

1975 Assembly Bill 1175

Date published: April 13, 1976

CHAPTER 197, Laws of 1975

AN ACT to repeal 33.23 (2); to renumber and amend 33.23 (1); to amend 33.01 (3) and (7), 33.05 (6), 33.06 (4) and (5), 33.11, 33.13 (1), (3) and (4), 33.14 (1), 33.15 (1), 33.16 (2) and (5), 33.17 (1), 33.25 (1), 33.27 (1), 33.28 (2) and (5), 33.30 (1), (2) and (3) (c) and (d), 33.31 (title), (1), (2) and (3), 33.32 (1) (intro.) and (c), 33.33 (1), 66.059 (1) (intro.) and (a), 66.078, 66.09 (1) and (2), 66.33 (1) and 144.01 (12); and to create 33.01 (9), 33.22 (3) to (5), 33.235, 33.25 (4), 33.285, 33.30 (3) (f) and (g), 33.36 and 67.04 (17) of the statutes, relating to making changes in public inland lake protection and rehabilitation districts and providing a penalty.

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

SECTION 1. 33.01 (3) and (7) of the statutes are amended to read:

33.01 (3) "District" means a public inland lake protection and rehabilitation district ~~and includes districts organized under s. 33.225.~~

(7) "Project" means activities or works such as are described in s. ~~33.14~~ 33.15 (4) which are subject to the procedures of subch. III.

SECTION 2. 33.01 (9) of the statutes is created to read:

33.01 (9) "Owner" or "landowner" means, solely for the purpose of petitioning and receiving notice under this chapter, the person whose name appears on the assessment roll prepared for purposes of real property taxation.

SECTION 3. 33.05 (6) of the statutes is amended to read:

33.05 (6) Recommending research programs and projects on lake degradation, protection or rehabilitation.

SECTION 4. 33.06 (4) and (5) of the statutes are amended to read:

33.06 (4) ASSISTANCE. The department shall assist districts seeking technical aid in any phase of lake protection or rehabilitation activity.

(5) CLEARINGHOUSE. The department shall serve as a clearinghouse for scientific data on lakes and information on accepted and experimental lake protection or rehabilitation techniques.

SECTION 5. 33.11 of the statutes is amended to read:

33.11 Goals. The primary goal of activity under this chapter shall be to improve or protect the quality of public inland lakes. In addition, compilation of basic scientific data on lakes of this state and assessment of experimental and innovative techniques of lake rehabilitation and protection shall be goals of the program. Districts may undertake protection and rehabilitation projects to achieve the purposes of such districts specified in s. 33.21. Projects may be undertaken in cooperation with the department, the university of Wisconsin system, and other government agencies, and public and private organizations. Projects shall be divided into study, planning and implementation phases.

SECTION 6. 33.13 (1), (3) and (4) of the statutes are amended to read:

33.13 (1) Feasibility study work done through government agencies and public or private organizations shall include gathering such data on the lake, drainage basin, sources of pollution or nutrients or such other information as is necessary to determine the causes of degradation and remedial courses of action to prevent continued degradation or to determine potential causes of degradation and preventive courses of action. The department shall prescribe data to be secured, methods of analysis and evaluation, and duration of data-gathering. Feasibility study work shall be let by the district to the lowest responsible bidder in such manner as the district commissioners prescribe.

(3) The department shall formulate suggested alternative methods, including cost estimates, of protecting or rehabilitating the water quality of the lake or portions thereof. Alternative protection schemes shall include steps necessary to maintain the water quality of the lake. Alternative rehabilitative schemes shall include steps necessary to abate continued degradation of the lake following implementation of a given rehabilitative plan.

(4) The work under ~~subs. sub. (1) to (3)~~ shall be eligible for financial assistance, subject to rules of the department establishing guidelines for funding of feasibility studies.

SECTION 7. 33.14 (1) of the statutes is amended to read:

33.14 (1) Where specific lake protection and rehabilitation measures developed under s. 33.13 appear feasible, the commissioners of the district shall develop a proposed plan based upon the recommendations of the department and the formulated alternatives.

SECTION 8. 33.15 (1) of the statutes is amended to read:

33.15 (1) No plan developed under this subchapter may be formally adopted for implementation by the district until the department has approved the plans or whatever modifications it believes appropriate. The department in issuing an order shall provide a range of technically and economically feasible alternatives for consideration by the applicant. If the department modifies an application on an order it shall clearly explain reasons why the modifications in approach are being made.

SECTION 9. 33.16 (2) and (5) of the statutes are amended to read:

33.16 (2) A municipality which has ~~contracted under s. 66.30~~ created a district, as authorized in s. 33.23, shall be eligible for funding as a district.

(5) The department shall approve, approve with modifications or disapprove each application for financial assistance within 60 days following the hearing. It shall make a finding whether the preponderance of evidence presented shows that, where applicable to the situation under review, contamination from deleterious substances emitted by residential, municipal or industrial sources, sedimentation, siltation and nutrient fertilization from uncontrolled agricultural sources or septic tanks, groundwater, municipal and industrial wastes and other drainage sources, and any other sources responsible for lake degradation, are or will be substantially eliminated as a source of lake degradation, in order that any lake rehabilitated under this chapter may be protected or maintained in its protected or rehabilitated state. If the department finds in the affirmative and further finds that the application meets such other relevant requirements under sub. (4), it shall approve the application, certify to the district the amount of funds, if any, awarded to it, and set forth modifications, if any, that may be necessary. If the department does not find in the affirmative or for any other reason under sub. (4) it deems the application deficient, it shall deny the application in writing, clearly setting forth its reasons for doing so.

SECTION 10. 33.17 (1) of the statutes is amended to read:

33.17 (1) Aid applications approved but unfunded because of a lack of funds shall remain eligible for future funding, subject to such updating as the department may require. A lack of funding under this subchapter shall not preclude a district from implementing all or part of an approved plan with funding from any other source.

SECTION 11. 33.22 (3) to (5) of the statutes are created to read:

33.22 (3) Any district organized under this chapter may have such powers of a town sanitary district under ss. 60.30, 60.306 and 60.307, other than s. 60.306 (3), as are authorized by resolution of the board of the town having the largest portion by valuation of the district. Any town sanitary district powers which a district is authorized to exercise by resolution of the town board shall be exercised under the terms and procedures of this chapter. Requests for such powers shall be made by resolution adopted by the annual meeting of the district. Prior to adopting such resolution, the town board shall conduct a hearing on the issue of granting such powers. The procedures specified under s. 60.303 (2) and (5) shall apply to the hearing. The board of commissioners shall possess the powers of town sanitary district commissioners under s. 60.306 as authorized by resolution of the town board, except that the annual meeting of the district shall approve or disapprove by majority vote any work or project having a cost to the district in excess of \$5,000.

(4) Districts shall not exercise the town sanitary district powers authorized under sub. (3) within the boundaries of an incorporated municipality unless the governing body of the municipality consents. In addition, districts shall not exercise town sanitary district powers in any territory included in an existing town sanitary district except by contract under s. 66.30 or unless the sanitary district merges into the public inland lake protection and rehabilitation district under s. 33.235.

(5) Nothing in this chapter shall limit the authority of the department to establish town sanitary districts under s. 60.315.

SECTION 12. 33.23 (1) of the statutes is renumbered 33.23 and amended to read:

33.23 Municipalities may establish district. The governing body of a municipality may by resolution establish a public inland lake protection and rehabilitation district if the municipality encompasses all the frontage of a lake within its boundaries. The governing board which forms the district shall perform the function of the board of commissioners. ~~If the frontage of a lake lies within several municipalities, all municipalities with frontage must contract to manage that portion of the lake within their boundaries under s. 66.30.~~ Districts created by towns under this section may adopt the form of governance provided under s. 33.28 by petition to the town board. Upon presentation of a petition requesting such change and signed by at least 20% of the property owners within the district, the town board shall direct that such change shall become effective at the time of the next annual meeting, and shall provide for the necessary election of commissioners at that time.

SECTION 13. 33.23 (2) of the statutes is repealed.

SECTION 14. 33.235 of the statutes is created to read:

33.235 Conversion and merger of town sanitary districts. (1) A town board by resolution may convert a town sanitary district which encompasses all the frontage of a lake within its boundaries into a public inland lake protection and rehabilitation district. The town sanitary district commissioners shall serve as the initial board of commissioners until the first annual meeting of the lake district, at which time the commissioners shall be selected under s. 33.28. Conversion shall not affect any preexisting rights or liabilities of the town sanitary district. All such rights or liabilities shall be assumed automatically by the newly created public inland lake protection and rehabilitation district.

(2) The commissioners of a town sanitary district which does not encompass all the frontage of a lake within its boundaries may, with approval of the town board, petition under s. 33.25 for the formation of a district to include the territory of the existing sanitary district and the additional lake frontage. The commissioners may sign the petition for the landowners in the sanitary district. If necessary to meet the requirements of s. 33.25, signatures of owners of land lying outside the sanitary district shall be obtained. Creation of a district which includes such additional territory shall not affect any preexisting rights or liabilities of the town sanitary district, and all such rights and liabilities shall be assumed automatically by the newly created public inland lake protection and rehabilitation district. The method by which such rights and liabilities are apportioned within the newly created district shall be determined by the county board, and set out in the order issued under s. 33.26 (3) creating the district.

(3) Town sanitary districts having boundaries coterminous or contiguous to a public inland lake protection and rehabilitation district may merge into the lake district. Merger shall be effected by approval of an identical merger resolution by a two-thirds vote of the commissioners of each district, followed by ratification by a majority vote of the electors of each district. Merger shall not become effective unless the town board which created the sanitary district approves such merger. The

commissioners of each district shall act jointly until the next annual meeting of the district and selection of new commissioners under s. 33.28. Merger shall not affect the preexisting rights or liabilities of the districts. All such rights and liabilities shall be assumed automatically by the merged district, but the method of discharging such rights or obligations shall be set out in the merger resolution.

(4) Any district which results from the conversion of a town sanitary district under sub. (1), the formation of a district from a preexisting town sanitary district under sub. (2), or the merger with a town sanitary district under sub. (3), shall have all powers granted to districts under this chapter and to town sanitary districts under ch. 60, except the taxation power under s. 60.306 (3). Such powers shall be exercised using the procedures and methods set out in this chapter.

SECTION 15. 33.25 (1) of the statutes is amended to read:

33.25 (1) WHO TO MAKE. Before a county board may establish a district under s. 33.24, a petition requesting establishment shall be filed with the county clerk, addressed to the board and signed by persons constituting 51% of the landowners or the owners of 51% of the lands within the proposed district. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign such petition. A city council or village board may by resolution represent persons owning lands within the proposed district who are within its jurisdiction, and sign for all such landowners.

SECTION 16. 33.25 (4) of the statutes is created to read:

33.25 (4) PRESUMPTION. Every petition is presumed to have been signed by the persons whose signatures appear thereon, until proved otherwise.

SECTION 18. 33.27 (1) of the statutes is amended to read:

33.27 (1) The county board shall, at the time of making the order establishing a district, appoint 3 persons owning property ~~and residing~~ within the district, at least one of whom is a resident of the district, to serve as commissioners until the first annual meeting of the district, and shall also make the appointment required under s. 33.28 (2).

SECTION 19. 33.28 (2) and (5) of the statutes are amended to read:

33.28 (2) The board of commissioners shall consist of a person appointed by the county board who shall be a supervisor of the county soil and water conservation district or shall be nominated by the supervisors of the soil and water conservation district and appointed by the county board, a member of the governing body of the town, village or city within which the largest portion by valuation of the district lies, appointed by the governing body and owning property within the district if possible, and 3 electors or persons owning property within the district elected by the qualified electors within the district, for staggered 3-year terms. At least one of the elected commissioners shall be a resident of the district.

(5) Commissioners ~~shall receive no remuneration by virtue of their position, but shall be paid actual and necessary expenses incurred while conducting business of the district, plus such compensation as may be established by the annual meeting.~~

SECTION 20. 33.285 of the statutes is created to read:

33.285 Property owning requirements. Any requirement under s. 33.27 (1) or 33.28 that a person own property within the district to be eligible for membership on the board of commissioners shall be satisfied if a person is an official representative, officer or employe of any trust, foundation, corporation, association or organization owning property within the district.

SECTION 21. 33.30 (1), (2) and (3) (c) and (d) of the statutes are amended to read:

33.30 (1) Every public inland lake protection and rehabilitation district shall have an annual meeting. The first annual meeting shall be scheduled during the ~~months of July or August~~ time period between May 22 and September 8, and shall be held annually thereafter unless changed by vote of the previous annual meeting.

(2) The annual meeting shall be preceded by written notice mailed at least 10 days in advance of the meeting to all electors within the district and persons owning lands within the district, whose address is known or can be ascertained with reasonable diligence, and to the department. The district board of commissioners may substitute a class 2 notice, under ch. 985, in lieu of sending written notice to electors residing within the district.

(3) (c) Vote a tax upon all taxable property within the district for the costs of operation for the coming year, which tax shall not exceed a rate of 2.5 mills of equalized valuation, a report of which shall be delivered by the treasurer, by ~~August 31~~ October 1, by certified statement to the clerk of each municipality having property within the district for collection.

(d) Approve or disapprove all proposed projects by the district having a cost to the district in excess of \$5,000, by vote of the electors and property owners within the district. The annual meeting may also authorize the board of commissioners, during the succeeding year until the next annual meeting, to approve or disapprove projects having a cost to the district in excess of \$5,000, and to enter into contracts accordingly.

SECTION 22. 33.30 (3) (f) and (g) of the statutes are created to read:

33.30 (3) (f) Establish compensation, if any, to be paid the district board commissioners.

(g) Adopt rules relating to voting at annual and special meetings.

SECTION 23. 33.31 (title), (1), (2) and (3) of the statutes are amended to read:

33.31 (title) Power to finance. (1) Every district may borrow money ~~or issue special assessment B bonds under s. 66.54 for the financing of lake protection and rehabilitation projects and use any other financing method prescribed by law, including methods designated under s. 66.54 (2), which utilizes special assessments or user charges as the primary method of raising funds to repay such debt.~~ The commission in any district about to issue bonds shall adopt a resolution stating the amount of the proposed issue, the purpose or purposes of the issue and such other information as the commission deems necessary or useful.

(2) Every such resolution shall be offered and read at a meeting of the commission at which ~~at least 4 of the~~ commissioners numbering a majority plus one are present, and shall be published in a newspaper having general circulation within the district as a class 2 notice, under ch. 985, within the 30 days ~~next~~ following the reading ~~and in~~. In order to be effective such resolution shall be passed at a meeting of the commissioners following such publication at which 4 or more members numbering a majority plus one are present. When any such resolution is passed, it shall be recorded by being copied at length in a record book kept for that purpose.

(3) Every bond issued by a district shall be a negotiable instrument, payable to bearer, may be registrable as to principal, and shall mature in a period not exceeding ~~40~~ 20 years from the date thereof and bear interest at a rate not to exceed 8% per annum which rate shall not exceed the rate of interest chargeable on the underlying special assessment. Districts may exercise all rights and privileges given municipalities under s. 66.54 in relation to the purchase of delinquent special assessments at tax sale.

SECTION 24. 33.32 (1) (intro.) and (c) of the statutes are amended to read:

33.32 (1) (intro.) Special assessments or charges for the purpose of carrying out district protection and rehabilitation projects under this chapter, or for other lake management or sanitary service activities undertaken by the district, may be levied by the commissioners in the following manner:

(c) The commissioners shall file in the office of the county clerk a report of the assessments made. Notice shall be given to each owner, mortgagee, lessee or other person having an interest in an affected parcel that the report is open for review at a specified place within the district for ~~a space of~~ 30 days after the date of the notice and that on a day named therein, which shall not be more than 3 days after the expiration of the 30 days, the commissioners will hear objections that may be made to the report. Notice shall be by mail to ~~the last-known address of each person entitled thereto~~ whose post-office address is known or can be ascertained with reasonable diligence, accompanied by a statement of the assessment, and shall also be published as a class 2 notice, under ch. 985, in a newspaper having general circulation within the district.

SECTION 25. 33.33 (1) of the statutes is amended to read:

33.33 (1) MERGER. Any district may merge with a contiguous district. The procedure of s. 66.02 shall apply to any proposed merger. The boards of commissioners of merging districts shall act jointly until the next annual meeting, at which time the board of the merged district shall be conformed to the requirements specified in s. 33.28. The governing body of the county, town, village or city having the largest portion by valuation within the district shall make the appointments under s. 33.28 (2).

SECTION 26. 33.36 of the statutes is created to read:

33.36 Alteration of districts. (1) Whenever any territory which contains an entire district is incorporated as a city or village, or annexed to a city or village, the district shall survive and shall thereafter be subject to s. 33.23.

(2) Whenever any territory containing less than an entire district is incorporated as a city or village, or is annexed to a city or village, that portion of the district within the city or village shall survive, and the district shall continue to operate under this chapter, subject to the following modifications:

(a) The district shall exercise only those powers granted under this chapter. Sanitary district powers shall not be exercised unless consent for such exercise is obtained in advance from the governing body of the city or village.

(b) The governing body of the city, village or town having the largest portion by valuation of the district within its jurisdiction shall make the appointment under s. 33.28.

(c) Ownership of any water or sewerage system shall be determined according to s. 60.31 (2) (c).

SECTION 27. 66.059 (1) (intro.) and (a) of the statutes are amended to read:

66.059 (1) (intro.) Any county, town, sanitary district, public inland lake protection and rehabilitation district, city or village, in addition to any other authority to borrow money and issue its municipal obligations, may also borrow money and issue its public improvement bonds to finance the cost of construction or acquisition, including site acquisition, of any revenue-producing public improvement of such municipality. In this section, unless the context or subject matter otherwise requires:

(a) "Municipality" means county, sanitary district, public inland lake protection and rehabilitation district, town, city or village.

SECTION 28. 66.078 of the statutes is amended to read:

66.078 (title) Refunding village, sanitary and inland lake district bonds. Any village, or town sanitary district established under section 60.301, or public inland lake

protection and rehabilitation district established under ch. 33 which has ~~heretofore~~ undertaken to construct a combined sewer and water system and issued revenue bonds payable from the combined revenues of said system and which is unable to provide sufficient funds to complete the construction of said system and to meet maturing principal of said revenue bonds, may, with the consent of all of the holders of noncallable bonds, refund all or any part of its outstanding indebtedness, including revenue bonds, by issuing term bonds maturing in not ~~exceeding more than~~ 20 years, payable solely from the revenues of said combined sewer and water system and redeemable at par on any interest payment date. Such bonds may be issued as provided in ~~section s.~~ 66.066 (2) and shall pledge income from hydrant rentals and all sewer and water charges and may contain any covenants authorized by law, ~~provided that, except~~ if bonds are issued hereunder to refund floating indebtedness, such bonds shall be subject to the prior lien and claim of all bonds issued to refund revenue bonds theretofore issued.

SECTION 29. 66.09 (1) and (2) of the statutes are amended to read:

66.09 (1) When a final judgment for the payment of money shall be recovered against a town, village, city, county, school district, vocational, technical and adult education district, town sanitary district, public inland lake protection and rehabilitation district or community ~~centre~~ center, or against any officer thereof, in any action by or against him or her in his or her name of office, when the same judgement should be paid by such municipality, the judgment creditor, or his or her assignee or attorney, may file with the clerk ~~thereof~~ a certified transcript of such the judgment or of the docket ~~thereof of the judgment~~, together with his or her affidavit of payments made, if any, and the amount due ~~thereon~~ and that the judgment has not been appealed from or removed to another court, or if so appealed ~~from~~ or removed has been affirmed, ~~and thereupon the~~. The amount so due, with costs and interest to the time when the money will be available for its payment, shall be added to the next tax levy, and shall, when received, be paid to satisfy such the judgment. If the judgment ~~shall be is~~ appealed ~~from~~ after filing the transcript with the clerk, and before the tax is collected, the money shall not be collected on that levy. If the clerk fails to include the proper amount in the first tax levy, he or she shall include it or such portion as is required to complete it in the next levy.

(2) In the case of school districts, town sanitary districts, public inland lake protection and rehabilitation districts or community ~~centres~~ centers, transcript and affidavit shall be filed with the clerk of the town, village or city in which the district or any part of it lies, and levy shall be made against the taxable property of the district or ~~centre~~ center.

SECTION 30. 66.33 (1) of the statutes is amended to read:

66.33 (1) As used in this section ~~the term~~ "municipality" means any city, town, village, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewerage district.

SECTION 31. 67.04 (17) of the statutes is created to read:

67.04 (17) By any public inland lake protection and rehabilitation district established under ch. 33, to finance projects undertaken by the district.

SECTION 32. 144.01 (12) of the statutes is amended to read:

144.01 (12) "Municipality", any city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district or metropolitan sewage district.