



1997 SENATE BILL 459

February 12, 1998 - Introduced by Senators SHIBILSKI, COWLES, BURKE, BRESKE, ROESSLER, WIRCH, JAUCH, GROBSCHMIDT, RUDE, A. LASEE, MOORE, DECKER, C. POTTER, WEEDEN, ROSENZWEIG, PANZER and WINEKE, cosponsored by Representatives OURADA, KUNICKI, GUNDERSON, LINTON, HUBLER, SERATTI, KRUG, BOCK, ROBSON, KEDZIE, PLALE, J. LEHMAN, R. YOUNG, GROTHMAN and BAUMGART. Referred to Committee on Agriculture and Environmental Resources.

1 **AN ACT to amend** 80.32 (2), 80.32 (5), 80.41, 236.16 (3) and 236.43 (1) (d) of the
2 statutes; **relating to:** vacating or discontinuing public access to lakes and
3 streams.

Analysis by the Legislative Reference Bureau

Current law provides that a highway that is not opened, traveled or worked in 4 years' time after it is laid out shall cease to be a public highway. In addition, a highway that has been abandoned as a route of travel and on which no highway funds have been expended for 5 years shall be considered discontinued. This bill provides that those provisions do not apply to a highway, street, alley or right-of-way that provides public access to a navigable lake or stream.

Current law requires approval by the department of natural resources (DNR) before a resolution or ordinance of a town or county board discontinuing any highway, street, alley or right-of-way that provides public access to a navigable lake or stream becomes effective. The bill provides that any order or similar action discontinuing any highway, street, alley or right-of-way that provides public access to a navigable lake or stream must also be approved by DNR.

Under current law, a circuit court may vacate streets, roads, or other public ways that are dedicated in a plat if the plat was recorded more than 40 years before the application for vacation, the area in the plat to be vacated was never improved as a street, road or other public way, the area is not necessary to reach other platted property and all owners of land in the plat join in the application for vacation. The bill provides that, in order for the court to vacate the platted public way, the

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governing body of the city, village or town in which the platted public way is located must also join in the application for vacation.

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

1 **SECTION 1.** 80.32 (2) of the statutes is amended to read:

2 80.32 (2) ~~Every~~ Except as provided in sub. (5), every highway shall cease to be
3 a public highway at the expiration of 4 years from the time it was laid out, except such
4 parts thereof as shall have been opened, traveled or worked within such time, and
5 any highway which shall have been entirely abandoned as a route of travel, and on
6 which no highway funds have been expended for 5 years, shall be considered
7 discontinued.

8 **SECTION 2.** 80.32 (5) of the statutes is amended to read:

9 80.32 (5) Subsection (2) does not apply to state or county trunk highways or to
10 any highway, street, alley or right-of-way that provides public access to a navigable
11 lake or stream.

12 **SECTION 3.** 80.41 of the statutes is amended to read:

13 **80.41 Discontinuing ways to waters.** No resolution ~~or~~, ordinance, order or
14 similar action of any town board or county board or committee thereof discontinuing
15 any highway, street, alley or right-of-way ~~which~~ that provides public access to any
16 navigable lake or stream shall be effective until such resolution ~~or~~, ordinance, order
17 or similar action is approved by the department of natural resources.

18 **SECTION 4.** 236.16 (3) of the statutes is amended to read:

19 236.16 (3) LAKE AND STREAM SHORE PLATS. All subdivisions abutting on a
20 navigable lake or stream shall provide public access at least 60 feet wide providing
21 access to the low watermark so that there will be public access, which is connected

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1 to existing public roads, at not more than one-half mile intervals as measured along
2 the lake or stream shore except where greater intervals and wider access is agreed
3 upon by the department of natural resources and the department, and excluding
4 shore areas where public parks or open-space streets or roads on either side of a
5 stream are provided. No public access established under this chapter may be vacated
6 except by circuit court action as provided in s. 236.43. This subsection does not
7 require any local unit of government to improve land provided for public access.

8 **SECTION 5.** 236.43 (1) (d) of the statutes is amended to read:

9 236.43 (1) (d) All the owners of all the land in the plat or part thereof sought
10 to be vacated and the governing body of the city, village or town in which the street,
11 road or other public way is located have joined in the application for vacation.

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(END)