

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: 04/30/99

Received By: **gibsom**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 68314**

By/Representing: **Kava**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact:

Alt. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**

Extra Copies:

Pre Topic:

LFB:.....Kava -

Topic:

Hearing procedure for objections to local boating ordinances

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	gibsom 05/11/99	chanaman 05/11/99	martykr 05/13/99	_____	gretskl 05/13/99		
/2			martykr 05/13/99	_____	gretskl 05/13/99		

FE Sent For:

<END>

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1?	gibsom	cmh 1 5/11	km 5/11 km 5/13	cmh 5/12 cmh 5/13			
FE Sent For:				<END>			

M66

M66
2

MO#			
Burke	Y		N
Decker	Y		N
Jauch	Y		N
Moore	Y		N
Shibilski	Y		N
Plache	Y		N
Cowles	Y		N
Panzer	Y		N

pa-7

Representative Ward

2. Gard	Y		N
Porter	Y		N
Kaufert	Y		N
Albers	Y		N
Duff	Y		N
1 Ward	Y		N
Huber	Y		N
Riley	Y		N

NATURAL RESOURCES -- RECREATIONAL PROGRAMS

Hearing Procedure for Objections to Local Boating Regulations

Motion:

Move to allow any local entity or any boating organization organized as a nonstock corporation whose primary purpose is to promote boating activities to object to an ordinance related to the operation of boats on rivers on the grounds that the ordinance is not necessary for public health, safety, welfare or the public's interest in preserving the state's natural resources. Specify that the hearing procedure would be the same as that for local entities objecting to ordinances that are contrary or inconsistent with statutory boating regulations.

Note:

Under current law, DNR or a local entity (city, village, town, county, qualified lake association, nonprofit conservation organization, town sanitary district, public inland lake protection and rehabilitation district or another local governmental unit established for the purpose of lake management) may object to certain local boating ordinances on the grounds that all or a portion of the ordinance is contrary to or inconsistent with Chapter 30 boating regulations.

Upon receipt of an objection, DNR must order an administrative hearing on the objection. The hearing is a contested case hearing, and the administrator of the Division of Hearings and Appeals in DOA must assign a hearing examiner. Persons who are not parties to the contested case may present testimony and evidence at the hearing. The hearing examiner must issue an order on the objection within 90 days after the date on which the hearing is ordered. If the hearing examiner determines that the ordinance or the portion of the ordinance is contrary to or inconsistent with Chapter 30 boating regulations, the examiner must issue an order declaring the ordinance or that portion of the ordinance void. The order shall prohibit the enforcement of all or any portion of the ordinance declared to be void.

Under this motion, a similar procedure would be set up for local entities or boating organizations to object to an ordinance related to the operation of boats on rivers on the grounds that the ordinance is not necessary for public health, safety, welfare or the public's interest in preserving the state's natural resources.



State of Wisconsin
1999 - 2000 LEGISLATURE

RMR

LRBb0217# 1

MGG.....

cmr

D-Note soon

LFB:.....Kava – Hearing procedure for objections to local boating ordinances

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

Proofed & changed
ALL out of order to
to sort.

1 At the locations indicated, amend the bill as follows:

2 1. Page 537, line 18: delete lines 18 to 23 and substitute:

3 "SECTION 867^b 30.77 (3) (dm) 1. of the statutes is renumbered 30.77 (3) (dm)

4 1. (intro.) and amended to read:

5 30.77 (3) (dm) 1. (intro.) In this paragraph, "local:

6 b. "Local entity" means a city, village, town, county, qualified lake association,

7 as defined in s. 281.68 (1) (b), nonprofit conservation organization, as defined in s.

8 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation

9 district or another local governmental unit, as defined in s. 66.299 (1) (a), that is

10 established for the purpose of lake management.

History: 1973 c. 302; 1987 a. 99; 1989 a. 159, 324, 359; 1993 a. 167; 1995 a. 152, 349; 1997 a. 35.

11 SECTION 867 30.77 (3) (dm) 1. a. of the statutes is created to read:

2 867f

1 30.77 (3) (dm) 1. a. "Boating organization" means a nonstock corporation
2 organized under ch. 181 whose primary purpose is to promote boating activities.

3 SECTION ⁸⁶⁷~~226~~ 30.77 (3) (dm) 2. (intro.) of the statutes is renumbered 30.77 (2)
4 (dm) 2. and amended to read:

5 30.77 (3) (dm) 2. If the department or a local entity objects to an ordinance
6 enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the
7 ordinance is contrary to or inconsistent with this chapter, ~~all of the following apply:~~
8 the procedure under subd. 2r. shall apply.

History: 1973 c. 302; 1987 a. 99; 1989 a. 159, 324, 359; 1993 a. 167; 1995 a. 152, 349; 1997 a. 35.

9 SECTION ⁸⁶⁷~~226~~ 30.77 (3) (dm) 2g. of the statutes is created to read:

10 30.77 (3) (dm) 2g. If a local entity or an boating organization objects to an
11 ordinance enacted under par. (a) that applies to a river or stream, or to an ordinance
12 enacted under par. (b), on the grounds that all or a portion of the ordinance is not
13 necessary for public health, safety, welfare or the public's interest in preserving the
14 state's natural resources, the procedure under subd 2r. shall apply.

leave
move
to
page
3

15 SECTION ⁸⁶⁷~~226~~ 30.77 (3) (dm) 2. a. of the statutes is renumbered 30.77 (3) (dm) 2r.
16 a. and amended to read:

17 30.77 (3) (dm) 2r. a. Upon receipt of an objection under ~~this subdivision~~ subd.
18 2. or 2g., the department shall order a hearing on the objection under ch. 227. The
19 hearing shall be a contested case hearing, and the administrator of the division of
20 hearings and appeals in the department of administration shall assign a hearing
21 examiner to the hearing as provided in s. 227.43. Persons who are not parties to the
22 contested case may present testimony and evidence at the hearing.

History: 1973 c. 302; 1987 a. 99; 1989 a. 159, 324, 359; 1993 a. 167; 1995 a. 152, 349; 1997 a. 35.

23 SECTION ⁸⁶⁷~~226~~ 30.77 (3) (dm) 2. b. of the statutes is renumbered 30.77 (3) (dm) 2r.
24 b. and amended to read:

1 30.77 (3) (dm) 2r. b. The hearing examiner shall issue an order on the objection
 2 within 90 days after the date on which the hearing is ordered under subd. 2r. 2r. a.
 3 If
 4 c. For an objection under subd. 2 if the hearing examiner determines that the
 5 ordinance or the portion of the ordinance is contrary to or inconsistent with this
 6 chapter, the hearing examiner shall issue an order declaring the ordinance or that
 7 portion of the ordinance void. The For an objection under subd. 2g if the hearing
 8 examiner determines that the ordinance or the portion of the ordinance is not
 9 necessary for public health, safety, welfare or the public's interest in preserving the
 10 state's natural resource, the hearing examiner shall issue an order declaring the
 11 ordinance or that portion of the ordinance void. An order issued under this subd. 2r.
 12 c. shall prohibit the enforcement of all or any portion of the ordinance declared to be
 13 void.

please strike period

History: 1973 c. 302; 1987 a. 99; 1989 a. 159, 324, 359; 1993 a. 167; 1995 a. 152, 349; 1997 a. 35.

insert from page 2

14 867 SECTION ?? 30.207 (3) (a) of the statutes is amended to read:
 15 30.207 (3) (a) Any local entity, as defined in s. 30.77 (3) (dm) 1b., any group of
 16 10 riparian owners who will be affected by the issuance of a general permit, or any
 17 contractor who is or has been involved in the construction of structures or along
 18 navigable waters may apply for a general permit under this section.

History: 1997 a. 174.

19 867 X SECTION ?? 30.207 (4) (c) 1. of the statutes is amended to read:
 20 30.207 (4) (c) 1. Any local entity, as defined in s. 30.77 (3) (dm) 1b., that has
 21 an interest in the quality or use of or that has jurisdiction over the navigable waters
 22 located in the proposed permit area. //

History: 1997 a. 174.

D/N
cmH

1. Note that the "boating organizations" are not
limited to nonprofit corporations. OK?

mGG



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0217/1
MGG:cmh:km

LFB:.....Kava - Hearing procedure for objections to local boating ordinances

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

Proofed again.

1 At the locations indicated, amend the bill as follows:

2 1. Page 537, line 18: delete lines 18 to 23 and substitute:

3 SECTION 867^b. 30.207 (3) (a) of the statutes is amended to read:

4 30.207 (3) (a) Any local entity, as defined in s. 30.77 (3) (dm) 1. b., any group
5 of 10 riparian owners who will be affected by the issuance of a general permit, or any
6 contractor who is or has been involved in the construction of structures or along
7 navigable waters may apply for a general permit under this section.

8 SECTION 867^f. 30.207 (4) (c) 1. of the statutes is amended to read:

9 30.207 (4) (c) 1. Any local entity, as defined in s. 30.77 (3) (dm) 1. b., that has
10 an interest in the quality or use of or that has jurisdiction over the navigable waters
11 located in the proposed permit area.^{ny}

^j
① ~~SECTION 867b.~~ 30.77 (3) (dm) 1. of the statutes is renumbered 30.77 (3) (dm)

2 1. (intro.) and amended to read:

3 30.77 (3) (dm) 1. (intro.) In this paragraph, ~~“local”~~:

4 b. “Local entity” means a city, village, town, county, qualified lake association,
5 as defined in s. 281.68 (1) (b), nonprofit conservation organization, as defined in s.
6 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation
7 district or another local governmental unit, as defined in s. 66.299 (1) (a), that is
8 established for the purpose of lake management.

⑨ ^m
~~SECTION 867f.~~ 30.77 (3) (dm) 1. a. of the statutes is created to read:

10 30.77 (3) (dm) 1. a. “Boating organization” means a nonstock corporation
11 organized under ch. 181 whose primary purpose is to promote boating activities.

⑫ ^p
~~SECTION 867j.~~ 30.77 (3) (dm) 2. (intro.) of the statutes is renumbered 30.77 (2)
13 (dm) 2. and amended to read:

14 30.77 (3) (dm) 2. If the department or a local entity objects to an ordinance
15 enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the
16 ordinance is contrary to or inconsistent with this chapter, ~~all of the following apply:~~
17 the procedure under subd. 2r. shall apply.

⑬ ^s
~~SECTION 867p.~~ 30.77 (3) (dm) 2. a. of the statutes is renumbered 30.77 (3) (dm)
19 2r. a. and amended to read:

20 30.77 (3) (dm) 2r. a. Upon receipt of an objection under ~~this subdivision~~ subd.
21 2. or 2g., the department shall order a hearing on the objection under ch. 227. The
22 hearing shall be a contested case hearing, and the administrator of the division of
23 hearings and appeals in the department of administration shall assign a hearing
24 examiner to the hearing as provided in s. 227.43. Persons who are not parties to the
25 contested case may present testimony and evidence at the hearing.

1

SECTION 867[✓]. 30.77 (3) (dm) 2. b. of the statutes is renumbered 30.77 (3) (dm)

2

2r. b. and amended to read:

3

30.77 (3) (dm) 2r. b. The hearing examiner shall issue an order on the objection within 90 days after the date on which the hearing is ordered under subd. 2. ~~2r.~~ a.

4

5

~~If~~ c. For an objection under subd. 2., if the hearing examiner determines that the

6

ordinance or the portion of the ordinance is contrary to or inconsistent with this

7

chapter, the hearing examiner shall issue an order declaring the ordinance or that

8

portion of the ordinance void. ~~The~~ For an objection under subd. 2g., if the hearing

9

examiner determines that the ordinance or the portion of the ordinance is not

10

necessary for public health, safety, welfare or the public's interest in preserving the

11

state's natural resources, the hearing examiner shall issue an order declaring the

12

ordinance or that portion of the ordinance void. An order issued under this subd. 2r.

13

c. shall prohibit the enforcement of all or any portion of the ordinance declared to be

14

void.

15

SECTION 867[✗]. 30.77 (3) (dm) 2g. of the statutes is created to read:

16

30.77 (3) (dm) 2g. If a local entity or an boating organization objects to an

17

ordinance enacted under par. (a) that applies to a river or stream, or to an ordinance

18

enacted under par. (b), on the grounds that all or a portion of the ordinance is not

19

necessary for public health, safety, welfare or the public's interest in preserving the

20

state's natural resources, the procedure under subd 2r. shall apply. 1/

21

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0217/1dn
MGG:cmh:km

May 11, 1999

Note that the "boating organizations" are not limited to nonprofit corporations. OK?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



LFB:.....Kava – Hearing procedure for objections to local boating ordinances

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1. Page 530, line 5: after that line insert:

1 At the locations indicated, amend the bill as follows:

2 ~~2~~ Page 537, line 18: delete lines 18 to 23 and substitute:

3 "SECTION ~~867b~~^{820s.} 30.207 (3) (a) of the statutes is amended to read:

4 30.207 (3) (a) Any local entity, as defined in s. 30.77 (3) (dm) 1. b., any group
5 of 10 riparian owners who will be affected by the issuance of a general permit, or any
6 contractor who is or has been involved in the construction of structures or along
7 navigable waters may apply for a general permit under this section. "

8 SECTION ~~867f~~ 30.207 (4) (c) 1. of the statutes is amended to read:

9 30.207 (4) (c) 1. Any local entity, as defined in s. 30.77 (3) (dm) 1. b., that has
10 an interest in the quality or use of or that has jurisdiction over the navigable waters
11 located in the proposed permit area.

1 “**SECTION 867j.** 30.77 (3) (dm) 1. of the statutes is renumbered 30.77 (3) (dm) 1.
2 (intro.) and amended to read:

3 30.77 (3) (dm) 1. (intro.) In this paragraph, ~~“local:~~

4 **b.** “Local entity” means a city, village, town, county, qualified lake association,
5 as defined in s. 281.68 (1) (b), nonprofit conservation organization, as defined in s.
6 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation
7 district or another local governmental unit, as defined in s. 66.299 (1) (a), that is
8 established for the purpose of lake management.

9 **SECTION 867m.** 30.77 (3) (dm) 1. a. of the statutes is created to read:

10 30.77 (3) (dm) 1. a. “Boating organization” means a nonstock corporation
11 organized under ch. 181 whose primary purpose is to promote boating activities.

12 **SECTION 867p.** 30.77 (3) (dm) 2. (intro.) of the statutes is renumbered 30.77 (2)
13 (dm) 2. and amended to read:

14 30.77 (2) (dm) 2. If the department or a local entity objects to an ordinance
15 enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the
16 ordinance is contrary to or inconsistent with this chapter, ~~all of the following apply:~~
17 the procedure under subd. 2r. shall apply.

18 **SECTION 867s.** 30.77 (3) (dm) 2. a. of the statutes is renumbered 30.77 (3) (dm)
19 2r. a. and amended to read:

20 30.77 (3) (dm) 2r. a. Upon receipt of an objection under ~~this subdivision~~ subd.
21 2. or 2g., the department shall order a hearing on the objection under ch. 227. The
22 hearing shall be a contested case hearing, and the administrator of the division of
23 hearings and appeals in the department of administration shall assign a hearing
24 examiner to the hearing as provided in s. 227.43. Persons who are not parties to the
25 contested case may present testimony and evidence at the hearing.

LRBb0217/2dn

has been redrafted as

LRBb0217

~~LRBb0217~~

(9)

This bill

is 12

pages than ~~the~~

because of errors that ^{were detected} ~~occurred~~ during a sorting procedure.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0217/2dn
MGG:cmh:km

May 13, 1999

This bill has been redrafted as LRBb0217/2 because of errors that were detected during a sorting procedure.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0217/2
MGG:cmh:km

LFB:.....Kava – Hearing procedure for objections to local boating ordinances

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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6 b. “Local entity” means a city, village, town, county, qualified lake association,

7 as defined in s. 281.68 (1) (b), nonprofit conservation organization, as defined in s.

8 23.0955 (1), town sanitary district, public inland lake protection and rehabilitation

9 district or another local governmental unit, as defined in s. 66.299 (1) (a), that is

10 established for the purpose of lake management.

11 SECTION 867m. 30.77 (3) (dm) 1. a. of the statutes is created to read:

1 30.77 (3) (dm) 1. a. “Boating organization” means a nonstock corporation
2 organized under ch. 181 whose primary purpose is to promote boating activities.

3 **SECTION 867p.** 30.77 (3) (dm) 2. (intro.) of the statutes is renumbered 30.77 (2)
4 (dm) 2. and amended to read:

5 30.77 (2) (dm) 2. If the department or a local entity objects to an ordinance
6 enacted under par. (a), (ac) 2. or (am) 1. b., on the grounds that all or a portion of the
7 ordinance is contrary to or inconsistent with this chapter, ~~all of the following apply:~~
8 the procedure under subd. 2r. shall apply.

9 **SECTION 867s.** 30.77 (3) (dm) 2. a. of the statutes is renumbered 30.77 (3) (dm)
10 2r. a. and amended to read:

11 30.77 (3) (dm) 2r. a. Upon receipt of an objection under ~~this subdivision~~ subd.
12 2. or 2g., the department shall order a hearing on the objection under ch. 227. The
13 hearing shall be a contested case hearing, and the administrator of the division of
14 hearings and appeals in the department of administration shall assign a hearing
15 examiner to the hearing as provided in s. 227.43. Persons who are not parties to the
16 contested case may present testimony and evidence at the hearing.

17 **SECTION 867v.** 30.77 (3) (dm) 2. b. of the statutes is renumbered 30.77 (3) (dm)
18 2r. b. and amended to read:

19 30.77 (3) (dm) 2r. b. The hearing examiner shall issue an order on the objection
20 within 90 days after the date on which the hearing is ordered under subd. ~~2.~~ 2r. a.
21 ~~If~~

22 c. For an objection under subd. 2., if the hearing examiner determines that the
23 ordinance or the portion of the ordinance is contrary to or inconsistent with this
24 chapter, the hearing examiner shall issue an order declaring the ordinance or that
25 portion of the ordinance void. ~~The~~ For an objection under subd. 2g., if the hearing

1 examiner determines that the ordinance or the portion of the ordinance is not
2 necessary for public health, safety, welfare or the public's interest in preserving the
3 state's natural resources, the hearing examiner shall issue an order declaring the
4 ordinance or that portion of the ordinance void. An order issued under this subd. 2r.
5 c. shall prohibit the enforcement of all or any portion of the ordinance declared to be
6 void.

7 **SECTION 867x.** 30.77 (3) (dm) 2g. of the statutes is created to read:

8 30.77 (3) (dm) 2g. If a local entity or an boating organization objects to an
9 ordinance enacted under par. (a) that applies to a river or stream, or to an ordinance
10 enacted under par. (b), on the grounds that all or a portion of the ordinance is not
11 necessary for public health, safety, welfare or the public's interest in preserving the
12 state's natural resources, the procedure under subd 2r. shall apply.”

13

(END)