



## 1997 ASSEMBLY BILL 708

January 13, 1998 - Introduced by Representatives HUTCHISON, JOHNSRUD, GARD, HAHN, HOVEN, RYBA and SERATTI, cosponsored by Senators A. LASEE and PANZER. Referred to Committee on Natural Resources.

- 1     **AN ACT to amend** 30.12 (3) (b); and **to create** 30.01 (1n), 30.01 (3c), 30.01 (5r),  
2             30.12 (3) (a) 3m. and 30.12 (3r) of the statutes; **relating to:** seawalls on Lake  
3             Michigan and Lake Superior and granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person must receive a permit from the department of natural resources (DNR) before placing a structure, including a seawall, in navigable waters. After public notice and, under certain conditions, a hearing, DNR approves or denies the permit.

This bill requires DNR to promulgate rules governing the construction and repair of seawalls on Lake Michigan and Lake Superior. Under the bill, to receive a permit for a seawall, the construction or repair must comply with these rules. The bill requires DNR to allow certain building material options and allows DNR to include additional options in the rules. The bill also requires that the rules include all of the following:

1. Certain specifications for using the building material options.
2. Provisions allowing seawalls to be placed at certain locations in relation to the ordinary high-water mark and to adjacent seawalls.
3. Provisions allowing boat ramps and steps to be at certain locations and to be constructed and faced with certain materials

Current law provides an abbreviated procedure for reviewing permit applications for the placement of certain structures and deposits. For these structures and deposits, DNR may approve or disapprove the permit without giving

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notice or conducting a hearing. Types of permit applications to which this abbreviated procedure applies include permit applications to place sand to improve recreational use and permit applications to place devices to improve fish habitat. Under the bill, this abbreviated procedure applies to permits for seawalls.

Under current law, DNR may deny a permit for a seawall if it finds that the seawall will materially impair navigation or if the structure is detrimental to the public interest. Under this bill DNR may also deny a permit for a seawall if it finds that the seawall will be in an area that DNR determines to be environmentally sensitive.

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

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

1           **SECTION 1.** 30.01 (1n) of the statutes is created to read:

2           30.01 (1n) "Dimensional stone riprap" means stone riprap of various sizes that  
3 is rectangular in shape and that slopes from the bank toward the water.

4           **SECTION 2.** 30.01 (3c) of the statutes is created to read:

5           30.01 (3c) "Mean lake level" means 578.95 feet above mean sea level for Lake  
6 Michigan and 604.1 feet above mean sea level for Lake Superior.

7           **SECTION 3.** 30.01 (5r) of the statutes is created to read:

8           30.01 (5r) "Random stone riprap" means stone riprap of various shapes and  
9 sizes that is dumped or placed along a bank and that slopes from the bank toward  
10 the water.

11           **SECTION 4.** 30.12 (3) (a) 3m. of the statutes is created to read:

12           30.12 (3) (a) 3m. Construct or repair a seawall on Lake Michigan or Lake  
13 Superior, if the seawall complies with the rules under sub. (3r), on the bed and bank  
14 of the lake adjacent to an owner's property for the purpose of protecting the bank and  
15 adjacent land from any current erosion or from the potential of any future erosion.

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1 For purposes of this subdivision, "Lake Michigan" includes all of its harbors and  
2 bays, and "Lake Superior" includes all of its harbors and bays.

3 **SECTION 5.** 30.12 (3) (b) of the statutes is amended to read:

4 30.12 (3) (b) A person who seeks to place structures or deposits under par. (a)  
5 shall apply to the department for a permit. The department may disapprove the  
6 application if it finds that the proposed structure or deposit will materially impair  
7 navigation or be detrimental to the public interest. The department may also  
8 disapprove an application for a permit for a seawall under par. (a) 3m. if it finds that  
9 the proposed construction or repair will be in an area that the department  
10 determines to be environmentally sensitive. The department shall issue the permit  
11 or notify the applicant in writing of the disposition of the application.

12 **SECTION 6.** 30.12 (3r) of the statutes is created to read:

13 30.12 (3r) RULES FOR SEAWALLS. (a) The department shall promulgate rules  
14 regulating the placement of seawalls under sub. (3) (a) 3m. The materials that the  
15 rules shall allow for the construction and repair of seawalls shall include the  
16 following 4 options for building materials:

- 17 1. Random stone riprap.
- 18 2. Dimensional stone riprap.
- 19 3. Steel or concrete used with or without riprap.
- 20 4. Wooden timbers.

21 (b) The department may allow, by rule, options for building materials in  
22 addition to those specified under par. (a) 1. to 4.

23 (c) The rules shall establish specifications for the building material options  
24 under pars. (a) and (b) and shall include the following:

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1           1. Steel or concrete may be used without riprap only if it is used at the mean  
2 lake level or below.

3           2. Steel or concrete may be used only as a reinforcement to dimensional stone  
4 riprap or random stone riprap if it is used above mean lake level.

5           (d) The rules shall establish specifications for the location of seawalls and shall  
6 include all of the following:

7           1. A provision allowing the placement of a seawall made of random stone riprap  
8 if the slope of the riprap is a minimum of 2 horizontal to 1 vertical sloping waterward  
9 starting from the 10 feet landward from the ordinary high-water mark.

10          2. A provision allowing the placement of a seawall made of dimensional stone  
11 riprap up to 5 feet waterward of the ordinary high-water mark.

12          3. For dredged harbors, a provision allowing the toe or edge of a seawall made  
13 of dimensional stone riprap or random stone riprap to extend to any point where  
14 dredging occurred if the slope of the edge or the toe can be kept stable.

15          (e) The rules shall allow for the construction or repair of steps and boat ramps  
16 and shall include the following:

17          1. A provision that allows steps in a seawall to extend to the waterward toe or  
18 edge of the seawall.

19          2. A provision that allows a boat ramp to extend to the waterward toe or edge  
20 of the seawall.

21          (f) The rules shall require that, if there is a seawall in place on property  
22 adjacent to the property on which a new seawall is to be constructed, the new seawall  
23 may not have a waterward toe or edge that extends more waterward than the point  
24 where the new seawall abuts the seawall in place.

25           **SECTION 7. Initial applicability.**

