

No. 691, A.]

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CHAPTER 535

AN ACT to amend 30.11 (2) ; and to create 24.39 (4) and 30.11 (5) of the statutes, to enable the state to lease rights to submerged lands and rights to fill in submerged lands.

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

SECTION 1. 24.39 (4) of the statutes is created to read:

24.39 (4) (a) Subject to pars. (c) and (d) the commissioners of the public lands are empowered to: 1. Lease to riparian owners rights to the beds of lakes and rights to fill in beds of lakes or navigable streams, held by the state in trust for the public, when the purpose of the lease is for the improvement of navigation or for the improvement or construction of harbor facilities as defined in s. 30.01; and 2. Lease such rights to municipalities as defined in s. 30.01 and in locations where the municipality is the riparian owner, when the purpose of the lease is for the improvement or provision of recreational facilities related to navigation for public use.

(b) All revenues from such leases shall be paid into the general fund.

(c) No leases under par. (a) may be executed without a prior finding of the public service commission under s. 30.11 (5) that any proposed physical change in the area contemplated as the result of the execution of any term lease is consistent with the public interest in the navigable waters involved.

(d) This section applies only to Lake Michigan and Lake Superior, the Mississippi and St. Croix Rivers, the Fox River from Green Bay upstream to the point where it meets the Wolf River, and to the segments of all other bodies of water in which the U. S. Army Corps of Engineers provides and maintains commercial navigation channels.

(e) Such lease shall be for a term not to exceed 50 years, and shall include therein any and all conditions and terms the commissioners of the public lands believe to be necessary in the public interest. A lessee or his heirs, successors or assigns of a lease which has reached the end of its term

shall have first opportunity to contract with the commissioners of the public lands for a new lease.

(f) A municipality may sublease rights leased to it under par. (a) 1 or 2 to corporations or private persons. A municipality may also make physical improvements on and above the bottoms to which rights were leased from the commissioners of the public lands and may sublease these improvements to corporations or private persons. Any subleases under this paragraph shall be consistent with this subsection and with whatever standards or restrictions the public service commission, acting under s. 30.11 (5), may have found at the time of execution of the original lease by the commissioners of the public lands to the municipality.

(g) The lease may be terminated for nonuse or for a nonconforming use any time after 5 years from date of issue, or such shorter period of time as may be specified in the lease. It may also be terminated for any other ground recognized at law for termination of a lease.

(h) All rights to submerged lands and rights above submerged lands ceded, granted or leased to municipalities, or other persons by prior acts of the state shall not be affected by this subsection or by s. 30.11 (5).

(i) All leases entered into by the commissioners of the public lands under this subsection and s. 30.11 shall be deemed to be subject to both these subsections and any other applicable laws of this state or of the United States.

SECTION 2. 30.11 (2) of the statutes is amended to read:

30.11 (2) Bulkhead lines shall be established in the public interest and shall conform as nearly as practicable to the existing shores, *except that in the case of leases under sub. (5) and s. 24.39 (4) bulkhead lines may be approved farther from the existing shoreline if they are consistent with and a part of any lease executed by the commissioners of the public lands.*

SECTION 3. 30.11 (5) of the statutes is created to read:

30.11 (5) FINDING OF PUBLIC INTEREST. (a) Prior to the execution of any lease by the commissioners of the public lands of rights to submerged lands or rights to fill in submerged lands held in trust for the public under s. 24.39, the public service commission shall determine either with or without a public hearing whether or not the proposed physical changes in the area contemplated as a result of the execution of such lease are consistent with the public interest. Thirty days before determining whether such finding should or should not be made the public service commission shall notify in writing the clerk of the county and clerk of the city or village or town in which such changes are contemplated, the directors of the state conservation department, department of resource development, and state board of health, and the U. S. Army Corps of Engineers, of the application for the lease. In making its finding the public service commission shall give consideration to any and all reports submitted to it. For leases applied for under s. 24.39 (4) (a) 2, the public service commission shall not approve the lease if the conservation commission objects to the destruction of wild-life habitat.

(b) When considering leases to allow certain initial improvements such as, but not restricted to, filling on submerged lands to create sites for harbor facilities, the public service commission may determine whether such initial improvements are consistent with the public interest in the navigable waters involved even though the exact final use to which these improvements will be put is not known. The public service commission, at the time it finds that a proposed lease would be consistent with the public interest in the navigable waters involved, may include in its findings such limitations upon the use of improvements as it considers necessary to con-

fine their use to functions primarily related to water transportation or otherwise of public benefit. The commissioners of the public lands shall include in the lease such limitations on final use as is determined by the public service commission.

(c) Upon the complaint of any person to the public service commission that current use made of rights leased under s. 24.39 (4) is inconsistent with both 1. its original findings, and 2. the public interest, the commission shall hold a public hearing thereon upon such notice as it deems proper. If the public service commission finds that the present use conforms neither to its original finding nor to the present public interest, it shall submit its findings to the governor, and the governor may cause the attorney general or the district attorney of the proper county to bring action in the name of the state in a court of competent jurisdiction to declare the lease terminated and to institute appropriate action for removal of structures or cessation of practices in violation of such lease.

SECTION 4. Nothing in this act shall be construed as depriving any riparian owner of any rights heretofore granted, including any rights to use or fill in the bed of any navigable water, or as depriving the public service commission or any municipality, as defined in section 30.01 of the statutes, of any statutory right to establish any bulkhead or shoreline or to authorize the use of, or the maintenance of structures upon, the bed of any navigable water.

Approved September 27, 1961.
