

2007 ASSEMBLY BILL 909

March 4, 2008 – Introduced by Representative HIXSON. Referred to Committee on Natural Resources.

1 **AN ACT** *to repeal* 33.26 (6) and 33.33 (2); *to renumber and amend* 33.25 (3),
2 33.26 (2) and 33.26 (3); *to amend* 33.21, 33.235 (2), 33.24 (2), 33.25 (title), 33.25
3 (1) (a), 33.25 (2) (intro.), 33.25 (2) (a), 33.25 (2) (b), 33.25 (2) (c), 33.25 (4), 33.26
4 (1), 33.26 (5), 33.26 (7), 33.265, 33.33 (title), 33.35, 33.37 (1) and 33.37 (2); *to*
5 *repeal and recreate* 33.25 (1) (title); and *to create* 33.25 (2m), 33.25 (3) (b),
6 33.26 (2) (c), 33.26 (3) (c), 33.26 (8) and 33.37 (1m) of the statutes; **relating to:**
7 attachment of territory to public inland lake protection and rehabilitation
8 districts and changing boundaries of proposed public inland lake protection and
9 rehabilitation districts.

Analysis by the Legislative Reference Bureau

Under current law, a county may establish public inland lake protection and rehabilitation districts (lake districts). A city, village, or town may also create a lake district if all the frontage of the lake is within its boundaries.

Current law requires that certain procedures be followed by a county in establishing a lake district. These include having a petition signed by 51 percent of the persons owning land in the proposed lake district or by owners of 51 percent of the land in the proposed lake district and having the county board conduct a hearing

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on the petition. If the county board finds that the establishment of the lake district will promote a public goal such as public health, convenience, or welfare and that the land to be included in the lake district will benefit from its establishment, the county board must approve the establishment of the lake district.

Current law requires that a different procedure be followed to annex territory to a lake district. Under current law, an owner of land may petition the board of commissioners for the lake district (district board) to annex the land. If the petition is approved by a majority vote of the members of the district board, the territory is annexed. Alternatively, the district board may begin the procedure by notifying the owners of land that is proposed to be annexed and the county board. Under this alternative procedure, a procedure similar to the one described above for the establishment of a lake district applies.

This bill eliminates the procedure under which an owner of land may petition the district board to annex territory and eliminates the authority of a district board to begin an annexation proceeding. Under the bill, annexation requires that 51 percent of the owners of the land in the territory to be annexed or the owners of 51 percent of that territory sign the annexation petition. The county board must hold a hearing on the petition.

Under current law, a county may change the boundaries of a lake district that is being established. This bill repeals this provision.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 33.21 of the statutes is amended to read:

2 **33.21 Public inland lake protection and rehabilitation districts;**
3 **purposes.** Districts may be created established for the purpose of undertaking a
4 program of lake protection and rehabilitation of a lake or parts thereof within the
5 district.

6 **SECTION 2.** 33.235 (2) of the statutes is amended to read:

7 **33.235 (2)** The commissioners of a town sanitary district that does not
8 encompass all the frontage of a lake within its boundaries may, with approval of the
9 town board, petition under s. 33.25 for the formation of a restructured district to
10 include the territory of the existing sanitary district and any additional frontage on

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1 the lake that is deemed appropriate by the commissioners. The commissioners may
2 sign the petition for the landowners in the sanitary district. If necessary to meet the
3 requirements of s. 33.25, signatures of owners of land lying outside the sanitary
4 district shall be obtained. Formation of a restructured district that includes such
5 additional territory shall not affect any preexisting rights or liabilities of the town
6 sanitary district, and all these rights and liabilities shall be assumed automatically
7 by the restructured district. The method by which these rights and liabilities are
8 apportioned within the restructured district shall be determined by the county
9 board, and set out in the order issued under s. 33.26 (3) (a) forming the restructured
10 district.

11 **SECTION 3.** 33.24 (2) of the statutes is amended to read:

12 33.24 (2) The county board of any county may establish districts within the
13 county, and may attach contiguous territory to existing districts in the county, if the
14 conditions stated in s. 33.26 are found to exist. Before a district that includes any
15 portion of a city or village may be ~~formed~~ established under authority of this section,
16 the city council or village board must have previously approved the inclusion of its
17 territory within the boundaries of a proposed district.

18 **SECTION 4.** 33.25 (title) of the statutes is amended to read:

19 **33.25 (title) Petition for establishment or attachment.**

20 **SECTION 5.** 33.25 (1) (title) of the statutes is repealed and recreated to read:

21 33.25 (1) (title) FILING OF PETITION.

22 **SECTION 6.** 33.25 (1) (a) of the statutes is amended to read:

23 33.25 (1) (a) Before a county board may establish a district under s. 33.235 or
24 33.24 or before a county board may approve the attachment of contiguous territory
25 to an existing district under s. 33.24, a petition requesting the establishment or

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1 attachment shall be filed with the county clerk, addressed and presented to the
2 county board and. A petition to establish a district shall be signed by persons
3 constituting 51% 51 percent of the landowners or the owners of 51% 51 percent of the
4 lands within the proposed district. A petition to attach territory to an existing
5 district shall be signed by persons constituting 51 percent of the owners of land in
6 the territory or the owners of 51 percent of the lands within the territory.
7 Governmental subdivisions, other than the state or federal governments, owning
8 ~~lands within the proposed district~~ are eligible as landowners to sign such a petition.
9 A city council or village or town board may by resolution represent persons owning
10 ~~lands within the proposed district~~ who are within its jurisdiction and who are eligible
11 to sign a petition, and may sign for all such landowners.

12 **SECTION 7.** 33.25 (2) (intro.) of the statutes is amended to read:

13 33.25 (2) **CONTENTS OF PETITION TO ESTABLISH.** (intro.) The A petition filed under
14 sub. (1) to establish a district shall set forth all of the following:

15 **SECTION 8.** 33.25 (2) (a) of the statutes is amended to read:

16 33.25 (2) (a) The proposed name of the district;_

17 **SECTION 9.** 33.25 (2) (b) of the statutes is amended to read:

18 33.25 (2) (b) The necessity for the proposed district;_

19 **SECTION 10.** 33.25 (2) (c) of the statutes is amended to read:

20 33.25 (2) (c) ~~That~~ A statement that the public health, comfort, convenience,
21 necessity, or public welfare will be promoted by the establishment of the district and
22 that the ~~lands territory~~ to be included therein in the district will be benefited by such
23 its establishment; and,

24 **SECTION 11.** 33.25 (2m) of the statutes is created to read:

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1 **33.25 (2m)** CONTENTS OF PETITION TO ATTACH. A petition filed under sub. (1) to
2 attach contiguous territory to an existing district shall set forth all of the following:

3 (a) The necessity for the attachment to the existing district.

4 (b) A statement that the public health, comfort, convenience, necessity, or
5 welfare will be promoted by the attachment and that both the lands contained in the
6 existing district and the territory to be attached will be benefited by the attachment.

7 (c) The boundaries of the territory to be attached to the existing district.

8 **SECTION 12.** 33.25 (3) of the statutes is renumbered 33.25 (3) (intro.) and
9 amended to read:

10 **33.25 (3)** VERIFICATION, PLAT. (intro.) ~~The petition~~ A petition filed under sub.
11 (1) shall be verified by one of the petitioners, and shall be accompanied by a one of
12 the following:

13 (a) For the establishment of a district, a plat or sketch indicating the
14 approximate area and boundaries of the proposed district.

15 **SECTION 13.** 33.25 (3) (b) of the statutes is created to read:

16 **33.25 (3) (b)** For the attachment of contiguous territory to an existing district,
17 a plat or sketch indicating the approximate area and boundaries of the territory to
18 be attached.

19 **SECTION 14.** 33.25 (4) of the statutes is amended to read:

20 **33.25 (4)** PRESUMPTION. ~~Every~~ Each petition filed under sub. (1) is presumed
21 to have been signed by the persons whose signatures appear thereon, until proved
22 otherwise.

23 **SECTION 15.** 33.26 (1) of the statutes is amended to read:

24 **33.26 (1)** Upon receipt of the a petition for establishment of a district or for
25 attachment of contiguous territory to an existing district under s. 33.25, the county

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1 board shall ~~arrange~~ set a hearing to be held not later than 30 days from the date of
2 presentation of the petition, and shall appoint a committee to conduct the hearing.
3 At the hearing all interested persons may offer objections, criticisms, or suggestions
4 as to the necessity of the ~~proposed district~~ establishment or attachment as outlined
5 and as to the question of whether their ~~property~~ land will be benefited by the
6 establishment of ~~such district~~ or attachment. Any person wishing to object to the
7 ~~organization of such district~~ establishment or attachment may, before the date set
8 for the hearing, file objections ~~to the formation of such district~~ with the county clerk.

9 **SECTION 16.** 33.26 (2) of the statutes is renumbered 33.26 (2) (a) and amended
10 to read:

11 33.26 (2) (a) Notice announcing the hearing set under sub. (1) and stating the
12 boundaries of the proposed district or of the territory to be attached to an existing
13 district shall be published in a paper of general circulation in the county in which the
14 ~~proposed district is located~~ as a class 1 notice, under ch. 985, ~~and~~.

15 (b) For a petition to establish a district, the notice shall be published in a paper
16 of general circulation in each county in which the proposed district is located and
17 shall be mailed by the county board to the last-known address of each landowner
18 within the proposed district.

19 **SECTION 17.** 33.26 (2) (c) of the statutes is created to read:

20 33.26 (2) (c) For a petition to attach contiguous territory to an existing district,
21 the notice shall be published in a paper of general circulation in each county in which
22 the existing district is located and in which the territory to be attached is located and
23 shall be mailed by the county board to the last-known address of each landowner
24 within the existing district and to each owner of land located in the area proposed
25 for attachment.

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1 **SECTION 18.** 33.26 (3) of the statutes is renumbered 33.26 (3) (a) amended to
2 read:

3 33.26 **(3)** (a) The A committee appointed under sub. (1) shall report to the
4 county board within 3 months after the date of the hearing. Within 6 months after
5 the date of the hearing, the county board shall issue its order under this subsection.

6 **(b)** If the county board finds, after consideration of the committee's report and
7 any other evidence submitted to the county board, that ~~the a~~ petition to establish a
8 district is signed by the requisite owners as provided in s. 33.25, that the proposed
9 district is necessary, that the public health, comfort, convenience, necessity, ~~or public~~
10 welfare will be promoted by the establishment of the district, and that the ~~property~~
11 territory to be included in the district will be benefited by the establishment of the
12 proposed district, the county board, by order, shall declare its findings, shall
13 establish the boundaries and shall declare the district organized and give it a
14 corporate name by which it shall be known. Thereupon the district shall be a body
15 corporate with the powers of a municipal corporation for the purposes of carrying out
16 this chapter. If the county board does not so find, the county board, by order, shall
17 declare its findings and deny the petition.

18 **SECTION 19.** 33.26 (3) (c) of the statutes is created to read:

19 33.26 **(3)** (c) If the county board finds, after consideration of the committee's
20 report and any other evidence submitted to the county board, that a petition to attach
21 contiguous territory to an existing district is signed by the requisite owners as
22 provided in s. 33.25, that the attachment to the district is necessary, that the public
23 health, comfort, convenience, necessity, or welfare will be promoted by the
24 attachment, and that both the territory included in the district and the territory to
25 be attached to the district will be benefited by the attachment, the county board, by

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1 order, shall declare its findings and shall establish the boundaries of the territory to
2 be attached. If the county board does not so find, the county board, by order, shall
3 declare its findings and deny the petition.

4 **SECTION 20.** 33.26 (5) of the statutes is amended to read:

5 33.26 (5) The department shall be notified in writing of the a hearing for the
6 ~~creation of the district~~ under sub. (1) at the time the hearing date is set.

7 **SECTION 21.** 33.26 (6) of the statutes is repealed.

8 **SECTION 22.** 33.26 (7) of the statutes is amended to read:

9 33.26 (7) Any person aggrieved by the action of the county board may petition
10 the circuit court for judicial review. A verified petition shall be presented to the court
11 not more than 30 days after the decision of the county board, and shall specify the
12 grounds upon which the appeal is based.

13 **SECTION 23.** 33.26 (8) of the statutes is created to read:

14 33.26 (8) Petitions requesting attachment and motions for attachment
15 proceedings under s. 33.33 (2), 2005 stats., that are filed or initiated before the
16 effective date of this subsection [revisors inserts date], shall comply with the
17 applicable procedures and requirements under s. 33.33 (2), 2005 stats.

18 **SECTION 24.** 33.265 of the statutes is amended to read:

19 **33.265 Notice, filing and recording requirements.** If a district is created
20 established or its boundaries altered, the board of commissioners shall record the
21 authorizing document, including a legal description of the boundary, with the
22 register of deeds in each county where the district is situated, and file the document
23 and legal description with the department of natural resources and the department
24 of revenue.

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

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1 **33.33** (title) **Merger, attachment,; detachment.**

2 **SECTION 26.** 33.33 (2) of the statutes is repealed.

3 **SECTION 27.** 33.35 of the statutes is amended to read:

4 **33.35 Dissolution of districts.** A petition to dissolve an existing district
5 created established under this chapter may not be considered at an annual meeting
6 of the district unless an elector within the district or a property owner within the
7 district notifies the district board of commissioners in writing at least 90 days before
8 the annual meeting that the elector or property owner intends to petition for
9 dissolution at that annual meeting. The notice of the annual meeting must include
10 a statement that a petition to dissolve the district will be considered. The district
11 may be dissolved upon a two-thirds vote of the electors and property owners present
12 at the annual meeting. The county board shall by order dissolve the district following
13 receipt of the petition if the county board finds that one or more of the standards for
14 the creation establishment of a district under s. 33.26 (3) are not met. The order for
15 dissolution shall be conditioned upon proper petition to the circuit court and
16 appointment of a receiver to administer the winding up of the district under the
17 supervision of the court and a final order of the court. The attorney general shall
18 represent the state and shall be a party to every dissolution proceeding where state
19 money is involved.

20 **SECTION 28.** 33.37 (1) of the statutes is amended to read:

21 **33.37 (1)** ~~Where the~~ If a proposed district is in more than one county, the county
22 board of the county within which the largest portion, by valuation, of the proposed
23 district lies shall have jurisdiction under ss. 33.24 to 33.28.

24 **SECTION 29.** 33.37 (1m) of the statutes is created to read:

