acted in good faith ~~in establishing that mark~~  
11 ~~or elevation.~~

*Handwritten notes and signatures in the right margin.*

12 (2) The immunity under sub. (1) does not extend to any professional land  
13 surveyor whose act or omission in establishing the location of an approximate  
14 ordinary high water mark or high and low water elevations involves reckless,  
15 wanton, or intentional misconduct.

16 **SECTION 82. Nonstatutory provisions.**

17 (1) Notwithstanding section 443.02 (4) of the statutes, as affected by this act,  
18 on the effective date of this subsection, a person who has been granted a certificate  
19 of registration as a land surveyor under section 443.06 (2), 2005 stats., or a permit  
20 to practice land surveying under section 443.06 (3), 2005 stats., is considered to be  
21 granted a professional land surveyor license under section 443.06 (2) of the statutes,  
22 as affected by this act, or a permit to engage in the practice of professional land  
23 surveying under section 443.06 (3) of the statutes, as affected by this act, and the  
24 professional land surveyor section of the examining board of architects, landscape  
25 architects, professional engineers, designers, and professional land surveyors shall

1 issue to the person, as appropriate, a professional land surveyor license under  
2 section 443.06 (2) of the statutes, as affected by this act, or a permit to practice  
3 professional land surveying under section 443.06 (3) of the statutes, as affected by  
4 this act.

5 **SECTION 83. Initial applicability.**

6 (1) The treatment of sections 709.02 (1) and 709.07 of the statutes first applies  
7 to reports furnished on the effective date of this subsection.

*(#) The treatment of sections 893.37 and 895.477 of the statutes*

8 **SECTION 84. Effective dates.** This act takes effect on the first day of the 4th

9 month beginning after publication, except as follows:

10 (1) The repeal and recreation of section 440.08 (2) (a) 39. of the statutes takes  
11 effect on July 1, 2009, or on the day after publication, whichever is later.

12 (2) The treatment of section 443.10 (2) (b) (by SECTION 62) of the statutes takes  
13 effect on July 1, 2009, or on the day after publication, whichever is later.

14 (3) The treatment of section 443.10 (5) (by SECTION 64) of the statutes takes  
15 effect on July 1, 2009, or on the day after publication, whichever is later.

16 (END)

*original*

*Insert 27-8*

*first applies to acts or omissions occurring on the effective date of this subsection.*

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3993/P1insMG  
MGG:.....

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**Insert 14-9**

^ x

final

**SECTION 1.** 236.20 (6) of the statutes is created to read:

236.20 (6) PUBLIC TRUST INFORMATION. A plat of a subdivision to which s. 236.16

(4) applies shall contain a statement that the land between the meander line and the water's edge is subject to the public trust in navigable waters that is established under article IX, section 1, of the constitution unless the right of the public under that trust has been restricted by a valid conveyance or by law.

the

INSERT 27-8

1 **SECTION 1. Initial applicability.**

2 (3) The treatment of section 236.02 (2m) of the statutes first applies to  
3 correction instruments that are recorded on the effective date of this subsection.

4 (4) The treatment of section 236.15 (2) of the statutes first applies to surveys  
5 of subdivisions for which preliminary plats or, in cases in which no preliminary plats  
6 are submitted, final plats are submitted for approval on the effective date of this  
7 subsection.

8 (5) The treatment of section 236.34 (1) (a) of the statutes first applies to certified  
9 survey maps that are recorded on the effective date of this subsection.

10 (6) The treatment of section 707.215 (5) (intro.) of the statutes first applies to  
11 time-share property plats that are recorded on the effective date of this subsection.

(END OF INSERT 27-8)

use  
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certifications made  
certifications made

surveys that are performed

sections 236.15 (2) and

drafted

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3993/P1dn  
TKK:cjs:pg

April 9, 2008

Senator Risser:

This is a redraft of 2001 AB 804. Please review this draft to ensure that it satisfies your intent. I have two questions for your consideration:

1. The proposed revision to s. 443.14 (8) (b) in 2001 AB 804 and this redraft would require employees of the federal government to be licensed by the land surveyor section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in order to engage in land surveying as a federal employee in Wisconsin after July 1, 2018. This provision appears to be in conflict with longstanding United States Supreme Court case law. *See Johnson v. State of Maryland*, 254 U.S. 51 (1920).

In *Johnson*, the Supreme Court held that Maryland could not require an employee of the Post Office Department of the U.S. to obtain a Maryland drivers license before performing his postal duties; prerequisite to obtaining a drivers license, a person was required to pay a fee and sit for an examination concerning the driver's competency. *See Id.* at 55. In support of its decision, the Supreme Court explained:

“[T]he immunity of the instruments of the United States from state control in the performance of their duties extends to a requirement that they desist from performance until they satisfy a state officer upon examination that they are competent for a necessary part of them and pay a fee for permission to go on. Such a requirement does not merely touch the Government servants remotely by a general rule of conduct; it lays hold of them in their specific attempt to obey orders and requires qualifications in addition to those that the Government has pronounced sufficient.”

A reviewing court may find that a conflict exists between this old, but still valid, precedent and the regulation imposed upon federal land surveyors by this bill. Do you wish to retain the amendment to s. 443.14 (8) (b)?

2. 2001 AB 804 established an approximately 8-year delay between the date of enactment and the date on which the licensure requirements would first be applicable to employees of the federal government, the state, and public utilities. See proposed revisions to s. 443.14 (8) (b) to (d). The 8-year delay is retained in this bill; is that your intent?

I look forward to working with you on this bill.

Tracy K. Kuczenski  
Legislative Attorney  
Phone: (608) 266-9867  
E-mail: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3993/P2dn  
TKK:cjs:jf

April 11, 2008

Senator Risser:

This is a redraft of 2001 AB 804. Please review this draft to ensure that it satisfies your intent. I have two questions for your consideration:

1. The proposed revision to s. 443.14 (8) (b) in 2001 AB 804 and this redraft would require employees of the federal government to be licensed by the land surveyor section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in order to engage in land surveying as a federal employee in Wisconsin after July 1, 2018. This provision appears to be in conflict with longstanding United States Supreme Court case law. See *Johnson v. State of Maryland*, 254 U.S. 51 (1920).

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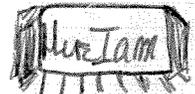
“[T]he immunity of the instruments of the United States from state control in the performance of their duties extends to a requirement that they desist from performance until they satisfy a state officer upon examination that they are competent for a necessary part of them and pay a fee for permission to go on. Such a requirement does not merely touch the Government servants remotely by a general rule of conduct; it lays hold of them in their specific attempt to obey orders and requires qualifications in addition to those that the Government has pronounced sufficient.”

A reviewing court may find that a conflict exists between this old, but still valid, precedent and the regulation imposed upon federal land surveyors by this bill. Do you wish to retain the amendment to s. 443.14 (8) (b)?

2. 2001 AB 804 established an approximately 8-year delay between the date of enactment and the date on which the licensure requirements would first be applicable to employees of the federal government, the state, and public utilities. See proposed revisions to s. 443.14 (8) (b) to (d). The 8-year delay is retained in this bill; is that your intent?

I look forward to working with you on this bill.

Tracy K. Kuczenski  
Legislative Attorney  
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LRB  
Rolling Involvement

for waterfront property:  
surveyor only "establishes" 3 sides  
water side is only approximated or indicated  
surveyor by surveyor  
draws lines on plat, ~~is~~ duty and he  
is bound by that

SI  
GHC

the 3 boundary

signs the plat  
disclaimer needs to be on signed

» } to apply to both  
certified survey maps  
subdivision plats

236.34 (1) (c)

↳ X ref 236.20(6)

11/20

**Gibson-Glass, Mary**

**From:** O'Connor, William [WOCConnor@wheelerlaw.com]  
**Sent:** Friday, July 11, 2008 5:25 PM  
**To:** Kuczenski, Tracy  
**Cc:** Checkai, Lisa; Gibson-Glass, Mary  
**Subject:** RE: Land Surveyors

Thanks Tracy. I'll give you a call on the 15th. Enjoy the weekend. Bill

**From:** Kuczenski, Tracy [mailto:Tracy.Kuczenski@legis.wisconsin.gov]  
**Sent:** Fri 7/11/2008 3:38 PM  
**To:** O'Connor, William  
**Cc:** Checkai, Lisa; Gibson-Glass, Mary  
**Subject:** Land Surveyors

Hi Bill -

I hope you are enjoying your summer!

Mary Gibson-Glass and I are working through LRB 3993/P2 and we have a couple of questions:

- 1. By significantly <sup>no; sharpening/focusing</sup> expanding the scope of the definition of "practice of land surveying", is it your intent that any person doing anything that could remotely be construed as "land surveying" will be required under the bill to be licensed? That is, will any reference to "surveyor" in the statute necessarily refer to a person licensed by the examining board to "practice land surveying"?
- 2. The definition of "practice of land surveying" does not include either of the following activities:
  - a. establishing the approximate ordinary high water mark.
  - b. establishing the approximate high and low water mark of a lake or stream.

Is this exclusion from the definition of "practice of land surveying" intentional? *Yes - not part of practicing*

May any person other than a licensed professional land surveyor establish either the approximate OHWM or the approximate high and low water mark? What about employees of the DNR who establish these water marks; is it your intent that these employees be licensed land surveyors?

Depending on your answer to the question about DNR employees, it may make sense to include the establishment of these water marks in the definition of "practice of land surveying" in order to prohibit any person from purporting to be authorized to establish these water marks without having first obtained a license from the department of regulation and licensing.

I may be out of the office on Monday the 14th, but will be in all day on Tuesday; we can either chat by phone or you are welcome to reply by email.

Thanks,  
Tracy

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59.73 - immunity: if doing <sup>any</sup> regulated activity  
 ↳ move to ch. 895

persons who are est<sub>approx</sub> OTHWM are not required  
 to be licensed as land surveyors

↳ so, if a licensed land surveyor ~~establishes~~  
 an approx OTHWM on a map, it <sup>shows</sup> locates  
 incidental to their practice & they shouldn't be  
 liable if they get it "wrong"

~~and~~ -  
 regulatory powers and declaring rights

exemption from definition

→ locating approx. OTHWM / approx low of high water mark

## Instructions for Immunity

59.73 applies to <sup>all</sup> professional land surveyors  
 limited to <sup>all</sup> practice of land surveyors  
 limited to trespass only

89.477

applies to all professional land surveyors  
 limited to "practice" as applies  
 to ~~board~~ OHWMs and elevations  
 for acts in surveying and mapping  
 all  
 for all damages

but do not need to surveyor's license to  
 determine OHWM + elevations

location

OHWMs + elevations as incidental to surveyor  
 practice to be immune

exclude OHWM and water elevations from def. of  
 surveying

ask Pam

\* needs to cover all plats, maps, or survey