

1977 Assembly Bill 1004

Date published: April 28, 1978

CHAPTER 274, Laws of 1977
(Vetoed in Part)

AN ACT to amend 15.01 (4), 15.06 (1) (a) and (3) (a), 25.40 (2) and 30.79 (1) (b), (2), (3) and (4) and 227.026 (1) (a); and to create 15.341 (2), 15.345, 20.370 (1) (cd), (ce) and (vt) and (3) (b) and 30.92 of the statutes, relating to creating a waterways commission, establishing boating facilities and boating safety assistance programs, providing for a boating safety and facilities funding study, granting rule-making authority subject to legislative review and making an appropriation.

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

SECTION 1. Legislative intent. (1) The legislature recognizes that the waters of the state provide a broad source of recreational opportunities for boaters, fishers and other users. Although surveys of boaters and fishers show that boating-related recreational use of the waters is on the increase, there is a statewide shortage of harbors of refuge and public accesses for the safety and convenience of boaters, fishers and other users.

(2) The legislature finds that on relatively large bodies of water which are subject to rapid changes in weather and water conditions boaters, fishers and other recreational users are often unnecessarily exposed to the hazards of the elements because harbors of refuge and public accesses do not exist at regular intervals along the shore. On inland waters boaters, fishers and other recreational users frequently encounter conflicts of interest in use of limited water surface acreage. Overcrowding and conflicts of interest on inland waters are aggravated by a shortage of public accesses which limits water recreationalists to waters where access is available.

(3) The legislature further finds that overcrowding and conflicts of interest also create safety problems. The safe use of the waters should be furthered by strengthening boating safety enforcement and education programs. The state does not have adequate programs to meet growing demands in these areas. Therefore, the legislature intends to remedy the problems of recreational use of the waters of this state by enacting recreational boating facilities and boating safety assistance programs.

SECTION 2. 15.01 (4) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

15.01 (4) "Commission" means a 3-member governing body in charge of a department or independent agency or of a division or other subunit within a department, except for the tax appeals commission which shall consist of 5 members and the Wisconsin waterways commission which shall consist of 5 members. A Wisconsin group created for participation in a continuing interstate body shall be known as a "commission," but is not a commission for purposes of s. 15.06.

SECTION 3. 15.06 (1) (a) and (3) (a) of the statutes are amended to read:

15.06 (1) (a) The members of commissions shall be nominated by the governor, and with the advice and consent of the senate appointed, for staggered 6-year terms expiring on March 1 of the odd-numbered years, except for the Wisconsin waterways commission whose members shall be appointed for staggered 5-year terms.

(3) (a) A commissioner shall not hold any other office or position of profit or pursue any other business or vocation, but shall devote his or her entire time to the duties of his or her office. This paragraph does not apply to the commissioner of insurance nor to the members, except the chairman, of the tax appeals commission nor to the chairman or members of the Wisconsin waterways commission.

SECTION 4. 15.341 (2) of the statutes is created to read:

15.341 (2) WISCONSIN WATERWAYS COMMISSION. The Wisconsin waterways commission shall have the program responsibilities specified for the commission under s. 30.92.

SECTION 5. 15.345 of the statutes is created to read:

15.345 Same; attached commissions. (1) WISCONSIN WATERWAYS COMMISSION. There is created a Wisconsin waterways commission which is attached to the department of natural resources under s. 15.03.

(a) The commission shall be composed of 5 members appointed for staggered 5-year terms.

1. One resident of the Lake Superior area.
2. One resident of the Lake Michigan area.
3. One resident of the Mississippi River area.
4. The other 2 residents shall be from the inland area of the state.

(b) Each member of the commission must ~~be an active, knowledgeable and experienced recreational boat user who will~~ be able to assess the recreational water use problems in his or her geographical area of the state.

(c) No member of the commission may receive any salary for services performed as a commission member. Each commission member shall be reimbursed for actual and necessary expenses incurred while performing official duties.

SECTION 6. At the appropriate place in the schedule of section 20.005 of the statutes, insert the following amounts for the purposes indicated:

		1977-78	1978-79
20.370	Natural resources, dept. of		
(1)	RESOURCE MANAGEMENT		
(cd)	Administration - recreation boating facilities	GPR A -0-	200,000
(ce)	Aids - recreational boating facilities	GPR C -0-	1,000,000
(vt)	Aids - recreational boating facilities	SEG C -0-	1,000,000
(3)	ENFORCEMENT		
(b)	Aids supplement - boating safety assistance	GPR A -0-	200,000

SECTION 7. 20.370 (1) (cd), (ce) and (vt) and (3) (b) of the statutes are created to read:

20.370 (1) (cd) *Administration — recreational boating facilities.* From the general fund, the amounts in the schedule for administration of the recreational boating facilities program under s. 30.92.

(ce) *Aids — recreational boating facilities.* From the general fund, as a continuing appropriation, the amounts in the schedule for the state's share of aids for funding recreational boating facilities under s. 30.92.

(vt) *Aids — recreational boating facilities.* From the transportation fund, as a continuing appropriation, the amounts in the schedule for the state's share of aids for funding recreational boating facilities under s. 30.92.

(3) (b) *Aids supplement — boating safety assistance.* From the general fund, the amounts in the schedule for allocation and distribution to municipalities to supplement the aids under par. (wf) for purposes of s. 30.79.

SECTION 8. 25.40 (2) of the statutes, as affected by chapter 29, laws of 1977, is amended to read:

25.40 (2) Payments from the transportation fund, except for appropriations made by ss. 20.115 (1) (q), 20.135 (2) (q), 20.255 (1) (q) and (r), 20.285 (1) (x), 20.292 (1) (u), 20.355 (1) (u), 20.370 (1) (vt), 20.505 (3), 20.545 (3) (q), 20.566 (1) (u) and 20.765 (2) (u) or authorized by s. 25.17 or 86.35 shall be made only on the order of the secretary of transportation, from which order the secretary of administration shall draw a warrant in favor of the payee and charge the same to the transportation fund.

SECTION 9. 30.79 (1) (b), (2), (3) and (4) of the statutes, as affected by chapter 29, laws of 1977, are amended to read:

30.79 (1) (b) "Water safety patrol unit" means a unit within an existing municipal law enforcement agency or a separate municipal agency, created by a municipality or by a number of municipalities riparian to a single body of water for the purpose of enforcing ss. 30.50 to 30.80 and any rules and ordinances enacted under ss. 30.50 to 30.80 and for conducting search and rescue operations.

(2) STATE AID. In order to protect public rights in navigable waters and to promote public health, safety and welfare and the prudent and equitable use of the navigable waters of the state, a system of state aids for local enforcement of ss. 30.50 to 30.80 and ordinances enacted under ss. 30.50 to 30.80 and for conducting search and rescue operations is established. Aid shall be granted under this section to those municipalities which establish, maintain and operate water safety patrol units in accordance with this chapter.

(3) ENFORCEMENT POWERS. Officers patrolling the waters as part of a water safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50 to 30.80 or any rules or ordinances enacted under ss. 30.50 to 30.80 and for conducting search and rescue operations, if the officers have reasonable cause to believe there is a violation of the

sections, rules or ordinances or the stopping and boarding of any boat is essential to conduct a search and rescue operation.

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

SECTION 10. 30.92 of the statutes is created to read:

30.92 Recreational boating facilities. (1) DEFINITIONS. In this section:

(a) "Commission" means the Wisconsin waterways commission established under s. 15.345 (1).

(b) "Recreational boating facilities" means places where the public has access to the water by means of breakwaters and other similar physical structures, either naturally or artificially constructed, which provide safety and convenience for operators of recreational watercraft. Recreational boating facilities on the Great Lakes are commonly referred to as harbors of refuge. Recreational boating facilities on inland waters are commonly referred to as public accesses or launching ramps.

(2) STUDIES. (a) The commission may cause to be conducted appropriate studies, including feasibility studies, and inventories to aid in assessing the need for recreational boating facilities.

(b) Feasibility studies shall be used to determine whether the construction of recreational boating facilities is feasible from environmental, economic and engineering viewpoints. The commission may conduct feasibility studies or cooperate with other state agencies in conducting feasibility studies. Feasibility studies conducted by state agencies or private persons shall be reviewed by the commission to ensure that appropriate data have been collected and analyzed in detail to substantiate the recommendations made in the feasibility study.

(c) Feasibility studies may be conducted upon the request of the affected municipality. Feasibility studies shall be of sufficient detail to allow affected municipalities to decide if a recreational boating facility construction project should be supported.

(d) The following factors shall be considered by the commission in assigning priorities for feasibility studies:

1. Estimated cost of the study.
2. Available funds.
3. Expression of municipality support.
4. Distance the area to be studied is from other recreational boating facilities.
5. Work previously completed.

(e) A municipality's decision to support a recreational boating facility feasibility study shall be made by a resolution indicating support for a more detailed inquiry into the engineering, environmental and economic feasibility of a project. Support of a recreational boating facility feasibility study does not commit the affected municipality to cost-sharing in the construction of a proposed facility.

(3) PROJECT PRIORITY LIST. (a) Only those proposed recreational boating facility projects found to be feasible and supported by the affected municipality and approved by the commission shall be placed on a priority list by the commission. The department shall maintain the list of priority projects. Annually, the department shall inform all affected municipalities of their position on the priority list.

(b) The following factors shall be considered in establishing priorities for projects:

1. Distance the proposed project is from other recreational boating facilities.
2. Demand for safe boating facilities.
3. Expression of municipality support.
4. Existing facilities.
5. Projects underway.
6. Commitment of funds.

(4) AIDS. (a) The department shall develop and administer, with the approval of the commission, a financial assistance program for municipalities in the construction and maintenance of capital improvements related to recreational boating facilities.

(b) The following standards shall apply to the state funding of all recreational boating facilities projects:

1. To the greatest extent possible, state funds shall be used to match other funding sources. Other funding sources may include, but are not limited to, the federal land and water conservation fund, the U.S. army corps of engineers, U.S. economic development administration, upper great lakes regional commission and general revenue sharing.

2. The department may cost-share, with the approval of the commission, with the affected municipality at a rate of up to 50% of the feasibility study or construction costs, or both, of the recreational boating facility. The department may pay, with the approval of the commission, an additional 10% of the costs of the construction project where the municipality conducts a boating safety enforcement and education program approved by the department.

3. No more than 10% of the funds available under s. 20.370 (1) (ce) and (vt) may be expended for feasibility studies in one year. No more than one percent of the funds available under s. 20.370 (1) (ce) and (vt) may be expended for any one feasibility study in one year.

4. No funds may be used for the purchase of land or the construction of facilities commonly used to berth boats.

~~5. The department may cost-share, with the approval of the commission, with the affected municipality at the rate of up to 25% of the maintenance costs of a recreational boating facility. The department may pay, with the approval of the commission, an additional 10% of the maintenance cost to the municipality if the municipality conducts a department-approved boater safety enforcement and education program.~~

Vetoed
in Part

6. Thirty percent of the funds allocated under s. 20.370 (1) (ce) and (vt) for recreational boating facilities shall be expended for Great Lakes (including Chequamegon Bay and Green Bay) projects. Thirty percent of the funds allocated under s. 20.370 (1) (ce) and (vt) for recreational boating facilities shall be expended for inland waters, as classified under s. 29.01 (4), projects. Forty percent of the funds allocated under s. 20.370 (1) (ce) and (vt) for recreational boating facilities shall be expended for projects deemed necessary by the commission without regard to location. Any moneys not obligated by the end of the 3rd quarter of the fiscal year for which they were allocated may be used by the department, with the approval of the commission, for purposes of funding other recreational boating facilities projects including maintenance costs of preexisting recreational boating facilities.

Vetoed
in Part

7. Boating facilities projects qualifying for funding under s. 20.370 (1) (ce) and (vt) include, but are not limited to, construction and improvement of harbors of refuge on the Great Lakes; accommodation of motor-powered recreational watercraft; and construction and improvement of public access and related facilities on inland waters where motor-powered recreational watercraft are permitted.

(5) RULES. The commission shall recommend rules for promulgation by the department as necessary to implement the recreational boating facilities program under this section. The commission shall recommend rules relating to the type and content of studies to be conducted, cost-sharing arrangements for studies and capital improvements and liaison arrangements between the state and federal agencies, other state agencies, municipalities and other persons.

(5m) APPROVAL OF RULES. This subsection does not apply to emergency rules adopted under s. 227.027.

(a) *Role of legislative council.* Prior to any public hearing on a proposed rule under this section, or if no public hearing is required, prior to notification of the standing committees, the department shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the department and the revisor to:

1. Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules.

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) *Legislative council to assist standing committees.* The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under this section.

(c) *Notification of standing committees.* The department shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) *Form of notice.* The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) *Standing committee review.* 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct

the department to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

(f) *Joint committee for the review of administrative rules.* 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the department may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

(6) COOPERATION AND ASSISTANCE. (a) The department shall provide municipalities with technical assistance in all phases of implementing the boating facilities program under this section. The department shall also coordinate the boating facilities program with all other related state and federal programs.

(b) The department shall assign staff to the commission for program management purposes. All staff activities, including but not limited to budgeting, program coordination and related administrative management functions, shall be consistent with the policies of the department and the natural resources board.

SECTION 10m. 227.026 (1) (a) of the statutes, as affected by chapter 84, laws of 1977, is amended to read:

227.026 (1) (a) The statute pursuant to which the rule was ~~created~~ adopted,

amended or repealed provides for an effective date subsequent to legislative review of the proposed action or otherwise prescribes a different effective date; or

SECTION 11. Initial appointments. Of members first appointed under section 15.345 (1) (a) of the statutes, as created by this act, one shall be appointed for a term ending on March 1, 1979, 2 shall be appointed for a term ending on March 1, 1981, and 2 shall be appointed for a term ending on March 1, 1983.

SECTION 12. Interdepartmental study. The department of natural resources and the department of transportation, in conjunction with the legislative fiscal bureau, shall study and report to the joint committee on finance on alternative sources of revenue for funding the recreational boating facilities and boating safety assistance programs in the 1979-81 biennium and thereafter.

SECTION 13. Effective date. This act shall take effect July 1, 1978.
