



## 1995 SENATE BILL 252

June 13, 1995 - Introduced by Senators WEEDEN, HUELSMAN, CLAUSING, BURKE, RISSER, COWLES and BUETTNER, cosponsored by Representatives BOCK, OURADA, HAHN, BLACK, LADWIG, GOETSCH and DUEHOLM. Referred to Committee on Environment and Energy.

1     **AN ACT to amend** 30.74 (2), 30.77 (3) (a), 30.77 (3) (am) 1., 30.77 (3) (am) 2., 30.77  
2           (3) (b), 30.77 (3) (d) and 30.77 (4); **to repeal and recreate** 30.77 (3) (am) 4.; and  
3           **to create** 30.77 (3) (ac) 2., 30.77 (3) (ae), 30.77 (3) (am) 1. b., 30.77 (3) (ar), 30.77  
4           (3) (aw), 30.77 (3) (cm) and 30.77 (3) (cr) of the statutes; **relating to:** enactment  
5           of boating ordinances by towns, villages, cities, public inland lake protection  
6           and rehabilitation districts and counties and placement of regulatory boating  
7           markers and aids to navigation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, towns, villages and cities (municipalities) may enact boating ordinances that are not contrary to state law. An ordinance is not valid on an inland lake unless all municipalities having jurisdiction on the waters of the lake have enacted an identical ordinance. In addition, a public inland lake protection and rehabilitation district may enact and enforce ordinances that are applicable to a lake that is entirely within its boundaries if each municipality having jurisdiction on the lake adopts a resolution authorizing the lake district to do so.

The bill allows enactment of a boating ordinance without requiring all of the municipalities having jurisdiction over a lake to enact an identical ordinance if at least 50% of these municipalities together have at least 60% of the footage of shoreline on the lake within their boundaries and they have enacted an identical ordinance. In addition, a lake district may enact an ordinance without requiring all of the municipalities to adopt resolutions authorizing the lake district to do so if at least 50% of these municipalities together have at least 60% of the footage of shoreline of the lake within their boundaries and they adopt resolutions authorizing the lake district to do so.

The bill also requires a municipality or lake district proposing to enact a boating ordinance for an inland lake with less than unanimous approval, but with the percentage of municipalities and shoreline required, to hold a public hearing on the proposed ordinance at least 30 days before it takes effect. The municipality supporting the proposal that has the most footage of shoreline within its boundaries shall publish a notice of the public hearing at least 30 days before the date of the hearing in one or more newspapers likely to give notice of the hearing in all the municipalities that have jurisdiction over the lake and shall distribute the notice to specified organizations. This hearing and notice procedure also is used for certain repeals and amendments of ordinances or rescissions of resolutions authorizing lake districts to enact ordinances.

The bill requires municipalities, counties and lake districts, when developing boating ordinances, to take certain factors into account, including: a) the type, size, depth and shape of a body of water and its features of special environmental significance; b) the amount, type and speed of boating traffic on a body of water and boating safety and congestion; and c) the degree to which boating traffic affects other recreational uses and the public's health, safety and welfare, including preservation of natural and scenic resources.

The bill specifies some of the types of boating ordinances that may be imposed by municipalities, counties or lake districts. These ordinances may include: a) restrictions on speed; b) restrictions on certain types of boating activities on all, or in specified parts, of the lake, river or stream; and c) restrictions on certain types of boating activities during specified hours of the day or specified days of the week.

In addition, the bill modifies the current law that requires that boating ordinances be enacted in the interest of public health, safety or welfare to include the public's interest in preserving the state's natural and scenic resources.

Rules promulgated by DNR require that DNR approve and issue permits authorizing the placement in navigable waters of navigational aids or markers such as buoys, beacons and speed zone markers. Under the bill, DNR may not prohibit the placement of such a navigational aid or marker if it is being placed to enforce a local boating ordinance that has been validly enacted.

For further information see the *state and local* 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.** 30.74 (2) of the statutes is amended to read:
- 2           30.74 (2) (a) By rule establish uniform marking of the water areas of this state
- 3 through the placement of aids to navigation and regulatory markers. ~~Such~~ These
- 4 rules shall establish a marking system compatible with the system of aids to

1 navigation prescribed by the U.S. coast guard and shall give due regard to the system  
2 of uniform waterway markers approved by the advisory panel of state officials to the  
3 merchant marine council, U.S. coast guard. ~~After January 1, 1968, no~~ No  
4 municipality or person shall may mark the waters of this state in any manner in  
5 conflict with the marking system prescribed by the department. Any regulatory  
6 marker ~~which or aid to navigation that~~ does not comply with such this marking  
7 system ~~by January 1, 1968,~~ is deemed considered an unlawful obstruction to  
8 navigable waters and may be removed in accordance with law. The department may  
9 not prohibit the placement of a regulatory marker or an aid to navigation if it  
10 complies with this marking system and if it is being placed pursuant to an ordinance  
11 that has been enacted in compliance with s. 30.77.

12 **SECTION 2.** 30.77 (3) (a) of the statutes is amended to read:

13 30.77 (3) (a) Any town, village or city may, in the interest of public health, safety  
14 or welfare, including the public's interest in preserving the state's natural and scenic  
15 resources, enact ordinances applicable on any waters of this state within its  
16 jurisdiction if the ordinances are not contrary to ~~or inconsistent with~~ this chapter and  
17 if the ordinances relate to the equipment, use or operation of boats or to any activity  
18 regulated by ss. 30.60 to 30.71.

19 (ac) Except as provided under s. 33.455 (3) (b), no ~~such~~ ordinance that pertains  
20 to the equipment, use or operation of a boat on an inland lake is valid unless all one  
21 of the following occurs:

22 1. All towns, cities and villages and cities having jurisdiction on over the waters  
23 of the lake have enacted an identical ordinance.

24 **SECTION 3.** 30.77 (3) (ac) 2. of the statutes is created to read:

1           30.77 (3) (ac) 2. At least 50% of the towns, villages and cities having jurisdiction  
2 over the lake have enacted an identical ordinance and at least 60% of the footage of  
3 shoreline of the lake is within the boundaries of these towns, villages and cities.

4           **SECTION 4.** 30.77 (3) (ae) of the statutes is created to read:

5           30.77 (3) (ae) If a town, village or city proposes to amend or repeal an ordinance  
6 that it enacted under par. (ac), and if the amendment or repeal will result in less than  
7 50% of the towns, villages or cities with jurisdiction over the lake still having in effect  
8 the current ordinance or if the amendment or repeal will result in less than 60% of  
9 the footage of shoreline of the lake being within the boundaries of the towns, villages  
10 and cities with the current ordinance still in effect, the town, village or city proposing  
11 the amendment or repeal shall hold a hearing on the issue at least 30 days before the  
12 amendment or repeal will take effect and shall give notice as required under par. (aw)  
13 2. If, after holding the hearing, the town, village or city amends or repeals the  
14 ordinance that it enacted under par. (ac), all of the identical ordinances are void.

15           **SECTION 5.** 30.77 (3) (am) 1. of the statutes is amended to read:

16           30.77 (3) (am) 1. A public inland lake protection and rehabilitation district may,  
17 in the interest of public health, safety or welfare, including the public's interest in  
18 preserving the state's natural and scenic resources, enact and enforce ordinances  
19 applicable to a lake entirely within its boundaries if each one of the following occurs:

20           a. Each town, village and city having jurisdiction ~~on~~ over the lake adopts a  
21 resolution authorizing the lake district to do so.

22           **SECTION 6.** 30.77 (3) (am) 1. b. of the statutes is created to read:

23           30.77 (3) (am) 1. b. At least 50% of the towns, villages and cities having  
24 jurisdiction over the lake adopt resolutions authorizing the lake district to enact and

1 enforce ordinances, and at least 60% of the footage of shoreline of the lake is within  
2 the boundaries of these towns, villages and cities.

3 **SECTION 7.** 30.77 (3) (am) 2. of the statutes is amended to read:

4 30.77 (3) (am) 2. An ordinance enacted under subd. 1. ~~must~~ may not be contrary  
5 to ~~or inconsistent with~~ this chapter and ~~must~~ shall relate to the equipment, use or  
6 operation of boats or to an activity regulated by ss. 30.60 to 30.71.

7 **SECTION 8.** 30.77 (3) (am) 4. of the statutes is repealed and recreated to read:

8 30.77 (3) (am) 4. If a town, village or city proposes to rescind a resolution that  
9 it adopted under subd. 1., and if the rescision will result in less than 50% of the towns,  
10 villages or cities with jurisdiction over the lake still having in effect resolutions  
11 adopted under subd. 1. or will result in less than 60% of the footage of shoreline of  
12 the lake being within the boundaries of the towns, villages and cities with resolutions  
13 still in effect, the town, village or city proposing to rescind the resolution shall hold  
14 a hearing on the rescision at least 30 days before the rescision will take effect and shall  
15 give notice as required under par. (aw) 2. If, after holding the hearing, the town,  
16 village or city rescinds the resolution that it adopted under subd. 1., the lake district  
17 ordinances are void.

18 **SECTION 9.** 30.77 (3) (ar) of the statutes is created to read:

19 30.77 (3) (ar) In determining footage of shoreline for purposes of pars. (ac), (ae)  
20 and (am), towns, villages, cities and lake districts shall measure by use of a map  
21 wheel on the U.S. geological survey 7 1/2 minute series map.

22 **SECTION 10.** 30.77 (3) (aw) of the statutes is created to read:

23 30.77 (3) (aw) 1. If one or more towns, villages or cities propose to enact an  
24 ordinance for an inland lake under par. (ac) 2. or a lake district proposes to enact an

1 ordinance for an inland lake under par. (am) 1. b., it shall hold a public hearing on  
2 the proposed ordinance at least 30 days before its enactment.

3 2. The town, village or city that has the most footage of shoreline of the lake  
4 within its boundaries and that is supporting the proposal shall publish a notice of the  
5 public hearing under subd. 1. or par. (ae) or (am) 4. at least 30 days before the date  
6 of the hearing in one or more newspapers likely to give notice of the hearing in all  
7 towns, villages or cities that have jurisdiction over the lake. The notice shall be a  
8 class 1 notice under ch. 985. The town, village or city publishing the notice shall send  
9 a copy of the notice at least 30 days before the date of the hearing to the department,  
10 each municipality having jurisdiction over the lake and each lake association for the  
11 lake.

12 **SECTION 11.** 30.77 (3) (b) of the statutes is amended to read:

13 30.77 (3) (b) Any county may, in the interest of public health, safety or welfare,  
14 including the public's interest in preserving the state's natural and scenic resources,  
15 enact an ordinance applicable on any river or stream within its jurisdiction if the  
16 ordinance is not contrary to ~~or inconsistent with~~ this chapter, and if the ordinance  
17 relates to the equipment, use or operation of boats or to any activity regulated by ss.  
18 30.60 to 30.71. If a county enacts an ordinance under this paragraph, the county  
19 ordinance supersedes all provisions of a town, village or city ordinance enacted under  
20 par. (a) that is inconsistent with the county ordinance.

21 **SECTION 12.** 30.77 (3) (cm) of the statutes is created to read:

22 30.77 (3) (cm) In enacting ordinances under par. (a), (am) or (b) for a given body  
23 of water, municipalities and public inland lake protection and rehabilitation districts  
24 shall take into account factors that include all of the following:

1           1. The type, size, shape and depth of the body of water and any features of  
2 special environmental significance that the body of water has.

3           2. The amount, type and speed of boating traffic on the body of water and  
4 boating safety and congestion.

5           3. The degree to which the boating traffic on the body of water affects other  
6 recreational uses and the public's health, safety and welfare, including the public's  
7 interest in preserving the state's natural and scenic resources.

8           **SECTION 13.** 30.77 (3) (cr) of the statutes is created to read:

9           30.77 (3) (cr) The types of ordinances that may be enacted under par. (a), (am)  
10 or (b) include the following:

11           1. Restrictions on speed.

12           2. Restrictions on certain types of boating activities on all, or in specified parts,  
13 of the lake, river or stream.

14           3. Restrictions on certain types of boating activities during specified hours of  
15 the day or specified days of the week.

16           **SECTION 14.** 30.77 (3) (d) of the statutes is amended to read:

17           30.77 (3) (d) Ordinances pertaining to the equipment, use or operation of boats  
18 on inland lakes shall be subject to advisory review by the department as provided  
19 under this paragraph. Proposed ordinances subject to review under this paragraph  
20 shall be submitted by the local town, village or city clerk or by a public inland lake  
21 protection and rehabilitation district to the department at least 60 days prior to final  
22 action thereon by the town, village or city governing body. Advisory reports  
23 regarding town, village or city or lake district ordinances that regulate the  
24 equipment, use or operation of boats on inland lakes shall be based on consideration  
25 of the effect of the ordinance on the state from the standpoint of uniformity and

1 enforcement and the effect of the ordinance on an affected town, village, city or lake  
2 district in view of pertinent local conditions. Advisory reports shall state in what  
3 regard such ordinances are considered consistent or inconsistent with this chapter  
4 as to public health, safety or welfare, including the public's interest in preserving the  
5 state's natural and scenic resources, and shall be accompanied by suggested changes,  
6 if any. No later than 20 days after receipt by the department of proposed ordinances,  
7 the department shall advise the town, village, city or lake district in writing as to the  
8 results of its advisory review under this paragraph. The department shall address  
9 the results sent to a town, village or city to its clerk.

10 **SECTION 15.** 30.77 (4) of the statutes is amended to read:

11 30.77 (4) PUBLICIZING ORDINANCES. All ordinances enacted under sub. (3) shall  
12 be prominently posted by the local authority which enacted them and, for ordinances  
13 enacted under sub. (3) (ac) 2., by all local authorities having jurisdiction over the  
14 lake, at all public access points within the local authority's jurisdiction and also shall  
15 be filed with the department.

16 (END)