



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2976/2
MGG&RNK:kmg:rs

2003 ASSEMBLY BILL 514

September 11, 2003 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to
Committee on Natural Resources.

1 **AN ACT to repeal** 30.01 (6b), 30.02, 30.025, 30.03 (title), 30.03 (3), 30.10 (2), 30.10
2 (4) (title), 30.10 (4) (c), 30.105, 30.11 (5) (title), 30.12 (3) (d), 30.12 (4) (title),
3 30.12 (5), 30.123 (5), 30.126 (10) (title) and (a) (title), 30.126 (10) (b) (title), 30.13
4 (3) (title), 30.13 (6) (title), 30.14 (title), 30.14 (1) (title), 30.15 (title), 30.15 (3)
5 (title), 30.18 (3) (title) and (a) (title), 1. and 2., 30.18 (3) (a) 4., 30.18 (3) (b), 30.18
6 (9), 30.19 (1m) (c) and (d), 30.19 (2) (intro.) and (a) to (d), 30.19 (2) (f), 30.19 (3)
7 (title), 30.19 (3) (b), 30.195 (4) and (7), 30.2035, 30.292, 30.298 (title), 30.501 (8),
8 30.537 (4) (e), 30.60, 30.61 (9), 30.62 (2) (d) 3., 30.62 (2) (f), 30.62 (2) (i), 30.62
9 (9), 30.67 (3) (c), 30.68 (4) (b), 30.68 (12), 30.71 (1), 30.73 (4), 30.74 (2) (b), 30.78
10 (1g), 30.78 (3), 30.79 (1) (a) and 30.81 (1m) and (2); **to renumber** 30.01 (1b),
11 30.01 (1m), 30.01 (1t), 30.01 (3e), 30.01 (3m), 30.01 (3s), 30.01 (6d), 30.01 (7m),
12 30.01 (9), 30.01 (10), 30.10 (4) (d), 30.103, 30.11 (title), 30.11 (5) (b) and (c), 30.11
13 (6), 30.12 (3) (bt) 1. to 8., 30.12 (3) (bt) 9., 30.12 (4) (d), 30.121 (title) and (2) to
14 (3r), 30.121 (5) and (6), 30.1255, 30.13 (6), 30.133, 30.134, 30.14 (1), 30.15 (1)

ASSEMBLY BILL 514

1 (intro.), 30.15 (3), 30.16, 30.18 (6) (d) (title), 30.18 (8), 30.2037, 30.21, 30.24,
2 30.25, 30.26, 30.265, 30.27, 30.275, 30.277, 30.29, 30.294, 30.298 (2),
3 subchapter III (title) of chapter 30 [precedes 30.30], 30.32, 30.33, subchapter IV
4 (title) of chapter 30 [precedes 30.40], 30.50 (2), 30.67 (3) (a) and (b), 30.742 and
5 709.03 (form) C. 27.; **to renumber and amend** 30.015, 30.027, 30.03 (2), 30.03
6 (4) (a), 30.03 (4) (b), 30.05, 30.056, 30.06, 30.07 (title), 30.07 (1) (a), 30.07 (1) (b),
7 30.07 (2), 30.10 (title), 30.10 (1) (title), 30.10 (1), 30.10 (3), 30.10 (4) (a), 30.10
8 (4) (b), 30.11 (1) to (4), 30.11 (5) (a), 30.12 (3) (bt) (intro.), 30.12 (4) (a), 30.12 (4)
9 (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.121 (4), 30.121 (7),
10 30.122, 30.123 (1), 30.124, 30.126 (title) and (2) to (9), 30.126 (10) (a), 30.126 (10)
11 (b), 30.13 (3), 30.131, 30.14 (2), 30.15 (1) (title), 30.15 (1) (a), (b) and (c), 30.15
12 (1) (d), 30.18 (3) (a) 3., 30.18 (4) (a), 30.18 (6) (b), 30.18 (6) (c), 30.18 (6) (d), 30.19
13 (1) (intro.), 30.19 (1) (a), 30.19 (1) (b), 30.19 (1) (c), 30.19 (2) (e), 30.19 (3) (a),
14 30.19 (4), 30.195 (3), 30.196, 30.20 (1) (b), 30.20 (1) (d), 30.20 (2) (c), 30.202,
15 30.2025, 30.2026, 30.203, 30.204, 30.205, 30.206, 30.207, 30.28, 30.298 (1),
16 30.298 (3), 30.298 (4), 30.298 (5), 30.30, 30.31, 30.34, 30.35, 30.37, 30.38, 30.61
17 (10), 30.62 (2) (c), 30.62 (2) (d) 1., 30.62 (2) (d) 2., 30.62 (4) (b), 30.62 (6), 30.63,
18 30.635, 30.64, 30.67 (1), 30.67 (3) (intro.), 30.675 (intro.) and (1), 30.68 (3) (a),
19 30.68 (3) (b) to (d), 30.68 (4) (a), 30.68 (5m), 30.68 (7), 30.69 (1) (a), 30.69 (1) (b),
20 30.69 (1) (c) and 30.70; **to amend** 25.29 (1) (a), 28.11 (12), subchapter II (title)
21 of chapter 30 [precedes 30.035], 30.12 (title), 30.12 (1) (intro.), 30.12 (1) (a),
22 30.12 (1) (b), 30.12 (3) (a) 6., 30.12 (3) (bn), 30.12 (3) (c), 30.123 (2), 30.123 (4),
23 30.13 (title) and (1) (intro.), (b) and (c), 30.13 (1m) (intro.) and (b), 30.13 (4) (b),
24 30.13 (4) (c), 30.135 (1) (a) (intro.) and 2., 30.135 (2) (a) and (4), 30.18 (2) (a)
25 (intro.), 30.18 (2) (b), 30.18 (4) (b), 30.18 (5) (a) (intro.), 30.18 (5) (a) 1., 30.18 (5)

ASSEMBLY BILL 514

1 (a) 2., 30.18 (5) (b), 30.18 (6) (title), 30.18 (6) (a), 30.18 (6m) (a) (intro.), 30.18
2 (6m) (a) 1. and 2., 30.18 (6m) (b), 30.18 (6m) (c), 30.18 (7), 30.19 (1m) (intro.),
3 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (e), 30.19 (5), 30.195 (1), 30.20 (1) (a),
4 30.20 (2) (title), (a) and (b), 30.50 (4q), 30.50 (9), 30.501 (9), 30.505, 30.52 (1) (b)
5 1r., 30.54 (2), 30.571, 30.61 (1), (2) (intro.), (3) (intro.), (4), (6) (b), (7) and (8),
6 30.62 (title), (1) and (2) (b), 30.62 (2) (g) 1. to 3., 30.62 (2m) and (3) (a), 30.62 (4)
7 (a), 30.62 (5), 30.62 (8), 30.625 (1) (intro.) and (2), 30.65 (1) (intro.), (b) and (f)
8 and (2), 30.66 (1), (2) (title) and (3), 30.67 (2), 30.67 (4), (5) and (6) (b), 30.675
9 (2), 30.68 (title) and (2), 30.68 (4m) (title) and (5), 30.68 (6), 30.68 (7) (title),
10 30.68 (8) and (8m) (a), 30.68 (9) and (11), 30.69 (title), 30.69 (1) (title), 30.69 (2),
11 30.69 (3), 30.69 (4), 30.73 (2) (a), 30.74 (1) (c) and (d), 30.74 (2) (a), 30.74 (3),
12 30.772 (3) (d) 4., 30.772 (4), 30.78 (1r) and (2), 30.79 (1) (b) 1. and 2., 30.79 (2),
13 (3) and (4), 30.80 (2), 30.80 (3), 30.80 (4), 30.81 (3), 30.81 (4), 30.90 (1), 30.90 (2),
14 31.03, 33.475, 60.782 (2) (d), 200.35 (4), 236.16 (3) (d) (intro.), 281.35 (4) (b)
15 (intro.), 293.65 (2) (b) and 299.05 (1) and (2) (a); **to repeal and recreate**
16 subchapter I (title) of chapter 30 [precedes 30.01], 30.12 (2), 30.12 (3) (a) (intro.),
17 30.12 (3) (b), 30.123 (title), 30.123 (3), 30.135 (1) (title), 30.18 (4) (title), 30.18
18 (5) (title), 30.18 (6m) (title), 30.195 (2), 30.20 (1) (title), 30.20 (1) (c), 30.77, 30.78
19 (1) (intro.) and 30.81 (1) (intro.); and **to create** 30.01 (1h), 30.01 (1hm), 30.01
20 (1mp), 30.01 (1nq), 30.01 (1nw), 30.035 (1) (b), 30.035 (3) and (4), 30.04, 30.12
21 (3) (a) 9., 30.12 (3) (am), 30.12 (3) (bg), 30.12 (3) (br), 30.123 (6), 30.18 (1) (intro.),
22 30.18 (1) (b), 30.18 (3m) (intro.), 30.18 (3m) (b), 30.18 (4) (a) 1., 30.18 (5) (a) 1m.,
23 30.18 (6) (cm) 3., 30.19 (1b), 30.19 (1m) (f), 30.19 (3b) (intro.), 30.19 (4) (a), 30.20
24 (1) (b) 1. and 2., 30.20 (3) (title) and (b), 30.20 (4), 30.213 (title), 30.215, 30.243
25 (3) (c), 30.244 to 30.246, 30.253, 30.263 (title) and (1) (title), 30.266 (1) (intro.),

ASSEMBLY BILL 514

1 30.323 (title), 30.327 (title), 30.341 (title), 30.341 (1), 30.343 (title), 30.381
2 (title), 30.381 (3) (title), 30.381 (4) (title), 30.381 (4) (b), 30.381 (5), 30.381 (6)
3 (title), 30.50 (1b), 30.50 (4u), 30.50 (9b), 30.50 (10m), 30.50 (13r), 30.5005,
4 30.605, 30.62 (2) (c) 2., 30.62 (3) (c), 30.62 (4) (b) 3., 30.62 (6) (b), 30.66 (3) (c),
5 30.68 (3m) (title), 30.68 (5g) (c), 30.68 (8m) (c), 30.68 (14) (title), 30.69 (1) (b) 2.,
6 30.69 (1) (bm), 30.735, 30.771, subchapter VI (title) of chapter 30 [precedes
7 30.95], 30.96 (title), 30.98 (title), 30.98 (3) (title), 31.93, 60.782 (1m) and 709.03
8 (form) C. 27. of the statutes; **relating to:** determinations concerning the
9 navigability of bodies of water; determinations as to whether bodies of waters
10 are lakes or streams; procedures, requirements, and exemptions that apply to
11 granting, modifying, and denying permits, contracts, and other approvals for
12 activities that affect navigable waters; maintenance of bridges over navigable
13 streams; liability for changing the courses of streams; rights of the public and
14 riparian owners in navigable waters; elimination of obsolete provisions of ch.
15 30; recodification of chapter 30; the duties and powers of the department of
16 natural resources relating to the regulation of boating; certificate of number
17 and registration requirements for boats; equipment requirements for boats;
18 requirements regarding boat operation; regulation of water skiing and similar
19 activities; marking of water areas; local regulation of boating and seaplanes;
20 placement and use of moorings; local water safety patrols; local regulations on
21 icebound waters; boating fees charged by counties; requiring the exercise of
22 rule-making authority; and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill is explained in the PREFATORY NOTES provided by the Joint Legislative Council in the bill.

ASSEMBLY BILL 514

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and 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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill contains the final recommendation of the Joint Legislative Council's special committee on navigable waters recodification. The special committee was charged by the Joint Legislative Council with recodifying ch. 30, in order to update language and make technical corrections in ch. 30. The special committee determined that the following portions of ch. 30 merit recodification:

- Subch. I (definitions)
- Subch. II (regulation of structures, deposits, dredging, and other activities that affect navigable waters)
- Subch. V (boating)

This bill creates a new subch. VI for penalties and enforcement provisions that apply to the entire chapter.

The other 2 subchapters in ch. 30 are not recodified. This bill relocates subch. III (harbors) to make room for the renumbered provisions in subch. II, but makes no other changes in either subch. III (harbors) or subch. IV (Lower Wisconsin State Riverway).

The changes made by this bill to current statutes are described in detailed notes throughout this bill. In addition, the report to the legislature regarding this bill contains background information, a summary of special committee discussions, and a bibliography of information prepared for and submitted to the special committee. The remainder of the prefatory note contains a brief summary of the key provisions of this bill.

NAVIGABLE WATERS REGULATION

The bill:

Reorganizes all of the statutes that provide for permits or approvals under subch. II of ch. 30, so that these statutes are in a consistent format, use consistent terminology and have consistent decision-making standards where appropriate.

Requires the department of natural resources (DNR) to develop and make publicly available maps and data that show the results of its determinations of navigability.

Directs the DNR to develop rules that describe the methods it uses for making determinations of navigability.

Requires DNR to promulgate rules that describe the public interest and public rights and the rights of riparian owners for purposes of decisions to approve or deny permits and approvals affecting navigable waters under subch. II of ch. 30.

Codifies the supreme court cases that set forth the kinds of evidence that can be used to determine if a lake or stream is navigable.

Modifies provisions regarding farm drainage ditches to provide an exemption from regulation, rather than an exemption from the definition of "navigable", and clarifies the exemption so that it only applies to projects for an agricultural purpose.

Creates a procedure to request a hearing if the DNR issues an order modifying or rescinding a permit or contract.

Authorizes DNR to issue a permit for a deposit in navigable waters if, among other things, the deposit will promote public rights and interests in navigable waters.

ASSEMBLY BILL 514

Authorizes additional “short form” permits to simplify the approval process for several of the permit statutes.

Modifies the current notice and hearing process by allowing the DNR to issue a denial directly after receiving a complete permit or contract application.

Requires a person who wishes to challenge a permit or contract in a contested case hearing to make a more detailed showing of the facts and legal standards that support the objection, and requires DNR to find that those facts raise a reasonable doubt that the project, as proposed, complies with the applicable standards in subch. II.

Authorizes mediation between the applicant and persons with an interest in a permit or contract if the applicant, DNR and the other interested parties agree to this process.

STATE BOATING REGULATION

The bill:

Eliminates the authority of DNR to change statutory regulations by administrative rule in order to conform to federal regulations; and requires DNR to submit legislation to conform statutes to federal regulations.

Consolidates and makes consistent the provisions regarding equipment and operation of patrol boats.

Updates references to activities that involve being towed behind a boat.

Updates federal cross-references that are incorrect, and adds federal cross-references where current statutes have a nonspecific reference to federal law.

Extends the current prohibition on retail sale of a boat made in this state that does not comply with noise limits so that this prohibition also applies to retail sale of boats made elsewhere.

Creates a statutory exemption from the requirement to carry a personal flotation device for racing shells, sculls, kayaks and canoes, to duplicate the current exemption in federal law.

Authorizes but does not require that a parent or guardian be liable for a minor’s actions in boat operation; violations by a minor are currently deemed to be a violation by the parent or guardian.

Permits operation of a boat within 100 feet from a skin diver’s flag or swimmer if there is not sufficient room beyond 100 feet from the flag to maneuver, but boat operation may not exceed slow-no-wake speed.

LOCAL BOATING REGULATION

The bill:

Authorizes a town, village, or city to enact boating ordinances of clearly local concern, even if another local governmental unit (county, lake district, or town sanitary district) has adopted an ordinance applicable to the same lake or stream.

Expands county authority so that a county may enact boating ordinances for an inland lake if authorized to do so by the towns, villages, or cities surrounding the lake or if those towns, villages, or cities do not enact a boating ordinance.

Provides that counties may enact boating ordinances for outlying waters contiguous to the county.

Lists state boating regulations that require strict conformity in local ordinances and sets standards for other local ordinances which are required by statute to be consistent with state regulations.

Expands the scope of DNR review so that it applies to all local boating ordinances.

Authorizes a sheriff or a town, village, or city to issue emergency regulations applicable to boating.

ASSEMBLY BILL 514

1 **SECTION 4.** 30.01 (1b) of the statutes is renumbered 30.18 (1) (a).

2 **SECTION 5.** 30.01 (1h) of the statutes is created to read:

3 30.01 (**1h**) “Contested case” has the meaning given in s. 227.01 (3).

4 **SECTION 6.** 30.01 (1hm) of the statutes is created to read:

5 30.01 (**1hm**) “Contested case hearing” means a hearing of a contested case.

6 **SECTION 7.** 30.01 (1m) of the statutes is renumbered 30.50 (3m).

NOTE: The definition of “designated mooring area” is moved to the boating subchapter, where that term is used.

7 **SECTION 8.** 30.01 (1mp) of the statutes is created to read:

8 30.01 (**1mp**) “Division of hearings and appeals” means the division of hearings
9 and appeals in the department of administration.

10 **SECTION 9.** 30.01 (1nq) of the statutes is created to read:

11 30.01 (**1nq**) “Environmental pollution” has the meaning given in s. 299.01 (4).

12 **SECTION 10.** 30.01 (1nw) of the statutes is created to read:

13 30.01 (**1nw**) “Farm drainage ditch” means any artificial channel that drains
14 water from lands that are used for agricultural purposes.

15 **SECTION 11.** 30.01 (1t) of the statutes is renumbered 30.266 (1) (a).

NOTE: The definition of “flotation device” is relocated to s. 30.266, where the term is used.

16 **SECTION 12.** 30.01 (3e) of the statutes is renumbered 30.50 (5g).

NOTE: The definition of “mooring” is relocated to the boating statutes, where the term is used.

17 **SECTION 13.** 30.01 (3m) of the statutes is renumbered 30.50 (5m).

NOTE: The definition of “mooring anchor” is moved to the boating statutes, where the term is used.

18 **SECTION 14.** 30.01 (3s) of the statutes is renumbered 30.50 (5r).

NOTE: The definition of “mooring buoy” is moved to the boating statutes, where the term is used.

19 **SECTION 15.** 30.01 (6b) of the statutes is repealed.

ASSEMBLY BILL 514

NOTE: The definition of “substantive written objection” is repealed. This term is used in s. 30.135, regarding water ski platforms and water ski jumps: a substantive written objection is required to obtain a contested case hearing to challenge issuance of a permit for these structures. However, the DNR determines by rule the reasons that will support a substantive written objection under s. 30.135, making the definition unnecessary for purposes of that section. The only other use of this term is in the general notice and hearing provisions of current s. 30.02, which are substantially modified in this bill and moved to s. 30.245. The new notice and hearing provision contains additional requirements for objections to a permit or approval that are sufficient to obtain a contested case hearing, rendering this definition unnecessary for purposes of the general notice and hearing provision.

1 **SECTION 16.** 30.01 (6d) of the statutes is renumbered 293.01 (27m).

NOTE: The definition of “surplus water” is only used in s. 30.18. The substance of this definition is incorporated into s. 30.18 (5) (a) 2. The definition is moved to the chapter dealing with metallic mining, where the definition is used by cross-reference.

2 **SECTION 17.** 30.01 (7m) of the statutes is renumbered 30.18 (1) (c).

NOTE: The definition of “water loss” is relocated to s. 30.18, where the term is used.

3 **SECTION 18.** 30.01 (9) of the statutes is renumbered 30.18 (1) (d).

NOTE: The definition of “withdrawal” is relocated to s. 30.18, where that term is used.

4 **SECTION 19.** 30.01 (10) of the statutes is renumbered 30.266 (1) (b).

NOTE: The definition of “Wolf River municipality” is relocated to where that term is used. The new numbering of this statute is s. 30.266 as proposed by this bill.

5 **SECTION 20.** 30.015 of the statutes is renumbered 30.251 and amended to read:

6 **30.251 Time limits for issuing permit determinations.** In issuing permits
7 under this ~~chapter~~ subchapter, the department shall initially determine whether a
8 complete application for the permit has been submitted and, no later than 60 days
9 after the application is submitted, notify the applicant in writing about the initial
10 determination of completeness. If the department determines that the application
11 is incomplete, the notice shall state the reason for the determination and the specific
12 items of information necessary to make the application complete. An applicant may
13 supplement and resubmit an application that the department has determined to be
14 incomplete. There is no limit on the number of times that an applicant may resubmit
15 an application that the department has determined to be incomplete under this

ASSEMBLY BILL 514**SECTION 20**

1 section. The department may not demand items of information that are not specified
2 in the notice as a condition for determining whether the application is complete
3 unless both the department and the applicant agree or unless the applicant makes
4 material additions or alterations to the project for which the application has been
5 submitted.

6 **SECTION 21.** 30.02 of the statutes is repealed.

NOTE: Section 30.02 contains the provisions for notice of hearing under ch. 30. These provisions are repealed here and recreated, in substantially modified form, in s. 30.245.

7 **SECTION 22.** 30.025 of the statutes is repealed.

NOTE: The procedure in s. 30.025 substantially duplicates the procedure in s. 196.491 (3). It appears that the procedure in s. 196.491 (3) is used rather than the procedure in s. 30.025, so the latter procedure is repealed.

8 **SECTION 23.** 30.027 of the statutes is renumbered 30.255 and amended to read:

9 **30.255 Lower Wisconsin State Riverway.** For activities in the Lower
10 Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining the~~
11 department shall include a condition in a permit issued under subchs. I, II or V this
12 subchapter that the person obtaining the permit may not start or engage in the
13 activity for which the permit was issued unless the person obtains any permit that
14 is required for the activity under s. 30.44 or 30.445.

NOTE: The only permits under subch. V are for motorboat races and moorings. Neither of these activities appear to require a permit under s. 30.44 or 30.445. Therefore, the reference to subch. V is deleted.

This provision is rewritten as a permit condition for a permit issued under ch. 30. This shifts the burden to DNR to condition its issuance of a ch. 30 permit upon obtaining any additional permit that may be required if the activity is located in the Lower Wisconsin State Riverway.

15 **SECTION 24.** 30.03 (title) of the statutes is repealed.

16 **SECTION 25.** 30.03 (2) of the statutes is renumbered 30.97 and amended to read:

17 **30.97 Enforcement of forfeitures; abatement of nuisances.** The district
18 attorney of the appropriate county or, at the request of the department, the attorney

ASSEMBLY BILL 514

1 general shall institute proceedings to recover any forfeiture imposed or to abate any
2 nuisance committed under this chapter ~~or ch. 31~~.

NOTE: This bill deletes the cross-reference to ch. 31 and replicates current s. 30.03
(2) as s. 31.93.

3 **SECTION 26.** 30.03 (3) of the statutes is repealed.

NOTE: The current text of s. 30.03 (3) is as follows: "All forfeitures shall be
recovered by civil action as provided in ch. 778 and when collected shall be paid directly
into the state treasury." This provision is unnecessary.

4 **SECTION 27.** 30.03 (4) (a) of the statutes is renumbered 30.96 (1) and amended
5 to read:

6 30.96 (1) If the department learns of a possible violation of the statutes relating
7 to navigable waters or a possible infringement of the public rights relating to
8 navigable waters, and the department determines that the public interest may not
9 be adequately served by imposition of a penalty or forfeiture, the department may
10 proceed as provided in this ~~paragraph~~ subsection, either in lieu of or in addition to
11 any other relief provided by law. The department may order a hearing under ch. 227
12 concerning the possible violation or infringement, and may request the hearing
13 examiner to issue an order directing the responsible parties to perform or refrain
14 from performing acts in order to fully protect the interests of the public in the
15 navigable waters. If any person fails or neglects to obey an order, the department
16 may request the attorney general to institute proceedings for the enforcement of the
17 department's order in the name of the state. The proceedings shall be brought in the
18 manner and with the effect of proceedings under s. 111.07 (7).

19 **SECTION 28.** 30.03 (4) (b) of the statutes is renumbered 30.96 (2) and amended
20 to read:

ASSEMBLY BILL 514**SECTION 28**

1 30.96 (2) No penalty may be imposed for ~~violation of~~ violating a hearing
2 examiner's order under this ~~subsection~~ section, but the violation of a judgment
3 enforcing the order may be punished in civil contempt proceedings.

4 **SECTION 29.** Subchapter II (title) of chapter 30 [precedes 30.035] of the statutes
5 is amended to read:

CHAPTER 30**SUBCHAPTER II****NAVIGABLE WATERS AND****NAVIGATION IN GENERAL**

10 **SECTION 30.** 30.035 (1) (b) of the statutes is created to read:

11 30.035 (1) (b) A stream is navigable in fact if it is capable of floating any boat,
12 skiff, or canoe that is of the shallowest draft and is of a type used for recreational
13 purposes.

14 **SECTION 31.** 30.035 (3) and (4) of the statutes are created to read:

15 30.035 (3) DETERMINING NAVIGABILITY OF STREAMS BY DEPARTMENT. (a) The
16 department may determine whether a stream is navigable in fact by means of actual
17 navigation. If the department does so, the department shall use a boat, skiff, or
18 canoe, carrying one adult, that is of the shallowest draft and that is of a type used
19 for recreational purposes. The department may determine the stream to be
20 navigable in fact by means of navigation even though any of the following applies:

21 1. It is necessary to drag or carry the boat, skiff, or canoe over occasional areas
22 of shallow water or occasional obstructions.

23 2. The conditions of navigability are present only in regularly recurring periods
24 of high water, so long as the periods of high water are of sufficient duration to allow
25 recreational use.

ASSEMBLY BILL 514

1 3. The conditions of navigability are the result of natural or artificial
2 conditions, if the natural or artificial conditions are of long standing.

3 (b) The department may determine whether a stream is navigable in fact based
4 on measurements or calculations that predict, to a reasonable scientific certainty, the
5 existence of water in the stream sufficient to allow actual navigation as required for
6 a determination of navigability under par. (a).

7 (c) The department may determine whether a stream is navigable in fact based
8 on reliable records that show a history of actual navigation.

9 (d) In addition to the department, any person may determine whether a stream
10 is navigable in fact by using a method described in pars. (a) to (c). A stream is
11 presumed to be navigable as a matter of law if it is determined to be navigable in fact
12 using a method described in pars. (a) to (c).

13 **(4) MAPS AND DATA.** The department shall develop, and make publicly available,
14 maps and data that show the results of determinations of navigability that are made
15 by the department. At a minimum, the maps and data shall include navigability
16 determinations made after the effective date of this subsection [revisor inserts
17 date]. To the extent practicable, within the constraints of available staff and funds,
18 the department shall incorporate past determinations of navigability into the maps
19 and data.

NOTE: The determination of whether a lake or stream meets the legal standard of navigability is critical, both for the public and for riparian property owners, because it is the means for determining whether a project that affects surface waters is subject to the regulations in subch. II of ch. 30, through the statutory system of permits, contracts and other regulations. It is also critical to determining the property rights of and among riparian owners.

The special committee has determined that public confidence in the regulatory system for navigable waters is being undermined by the lack of a clear, publicly accessible statement of: (1) the legal standard used to determine if streams are navigable; and (2) the various methods that the DNR may use to determine if a particular stream meets the legal standard of navigability.

ASSEMBLY BILL 514

With respect to the first issue, above, the legal standard for determining if a stream is navigable is currently found in court cases and in a very brief description in s. 30.10. To address the concerns regarding the ability of members of the public to locate the legal standard for navigability of a stream, this bill restates the current test of navigability that is found in court cases and the statutes. In these provisions, the special committee is merely restating and not recommending a change in the legal standard for determining whether a stream is navigable.

With respect to the 2nd issue, above, the methods that the DNR currently uses to determine if a lake or stream is navigable are not currently set forth in any statute or rule. To address the concerns regarding the methods used by DNR to determine if a stream is navigable, this bill proposes a combination of statutes and rules to expressly state the test of navigability. The DNR is required to make its determinations of navigability using, at a minimum, a boat, skiff, or canoe of the shallowest draft used for recreational purposes, with one adult in the boat, skiff, or canoe. This method of determining navigability is the “test” set forth in Wisconsin supreme court cases. The DNR is also directed to promulgate rules (see s. 30.04 (2) in this bill) describing the methods it uses to determine if a lake or stream is navigable. In addition to the test involving actual navigation, the DNR may also use other methods to determine navigability of streams (such as measurements or calculations), so long as those methods predict sufficient water in the stream to allow for actual navigation during periods of high water.

The special committee’s objective in recommending this change is to create a test of navigability for streams that will be applied consistently throughout the state by the DNR. For the first time, this will give the test of navigability for streams a clear public statement, a substantial degree of predictability and repeatability and, from the public perspective, a sense of fairness. This test of navigability will lessen the chance for the application of public rights in navigable waters to depend on the choices made by DNR staff regarding the type of watercraft and the amount of weight carried in the watercraft.

The special committee is not recommending a change in the statutes related to the determination of navigability for lakes. The current statutory standard for lakes is “navigable in fact”, and does not appear to cause problems. For consistency, the phrase “for any purpose whatsoever” is applied to lakes under this bill, just as that phrase applies to streams under current s. 30.10 (2). The public concerns regarding the test of navigability relate to streams, particularly those at the margins between navigability and nonnavigability.

The special committee discussed, but chose not to recommend, a test of navigability for streams that involves specification of the size and weight of the canoe, paddlers, and cargo, as well as other aspects of the test. Although court cases mention depth of water, and duration of high water, the courts are referring to evidence that supports determinations of navigability, and not to the test of navigability.

The current legal standard of navigability is summarized in Memo No. 4, *Alternatives for Consideration by the Special Committee: The Definition of Navigability and Related Issues* (November 20, 2000). Memo No. 4 discusses the leading case on the navigability of streams, *DeGayner and Co. v. Department of Natural Resources*. The key provisions of the “test” of navigability in *DeGayner* are that navigability of a stream is tested with the shallowest draft boat available for recreational use, such as a kayak or canoe, and that navigability is determined based on the amount of water in the stream during the periodic and recurring spring runoff.

With respect to the depth of the stream, the supreme court noted that evidence had been presented to the trial court in *DeGayner* that canoes and kayaks used for recreational purposes could be floated in as little as 3 inches of water. With respect to the duration of high water, the supreme court cited an earlier case that had found navigability during periodic rises of a stream from 4 to 13 days duration.

However, it is important to understand that these numeric standards were not adopted by the supreme court as part of the “test” for determining whether a stream is

ASSEMBLY BILL 514

navigable. *DeGayner* was the review of a judgment of the circuit court which had sustained the order of the DNR determining that the stream in question was navigable in fact. Conflicting evidence had been presented to the trial court, including testimony by DNR employees that the stream was not navigable. The legal issue in *DeGayner* was whether there was “substantial evidence” in the record to support the DNR determination. The substantial evidence standard for review of agency determinations does not require the court to find that there was a preponderance of evidence to sustain the agency’s findings, but rather that the finding was supported by substantial evidence in view of the entire record. Thus, in referring to 3 inches of water and 4 to 13 days of high water, the court was acknowledging evidence that supported the DNR determination. The court’s holding in *DeGayner* did not specify how much water must be available, for how long, or even require that the determination of navigability be conducted by means of actual navigation.

The special committee’s recommendation continues to allow various other testing methods, and to allow the exercise of discretion and judgment by the DNR. The supreme court has not precluded the use of calculations of water depth and duration, consultation of historic records, or any other method of determining navigability, so long as that evidence relates to the potential for actual navigation.

The special committee acknowledges that the current court test of navigability is based on any form of recreational use of waters for boating. It is not appropriate to make the statutory test overly precise, so as to exclude any common methods of or future developments in recreational boating. The special committee determined that a more precise test of navigability would, in fact, involve a change from current law.

Any determination of navigability using the statutory methods is cast as a presumption, which can be rebutted by other evidence of navigability or nonnavigability. It should be noted that the presumption applies to any determination of navigability or nonnavigability, regardless of who makes the determination. Thus, the presumption could apply in a dispute between riparian owners, in which the navigability or nonnavigability of the stream was at issue.

This bill uses “lake” and “stream” in new s. 30.035 and elsewhere in subch. II of ch. 30. There does not appear to be a pattern in the cases or statutes with respect to these terms. Other terms are used throughout the statutes to describe surface waters, including river, slough, bayou, marsh, pond, spring pond, glacial pothole lake, flowage, creek, bay, watercourse, and brook. No legal significance attaches to the use of any of these terms. “Lake” and “stream” are used as collective terms to refer to all such waters.

1 **SECTION 32.** 30.04 of the statutes is created to read:

2 **30.04 Rule making.** (1) The department may promulgate rules under this
3 chapter.

4 (2) The department shall promulgate rules that describe all of the following:

5 (a) The standards in common law and statutes for determining whether a body
6 of water is a lake or stream.

7 (b) The methods used by the department for making determinations of whether
8 a lake or stream is navigable under s. 30.035.

ASSEMBLY BILL 514

1 (c) The public interest and public rights and the rights of riparian owners in
2 navigable waters.

3 (d) The methods for evaluating how an activity, deposit, or structure regulated
4 under this subchapter may promote or be detrimental to the public interest and
5 public rights in navigable waters and to the rights of riparian owners.

6 (e) The methods for evaluating how an activity, deposit, or structure regulated
7 under this subchapter may materially obstruct navigation or materially reduce the
8 flood flow capacity of a stream.

9 (f) The kinds of scientific evidence that may be used to show that a farm
10 drainage ditch was a navigable stream before ditching for purposes of s. 30.215.

11 **(3)** The department shall promulgate rules that specify the local governmental
12 units that are required to receive notice under this subchapter. At a minimum, the
13 department shall provide notice to each of the following persons representing local
14 governmental units, if the activity, deposit, or structure that is subject to the
15 requirement of a permit, an order, or a hearing is located in the local governmental
16 unit:

17 (a) The clerk of a municipality.

18 (b) The secretary of a town sanitary district.

19 (c) The secretary of a public inland lake protection and rehabilitation district.

20 (d) The secretary of a county drainage board.

21 **(4)** Any reference to this subchapter includes any rules promulgated under this
22 subchapter, and any reference to any provision of this subchapter includes any rules
23 promulgated under that provision.

NOTE: The new requirement for rules related to navigable waters, in sub. (2),
above, is described in the note following s. 30.035 (4), which is created by this bill.

ASSEMBLY BILL 514

1 **SECTION 33.** 30.05 of the statutes is renumbered 30.233 and amended to read:

2 **30.233 Applicability of ~~chapter to municipally-owned submerged~~**
3 **shorelands subchapter to lake beds or stream beds under the jurisdiction**
4 **of a municipality.** Nothing in this ~~chapter~~ subchapter relative to the establishment
5 of bulkhead or pierhead lines or the placing of structures or deposits in navigable
6 waters or the removal of materials from the beds of navigable waters is ~~applicable~~
7 ~~to submerged shorelands in Lake Michigan~~ applies to any lake bed, the title to which
8 has been granted by the state to a municipality or to any stream bed which the
9 legislature has authorized a municipality to occupy.

NOTE: This statute is amended to apply to other lakes in which lake bed grants have been made and to authorization to occupy portions of a stream bed.

10 **SECTION 34.** 30.056 of the statutes is renumbered 30.261 and amended to read:

11 **30.261 ~~Exemption from certain permit requirements~~ Crayfish Creek.**
12 Notwithstanding ss. 30.12, 30.19, 30.195, and ~~30.294~~ 30.86, the city of Oak Creek
13 may not be required to remove any structure or concrete or other deposit that was
14 placed in Crayfish Creek in the city of Oak Creek before June 1, 1991, and may
15 continue to maintain the structure, concrete, or deposit without having a permit or
16 other approval from the department.

17 **SECTION 35.** 30.06 of the statutes is renumbered 30.331 and amended to read:

18 **30.331 ~~Waiver of certain provisions of Federal concurrent jurisdiction;~~**
19 **waivers under this chapter subchapter.** The department, by rule, may waive
20 the applicability to specified navigable waters of the United States of all or part of
21 those provisions of this ~~chapter~~ subchapter which relate to the establishment of
22 bulkhead or pierhead lines or the placing of structures or deposits in navigable
23 waters or the removal of materials from the beds of navigable waters. The

ASSEMBLY BILL 514

1 department may promulgate ~~such~~ the rule only after it the department has entered
2 into an ~~agreement~~, with the appropriate federal agency wherein it is ~~agreed~~, an
3 agreement that requires that the comparable federal law ~~will~~ be enforced on the
4 waters in question in lieu of the state law ~~which~~ that is being waived. The objective
5 of ~~such~~ the agreement shall be to avoid duplication of administration with respect
6 to navigable waters over which this state and the U.S. federal government have
7 concurrent jurisdiction, in those situations wherein administration by a single
8 governmental agency will tend to avoid confusion and the necessity of obtaining
9 permits from both the state and federal governments by those who are subject to the
10 law and at the same time will adequately protect the public interest. The agreement
11 may contain such further provisions as are designed to achieve this objective.

12 **SECTION 36.** 30.07 (title) of the statutes is renumbered 30.257 (title) and
13 amended to read:

14 **30.257** (title) ~~Limits and conditions~~ Time limits for permits and
15 **contracts.**

16 **SECTION 37.** 30.07 (1) (a) of the statutes is renumbered 30.257 (1) and amended
17 to read:

18 30.257 (1) Except as provided in par. (b) sub. (2), every permit or contract issued
19 under ~~ss. 30.01 to 30.29~~ this subchapter for which a time limit is not provided by s.
20 30.20 (2) or (3) is void unless the project is completed within 3 years after the permit
21 or contract was issued.

22 **SECTION 38.** 30.07 (1) (b) of the statutes is renumbered 30.257 (2) and amended
23 to read:

24 30.257 (2) The department may specify a time limit of less than 3 years for a
25 permit or contract issued under ~~ss. 30.01 to 30.29~~ this subchapter. For good cause,

ASSEMBLY BILL 514

1 the department may extend the time limit for a permit or contract issued under ss.
2 30.01 to 30.29 this subchapter for no longer than 2 years if the grantee person issued
3 the permit or contract requests an extension prior to expiration of the initial time
4 limit.

5 **SECTION 39.** 30.07 (2) of the statutes is renumbered 30.249 and amended to
6 read:

7 **30.249 Modification or rescission of a permit or contract.** For good
8 cause, the department may issue an order to modify or rescind any permit or contract
9 issued under ss. ~~30.01 to 30.29~~ this subchapter before its expiration. The department
10 shall give notice in writing of the order to the holder of the permit or contract. The
11 department shall notify the division of hearings and appeals under s. 227.43 (2) (a)
12 if the holder of the permit or contract objects in writing to the order and the
13 department receives the objection within 30 days after giving notice of the order to
14 the holder of the permit or contract. Upon receiving notification from the department
15 under s. 227.43 (2) (a), the division of hearings and appeals shall mail a written notice
16 of the hearing at least 10 days before the hearing to the holder of the permit or
17 contract and to each person who received notice of the order. The department shall
18 give written notice of the hearing to each representative of a local governmental unit
19 that is required to receive notice under s. 30.04 (3).

NOTE: Procedures are added related to modifying or rescinding a permit or contract
in order to provide explicitly that the holder of any permit or contract must receive due
process in such proceedings.

20 **SECTION 40.** 30.10 (title) of the statutes is renumbered 30.035 (title) and
21 amended to read:

22 **30.035 (title) Declarations and determinations of navigability.**

ASSEMBLY BILL 514

1 **SECTION 41.** 30.10 (1) (title) of the statutes is renumbered 30.035 (1) (title) and
2 amended to read:

3 30.035 (1) (title) LAKES AND STREAMS.

4 **SECTION 42.** 30.10 (1) of the statutes is renumbered 30.035 (1) (a) and amended
5 to read:

6 30.035 (1) (a) ~~All lakes wholly or partly within this state which~~ Lakes and
7 streams that are navigable in fact for any purpose whatsoever are declared to be
8 navigable and public waters, and all persons have the same rights therein and
9 thereto as they have in and to any other navigable or public waters.

10 **SECTION 43.** 30.10 (2) of the statutes is repealed.

11 **SECTION 44.** 30.10 (3) of the statutes is renumbered 30.035 (2) and amended
12 to read:

13 30.035 (2) ~~ENLARGEMENTS OR IMPROVEMENTS IN NAVIGABLE WATERS.~~ All
14 enlargements in navigable waters, including inner and outer harbors, turning
15 basins, waterways, slips, and canals created by any municipality to be used by the
16 public for purposes of navigation, and all outer harbors connecting interior
17 navigation with lake navigation, are declared to be navigable waters and are subject
18 to the same control and regulation that navigable streams are subjected to as regards
19 improvement, use and bridging.

20 **SECTION 45.** 30.10 (4) (title) of the statutes is repealed.

21 **SECTION 46.** 30.10 (4) (a) of the statutes is renumbered 30.213 (2) and amended
22 to read:

23 30.213 (2) ~~This section~~ Section 30.035 does not impair the powers granted by
24 law under s. ~~30.123~~ sub. (1) or by other law to municipalities to construct highway
25 bridges, arches, or culverts over streams.

ASSEMBLY BILL 514

1 **SECTION 47.** 30.10 (4) (b) of the statutes is renumbered 30.09 and amended to
2 read:

3 **30.09 Boundaries of lands adjoining waters.** The boundaries of lands
4 adjoining waters and the rights of the state and of individuals with respect to ~~all such~~
5 those lands and waters shall be determined in conformity to the common law so far
6 as applicable, but in the case of a lake or stream erroneously meandered in the
7 original U.S. government survey, the owner of title to lands adjoining the meandered
8 lake or stream, as shown on ~~such~~ the original survey, is conclusively presumed to own
9 to the actual shorelines unless it is first established in a suit in equity, brought by
10 the U.S. federal government for that purpose, that the government was in fact
11 defrauded by such survey. If the proper claims of adjacent owners of riparian lots of
12 lands between meander and actual shorelines conflict, each shall have his or her
13 proportion of ~~such~~ those shorelands.

14 **SECTION 48.** 30.10 (4) (c) of the statutes is repealed.

NOTE: The provision regarding farm drainage ditches is relocated to new s. 30.215.

15 **SECTION 49.** 30.10 (4) (d) of the statutes is renumbered 30.263 (1).

16 **SECTION 50.** 30.103 of the statutes is renumbered 30.325.

17 **SECTION 51.** 30.105 of the statutes is repealed.

NOTE: This provision relates to the method for determining the footage of shoreline
for certain specific purposes under ch. 30. The substance of this provision is recreated at
several places in this bill where the determination of shoreline footage is part of the
statutory procedure.

18 **SECTION 52.** 30.11 (title) of the statutes is renumbered 30.321 (title).

19 **SECTION 53.** 30.11 (1) to (4) of the statutes are renumbered 30.321 (1) to (4) and
20 amended to read:

21 30.321 (1) ~~WHO~~ MUNICIPALITY MAY ESTABLISH. Any municipality may, subject to
22 the approval of the department, by ordinance establish or reestablish a bulkhead line

ASSEMBLY BILL 514

1 and from time to time reestablish the same along any section of the shore of any
2 navigable waters within its boundaries.

3 (2) STANDARDS FOR ESTABLISHING. ~~Bulkhead lines shall be established~~ A
4 municipality shall establish a bulkhead line in the public interest and shall conform
5 the bulkhead line as nearly as practicable to the existing shores, except that in the
6 case of leases under sub. (5) and s. 24.39 (4) or 30.343 the municipality may allow the
7 bulkhead lines may be approved line to be located farther from beyond the existing
8 shoreline if ~~they are~~ the line is consistent with and is a part of any lease executed by
9 the board of commissioners of public lands.

10 (3) ~~HOW ESTABLISHED~~ ESTABLISHMENT OF LINES. ~~Whenever any~~ If a municipality
11 proposes to establish or reestablish a bulkhead line ~~or to reestablish an existing~~
12 ~~bulkhead line~~, the municipality shall indicate both the existing shore and the
13 proposed bulkhead line upon a map and shall file with the department for its
14 approval 6 copies of the map and 6 copies of the ordinance establishing the bulkhead
15 line. The map shall use a scale of not less than 100 feet to an inch or any other scale
16 required by the department. The map and a metes and bounds description of the
17 bulkhead line shall be prepared by a land surveyor registered in this state. The
18 department may require the installation of permanent reference markers ~~to~~ for the
19 bulkhead line. Upon approval by the department, the municipality shall deliver the
20 map, description, and ordinance to the office of the register of deeds of the county in
21 which the bulkhead line lies, ~~to be recorded by the.~~ The register of deeds shall record
22 the map, description, and ordinance.

23 (4) RIPARIAN RIGHTS PRESERVED. Establishment of a bulkhead line shall not
24 abridge the riparian rights of riparian ~~proprietors~~ owners. Riparian ~~proprietors~~
25 owners may place solid structures or fill up to such the bulkhead line.

ASSEMBLY BILL 514

1 **SECTION 54.** 30.11 (5) (title) of the statutes is repealed.

2 **SECTION 55.** 30.11 (5) (a) of the statutes is renumbered 30.343 (1) and amended
3 to read:

4 **30.343 (1)** Prior to the execution of any lease by the board of commissioners of
5 public lands concerning rights to submerged lands or rights to fill in submerged
6 lands held in trust for the public under s. 24.39, the department shall determine
7 whether the proposed physical changes in the area as a result of the execution of the
8 lease are consistent with the public interest. Thirty days before making its
9 determination, the department shall notify, in writing, ~~the clerk of the county and~~
10 ~~clerk of the city, village or town in which the changes are proposed~~ each
11 representative of a local governmental unit required to receive notice under s. 30.04
12 (3) and the U.S. Army Corps of Engineers of the application for the lease. In making
13 its finding, the department shall give consideration to all reports submitted to it. The
14 department shall not approve a lease applied for under s. 24.39 (4) (a) 2. if the
15 department determines that the lease may threaten excessive destruction of wildlife
16 habitat.

17 **SECTION 56.** 30.11 (5) (b) and (c) of the statutes are renumbered 30.343 (2) and
18 (3).

19 **SECTION 57.** 30.11 (6) of the statutes is renumbered 30.321 (5).

20 **SECTION 58.** 30.12 (title) of the statutes is amended to read:

21 **30.12** (title) **Structures Regulation of structures and deposits in**
22 **navigable waters prohibited; exceptions; penalty.**

23 **SECTION 59.** 30.12 (1) (intro.) of the statutes is amended to read:

24 **30.12 (1)** ~~GENERAL PROHIBITION PERMIT REQUIRED.~~ (intro.) ~~Except as provided~~
25 ~~under subs. (4) and (4m), unless~~ Unless a permit has been granted by the department

ASSEMBLY BILL 514

1 ~~pursuant to statute or~~ issued under this section or authorization has been granted
2 ~~by the legislature has otherwise authorized structures or deposits in navigable~~
3 ~~waters, it is unlawful, no person may do any of the following:~~

4 **SECTION 60.** 30.12 (1) (a) of the statutes is amended to read:

5 30.12 (1) (a) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the
6 bed of any navigable water where no bulkhead line has been established; ~~or,~~

7 **SECTION 61.** 30.12 (1) (b) of the statutes is amended to read:

8 30.12 (1) (b) ~~To deposit~~ Deposit any material or ~~to place~~ any structure upon the
9 bed of any navigable water beyond a lawfully established bulkhead line.

10 **SECTION 62.** 30.12 (2) of the statutes is repealed and recreated to read:

11 30.12 (2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS;
12 GENERALLY. (a) A riparian owner may apply to the department for a permit that is
13 required under sub. (1) in order to place a structure for the owner's use or to deposit
14 any material.

15 (b) Except for a permit application for a structure or deposit specified in sub.
16 (3), upon receipt of a complete application, the department shall either deny the
17 application for the permit as provided in s. 30.246 (1) or shall give notice of receipt
18 of the application for the permit as provided in s. 30.244.

19 (c) For structures other than those specified in sub. (3), the department shall
20 issue a permit if the department finds that all of the following apply:

- 21 1. The structure will not materially obstruct navigation.
- 22 2. The structure will not be detrimental to the public interest.
- 23 3. The structure will not materially reduce the flood flow capacity of a stream.

ASSEMBLY BILL 514

1 (d) For deposits of materials other than the deposits specified in sub. (3), the
2 department shall issue a permit if the department finds that all of the following
3 apply:

4 1. The material will be placed for the purpose of improving habitat or
5 maintaining littoral drift.

6 2. The material will not materially obstruct navigation.

7 3. The material will not materially reduce the flood flow capacity of a stream.

8 4. The deposit of the material will not be detrimental to the public interest.

9 5. The deposit of the material will promote public rights and interests in
10 navigable waters.

NOTE: Under current law, the DNR does not have general authority to issue a permit under s. 30.12 to "deposit any material". This section allows the DNR to issue a permit to deposit material upon the bed of a navigable water, but uses a different standard for the DNR to make its determination. This bill adds an additional criterion for approval of a permit to deposit material in navigable waters--the deposit must "promote public rights and interests in navigable waters".

11 **SECTION 63.** 30.12 (3) (a) (intro.) of the statutes is repealed and recreated to
12 read:

13 30.12 (3) (a) (intro.) Unless the department decides to deny a permit as
14 authorized in par. (b), the department shall issue a permit to a riparian owner to do
15 any of the following:

16 **SECTION 64.** 30.12 (3) (a) 6. of the statutes is amended to read:

17 30.12 (3) (a) 6. Place a permanent boat shelter adjacent to the owner's property
18 for the purpose of storing or protecting watercraft and associated materials, except
19 that no permit may be ~~granted~~ issued for a permanent boat shelter which is
20 constructed after May 3, 1988, if the property on which the permanent boat shelter
21 is to be located also contains a boathouse within 75 feet of the ordinary high-water

ASSEMBLY BILL 514

1 mark of if there is a boathouse over navigable waters adjacent to the owner's
2 property.

3 **SECTION 65.** 30.12 (3) (a) 9. of the statutes is created to read:

4 30.12 (3) (a) 9. Place an intake or outfall structure that is less than 6 feet from
5 the water side of the ordinary high-water mark and that is less than 25% of the width
6 of the channel in which it is placed.

7 **SECTION 66.** 30.12 (3) (am) of the statutes is created to read:

8 30.12 (3) (am) The department may promulgate rules that identify deposits or
9 structures, in addition to those listed in par. (a), to which the permitting procedures
10 under this subsection apply.

NOTE: A new "short form" permit is added in new s. 30.12 (4) (a) 10. for intake and
outfall structures.

11 **SECTION 67.** 30.12 (3) (b) of the statutes is repealed and recreated to read:

12 30.12 (3) (b) The department may deny a permit for a structure or deposit
13 specified in par. (a) if the department finds that any of the following applies:

- 14 1. The structure or deposit will materially obstruct navigation.
15 2. The structure or deposit will be detrimental to the public interest.

16 **SECTION 68.** 30.12 (3) (bg) of the statutes is created to read:

17 30.12 (3) (bg) If the department denies a permit under par. (b), the department
18 shall notify the applicant in writing. The procedures under ss. 30.244, 30.245, and
19 30.246 do not apply to a permit application submitted under this subsection.

20 **SECTION 69.** 30.12 (3) (bn) of the statutes is amended to read:

21 30.12 (3) (bn) A riparian owner is exempt from the permit requirements under
22 sub. (2) (1) and this subsection for a structure specified under par. (a) 2m. if the
23 riparian owner places the structure in conformance with the standards established

ASSEMBLY BILL 514

1 ~~under par. (d) and~~ if the riparian owner notifies the department in writing of the
2 location of the structure at least 10 working days before it is placed and places the
3 structure in conformity with standards established by the department. The
4 department shall promulgate rules to establish standards governing the placement
5 of structures specified under par. (a) 2m.

6 **SECTION 70.** 30.12 (3) (br) of the statutes is created to read:

7 30.12 (3) (br) The department may promulgate rules that identify structures
8 or deposits, in addition to those structures specified in par. (a) 2m., to which the
9 requirements under sub. (1) do not apply. If the department promulgates such rules,
10 the rules shall include standards and procedures governing the placement of the
11 structures and the depositing of the materials.

12 **SECTION 71.** 30.12 (3) (bt) (intro.) of the statutes is renumbered 30.276 (intro.)
13 and amended to read:

14 **30.276 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian
15 owner is exempt from the permit requirements under sub. (2) and this subsection s.
16 30.12 for a structure that is placed on the bed of a navigable water in the Wolf River
17 and Fox River basin area, as described in s. ~~30.207~~ 30.223 (1), and that extends
18 beyond the ordinary high-water mark, if the following conditions apply:

19 **SECTION 72.** 30.12 (3) (bt) 1. to 8. of the statutes are renumbered 30.276 (1) to
20 (8).

21 **SECTION 73.** 30.12 (3) (bt) 9. of the statutes is renumbered 30.276 (9).

22 **SECTION 74.** 30.12 (3) (c) of the statutes is amended to read:

23 30.12 (3) (c) The department may promulgate rules ~~deemed necessary~~ to carry
24 out the purposes of par. (a) 6., including rules to establish minimum standards to
25 govern the architectural features of boat shelters and the number of boat shelters

ASSEMBLY BILL 514

1 that may be constructed adjacent to a parcel of land. The rules may not govern the
2 aesthetic features or color of boat shelters. The standards shall be designed to assure
3 the structural soundness and durability of a boat shelter. A municipality may enact
4 ordinances not inconsistent with this section or with rules promulgated under this
5 section regulating the architectural features of boat shelters.

6 **SECTION 75.** 30.12 (3) (d) of the statutes is repealed.

7 **SECTION 76.** 30.12 (4) (title) of the statutes is repealed.

8 **SECTION 77.** 30.12 (4) (a) of the statutes is renumbered 30.341 (2) and amended
9 to read:

10 30.341 (2) Activities affecting inland waters of the state as defined in s. 281.01
11 ~~(18)~~ or outlying waters that are carried out under the direction and supervision of
12 the department of transportation in connection with highway, bridge, or other
13 transportation project design, location, construction, reconstruction, maintenance,
14 and repair are not subject to the prohibitions or permit or approval requirements
15 specified under ~~this section or~~ s. 29.601, ~~30.11~~ 30.12, 30.123, 30.19, 30.195, 30.20,
16 30.321, 30.343, 59.692, 61.351, 62.231, or 87.30 or chs. 281 to 285 or 289 to 299, except
17 s. 281.48. However, at the earliest practical time prior to the commencement of these
18 activities, the department of transportation shall notify the department of the
19 location, nature, and extent of the proposed work that may affect the inland waters
20 ~~of the state~~ or outlying waters.

21 **SECTION 78.** 30.12 (4) (b) of the statutes is renumbered 30.341 (3) and amended
22 to read:

23 30.341 (3) The exemption under ~~par. (a)~~ sub. (2) does not apply unless the
24 activity is accomplished in accordance with interdepartmental liaison procedures

ASSEMBLY BILL 514

1 established by the department and the department of transportation for the purpose
2 of minimizing the adverse environmental impact, if any, of the activity.

3 **SECTION 79.** 30.12 (4) (c) of the statutes is renumbered 30.341 (4) and amended
4 to read:

5 30.341 (4) If the department determines that there is reasonable cause to
6 believe that an activity being carried out under this ~~subsection~~ section is not in
7 compliance with the environmental protection requirements developed through
8 interdepartmental liaison procedures, it shall notify the department of
9 transportation. If the secretary and the secretary of transportation are unable to
10 agree upon the methods or time schedules to be used to correct the alleged
11 noncompliance, the secretary, notwithstanding the exemption provided in this
12 ~~subsection~~ section, may proceed with enforcement actions as the secretary deems
13 appropriate.

14 **SECTION 80.** 30.12 (4) (d) of the statutes is renumbered 30.341 (5).

15 **SECTION 81.** 30.12 (4) (e) of the statutes is renumbered 30.341 (6) and amended
16 to read:

17 30.341 (6) Except as may be required otherwise under s. 1.11, no public notice
18 or hearing is required in connection with any interdepartmental consultation and
19 cooperation under this ~~subsection~~ section.

20 **SECTION 82.** 30.12 (4) (f) of the statutes is renumbered 30.341 (7) and amended
21 to read:

22 30.341 (7) This ~~subsection~~ section does not apply to activities in the Lower
23 Wisconsin State Riverway, as defined in s. 30.40 (15).

24 **SECTION 83.** 30.12 (4m) of the statutes is renumbered 30.263 (2), and 30.263
25 (2) (intro.), as renumbered, is amended to read:

ASSEMBLY BILL 514

1 30.263 (2) ~~DUCK CREEK DRAINAGE DISTRICT STRUCTURES~~ STRUCTURES AND
2 DEPOSITS. (intro.) ~~Subsection Section 30.12~~ (1) does not apply to a structure or deposit
3 that the drainage board for the Duck Creek Drainage District places in a drain that
4 the board operates in the Duck Creek Drainage District if either of the following
5 applies:

6 **SECTION 84.** 30.12 (5) of the statutes is repealed.

7 **SECTION 85.** 30.121 (title) and (2) to (3r) of the statutes are renumbered 30.281
8 (title) and (2) to (3r).

9 **SECTION 86.** 30.121 (4) of the statutes is renumbered 30.281 (4) and amended
10 to read:

11 30.281 (4) **MAJOR REPAIR, ABANDONED STRUCTURES AND OBSTRUCTIONS TO**
12 **NAVIGATION.** The owner of a boathouse or a fixed houseboat which extends beyond the
13 ordinary high-water mark of any navigable waterway and which is in a major state
14 of disrepair or is a material obstruction to navigation may be ordered by the
15 department to remove the structure from the waterway. The department shall follow
16 the procedures set forth in s. ~~30.03 (4) (a)~~ 30.96 (1) for ordering removal of a structure.
17 If such a structure is abandoned and the department, after due diligence, cannot
18 locate the owner, the department shall utilize the procedures set forth in s. 31.187
19 (1) for removing the abandoned structure.

20 **SECTION 87.** 30.121 (5) and (6) of the statutes are renumbered 30.281 (5) and
21 (6).

22 **SECTION 88.** 30.121 (7) of the statutes is renumbered 30.381 (2) and amended
23 to read:

24 30.381 (2) **PENALTIES BOATHOUSES AND HOUSEBOATS.** Any person who constructs,
25 owns, or maintains a boathouse or fixed houseboat in violation of ~~this section~~ s.

ASSEMBLY BILL 514

1 30.281 or in violation of any order issued under ~~this section~~ s. 30.281 shall forfeit not
2 less than \$10 nor more than \$50 for each offense. Each day during which ~~a structure~~
3 boathouse or a fixed houseboat exists in violation of ~~this section~~ constitutes s. 30.281
4 is a separate offense.

5 **SECTION 89.** 30.122 of the statutes is renumbered 30.217 and amended to read:

6 **30.217 Unauthorized structures.** All permanent alterations, deposits, or
7 structures affecting navigable waters, other than boathouses, which were
8 constructed before December 9, 1977 and which did not require a permit at the time
9 of construction, shall be presumed in conformity with the law, ~~unless a written~~
10 ~~complaint is filed within 180 days of December 9, 1977.~~ Upon the filing of a
11 complaint, the department shall proceed with an action to enforce the applicable
12 statutes.

NOTE: The time period for filing a written complaint has long since expired, and
has no bearing on current structures.

13 **SECTION 90.** 30.123 (title) of the statutes is repealed and recreated to read:

14 **30.123 (title) Regulation of bridges.**

15 **SECTION 91.** 30.123 (1) of the statutes is renumbered 30.213 (1) and amended
16 to read:

17 **30.213 (1)** Municipalities which construct or reconstruct highway bridges shall
18 not be required to obtain permits under this section or s. ~~30.10 or 30.12~~ or 30.123 for
19 such the construction or reconstruction. All municipal highway bridges shall be
20 constructed or reconstructed in accordance with standards developed under s. 84.01
21 (23).

22 **SECTION 92.** 30.123 (2) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.123 (2) ~~Except as provided in sub. (1) and s. 30.12 (4) Unless a permit has~~
2 ~~been issued under sub. (4), no person may construct or maintain a bridge in, on, or~~
3 ~~over navigable waters unless a permit has been issued by the department under this~~
4 ~~section. The application for a permit shall contain the applicant's name and address,~~
5 ~~the proposed location of the bridge, a cross section and plan view of the navigable~~
6 ~~waters and adjacent uplands, a description of materials to be used in construction~~
7 ~~of the bridge, plans for the proposed bridge, evidence of permission to construct the~~
8 ~~bridge from the riparian owners and any other information required by the~~
9 ~~department.~~

10 **SECTION 93.** 30.123 (3) of the statutes is repealed and recreated to read:

11 30.123 (3) For a permit for a bridge crossing a navigable water that is at least
12 35 feet wide, upon receipt of a complete application, the department shall either deny
13 the application for the permit as provided in s. 30.246 (1) or shall give notice of receipt
14 of the application for the permit as provided in s. 30.244. For a permit for a bridge
15 crossing a navigable water that is less than 35 feet wide, the department shall either
16 deny the application as provided in s. 30.246 (1) or shall follow the procedure
17 allowing the department to give notice under s. 30.245.

18 **SECTION 94.** 30.123 (4) of the statutes is amended to read:

19 30.123 (4) ~~The department shall review the plans for the proposed bridge to~~
20 ~~determine whether the proposed bridge will be an obstruction to navigation or will~~
21 ~~adversely affect the flood flow capacity of the stream. The department shall grant~~
22 ~~the issue a permit if the proposed applied for under this section if the department~~
23 ~~finds that the bridge will not materially obstruct navigation, will not materially~~
24 ~~reduce the effective flood flow capacity of a stream or be, and will not be detrimental~~
25 ~~to the public interest.~~

ASSEMBLY BILL 514

1 **SECTION 95.** 30.123 (5) of the statutes is repealed.

NOTE: This repeals a requirement that bridges constructed over navigable streams be maintained in a safe condition, as determined by the DNR. The DNR does not have the expertise to review bridge safety and maintenance.

2 **SECTION 96.** 30.123 (6) of the statutes is created to read:

3 30.123 (6) Subsections (2) to (4) do not apply to the following:

4 (a) The construction or reconstruction of highway bridges to which s. 30.213
5 applies.

6 (b) The construction, reconstruction, maintenance, or repair of bridges by the
7 department of transportation in accordance with s. 30.341.

8 **SECTION 97.** 30.124 of the statutes is renumbered 30.351, and 30.351 (1)
9 (intro.), as renumbered, is amended to read:

10 30.351 (1) (intro.) Notwithstanding ss. 30.12, 30.20, 30.44, and 30.45, and if the
11 department finds that the activity will not adversely affect the public interest or
12 private rights or interests in fish and wildlife populations, navigation, or waterway
13 flood flow capacity and will not result in environmental pollution, ~~as defined in s.~~
14 ~~299.01 (4)~~, the department may do all of the following on public lands or waters:

15 **SECTION 98.** 30.1255 of the statutes is renumbered 30.352.

16 **SECTION 99.** 30.126 (title) and (2) to (9) of the statutes are renumbered 30.266
17 (title) and (2) to (9), and 30.266 (5) (g), as renumbered, is amended to read:

18 30.266 (5) (g) *May not have improper flotation devices.* No person may
19 construct, place, or maintain a fishing raft on authorized portions of the Wolf River
20 unless each flotation device used on the fishing raft is clean and uncontaminated,
21 properly attached to the fishing raft, and properly maintained in conformity with
22 minimum standards established by the department by rule. The department shall
23 establish minimum standards for the condition, attachment, and maintenance of

ASSEMBLY BILL 514**SECTION 99**

1 flotation devices used on fishing rafts. This paragraph applies to any device used to
2 provide flotation for a fishing raft, including each individual barrel or styrofoam
3 coffin.

4 **SECTION 100.** 30.126 (10) (title) and (a) (title) of the statutes are repealed.

5 **SECTION 101.** 30.126 (10) (a) of the statutes is renumbered 30.381 (3) (a) and
6 amended to read:

7 30.381 (3) (a) A person who violates ~~this section, any rule promulgated under~~
8 ~~this section~~ s. 30.266 or any order issued by the department under ~~this section~~ s.
9 30.266 shall forfeit not less than \$10 nor more than \$250 for each offense. Each day
10 of violation constitutes during which a fishing raft exists in violation of s. 30.266 is
11 a separate offense.

12 **SECTION 102.** 30.126 (10) (b) (title) of the statutes is repealed.

13 **SECTION 103.** 30.126 (10) (b) of the statutes is renumbered 30.381 (3) (b) and
14 amended to read:

15 30.381 (3) (b) A person who violates any ordinance adopted or order issued by
16 the municipality under ~~this section~~ s. 30.266 is subject to the penalty established by
17 ordinance. A Wolf River municipality may not establish this penalty at a level which
18 is less severe than the penalty established under par. (a).

19 **SECTION 104.** 30.13 (title) and (1) (intro.), (b) and (c) of the statutes are
20 amended to read:

21 **30.13 (title) Regulation of wharves, piers, and swimming rafts;**
22 **establishment of pierhead lines. (1) CONSTRUCTION ALLOWED WITHOUT PERMIT**
23 **UNDER CERTAIN CIRCUMSTANCES. (intro.)** A riparian ~~proprietor~~ owner may construct
24 a wharf or pier in a navigable waterway extending beyond the ordinary high-water

ASSEMBLY BILL 514

1 mark or an established bulkhead line in aid of navigation without obtaining a permit
2 under s. 30.12 if all of the following conditions are met:

3 (b) The wharf or pier does not interfere with rights of other riparian ~~proprietors~~
4 owners.

5 (c) The wharf or pier does not extend beyond any pierhead line which is
6 established under ~~sub. (3)~~ s. 30.323.

7 **SECTION 105.** 30.13 (1m) (intro.) and (b) of the statutes are amended to read:

8 30.13 (1m) SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
9 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
10 a navigable waterway for swimming and diving purposes without obtaining a permit
11 under s. 30.12 if all of the following conditions are met:

12 (b) The swimming raft does not interfere with rights of other riparian
13 ~~proprietors~~ owners.

14 **SECTION 106.** 30.13 (3) (title) of the statutes is repealed.

15 **SECTION 107.** 30.13 (3) of the statutes is renumbered 30.323 (1), and 30.323 (1)
16 (a), as renumbered, is amended to read:

17 30.323 (1) (a) Any municipality authorized by s. ~~30.11~~ 30.321 to establish a
18 bulkhead line may also establish a pierhead line in the same manner as it is
19 authorized to establish a bulkhead line, except that a metes and bounds legal
20 description is not required nor is the map required to be prepared by a registered land
21 surveyor and except that if the municipality has created a board of harbor
22 commissioners the municipality must obtain the approval of the board concerning
23 the establishment of the pierhead line in addition to obtaining the approval of the
24 department.

25 **SECTION 108.** 30.13 (4) (b) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes
2 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction
3 of navigable waters unless a permit is issued for the wharf or pier under s. 30.12 or
4 unless authorization for the wharf or pier is expressly provided.

5 **SECTION 109.** 30.13 (4) (c) of the statutes is amended to read:

6 30.13 (4) (c) *Extends beyond pierhead line; exception.* A wharf or pier which
7 extends into navigable waters beyond any pierhead line established under ~~sub. (3)~~
8 s. 30.323 constitutes an unlawful obstruction of navigable waters unless a valid
9 permit, license, or authorization for the wharf or pier is ~~granted~~ issued or unless it
10 is a permissible preexisting wharf or pier. A wharf or pier is a permissible preexisting
11 wharf or pier if it existed prior to the establishment of the pierhead line, if it is not
12 extended or expanded after that date and if the ownership of the land to which it is
13 attached did not change after that date except that a wharf or pier continues its
14 status as a permissible preexisting wharf or pier for one year after the date the
15 change of ownership is recorded. The seasonal removal of a wharf or pier does not
16 affect its status as a permissible preexisting wharf or pier if it is reestablished in
17 substantially the same form. Status as a permissible preexisting wharf or pier does
18 not imply that authorization for the wharf or pier is provided for the purposes of par.
19 (a) or (b). The owner of a wharf or pier may submit evidence to the municipality that
20 it is a permissible preexisting wharf or pier at any time after the municipality
21 establishes the pierhead line.

22 **SECTION 110.** 30.13 (6) (title) of the statutes is repealed.

23 **SECTION 111.** 30.13 (6) of the statutes is renumbered 30.323 (2).

24 **SECTION 112.** 30.131 of the statutes is renumbered 30.283, and 30.283 (1)
25 (intro.) and (f) and (2), as renumbered, are amended to read:

ASSEMBLY BILL 514

1 30.283 (1) (intro.) Notwithstanding s. ~~30.133~~ 30.095, a wharf or pier of the type
2 which does not require a permit under ss. 30.12 (1) and 30.13 that abuts riparian land
3 and that is placed in a navigable water by a person other than the owner of the
4 riparian land may not be considered to be an unlawful structure on the grounds that
5 it is not placed and maintained by the owner if all of the following requirements are
6 met:

7 (f) The placement of the wharf or pier complies with the provisions of this
8 ~~chapter, with any rules promulgated under this chapter~~ subchapter and with any
9 applicable municipal regulations or ordinances.

10 (2) Notwithstanding s. ~~30.133~~ 30.095, an easement under sub. (1) may be
11 conveyed if it is conveyed at the same time, and to the same person, that the land to
12 which the easement is appurtenant is conveyed.

13 **SECTION 113.** 30.133 of the statutes is renumbered 30.095.

14 **SECTION 114.** 30.134 of the statutes is renumbered 30.85.

15 **SECTION 115.** 30.135 (1) (title) of the statutes is repealed and recreated to read:

16 30.135 (1) (title) PLACEMENT ALLOWED WITHOUT PERMIT UNDER CERTAIN
17 CIRCUMSTANCES.

18 **SECTION 116.** 30.135 (1) (a) (intro.) and 2. of the statutes are amended to read:

19 30.135 (1) (a) A riparian ~~proprietor~~ owner may place a water ski platform or
20 water ski jump in a navigable waterway without obtaining a permit if all of the
21 following requirements are met:

22 2. The platform or jump does not interfere with rights of other riparian
23 ~~proprietors~~ owners.

24 **SECTION 117.** 30.135 (2) (a) and (4) of the statutes are amended to read:

ASSEMBLY BILL 514

1 30.135 (2) (a) Upon receipt of a complete permit application, the department
2 shall either order a hearing or provide notice stating that it will proceed on the
3 application without a hearing unless a substantive written objection to issuance of
4 the permit is received within 30 days after publication of the notice. The department
5 shall provide a copy of the notice to the applicant for the permit, ~~the clerk of each~~
6 ~~municipality in which the water ski platform or water ski jump is to be located~~ to each
7 representative of a local governmental unit required to receive notice under s. 30.04
8 (3), and to any other person required by law to receive notice. The department may
9 provide notice to other persons as it considers appropriate. The applicant shall
10 publish the notice as a class 1 notice under ch. 985 in a newspaper designated by the
11 department that is likely to give notice in the area to be affected by the permit. The
12 applicant shall file proof of publication under this paragraph with the department.

13 (4) EXEMPTION. ~~Section 30.02 does~~ The procedures under ss. 30.244, 30.245,
14 and 30.246 do not apply to a permit applications submitted application under this
15 section.

16 **SECTION 118.** 30.14 (title) of the statutes is repealed.

17 **SECTION 119.** 30.14 (1) (title) of the statutes is repealed.

18 **SECTION 120.** 30.14 (1) of the statutes is renumbered 30.327.

19 **SECTION 121.** 30.14 (2) of the statutes is renumbered 30.247 and amended to
20 read:

21 **30.247 Hearings by department.** Upon complaint by any person to the
22 department that any wharf, pier, or other structure exists in navigable water in
23 violation of s. 30.12 ~~or~~, 30.13, or ~~30.207~~ 30.223 or that any wharf, pier, or other
24 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13, or
25 ~~30.207~~ 30.223, the department shall investigate and may hold a hearing to

ASSEMBLY BILL 514

1 determine whether the wharf, pier, or other structure is or would be in violation of
2 those sections. If no hearing is held, the complainant shall be informed of the results
3 of the investigation.

4 **SECTION 122.** 30.15 (title) of the statutes is repealed.

5 **SECTION 123.** 30.15 (1) (title) of the statutes is renumbered 30.98 (1) (title) and
6 amended to read:

7 30.98 (1) (title) OBSTRUCTIONS PENALIZED.

8 **SECTION 124.** 30.15 (1) (intro.) of the statutes is renumbered 30.98 (1) (intro.).

9 **SECTION 125.** 30.15 (1) (a), (b) and (c) of the statutes are renumbered 30.98 (1)
10 (a), (b) and (c) and amended to read:

11 30.98 (1) (a) Unlawfully obstructs any navigable ~~waters~~ water and thereby
12 impairs the free navigation ~~thereof~~ of the navigable water.

13 (b) Unlawfully places in any navigable ~~waters or in any tributary thereof~~ water
14 any substance that may float into and obstruct any ~~such waters~~ navigable water or
15 that may impede their free navigation of any navigable water.

16 (c) Constructs or maintains in any navigable ~~waters,~~ water any boom not
17 authorized by law or aids in the construction or maintenance ~~therein,~~ of any such
18 boom ~~not authorized by law~~.

19 **SECTION 126.** 30.15 (1) (d) of the statutes is renumbered 30.381 (4) (a) and
20 amended to read:

21 30.381 (4) (a) ~~Constructs~~ Except as provided in par. (b), any person who
22 constructs or places any structure or deposits any material in navigable waters in
23 violation of s. 30.12 ~~or 30.13~~ shall forfeit not less than \$100 nor more than \$500 for
24 each offense. Each day during which a structure or deposit of material exists in
25 violation of s. 30.12 is a separate offense under this paragraph.

ASSEMBLY BILL 514

1 SECTION 127. 30.15 (3) (title) of the statutes is repealed.

2 SECTION 128. 30.15 (3) of the statutes is renumbered 30.98 (2).

3 SECTION 129. 30.16 of the statutes is renumbered 30.95.

4 SECTION 130. 30.18 (1) (intro.) of the statutes is created to read:

5 30.18 (1) DEFINITIONS. (intro.) In this section:

6 SECTION 131. 30.18 (1) (b) of the statutes is created to read:

7 30.18 (1) (b) “Major diversion” means a diversion that will result in a water loss
8 averaging, in any 30-day period, at least 2,000,000 gallons per day above a
9 permittee’s authorized base level of water loss.

10 SECTION 132. 30.18 (2) (a) (intro.) of the statutes is amended to read:

11 30.18 (2) (a) *Streams Diversions from streams.* (intro.) No Unless a permit has
12 been issued under this section, no person may divert water from a stream in this
13 state without a permit under this section if the diversion meets either of the following
14 conditions if any of the following applies:

15 SECTION 133. 30.18 (2) (b) of the statutes is amended to read:

16 30.18 (2) (b) *Streams or Major diversions from streams or lakes.* No Unless a
17 permit has been issued under this section, no person, except a person required to
18 obtain an approval under s. 281.41, may divert water from any lake or stream in this
19 state without a permit under this section if the diversion will result in a water loss
20 averaging 2,000,000 gallons per day in any 30-day period above the person’s
21 authorized base level of water loss is a major diversion. This paragraph does not
22 apply to a person who is required to obtain an approval under s. 281.41.

23 SECTION 134. 30.18 (3) (title) and (a) (title), 1. and 2. of the statutes are
24 repealed.

ASSEMBLY BILL 514

1 **SECTION 135.** 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
2 amended to read:

3 30.18 **(3m)** (a) ~~For a diversion under sub. (2) (a) 2., the application shall include~~
4 ~~written~~ Written statements of consent to the diversion from all riparian owners who
5 are making beneficial use of the water proposed to be diverted.

6 **SECTION 136.** 30.18 (3) (a) 4. of the statutes is repealed.

7 **SECTION 137.** 30.18 (3) (b) of the statutes is repealed.

8 **SECTION 138.** 30.18 (3m) (intro.) of the statutes is created to read:

9 30.18 **(3m)** APPLICATIONS FOR PERMITS; SPECIFIC REQUIREMENTS. (intro.) An
10 application for a permit under this section to divert water from a stream for the
11 purpose of agriculture or irrigation shall include all of the following:

12 **SECTION 139.** 30.18 (3m) (b) of the statutes is created to read:

13 30.18 **(3m)** (b) Evidence of permission or authority to enter any land through
14 which it is proposed to divert the water for the purpose of obtaining information
15 required for drafting the plans for the project.

16 **SECTION 140.** 30.18 (4) (title) of the statutes is repealed and recreated to read:

17 30.18 **(4)** (title) ACTION BY DEPARTMENT.

18 **SECTION 141.** 30.18 (4) (a) of the statutes is renumbered 30.18 (4) (a) (intro.)
19 and amended to read:

20 30.18 **(4)** (a) (intro.) Upon receipt of a complete application for a permit under
21 this section, the department shall ~~follow the notice and hearing procedures under s.~~
22 ~~30.02 (3) and (4) either deny the application as provided in s. 30.246 (1) or shall give~~
23 notice of receipt of the application for the permit as provided in s. 30.244. In addition
24 to the notice requirements under s. ~~30.02 (3) and (4)~~ 30.246 (2), the department shall

ASSEMBLY BILL 514

1 mail a copy of the notice to every person upon whose land any part of the canal or any
2 other structure will be located, to the all of the following:

3 2. The clerk of the next town municipality that is the next municipality
4 downstream, to the from the point of the proposed diversion.

5 3. The clerk of any village or city each municipality in which the lake or stream
6 from which water is proposed to be diverted is located and which is adjacent to any
7 municipality in which the diversion will take place and to each.

8 4. Each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

9 **SECTION 142.** 30.18 (4) (a) 1. of the statutes is created to read:

10 30.18 (4) (a) 1. Each owner of land over which water is proposed to be diverted.

11 **SECTION 143.** 30.18 (4) (b) of the statutes is amended to read:

12 30.18 (4) (b) If a hearing on the application for a permit under this section is
13 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
14 in that section supersede the notice, mediation, and hearing provisions of ~~par. (a)~~
15 under ss. 30.244 and 30.246.

16 **SECTION 144.** 30.18 (5) (title) of the statutes is repealed and recreated to read:

17 30.18 (5) (title) ISSUANCE OF PERMITS.

18 **SECTION 145.** 30.18 (5) (a) (intro.) of the statutes is amended to read:

19 30.18 (5) (a) *Streams Diversions from streams.* (intro.) The department shall
20 ~~approve an application for~~ issue a permit required under sub. (2) (a) if the
21 department determines both that all of the following conditions apply:

22 **SECTION 146.** 30.18 (5) (a) 1. of the statutes is amended to read:

23 30.18 (5) (a) 1. ~~That the~~ The proposed diversion will not injure any public rights
24 in navigable waters be detrimental to the public interest.

25 **SECTION 147.** 30.18 (5) (a) 1m. of the statutes is created to read:

ASSEMBLY BILL 514

1 30.18 (5) (a) 1m. The proposed diversion is for use on riparian land.

2 **SECTION 148.** 30.18 (5) (a) 2. of the statutes is amended to read:

3 30.18 (5) (a) 2. ~~That the~~ Either the water to be diverted is surplus water, or if
4 it is not surplus water, that all riparians not being beneficially used or all riparian
5 owners who may be adversely affected by the diversion have consented to the
6 proposed diversion.

7 **SECTION 149.** 30.18 (5) (b) of the statutes is amended to read:

8 30.18 (5) (b) ~~Streams~~ Major diversions from streams or lakes. The department
9 shall ~~approve an application for~~ issue a permit required under sub. (2) (b) for a major
10 diversion if the grounds for approval specified under s. 281.35 (5) (d) are met ~~and, if~~
11 ~~the.~~ If a permit is also required under sub. (2) (a), if the department ~~makes the~~
12 ~~determinations specified under par. (a)~~ shall issue a permit under this paragraph
13 only if the conditions for a permit under par. (a) apply to the major diversion.

14 **SECTION 150.** 30.18 (6) (title) of the statutes is amended to read:

15 30.18 (6) (title) ~~PERMITS; USE OF WATER~~ PERMIT CONDITIONS; REPORTING; REVIEW.

16 **SECTION 151.** 30.18 (6) (a) of the statutes is amended to read:

17 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
18 issued under this section the quantity of water that may be diverted and the times
19 during which water may be diverted. In addition, if the permit is one which is
20 required under sub. (2) (b) for a major diversion, the permit shall comply with s.
21 281.35 (6).

22 **SECTION 152.** 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (dm) and
23 amended to read:

24 30.18 (6) (dm) *Use of water.* A person who is issued a permit for the purpose
25 of irrigation or agriculture may use the water on any land contiguous to the

ASSEMBLY BILL 514**SECTION 152**

1 permittee's riparian land, but may not withdraw more water than it ~~did the~~
2 permittee withdrew before August 1, 1957, ~~without applying to the department for~~
3 ~~a modification of the permit~~ unless the department approves the additional amount
4 to be withdrawn by modifying the permittee's permit.

5 **SECTION 153.** 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (bm) and
6 amended to read:

7 30.18 (6) (bm) *Reporting required.* ~~The department shall require each~~
8 ~~permittee~~ A person who is issued a permit under this section to report its shall report
9 to the department the volume and rate of withdrawal and its volume and rate of
10 water loss, ~~if any.~~ The report shall be in the form and at the times specified by the
11 department.

12 **SECTION 154.** 30.18 (6) (cm) 3. of the statutes is created to read:

13 30.18 (6) (cm) 3. A permit issued under this section before August 1, 1957, is
14 exempt from the review requirements under subs. 1. and 2.

15 **SECTION 155.** 30.18 (6) (d) (title) of the statutes is renumbered 30.18 (6) (cm)
16 (title).

17 **SECTION 156.** 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (cm) 1. and
18 amended to read:

19 30.18 (6) (cm) 1. ~~If the permit is one that is required under sub. (2) (a), but not~~
20 ~~under sub. (2) (b), and the permit was issued on or after August 1, 1957,~~ Except as
21 provided in subs. 2. and 3. the department shall review the permit at least once
22 every 5 years.

23 2. If the permit is one that is required under sub. (2) (b) for a major diversion,
24 the department shall review the permit as required under s. 281.35 (6) (b).

25 **SECTION 157.** 30.18 (6m) (title) of the statutes is repealed and recreated to read:

ASSEMBLY BILL 514

1 30.18 (6m) (title) RESCISSION.

2 **SECTION 158.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

3 30.18 (6m) (a) Streams; mandatory rescission. (intro.) The department shall
4 revoke rescind a permit issued under sub. (5) (a), which is not subject to sub. (2) (b),
5 if it a permit for a major diversion, if the department finds that any of the following
6 applies:

7 **SECTION 159.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

8 30.18 (6m) (a) 1. ~~That the~~ The water being diverted is no longer surplus water,
9 except that the department may allow the diversion to continue if all riparians has
10 become water that is being beneficially used, unless all riparian owners adversely
11 affected by the diversion continue to consent to it.

12 2. If the diversion is from a stream designated by the department as a trout
13 stream, ~~that the revocation~~ the rescission is desirable for conservation purposes.

14 **SECTION 160.** 30.18 (6m) (b) of the statutes is amended to read:

15 30.18 (6m) (b) Streams; discretionary rescission. The department may revoke
16 rescind any permit issued under sub. (5) (a), which is not subject to sub. (2) (b), if it
17 a permit for a major diversion, if the department finds that the diversion is
18 detrimental to the stream from which the water is diverted.

19 **SECTION 161.** 30.18 (6m) (c) of the statutes is amended to read:

20 30.18 (6m) (c) Major diversion. The department may ~~revoke a~~ rescind any
21 permit issued under sub. (5) (b) for a major diversion only as provided under s. 281.35
22 (6).

23 **SECTION 162.** 30.18 (7) of the statutes is amended to read:

24 30.18 (7) **PREREQUISITES TO PROJECT CONSTRUCTION WORK.** ~~After an application~~
25 ~~under this section has been filed with the department, the applicant may enter any~~

ASSEMBLY BILL 514

1 land through which it is proposed to divert the water for the purposes of making any
2 surveys required for drafting the plans for the project, but no work shall Work may
3 not be commenced on the canal, headworks, or other structures necessary for the
4 project for which a permit has been issued under this section until the plans for the
5 same canal, headworks, or other structures have been approved by the department.
6 Any person having received who has been issued a permit required under sub. (2) (a)
7 for a diversion that is not a major diversion may ~~construct~~ commence the work upon
8 the land of another ~~the canal and other works~~ as authorized by the permit only after
9 the damage which will be sustained by the owner or owners of such of that land has
10 been ~~satisfied, or has been determined as provided for in ch. 32, and~~ compensated for
11 any damages that the owner will incur as a result of the work or after the final sum
12 ~~so~~ for condemnation of the property under ch. 32 has been determined and all costs
13 ~~have been paid to the persons entitled thereto~~ owner or to the clerk of the circuit court
14 on ~~their~~ the owner's account.

NOTE: Current s. 30.18 (7) allows the applicant to "enter any land through which it is proposed to divert water", after the permit application is filed, to conduct surveys. This provision is deleted, and replaced by a requirement in new s. 30.18 (3m) (a) for the applicant to obtain permission or authority to enter the land.

15 **SECTION 163.** 30.18 (8) of the statutes is renumbered 30.353.

16 **SECTION 164.** 30.18 (9) of the statutes is repealed.

17 **SECTION 165.** 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.)

18 and amended to read:

19 30.19 (1g) PERMITS REQUIRED. (intro.) Unless a permit has been granted by the
20 department issued under this section or authorization has been granted by the
21 legislature, it is unlawful no person may do any of the following:

22 **SECTION 166.** 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and

23 amended to read:

ASSEMBLY BILL 514

1 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
2 waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the
3 purpose is ultimate connection with an existing navigable stream, lake or other
4 navigable waters, or where water body that connects with a navigable waterway.

5 (am) Construct, dredge, or enlarge any part of the an artificial waterway water
6 body that is located within 500 feet of the ordinary high-water mark of an existing
7 navigable stream, lake or other navigable waters waterway.

8 **SECTION 167.** 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
9 amended to read:

10 30.19 (1g) (b) ~~To connect any natural or artificially constructed~~ Connect, by a
11 navigable surface channel, any navigable waterway, canal, channel, ditch, lagoon,
12 pond, lake or similar waterway or any artificial water body with an existing body of
13 a navigable water, for navigation or any other purpose waterway.

14 **SECTION 168.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
15 amended to read:

16 30.19 (1g) (c) ~~To grade or otherwise~~ Grade or remove top soil topsoil from the
17 bank of any navigable stream, lake or other body of navigable water waterway where
18 the area exposed by such the grading or removal will exceed 10,000 square feet.

19 **SECTION 169.** 30.19 (1b) of the statutes is created to read:

20 30.19 (1b) DEFINITION. In the section, “artificial water body” means a proposed
21 or existing body of water that does not have a history of being a lake or stream or of
22 being part of a lake or stream.

23 **SECTION 170.** 30.19 (1m) (intro.) of the statutes is amended to read:

24 30.19 (1m) ~~EXCEPTION.~~ EXCEPTIONS. (intro.) Subsection (1) (1g) does not apply
25 to any of the following:

ASSEMBLY BILL 514

1 **SECTION 171.** 30.19 (1m) (a) of the statutes is amended to read:

2 30.19 **(1m)** (a) The construction and or repair of any public highways highway.

3 **SECTION 172.** 30.19 (1m) (b) of the statutes is amended to read:

4 30.19 **(1m)** (b) Any agricultural uses use of land.

5 **SECTION 173.** 30.19 (1m) (c) and (d) of the statutes are repealed.

NOTE: Current s. 30.19, which requires a permit for enlargement and protection of waterways, contains an exception for navigable lakes and streams and any portion of Lake Michigan within Milwaukee County. This exception is not included in this bill so that s. 30.19 will apply uniformly to all navigable waters. However, current s. 30.05 (renumbered s. 30.223) continues to apply where lake bed grants have been made.

6 **SECTION 174.** 30.19 (1m) (e) of the statutes is amended to read:

7 30.19 **(1m)** (e) Any work required to maintain the original dimensions of an
8 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
9 permit or legislative authorization under sub. ~~(1) (a) or (b)~~ (1g) (a) or (am).

10 **SECTION 175.** 30.19 (1m) (f) of the statutes is created to read:

11 30.19 **(1m)** (f) Any work required to maintain any water body that serves as
12 a connection under sub. (1g) (b).

13 **SECTION 176.** 30.19 (2) (intro.) and (a) to (d) of the statutes are repealed.

14 **SECTION 177.** 30.19 (2) (e) of the statutes is renumbered 30.19 (3b) (b) and
15 amended to read:

16 30.19 **(3b)** (b) ~~The name and address of the secretary of any property owners'~~
17 ~~association pertaining~~ formed with respect to the bodies of water affected by the
18 ~~project or if there is no such association, the names and addresses of.~~ If no property
19 owners' association exists, the department shall give notice to at least 5 persons who
20 own real property located adjacent to the bodies of water. If fewer than 5 persons own
21 real property located adjacent to the bodies of water, ~~the names and addresses of such~~

ASSEMBLY BILL 514

1 persons that own real estate so located shall be given department shall give notice
2 to all of these persons.

3 **SECTION 178.** 30.19 (2) (f) of the statutes is repealed.

4 **SECTION 179.** 30.19 (3) (title) of the statutes is repealed.

5 **SECTION 180.** 30.19 (3) (a) of the statutes is renumbered 30.19 (3b) (a) and
6 amended to read:

7 30.19 (3b) (a) ~~Section 30.02 (3) and (4) applies to permit applications under sub.~~
8 ~~(1) (b) and (c). Notice shall be provided to the clerks of the county and The clerk of~~
9 ~~each municipality in which the project or affected body of water is located and to the~~
10 ~~persons under sub. (2) (e). For any permit application which affects the.~~

11 (c) The Milwaukee Metropolitan Sewerage District for a project that would
12 affect the Milwaukee River, the Menomonee River, the Kinnickinnic River, the Root
13 River or any tributary of those rivers, special notice shall be given to the Milwaukee
14 metropolitan sewerage district. The metropolitan sewerage district shall have 30
15 days to respond to the special notice.

16 **SECTION 181.** 30.19 (3) (b) of the statutes is repealed.

17 **SECTION 182.** 30.19 (3b) (intro.) of the statutes is created to read:

18 30.19 (3b) ACTION BY DEPARTMENT. (intro.) Upon receipt of a complete
19 application for a permit under sub. (1g), the department shall follow the procedure
20 allowing the department to give notice under s. 30.245 or shall deny the application
21 as provided in s. 30.246 (1). Upon receipt of a complete application for a permit under
22 sub. (1g) (b) or (c) for a project in which there is or will be an effect on navigable waters
23 other than an effect on water quality, the department shall give notice of receipt of
24 the application as provided in s. 30.244 or shall deny the application as provided in

ASSEMBLY BILL 514

1 s. 30.246 (1). In addition to the notice requirements under s. 30.246 (2), the
2 department shall give notice to all of the following:

NOTE: This provision continues the applicability of notice and hearing provisions only to permit applications under sub. (2) (b) and (c). Under the current statute, the notice and hearing is not required for dredging artificial water bodies for the purpose of connection to a navigable waterway or where part of the artificial water body is within 500 feet of the ordinary high-water mark of the navigable waterway. In addition, an exemption from the notice and hearing is provided for grading or removing topsoil from the bank of navigable waters where the only effect is on water quality. This exemption allows DNR to develop a “short form” permit for grading or removing topsoil from the bank where advance notice is given to the department and the work conforms to rules of the department that describe methods for such work.

3 **SECTION 183.** 30.19 (4) of the statutes is renumbered 30.19 (4) (intro.) and
4 amended to read:

5 30.19 (4) ISSUANCE OF PERMIT. (intro.) ~~If the department finds that the project~~
6 ~~will not injure public rights or interest, including fish and game habitat, that the~~ The
7 department shall issue a permit under this section if the department determines that
8 all of the following apply:

9 (b) The project will not cause environmental pollution as defined in s. 299.01
10 (4), that any.

11 (c) Any enlargement connected to a navigable waterways conforms to the
12 requirement of waterway complies with all of the laws for the relating to platting of
13 land and for sanitation and that no.

14 (d) No material injury will result to the rights of any riparian owners on any
15 body of water affected will result, the department shall issue a permit authorizing
16 the enlargement of the affected waterways of real property that abuts any water body
17 that is affected by the project.

18 **SECTION 184.** 30.19 (4) (a) of the statutes is created to read:

19 30.19 (4) (a) The project will not be detrimental to the public interest.

20 **SECTION 185.** 30.19 (5) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.19 (5) ~~CONDITIONS OF PERMIT~~ REQUIREMENT FOR PUBLIC ACCESS. The A permit
2 issued under this section to construct an artificial water body and to connect it to a
3 navigable waterway shall provide that all require that the artificial waterways
4 constructed under this section which are connected to navigable waterways shall be
5 water body be a public waterways . The department may impose such further
6 conditions in the permit as it finds reasonably necessary to protect public health,
7 safety, welfare, rights and interest and to protect private rights and property
8 waterway.

9 **SECTION 186.** 30.195 (1) of the statutes is amended to read:

10 30.195 (1) PERMIT REQUIRED. ~~No~~ Unless a permit has been issued under this
11 section or authorization has been granted by the legislature, no person may change
12 the course of or straighten a navigable stream ~~without a permit issued under this~~
13 ~~section or without otherwise being expressly authorized by statute to do so.~~

14 **SECTION 187.** 30.195 (2) of the statutes is repealed and recreated to read:

15 30.195 (2) ACTION BY DEPARTMENT. Upon receipt of a complete application for
16 a permit under this section for an activity that involves the relocation of more than
17 a total of 500 feet in stream length, the department shall either deny the application
18 as provided in s. 30.246 (1) or shall give notice of receipt of the application as provided
19 in s. 30.244. For a permit for an activity that involves the relocation of a total of 500
20 or less feet in stream length, the department shall either deny the application as
21 provided in s. 30.246 (1) or shall follow the procedure allowing the department to give
22 notice under s. 30.245.

23 **SECTION 188.** 30.195 (3) of the statutes is renumbered 30.195 (3) (intro.) and
24 amended to read:

ASSEMBLY BILL 514

1 30.195 (3) ~~GRANTING ISSUANCE OF PERMIT.~~ (intro.) ~~Upon application therefor,~~
2 the The department shall grant issue a permit ~~to the~~ under this section if the
3 ~~department determines that all of the following apply:~~

4 (a) ~~The applicant is the~~ owner of any land ~~to change the course of or straighten~~
5 a upon which the change in course or straightening of the navigable stream ~~on such~~
6 land, if such will occur.

7 (b) The proposed change of course or straightening of the navigable stream will
8 improve the economic or aesthetic value of the ~~owner's~~ applicant's land ~~and will.~~

9 (c) The proposed change of course or straightening of the navigable stream will
10 not adversely affect the flood flow capacity of the stream or otherwise be detrimental
11 to ~~public rights or~~ the public interest.

12 (d) The proposed change of course or straightening of the navigable stream will
13 not be detrimental to the rights of other ~~riparians~~ riparian owners located on the
14 stream. If the department finds that the rights of ~~such riparians~~ these riparian
15 owners will be adversely affected, it may grant issue the permit only with ~~their~~ the
16 consent. ~~Such permit may be granted on the department's own motion after its own~~
17 ~~investigation or after public hearing and after giving prior notice of such~~
18 ~~investigation or hearing~~ of all of these riparian owners.

19 **SECTION 189.** 30.195 (4) and (7) of the statutes are repealed.

NOTE: It is not clear whether current s. 30.195 is subject to the requirement of a notice and hearing. Current s. 30.02 provides that the notice and hearing provisions of that statute apply in any proceeding under ch. 30 where public notice is required. Under s. 30.195 (3), the DNR may issue a permit either on its own motion or after a public hearing. This does not appear to be a clear statement that a public hearing is required, and it is therefore uncertain whether the notice and hearing requirement of current s. 30.02 applies. This bill makes the permit under s. 30.195 subject to the new mandatory notice requirements under s. 30.244 and the new hearing requirements under s. 30.245 for relocation of more than 500 feet of stream length, which corresponds with the division between type II and type III actions regarding stream locations for environmental review under ch. NR 150, Wis. Adm. Code.

ASSEMBLY BILL 514

This bill eliminates the current provision in s. 30.195 (4) that states that no common law liability and no liability under any other statute for damages resulting from the change in the course of the stream or straightening a stream is affected by s. 30.195. Nothing in current s. 30.195, or s. 30.195 as amended by this bill, suggests that an exemption from liability is created. Compliance with the provisions in a permit under s. 30.195 may have a bearing on the issue of negligence, but current s. 30.195 (4) is unnecessary. Also, the provision in the current statute that creates a presumption of exercising due care in complying with a permit is better addressed by the court as part of a negligence action.

The exception for land owned by Milwaukee County or a city, village or town in Milwaukee County is deleted. This provision was originally created as part of s. 30.195 when it was adopted in 1961, and was added as a floor amendment. This exception is not included in this bill so that s. 30.195 will apply uniformly to all navigable waters.

1 **SECTION 190.** 30.196 of the statutes is renumbered 30.313, and 30.313 (intro.),
2 as renumbered, is amended to read:

3 **30.313 Enclosure of navigable waters; issuance of permits to**
4 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
5 placing, or restricting navigable waters into an enclosed drain, conduit, storm sewer,
6 or similar structure if the department grants the municipality a permit. The
7 department may grant this permit to a municipality after ~~following the notice and~~
8 ~~hearing requirements under s. 30.02 (3) and (4) if it~~ the procedures under ss. 30.244
9 and 30.246 have been followed if the department finds that granting the permit:

10 **SECTION 191.** 30.20 (1) (title) of the statutes is repealed and recreated to read:

11 30.20 (1) (title) CONTRACT OR PERMIT REQUIRED.

12 **SECTION 192.** 30.20 (1) (a) of the statutes is amended to read:

13 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
14 under sub. (2), no person may remove any material from the bed of any navigable lake
15 or from the bed of any outlying waters of this state ~~without first obtaining a contract~~
16 ~~as provided in sub. (2).~~

17 **SECTION 193.** 30.20 (1) (b) of the statutes is renumbered 30.20 (1) (b) (intro.)

18 and amended to read:

ASSEMBLY BILL 514

1 30.20 (1) (b) (intro.) ~~Except as provided under pars. (e) and (d), no~~ No person
2 may remove any material from the bed of any lake or stream not mentioned under
3 par. (a) ~~without first obtaining a permit from the department under sub. (2) (e).~~
4 unless one of the following applies:

5 **SECTION 194.** 30.20 (1) (b) 1. and 2. of the statutes are created to read:

6 30.20 (1) (b) 1. The department has issued the person a permit under sub. (3).

7 2. The department has determined under par. (c) that the removal is exempt
8 from a permit under sub. (3).

9 **SECTION 195.** 30.20 (1) (c) of the statutes is repealed and recreated to read:

10 30.20 (1) (c) The exemption under s. 30.215 does not exempt a person from the
11 permitting requirement under par. (b) if the proposed removal for an agricultural
12 purpose is from a farm drainage ditch and the proposed removal may have a
13 long-term adverse effect on cold-water fishery resources or may destroy fish
14 spawning beds or nursery areas. A person who proposes such a removal shall notify
15 the department at least 10 days before the removal is scheduled to start if the
16 removal may have such a long-term adverse effect or may destroy fish spawning
17 beds or nursery areas.

18 **SECTION 196.** 30.20 (1) (d) of the statutes is renumbered 30.263 (3) and
19 amended to read:

20 30.263 (3) The drainage board for the Duck Creek Drainage District may,
21 without a permit under ~~sub. (2) (e)~~ s. 30.20 (3), remove material from a drain that the
22 board operates in the Duck Creek Drainage District if the removal is required, under
23 rules promulgated by the department of agriculture, trade and consumer protection,
24 in order to conform the drain to specifications imposed by the department of

ASSEMBLY BILL 514

1 agriculture, trade and consumer protection after consulting with the department of
2 natural resources.

3 **SECTION 197.** 30.20 (2) (title), (a) and (b) of the statutes are amended to read:

4 30.20 (2) (title) CONTRACTS FOR REMOVAL FROM NAVIGABLE LAKES AND OUTLYING
5 WATERS. (a) The department, ~~whenever consistent with public rights,~~ may enter into
6 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
7 material from the bed of any navigable lake or of any of the outlying waters, ~~and for~~
8 ~~the lease or sale of the material.~~ Every if the contract is consistent with public rights.
9 Each contract entered into under this paragraph shall contain such any conditions
10 ~~as may be~~ that the department determines are necessary for the protection of the
11 public interest and the ~~interests~~ interest of the state ~~and.~~ Each contract entered into
12 under this paragraph shall fix the compensation to be paid to the state for the
13 material ~~so to be~~ removed, except that ~~no~~ the contract may not require that any
14 compensation may be paid for the material if the contract is with a municipality, as
15 defined in s. 281.01 (6), and if the material is to will be used for a municipal purpose
16 and will not ~~for resale.~~ ~~No~~ be resold. Each contract entered into under this
17 paragraph may not run for ~~a longer period~~ more than 5 years.

18 (b) The department, ~~whenever consistent with public rights,~~ may enter into
19 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
20 mineral, ore ~~and,~~ or other material from beneath the bed of a navigable lakes and
21 waters, ~~where~~ water that the state may own if the contract will be consistent with
22 public rights and if the waters would navigable water will not be disturbed in the
23 removal operation ~~and for the lease and sale of such mineral, material and ore and~~
24 ~~provide the necessary regulations for all acts incident thereto.~~ ~~Every such.~~ Each
25 contract entered into under this paragraph shall contain such any conditions ~~as may~~

ASSEMBLY BILL 514

1 be ~~that the department determines are necessary for the protection of the public~~
2 interest and the interests interest of the state, and. Each contract entered into under
3 this paragraph shall fix the compensation to be paid to the state for the ~~material,~~
4 ~~mineral and ore so~~ mineral, ore, or other material to be removed. No ~~Each~~ contract
5 entered into, pursuant to under this paragraph, shall may not run for ~~a longer period~~
6 more than 75 years. ~~Should any doubt exist as to whether the state, in fact, owns~~
7 ~~such lake bed or stream bed such contract or lease shall be for such interests, if any,~~
8 ~~as the state may own. Title to the royalties to be paid when~~ After mining operations
9 are have begun, the department shall be ~~determined at such future time as~~
10 determine the date before which the royalties for ores so sold are paid or any mineral,
11 ore, or other material that is removed and sold are due and payable.

12 **SECTION 198.** 30.20 (2) (c) of the statutes is renumbered 30.20 (3) (a) and
13 amended to read:

14 30.20 (3) (a) ~~A permit~~ The department may issue a permit to remove material
15 from the bed of any lake or stream not included described in sub. (1) (a) ~~may be issued~~
16 ~~by if~~ the department ~~if it~~ finds that the issuance of such ~~a~~ the permit will be
17 consistent with the public interest in the water involved. ~~A permit or contract issued~~
18 ~~under this paragraph may be issued for up to 10 years if the applicant notifies the~~
19 ~~department at least 30 days before removing any material~~ lake or stream.

20 **SECTION 199.** 30.20 (3) (title) and (b) of the statutes are created to read:

21 30.20 (3) (title) PERMITS FOR REMOVAL FROM OTHER WATERS.

22 (b) If an applicant for a permit under par. (a) submits the application at least
23 30 days before the proposed date of the removal, the department may issue the
24 permit for a period of up to 10 years.

25 **SECTION 200.** 30.20 (4) of the statutes is created to read:

ASSEMBLY BILL 514

1 30.20 (4) ACTION BY DEPARTMENT. (a) Upon receipt of a complete application for
2 a permit or contract under this section for an activity that involves the removal of
3 3,000 or more cubic yards of material, the department shall either deny the
4 application as provided in s. 30.246 (1) or shall give notice of receipt of the application
5 as provided in s. 30.244, except as provided in par. (b).

6 (b) The department shall either deny the application as provided in s. 30.246
7 (1) or shall follow the procedure allowing the department to give notice under s.
8 30.245 if any of the following applies:

- 9 1. The activity involves the removal of less than 3,000 cubic yards of material.
- 10 2. The activity involves the restoration of the original dimensions of an area
11 legally dredged during the 10 years before the date of application for the permit or
12 contract.

NOTE: Current s. 30.20 does not contain a requirement for public notice or a hearing under s. 30.02. This bill makes a permit or contract under s. 30.20 subject to the notice and hearing requirements of new ss. 30.244, 30.245, and 30.246 for dredging that involves the removal of more than 3,000 cubic yards, which corresponds with the threshold for a type II action for purposes of environmental review under ch. NR 150, Wis. Adm. Code.

13 **SECTION 201.** 30.202 of the statutes is renumbered 30.333, and 30.333 (3), as
14 renumbered, is amended to read:

15 30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
16 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
17 permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty
18 specified under this chapter, s. 29.601, ~~30.01 to 30.20, 30.21 to 30.99, 59.692, 61.351,~~
19 ~~62.231~~, or 87.30, or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any
20 rule promulgated, order issued, or ordinance adopted under those sections or
21 chapters.

ASSEMBLY BILL 514

1 **SECTION 202.** 30.2025 of the statutes is renumbered 30.278, and 30.278 (5) (d),
2 as renumbered is amended to read:

3 30.278 **(5)** (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
4 (4).

5 **SECTION 203.** 30.2026 of the statutes is renumbered 30.279, and 30.279 (2) (d)
6 and (3) (a), as renumbered, are amended to read:

7 30.279 **(2)** (d) The village of Belleville shall create any artificial barrier under
8 this section in compliance with all state laws that relate to navigable bodies of water,
9 except s. 30.12 (1) ~~and (2)~~.

10 **(3)** (a) The village of Belleville shall maintain any artificial barrier created as
11 authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View
12 shoreline, a portion of which is located within 1,000 feet of any such artificial barrier,
13 is dissatisfied with the manner in which the village of Belleville is maintaining the
14 barrier, the owner may maintain the barrier in lieu of the village, upon approval of
15 the department. The village or a landowner who maintains the barrier shall comply
16 with all state laws that relate to navigable bodies of water, except s. 30.12 (1) ~~and (2)~~.
17 The department may require the village of Belleville or the landowner to maintain
18 the barrier in a structurally and functionally adequate condition.

19 **SECTION 204.** 30.203 of the statutes is renumbered 30.355, and 30.355 (4) (d),
20 as renumbered, is amended to read:

21 30.355 **(4)** (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
22 (4).

23 **SECTION 205.** 30.2035 of the statutes is repealed.

NOTE: The repealed statute requires the DNR to undertake a shoreline protection study. This study has been issued and the DNR is in the process of promulgating rules.

ASSEMBLY BILL 514

1 **SECTION 206.** 30.2037 of the statutes is renumbered 30.267.

2 **SECTION 207.** 30.204 of the statutes is renumbered 30.373, and 30.373 (5), as
3 renumbered, is amended to read:

4 30.373 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
5 department in conducting the lake acidification experiment are exempt from any
6 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
7 notice, hearing, procedure, or penalty specified under this subchapter and subchs.
8 V and VI and s. 29.601 (3), ~~30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to~~
9 ~~30.99, 59.692, 61.351, 62.231, 87.30, 287.81, 299.15 to 299.23, 299.91, 299.95, or~~
10 299.97 or chs. 281, 283 or 289 to 292 or specified in any rule promulgated, order
11 issued, or ordinance adopted under any of those sections or chapters.

12 **SECTION 208.** 30.205 of the statutes is renumbered 30.335, and 30.335 (title),
13 as renumbered, is amended to read:

14 **30.335** (title) **Water resources development projects; federal**
15 **agreements.**

16 **SECTION 209.** 30.206 of the statutes is renumbered 30.221, and 30.221 (1) and
17 (7), as renumbered, are amended to read:

18 30.221 (1) For activities or projects which require a permit ~~or approval~~ under
19 ss. 30.12 (3) (a) and 30.19 (1) (1g) (a), the department may issue a general permit
20 authorizing a class of activities, according to rules promulgated by the department.
21 Before issuing general permits, the department shall determine, after an
22 environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the
23 cumulative adverse environmental impact of the class of activity is insignificant and
24 that issuance of the general permit will not injure public rights or interest, cause

ASSEMBLY BILL 514

1 environmental pollution, as defined in s. ~~299.01 (4)~~, or result in material injury to the
2 rights of any riparian owner.

3 (7) This section does not apply to an application for a general permit for the
4 Wolf River and Fox River basin area or any area designated under s. ~~30.207~~ 30.223
5 (1m) if the application for the general permit may be submitted under s. ~~30.207~~
6 30.223.

7 **SECTION 210.** ~~30.207~~ of the statutes is renumbered 30.223, and 30.223 (1), (3)
8 (a) and (c) 6., (4) (c) 1., (5), (6) (a) and (7) (a) and (b), as renumbered, are amended to
9 read:

10 30.223 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (b)~~
11 30.276, the Wolf River and Fox River basin area consists of all of Winnebago County;
12 the portion and shoreline of Lake Poygan in Waushara County; the area south of
13 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
14 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
15 portion of Outagamie County south and east of USH 41; that portion of Waupaca
16 County that includes the town of Mukwa, city of New London, town of Caledonia,
17 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
18 in the town of Weyauwega.

19 (3) (a) Any local entity, as defined listed in s. ~~30.77 (3) (dm)~~ (11) (a), any group
20 of 10 riparian owners who will be affected by the issuance of a general permit, or any
21 contractor who is or has been involved in the construction of structures or along
22 navigable waters may apply for a general permit under this section.

23 (c) 6. The names and addresses of at least 5 persons who own real property
24 located adjacent to the navigable waters located in the proposed permit area. If fewer

ASSEMBLY BILL 514

1 than 5 persons own real property adjacent to ~~such~~ these waters, the application shall
2 include the names and addresses of all of these persons.

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

6 (5) ~~HEARING REQUIREMENTS~~ NOTICE AND HEARING. If an activity for which an
7 application for which a general permit has been submitted would be subject to the
8 ~~hearing and notice provisions under s. 30.02 (3) and (4)~~ 30.244 or 30.245 for the
9 issuance of an individual permit, the department shall comply with those provisions.
10 ~~Notice and hearing shall be required on an application for a general permit under~~
11 ~~this section only if a notice and hearing are required under s. 30.02 (3) and (4) for the~~
12 ~~activity as part of an application for an individual permit under this chapter.~~

13 (6) (a) The department shall issue a general permit under this section if the
14 department determines that the cumulative adverse environmental impact of the
15 activity in the proposed permit area is insignificant and that the issuance of the
16 general permit will not injure public rights or interest, cause environmental
17 pollution, ~~as defined in s. 299.01 (4)~~, or result in material injury to the rights of any
18 riparian owners.

19 (7) (a) At least 15 days before beginning the activity that is authorized by a
20 general permit under this section, the person who wishes to conduct the activity shall
21 submit a notice to the department and shall pay the fee specified in s. ~~30.28~~ 30.243

22 (2) (b) 2. The notice shall describe the activity, state the name of the person that will
23 be conducting the activity, and state the site where the activity will be conducted.

24 The notice shall also contain a statement signed by the person conducting the

ASSEMBLY BILL 514

1 activity that the person will act in conformance with the standards contained in the
2 general permit.

3 (b) Upon receipt of a notice that complies with par. (a), the department may
4 inform the person that the activity may not be conducted under the general permit
5 if conditions at the site where the activity would be conducted would cause adverse
6 environmental impact, injure public rights and interests, or cause environmental
7 pollution, as defined in s. 299.01 (4). The department shall respond to the person
8 within 15 days after receiving the notice. Failure of the department to respond
9 within 15 days shall constitute the department's approval of the activity under the
10 general permit.

11 **SECTION 211.** 30.21 of the statutes is renumbered 30.293.

12 **SECTION 212.** 30.213 (title) of the statutes is created to read:

13 **30.213 (title) Municipal bridge construction.**

14 **SECTION 213.** 30.215 of the statutes is created to read:

15 **30.215 Farm drainage ditches.** Except as provided in s. 30.20 (1) (c), a project
16 that is for an agricultural purpose and is located in or adjacent to a farm drainage
17 ditch is exempt from the requirement for a permit, contract, or approval under this
18 subchapter unless it is shown, by means of a U.S. geological survey map or other
19 reliable scientific evidence, that the farm drainage ditch was a stream that was a
20 navigable water prior to ditching.

NOTE: The current statute related to farm drainage ditches is as follows:

“30.10 (4) (c) Notwithstanding any other provision of law, farm drainage ditches are not navigable within the meaning of this section unless it is shown that the ditches were navigable streams before ditching. For purposes of this paragraph, “farm drainage ditch” means any artificial channel which drains water from lands which are used for agricultural purposes.”

The proposed language in new s. 30.215 differs in 2 key respects from the current statute. The primary difference is that the exemption clearly applies to a project for an agricultural purpose, not to the farm drainage ditch itself. Thus, a project for other than

ASSEMBLY BILL 514

agricultural purposes would require a permit, even though the drainage ditch was originally constructed as and continues to be used as a farm drainage ditch.

The other difference is that the statute specifies the kind of evidence that may be used to show stream history.

1 **SECTION 214.** 30.24 of the statutes is renumbered 30.357.

2 **SECTION 215.** 30.243 (3) (c) of the statutes is created to read:

3 30.243 (3) (c) This section does not apply to a permit issued under s. 30.221.

4 **SECTION 216.** 30.244 to 30.246 of the statutes are created to read:

5 **30.244 Permit procedures; mandatory notice of receipt of application.**

6 For the issuance of permits or the entering into of contracts which require notice of
7 the receipt of application by the department, the department shall give written
8 notice of receipt of the application as provided in s. 30.246 (2) unless the department
9 denies the application in s. 30.246 (1).

10 **30.245 Permit procedures; optional notice of receipt of application. (1)**

11 For the issuance of permit or the entering into of contracts which do not require
12 notice of the receipt of the application by the department, the department shall either
13 deny the application as provided in s. 30.246 (1) or shall approve the application
14 without notice or hearing unless the department decides to act under sub. (2).

15 **(2)** The department may give written notice of receipt of the application as
16 provided in s. 30.246 (2) if the department determines that a substantial interest of
17 any person may be adversely affected by issuing the permit or entering into the
18 contract.

19 **30.246 Permit procedures; denial; notice; mediation; hearing. (1)**

20 DENIALS. The department may deny an application for a permit or contract under this
21 subchapter after receipt of a complete permit or contract application. If the
22 department denies an application, the department shall notify the applicant in
23 writing.

ASSEMBLY BILL 514

1 **(2) NOTICE REQUIREMENTS.** (a) If the department gives notice of receipt of an
2 application under s. 30.244 or 30.245 (2), the notice shall describe the project and the
3 applicable notice, mediation, and hearing procedures under this section. The
4 department shall give notice of receipt to all of the following:

5 1. The applicant.

6 2. Each representative of a local governmental unit required to receive notice
7 under s. 30.04 (3).

8 3. Any person who is required by law to receive notice.

9 (b) The department shall also post the notice on the Internet at a site
10 determined by the department.

11 (c) After notice has been given as required under pars. (a) and (b), the applicant,
12 or any other person authorized by the department, shall publish the notice of receipt
13 of the application as a class 1 notice, under ch. 985, in a newspaper designated by the
14 department that is likely to give notice in the area to be affected by the permit or
15 contract. The applicant shall file proof of publication under this paragraph with the
16 department.

17 **(3) REQUEST FOR HEARING.** (a) Any person may request in writing a contested
18 case hearing on an application for a permit or contract or for mediation under sub.
19 (5) within 30 days after the notice is published under sub. (2) (c).

20 (b) If a person requesting the contested case hearing under par. (a) or after
21 medication is ended as provided in sub. (5) is not the applicant for the permit or
22 contract, the request shall describe the requester's objection to the permit or contract
23 and shall contain all of the following:

ASSEMBLY BILL 514

1 1. A description of the legal issues involved that is sufficiently specific to allow
2 the department to determine which provisions of this subchapter may be violated if
3 the permit is issued or the contract is entered into.

4 2. A description of the facts supporting the objection that is sufficiently specific
5 to determine how the objector believes the project, as proposed, may result in a
6 violation of the provisions of this subchapter as described in subd. 1.

7 3. A commitment by the person requesting the contested case hearing under
8 this paragraph to appear at the contested case hearing and present information
9 supporting the requester's objection.

10 (c) The department shall approve or deny the application without a hearing if
11 any of the following applies:

12 1. The request for a contested case hearing does not comply with all of the
13 requirements under pars. (a) and (b).

14 2. The objection contained in the request is not a substantive written objection.

15 (d) The department shall determine that an objection is substantive if the
16 department determines that the supporting facts contained in the objection under
17 par. (b) 2. appear to be substantially true and raise reasonable doubts as to whether
18 provisions of this subchapter may be violated if the permit is issued or the contract
19 is entered into.

20 (e) In making the determination under par. (d), the department may request
21 additional information from the person requesting a contested case hearing, and the
22 person shall submit the requested information within 14 days after receiving the
23 request. If the person fails to submit the requested information within 14 days, the
24 department shall make a determination that the objection is not a substantive
25 objection.

ASSEMBLY BILL 514

1 (f) If the department denies an application under par. (c) or sub. (1) or (5) (c),
2 the applicant may request in writing a contested case hearing within 30 days after
3 receiving the denial.

4 (4) REFERRAL FOR HEARING. If the request for a contested case hearing complies
5 with sub. (3) (a) and (b), the objection contained in the request is a substantive
6 objection, and no mediation is pending under sub. (5), the department shall
7 authorize the contested case hearing and notify the division of hearings and appeals
8 under s. 227.43 (2) (a).

9 (5) MEDIATION. (a) At any time after notice has been given under sub. (2) and
10 before the date on which the contested case hearing will begin, the department shall
11 allow for mediation if the department, the applicant for the permit or contract, any
12 person who requests a contested case hearing on the permit or contract, and any
13 person with a substantial interest in the permit or the contract all agree to
14 mediation. The participants shall determine how the mediator is to be selected and
15 compensated.

16 (b) If the mediator determines that an agreement cannot be reached by
17 mediation, the mediator shall certify the mediation as having ended. Within 30 days
18 after the date on which the mediation is certified as having ended, any participant
19 in the mediation may request in writing to the department that the department
20 proceed on the application.

21 (c) If the department does not receive a request under par. (b) within the 30-day
22 period, the department shall either approve the application without a hearing or
23 deny the application.

24 (6) HEARING. (a) Upon receiving notification from the department under this
25 subsection, the division of hearings and appeals shall assign a hearing examiner and

ASSEMBLY BILL 514

1 shall ensure that the hearing is conducted within 60 days after the notification is
2 received.

3 (b) The division of hearings and appeals shall give notice of the hearing at least
4 10 days before the hearing to the applicant, to each person who was given notice
5 under sub. (2) (a), and to each person who requested a contested case hearing.

6 (c) The applicant shall publish a class 1 notice, under ch. 985, of the contested
7 case hearing in a newspaper, designated by the department, that is likely to give
8 notice in the area to be affected by the permit or contract. The notice shall be
9 published at least 10 days before the hearing. The applicant shall file proof of
10 publication under this paragraph with the hearing examiner at or before the
11 hearing.

NOTE: The notice and hearing provisions in current s. 30.02 are repealed and recreated here. The basic structure of this statute remains the same: the notice and hearing procedures apply to any permit or contract in which a notice and hearing is required by direct cross-reference to this section. In any other statute that provides a permit or contract for activities in navigable waters, the DNR may apply the notice and hearing procedures if the substantial interests of any party may be adversely affected by the proceeding. The statute provides a time frame within a contested case hearing may be requested and requires various notices to be mailed or published.

Proposed ss. 30.244, 30.245, and 30.246 have several major additions compared to the current statute. The first difference is that the current statute does expressly provide that the DNR may deny the application for a permit or contract. The current statute requires the DNR either to schedule a hearing or issue notice that it will proceed without a hearing unless a request for hearing is made. As a result, an individual who opposes a permit must request a hearing, even if the DNR expects to deny the application. The new procedure allows the DNR to deny the application for a permit or contract, and the applicant may request a contested case hearing on this decision.

The 2nd difference is that the DNR is directed to post notice of the complete permit or contract application and the opportunity to request a hearing on the Internet. In addition, a provision in the current statute requiring the DNR to provide notice to any person who requests notice of projects of that type, location or other classification is eliminated. Also, notice is required to affected town sanitary districts, public inland lake protection and rehabilitation districts and county drainage boards.

The 3rd difference is that a mediation option is provided. There is no comparable provision in the current statute. The applicant and DNR must agree to be a party to the mediation. The mediation process is primarily expected to address issues of concern to owners of property near the proposed project. If an agreement is not reached in mediation, the parties to the mediation may request a contested case hearing.

The 4th difference is that the requirement of a substantive written objection, which is a condition for obtaining a contested case hearing under the current statute, is clarified and made more detailed. The current statute requires the objector to state why the

ASSEMBLY BILL 514

project may violate statutory provisions applicable to the project. The purpose of this requirement is to avoid contested case hearings when there is not merit to the challenge--i.e., the facts alleged by the objector are not true or do not relate to the legal standards for issuing or denying the permit. The special committee believes that the current statute, as administered by DNR, has not been sufficient to avoid challenges to permits in contested case hearings that are ultimately determined to be without merit. This bill adds to the information that must be submitted by the objector, allows the department to request additional information from the objector, and requires the department to do a thorough evaluation of the grounds for the objection, both legal and factual.

This provision omits the option for the department to schedule a public hearing upon receipt of an application, rather than providing notice of the application. This option is no longer necessary if the department is given authority to deny an application, as provided in this section.

1 **SECTION 217.** 30.25 of the statutes is renumbered 30.269.

2 **SECTION 218.** 30.253 of the statutes is created to read:

3 **30.253 Permit or contract conditions.** The department may impose
4 additional conditions on a permit or contract under this subchapter if the
5 department determines that the conditions are necessary to ensure compliance with
6 any applicable provision under this subchapter.

7 **SECTION 219.** 30.26 of the statutes is renumbered 30.271.

8 **SECTION 220.** 30.263 (title) and (1) (title) of the statutes are created to read:

9 **30.263 (title) Duck Creek Drainage District. (1) (title) DECLARATION OF**
10 NAVIGABILITY.

11 **SECTION 221.** 30.265 of the statutes is renumbered 30.375.

12 **SECTION 222.** 30.266 (1) (intro.) of the statutes is created to read:

13 30.266 (1) **DEFINITIONS.** (intro.) In this section:

14 **SECTION 223.** 30.27 of the statutes is renumbered 30.273.

15 **SECTION 224.** 30.275 of the statutes, as affected by 2003 Wisconsin Act 33, is
16 renumbered 30.359.

17 **SECTION 225.** 30.277 of the statutes, as affected by 2003 Wisconsin Act 33, is
18 renumbered 30.361.

ASSEMBLY BILL 514

1 **SECTION 226.** 30.28 of the statutes is renumbered 30.243, and 30.243 (1), (2)
2 (a) (intro.) and (b), (2m) (am), (b) and (d) and (2r) (b), as renumbered, are amended
3 to read:

4 **30.243 (1) FEES REQUIRED.** The department shall charge a permit or approval
5 fee for carrying out its duties and responsibilities under ~~ss. 30.10 to 30.205, 30.207~~
6 ~~and 30.21 to 30.27~~ this subchapter. The permit or approval fee shall accompany the
7 permit application, notice, or request for approval.

8 **(2)** (a) (intro.) For fees charged for permits and approvals under ~~ss. 30.10 to~~
9 ~~30.205 and 30.21 to 30.27~~ this subchapter, except s. 30.223, the department shall
10 classify the types of permits and approvals based on the estimated time spent by the
11 department in reviewing, investigating, and making determinations whether to
12 grant issue the permits or approvals. The department shall then set the fees as
13 follows:

14 (b) 1. For an application for a general permit submitted under s. ~~30.207~~ 30.223
15 (3), the fee shall be \$2,000.

16 2. For a notice submitted under s. ~~30.207~~ 30.223 (7), the fee shall be \$100.

17 **(2m)** (am) The department shall refund 50% of the fee specified in sub. (2) (b)
18 1. if the department denies an application for a general permit under s. ~~30.207~~ 30.223
19 (3) (d) 1. or does not issue a general permit under s. ~~30.207~~ 30.223 (6).

20 (b) If the applicant applies for a permit, requests an approval, or submits a
21 notice under s. ~~30.207~~ 30.223 (7) after the project is begun or after it is completed,
22 the department shall charge an amount equal to twice the amount of the fee that it
23 would have charged under this section.

24 (d) The department, by rule, may increase any fee specified in sub. (2) (a). The
25 department, by rule, may increase a fee specified in sub. (2) (b) only if the increase

ASSEMBLY BILL 514

1 is necessary to meet the costs incurred by the department in acting on general
2 permits or on notices submitted under s. ~~30.207~~ 30.223.

3 **(2r)** (b) If the department promulgates a rule under par. (a), the rule shall
4 contain a time limit for each type of permit or approval classified under sub. (2) (a)
5 for determining whether the department will ~~grant~~ issue the permit or approval.

6 **SECTION 227.** 30.29 of the statutes is renumbered 30.86.

7 **SECTION 228.** 30.292 of the statutes is repealed.

NOTE: The repealed provision relates to parties to a violation. An identical
provision that applies to ch. 30 in its entirety already exists in s. 30.99.

8 **SECTION 229.** 30.294 of the statutes is renumbered 30.86.

9 **SECTION 230.** 30.298 (title) of the statutes is repealed.

10 **SECTION 231.** 30.298 (1) of the statutes is renumbered 30.381 (1) and amended
11 to read:

12 30.381 (1) GENERAL PENALTY. Any person who violates any provision of ss. ~~30.12~~
13 ~~to 30.21~~ 30.095, 30.123, 30.135 to 30.20, 30.217, 30.223, 30.266, 30.276 to 30.293,
14 30.313, 30.355, or 30.85 for which a penalty is not provided under ~~the applicable~~
15 ~~section or by sub. (2) or (3)~~ subs. (2) to (7) shall forfeit not less than \$100 nor more
16 than \$10,000 for the first offense and shall forfeit not less than \$500 nor more than
17 \$10,000 upon conviction of the same offense a 2nd or subsequent time.

18 **SECTION 232.** 30.298 (2) of the statutes is renumbered 30.381 (6).

19 **SECTION 233.** 30.298 (3) of the statutes is renumbered 30.381 (7) and amended
20 to read:

21 30.381 (7) GENERAL PERMITS. Any person who violates s. ~~30.206~~ 30.221 shall
22 forfeit not less than \$10 nor more than \$500 for the first offense and shall forfeit not

ASSEMBLY BILL 514

1 less than \$50 nor more than \$500 upon conviction of the same offense a 2nd or
2 subsequent time.

3 **SECTION 234.** 30.298 (4) of the statutes is renumbered 30.98 (3) and amended
4 to read:

5 30.98 (3) A violation of a permit, contract, or order issued under this chapter,
6 or a violation of a condition or term under the permit, contract, or order, is a violation
7 of the statute under which the permit, contract, or order was issued.

8 **SECTION 235.** 30.298 (5) of the statutes is renumbered 30.381 (8) and amended
9 to read:

10 30.381 (8) ADDITIONAL ORDERS. In addition to the any forfeitures specified under
11 subs. (1) ~~to (3), (6), and (7),~~ the court may order the defendant to perform or refrain
12 from performing such acts as may be necessary to fully protect and effectuate the
13 public interest in navigable waters. The court may order abatement of a nuisance,
14 restoration of a natural resource, or other appropriate action designed to eliminate
15 or minimize any environmental damage caused by the defendant.

16 **SECTION 236.** Subchapter III (title) of chapter 30 [precedes 30.30] of the
17 statutes is renumbered subchapter IV (title) of chapter 30 [precedes 30.491].

18 **SECTION 237.** 30.30 of the statutes is renumbered 30.491, and 30.491 (5) and
19 (7), as renumbered, are amended to read:

20 30.491 (5) ACQUISITION OF LAND. Acquire such lands or interests therein as it
21 deems necessary for properly carrying out its powers under this chapter subchapter,
22 including such lands outside the municipal limits as are necessary to protect its
23 property or to carry out its powers under sub. (3). Such acquisition may be by
24 condemnation proceedings.

ASSEMBLY BILL 514

1 **(7) DOING OF WORK.** Contract for the doing of the work authorized by this section
2 or purchase the necessary equipment for the doing of the work itself, but if the
3 municipality has established a board of harbor commissioners such board shall have
4 charge of the letting of contracts and shall supervise the doing of the work, except
5 as provided in ss. ~~30.31~~ 30.492 (1) and ~~30.32~~ 30.493 (2).

6 **SECTION 238.** 30.31 of the statutes is renumbered 30.492, and 30.492 (1), (4)
7 and (6), as renumbered, are amended to read:

8 **30.492 (1) SUPERVISION OF WORK.** In exercising the powers granted by s. ~~30.30~~
9 30.491 (1) to (3), a municipality shall be governed by the law governing the laying out,
10 improvement, and repair of streets and bridges in such municipality, so far as
11 applicable, except that no petition of property owners for doing any such work is
12 necessary. If the municipality has established a board of harbor commissioners, such
13 board shall be in charge of the work unless the board determines that it is not
14 equipped to supervise the work and by resolution delegates such function to the
15 agency which ordinarily performs such function for the municipality. If the
16 municipality does not have a board of harbor commissioners, the municipality's
17 board of public works or, in the event there is no such board, the municipality's
18 governing body shall be in charge of the work.

19 **(4) ACQUISITION OF LAND.** In acquiring land by condemnation for any of the
20 purposes specified in this ~~chapter~~ subchapter, a municipality shall be governed by
21 the law relating to condemnation of land for public grounds or street purposes.
22 Whenever land is acquired through a land contract arrangement, such contract may
23 create a lien on such lands for the purchase price and interest thereon but shall not
24 create any liability therefor on the part of the municipality.

ASSEMBLY BILL 514

1 **(6) SPECIAL ASSESSMENTS.** Special assessments for benefits to lands, when
2 authorized by s. ~~30.30~~ 30.491 (4), shall be made and enforced as provided by s.
3 66.0703, except that at any time within the 90-day period immediately following the
4 publication of the final resolution as required by s. 66.0703 (8) (d), the owner of any
5 property along which such improvement is to be made may elect to make the
6 improvement along the owner's property at the owner's expense in accordance with
7 the approved plans and specifications or in a manner which conforms to good
8 engineering practice and which provides for materials and designs which, with
9 respect to strength and permanence, are at least equal to the requirements of the
10 approved plans and specifications. If the owner makes the improvement at the
11 owner's expense, no assessment of benefits shall be made therefor. If such owner
12 fails to commence the work within the 90-day period specified herein or fails to carry
13 on and complete the work with due diligence, the work may be done or completed by
14 the municipality and assessment of benefits made therefor.

15 **SECTION 239.** 30.32 of the statutes is renumbered 30.493.

16 **SECTION 240.** 30.323 (title) of the statutes is created to read:

17 **30.323 (title) Pierhead lines.**

18 **SECTION 241.** 30.327 (title) of the statutes is created to read:

19 **30.327 (title) Municipal duty to report violations.**

20 **SECTION 242.** 30.33 of the statutes is renumbered 30.494.

21 **SECTION 243.** 30.34 of the statutes is renumbered 30.495, and 30.495 (1), (2),
22 (3) (a) and (4), as renumbered, are amended to read:

23 **30.495 (1) HARBOR FUND TO BE CREATED.** All municipalities operating a public
24 harbor through a board of harbor commissioners shall establish in the municipal
25 treasury a revolving fund to be known as the "harbor fund". Moneys for such fund

ASSEMBLY BILL 514

1 may be raised by appropriation from the general fund or by taxation or loan as other
2 moneys in the general fund are raised. Moneys in such fund may be expended only
3 as provided in s. ~~30.38~~ 30.498 (13).

4 (2) FINANCING DOCK WALLS AND SHORE PROTECTION WALLS. A municipality may
5 pay either or both the assessable and nonaccessible parts of the cost of the
6 construction, maintenance, or repair of any dock wall or shore protection wall,
7 authorized by s. ~~30.30~~ 30.491 (3), out of its general fund or other available funds, or
8 it may finance such work through the issuance of its negotiable bonds as provided
9 in ch. 67, except that it is not necessary to include such bonds in the municipal budget
10 or to submit the question of their issuance to a referendum vote of the electors. The
11 bonds shall be serial bonds, shall be payable at any time within 10 years, and shall
12 bear interest payable either annually or semiannually as the governing body
13 determines. The bonds shall be a direct obligation of the municipality and the full
14 faith and credit of the municipality shall be pledged for their payment. No such
15 bonds shall be issued unless at or before the time of their issuance the governing body
16 levies a direct annual tax sufficient to pay the principal and interest thereon as they
17 fall due.

18 (3) (a) Any municipality may, with the consent of its board of harbor
19 commissioners, finance the cost of acquisition, construction, alteration, or repair of
20 any harbor facility by issuing evidences of indebtedness payable only out of the
21 revenue obtained from the public harbor facilities. Such evidences of indebtedness
22 may be revenue bonds, refunding bonds, or bond anticipation notes issued under s.
23 ~~30.35~~ 30.496 or 66.1103 or may be pledges or assignments of net profits, issued
24 pursuant to s. 66.0621 (5) as if the harbor facility were a public utility.

ASSEMBLY BILL 514

1 **(4) EMERGENCY REPAIR FUND.** Any municipality having established a board of
2 harbor commissioners to operate its harbor facilities may create a contingent fund
3 for the purpose of permitting the secretary of the board to pay for repairs to harbor
4 facilities which constitute emergency repairs within the meaning of s. ~~30.32~~ 30.493
5 (4). The secretary may pay for such repairs out of such fund on the secretary's
6 signature alone.

7 **SECTION 244.** 30.341 (title) of the statutes is created to read:

8 **30.341 (title) Activities of department of transportation.**

9 **SECTION 245.** 30.341 (1) of the statutes is created to read:

10 **30.341 (1)** In this section, "inland waters" has the meaning given in s. 29.001
11 (45).

12 **SECTION 246.** 30.343 (title) of the statutes is created to read:

13 **30.343 (title) Activities of board of commissioners of public lands.**

14 **SECTION 247.** 30.35 of the statutes is renumbered 30.496, and 30.496 (6), as
15 renumbered, is amended to read:

16 **30.496 (6) BONDHOLDERS AND NOTEHOLDERS HAVE LIEN.** Title to all of the harbor
17 facilities for which revenue bonds, refunding bonds, or bond anticipation notes are
18 issued remains in the municipality, but a statutory lien exists in favor of the
19 bondholders and noteholders against the facilities which have been acquired,
20 constructed, altered, or remodeled and the cost of which has been financed with
21 funds obtained through the issuance of such bonds and notes. To provide further
22 security for the bondholders and noteholders, the ordinance or resolution
23 authorizing the issuance of revenue bonds, refunding bonds, or bond anticipation
24 notes may provide for a pledge of the revenues of the facilities, including, if the

ASSEMBLY BILL 514

1 facilities are leased under sub. (6) this subsection, an assignment of all or part of the
2 municipality's rights as lessor.

3 **SECTION 248.** 30.37 of the statutes is renumbered 30.497, and 30.497 (6) and
4 (7), as renumbered, are amended to read:

5 30.497 (6) EFFECT OF REVISION ON EXISTING HARBOR BOARDS. Boards of harbor
6 commissioners, harbor commissions, or dock and harbor boards in existence on
7 January 1, 1960, are deemed to be valid boards of harbor commissioners as if created
8 pursuant to this section and are vested with all of the powers and duties conferred
9 upon boards of harbor commissioners by this ~~chapter~~ subchapter. The members of
10 such boards may continue to hold office until their terms expire, notwithstanding
11 any provision of this section which would otherwise disqualify them, but
12 appointments made after January 1, 1960, shall be made only in accordance with
13 this section. Nothing in this subsection is intended to prevent a municipality by
14 resolution from abolishing its board of harbor commissioners, harbor commission, or
15 dock and harbor board.

16 (7) MILWAUKEE COUNTY. Milwaukee County, with respect to the land ceded or
17 granted to Milwaukee County as described in 1997 Wisconsin Act 70, section 3, may
18 directly exercise all of the powers and perform all of the duties conferred on a board
19 of harbor commissioners under ss. ~~30.34, 30.35 and 30.38~~ 30.495, 30.496, and 30.498,
20 but Milwaukee County may not create a board of harbor commissioners if sub. (1) (b)
21 applies. Milwaukee County shall have exclusive jurisdiction over the operation,
22 administration, maintenance, improvement, alteration, and repair of any marina
23 facility or marina related anchorage located on this land.

24 **SECTION 249.** 30.38 of the statutes is renumbered 30.498, and 30.498 (3) and
25 (13) (a) and (b), as renumbered, are amended to read:

ASSEMBLY BILL 514

1 30.498 **(3)** CONTRACT PROCEDURES. In the letting of work relative to the
2 construction, repair, or maintenance of a harbor or harbor facility or in the purchase
3 of equipment, supplies, or materials relative to carrying out its powers and duties,
4 a board of harbor commissioners shall be governed by the procedures and
5 requirements set forth in s. ~~30.32~~ 30.493.

6 **(13)** (a) All moneys appropriated to a board of harbor commissioners, all
7 revenues derived from the operation of the public harbor except in the case of a joint
8 harbor revenue from joint improvements before division thereof, and all other
9 revenues of the board shall be paid into the municipal treasury and credited to the
10 harbor fund, except that revenues assigned or pledged under s. ~~30.35~~ 30.496 (6) or
11 66.1103 shall be paid into the fund or funds provided for in the ordinance or
12 resolution authorizing the issuance of the bonds and shall be applied in accordance
13 with that ordinance or resolution.

14 (b) Subject to the limitations and conditions otherwise expressed in this section
15 and to a budget approved by the municipal governing body, moneys in the harbor
16 fund may be used for the acquisition, construction, improvement, repair,
17 maintenance, operation, and administration of the public harbor and harbor
18 facilities and for the acquisition, chartering, and operation of vessels under sub. (8)

19 (b) 3. Except as provided in s. ~~30.34~~ 30.495 (4), such moneys shall be paid out of the
20 harbor fund only on orders signed by the president and secretary of the board, or
21 some other official authorized by the board, after the allowance of claims by the board
22 or on orders entered in the minutes of the board. Disbursements from the harbor
23 fund shall be audited as other municipal disbursements are audited; however, the
24 board may determine on some other procedure it deems appropriate for the
25 consideration of claims and the reporting thereof notwithstanding the provisions of

ASSEMBLY BILL 514

1 this paragraph. If a procedure other than that set forth in this paragraph is
2 prescribed by the board, the approval of the chief auditing officer shall be obtained.

3 **SECTION 250.** 30.381 (title) of the statutes is created to read:

4 **30.381 (title) Subchapter penalties.**

5 **SECTION 251.** 30.381 (3) (title) of the statutes is created to read:

6 30.381 (3) (title) FISHING RAFTS.

7 **SECTION 252.** 30.381 (4) (title) of the statutes is created to read:

8 30.381 (4) (title) STRUCTURES AND DEPOSITS.

9 **SECTION 253.** 30.381 (4) (b) of the statutes is created to read:

10 30.381 (4) (b) Any person who, after having been found under this subsection
11 to have violated s. 30.12, violates s. 30.12 shall be fined not more than \$1,000 or
12 imprisoned for not more than 6 months or both if the present offense occurs within
13 5 years after a finding under par. (a) or a conviction under this paragraph.

NOTE: The criminal penalty in current law for violating s. 30.12 permit
requirements is the only criminal penalty in subch. II. This provision modifies the
criminal penalty so that it applies to repeat violations. The current civil penalty
(forfeiture) in s. 30.15 (1) (d), renumbered in this bill, continues to apply to any violations
of s. 30.12.

14 **SECTION 254.** 30.381 (5) of the statutes is created to read:

15 30.381 (5) WHARVES, PIERS, AND SWIMMING RAFTS. Any person who constructs or
16 places a wharf, pier, or swimming raft in navigable waters in violation of s. 30.13
17 shall forfeit not less than \$100 nor more than \$500 for each offense. Each day during
18 which a wharf, pier, or swimming rafts exists in violation of s. 30.13 is a separate
19 offense.

20 **SECTION 255.** 30.381 (6) (title) of the statutes is created to read:

21 30.381 (6) (title) DIVERSIONS OF WATER; CHANGING OF STREAM COURSES.

ASSEMBLY BILL 514

1 **SECTION 256.** Subchapter IV (title) of chapter 30 [precedes 30.40] of the
2 statutes is renumbered subchapter III (title) of chapter 30 [precedes 30.40].

3 **SECTION 257.** 30.50 (1b) of the statutes is created to read:

4 30.50 (1b) “Aids to navigation” means buoys, beacons, and other fixed objects
5 in the water that are used to mark obstructions to navigation or to direct navigation
6 through safe channels.

NOTE: This definition is moved here from current s. 30.74 (2) (b).

7 **SECTION 258.** 30.50 (2) of the statutes is renumbered 30.01 (1bm).

NOTE: The definition of “boat” or “vessel” is relocated to the definitions applicable
to the entire chapter.

8 **SECTION 259.** 30.50 (4q) of the statutes is amended to read:

9 30.50 (4q) “Lake sanitary district” means a town sanitary district that has
10 within its boundaries at least 60% of the footage of shoreline of a public inland lake,
11 as defined in s. 60.782 (1), for which a public inland lake protection and rehabilitation
12 district is not in effect. The footage of shoreline shall be measured by use of a map
13 wheel on the U.S. geological survey 7 1/2 minute series map.

NOTE: The current statutes provide for the determination of shoreline footage in
s. 30.105. Section 30.105 is replicated in the 3 statutes where measurement of shoreline
footage is specified.

14 **SECTION 260.** 30.50 (4u) of the statutes is created to read:

15 30.50 (4u) “Local governmental unit” means a city, village, town, county, town
16 sanitary district, or public inland lake protection and rehabilitation district.

17 **SECTION 261.** 30.50 (9) of the statutes is amended to read:

18 30.50 (9) “Owner” Except as provided in s. 30.605, “owner” means the person
19 who has lawful possession of a boat by virtue of legal title or equitable interest
20 therein which entitles the person to lawful possession.

21 **SECTION 262.** 30.50 (9b) of the statutes is created to read:

ASSEMBLY BILL 514

1 30.50 (9b) “Patrol boat” means a boat authorized by this state or by a local
2 governmental unit for the purpose of law enforcement, search and rescue, fire
3 fighting, emergency response, or water safety operations, including a water safety
4 patrol unit.

NOTE: “Patrol boat” is defined here and used consistently in subch. V in statutes related to the equipment and operation of such boats.

5 **SECTION 263.** 30.50 (10m) of the statutes is created to read:

6 30.50 (10m) “Regulatory marker” means any anchored or fixed marker in the
7 water or anchored platform on the surface of the water, other than aids to navigation,
8 and includes a swimming area marker, speed zone marker, information marker,
9 mooring buoy, fishing buoy, and restricted activity area marker.

NOTE: This definition is moved here from current s. 30.74 (2) (b).

10 **SECTION 264.** 30.50 (13r) of the statutes is created to read:

11 30.50 (13r) “Water skiing or a similar activity” means any activity in which a
12 person is towed in the water behind or alongside of a boat, including barefoot skiing,
13 aquaplaning, kneeboarding, or being towed on an inflatable device.

NOTE: This clarifies the use of the term “water skiing or a similar activity”. The list of activities after “including” is not meant to be exclusive. This definition is intended to apply to other similar activities that are currently enjoyed on the water, or that may be developed and introduced in the future.

14 **SECTION 265.** 30.5005 of the statutes is created to read:

15 **30.5005 Department duties and powers. (1) FEDERAL LAW.** The department
16 shall submit proposed legislation to the legislature in the manner provided under s.
17 13.172 (2) in order to conform the requirements under ss. 30.50 to 30.71 with federal
18 statutes and regulations.

NOTE: This provision directs the department to suggest new legislation to keep statutory boat registration, equipment and operation requirements in conformity with federal regulations. Current statutes specifically requiring conformity with federal regulations [ss. 30.501 (8), 30.505, 30.61 (9), 30.62 (9) and 30.67 (2) (a)] are amended or repealed. The special committee does not intend by this new procedure to withdraw the

ASSEMBLY BILL 514

statutory authority for any rules promulgated by the DNR that adopt federal statutes or regulations, whether wholly or in part.

1 **(2) RULES; GENERALLY.** The department may promulgate rules under this
2 subchapter. Any reference to a provision of this subchapter includes any rule
3 promulgated under that provision.

NOTE: The first sentence of sub. (2), above, restates the authority of the DNR to promulgate rules. This bill eliminates various statutes that grant permissive rule-making authority in subch. V. The 2nd sentence in sub. (2), above, eliminates the need for several instances of the phrase in the form, "this section, or rules promulgated under this section", and applies that principle to all rules promulgated under subch. V. In addition, it should be noted that DNR has emergency rule-making authority under s. 227.24.

4 **SECTION 266.** 30.501 (8) of the statutes is repealed.

NOTE: Current s. 30.501 (8) authorizes the DNR to promulgate rules regarding boat capacity plates, and requires the rules to conform with appropriate federal regulations. This provision is repealed for several reasons. First, the authorization to promulgate regulations is stated generally for all of subch. V in new s. 30.5005 (1) (b). Second, it is not necessary to state that the rules must comply with federal regulations. Third, if there is an issue regarding the consistency of statutes with federal regulations, that is a matter for the legislature, and not for DNR rules.

5 **SECTION 267.** 30.501 (9) of the statutes is amended to read:

6 30.501 **(9)** This section applies to vessels manufactured ~~after January 1, 1966~~
7 ~~and~~ prior to November 1, 1972. All vessels manufactured on or after November 1,
8 1972, shall comply with appropriate federal regulations and the capacity
9 information shall be displayed as required.

NOTE: Section 30.501 relates to capacity plates on boats. This amendment makes the statute applicable to all boats manufactured prior to November 1, 1972.

10 **SECTION 268.** 30.505 of the statutes is amended to read:

11 **30.505 Certificate of number system to conform to federal system.** The
12 certificate of number system and the issuance of identification numbers employed
13 by the department shall be in conformity with the overall system of identification
14 numbering for boats established by the U.S. federal government. The department
15 ~~shall promulgate rules as are necessary to bring the state certificate of number~~

ASSEMBLY BILL 514

1 ~~system and the issuance of identification numbers into conformity with this federal~~
2 ~~system.~~

NOTE: The rationale for this amendment is the same as that stated in the note describing the repeal of s. 30.501 (8).

3 **SECTION 269.** 30.52 (1) (b) 1r. of the statutes is amended to read:

4 30.52 (1) (b) 1r. ~~A When a person applying applies for registration of a federally~~
5 ~~documented vessel, the department shall submit as part of the application a~~
6 ~~photocopy of the front and back of verify that the federal certificate of documentation~~
7 ~~for the vessel, which must be is current at the time of applying for registration.~~

NOTE: Information on federally documented vessels is available on the U.S. Coast Guard web site, and the DNR may verify the federal documentation by that means. The DNR may also request a photocopy of the federal registration.

8 **SECTION 270.** 30.537 (4) (e) of the statutes is repealed.

NOTE: This provision requires a person who receives notice from the DNR under s. 30.571 regarding perfection of a security interest on a boat titled in another state to pay a \$2 fee to the DNR. The DNR does not have an effective means to collect this fee and does not currently collect it, and it is therefore repealed.

9 **SECTION 271.** 30.54 (2) of the statutes is amended to read:

10 30.54 (2) If a person applies for a replacement certificate under sub. (1),
11 conservation wardens or local law enforcement officials, after presenting
12 appropriate credentials to the owner or legal representative of the owner named in
13 the certificate of title, ~~shall~~ may inspect the boat's engine serial number or hull
14 identification number, for purposes of verification or enforcement.

NOTE: This provision relates to replacement certificates of title. This provision requires a conservation warden or local law enforcement official to inspect the hull number of engine number of a boat in order to verify it in connection with replacement of the certificate of title by the DNR. This inspection is not consistently performed, and this bill makes the inspection optional.

15 **SECTION 272.** 30.571 of the statutes is amended to read:

16 **30.571 Notification of person who has perfected security interest.** If the
17 department receives information from another state that a boat that is titled in this

ASSEMBLY BILL 514

1 state is being titled in the other state and the information does not show that a
2 perfected security interest, as shown by the records of the department, has been
3 satisfied, the department shall notify the person who has perfected the security
4 interest. ~~The person shall pay the department the fee under s. 30.537 (4) (e) for each~~
5 ~~notification.~~

NOTE: The fee referenced in this provision is eliminated by this bill.

6 **SECTION 273.** 30.60 of the statutes is repealed.

NOTE: Current s. 30.60 creates a motorboat classification system based on boat length. These classifications are only used in 3 places in the current statutes: ss. 30.61 (2) and (3) and 30.69 (1) (a). Rather than use this classification system, those statutes are amended to substitute reference to the length of the motorboat.

7 **SECTION 274.** 30.605 of the statutes is created to read:

8 **30.605 Owner; definition.** In ss. 30.61 to 30.71, “owner” means any of the
9 following:

10 (1) An owner, as defined in s. 30.50 (9).

11 (2) A lessee of a boat.

NOTE: “Lessee” is added to the definition of owner to assure that the statutes apply to those who may lease a boat on a long-term basis. Section 30.50 (9) defines “owner” to include a person who has an equitable interest in a boat, but that term does not necessarily describe a lease and, in any case, that definition is meant to apply primarily to boat titling and registration statutes. “Lessee” does not include short-term rental of boats, such as on a daily or weekly basis.

12 **SECTION 275.** 30.61 (1), (2) (intro.), (3) (intro.), (4), (6) (b), (7) and (8) of the
13 statutes are amended to read:

14 30.61 (1) **WHEN LIGHTS REQUIRED; PROHIBITED LIGHTS.** (a) No person shall may
15 operate any motorboat at any time from sunset to sunrise unless ~~such~~ the motorboat
16 carries the lighting equipment required by this section and unless ~~such~~ the lighting
17 equipment is lighted when and as required by this section.

ASSEMBLY BILL 514

1 (b) No owner shall ~~may give a person permission for the operation of~~ to operate
2 a motorboat at any time from sunset to sunrise unless such ~~the~~ motorboat is equipped
3 as carries the lighting equipment required by this section.

4 (c) No person shall ~~may exhibit from or~~ on any motorboat when under way at
5 any time from sunset to sunrise any light which may be mistaken for those required
6 by this section.

7 (2) LIGHTS FOR MOTORBOATS OF CLASSES A AND 1 LESS THAN 26 FEET LONG. (intro.)
8 All motorboats of classes A and 1 less than 26 feet long when under way at any time
9 from sunset to sunrise shall carry and have lighted the following lamps:

10 (3) LIGHTS FOR MOTORBOATS OF CLASSES 2 AND 3 26 OR MORE FEET LONG. (intro.) All
11 motorboats of classes 2 and 3 26 or more feet long when under way at any time from
12 sunset to sunrise shall carry and have lighted the following lamps:

13 (4) SAILBOATS WITH MOTORS. ~~Sailboats~~ A sailboat equipped with ~~motors~~ a motor
14 and being propelled in whole or in part by such ~~the~~ motor ~~must~~ shall comply with sub.
15 (2) or (3), ~~whichever is~~ as applicable. Whenever such a sailboat is being propelled
16 entirely by sail at any time from sunset to sunrise, it shall have lighted the lamps
17 showing the colored lights specified in sub. (2) or (3), but not the lamps showing the
18 white lights, and shall carry ready at hand a lantern or flashlight showing a white
19 light which shall be exhibited in sufficient time to avert collision.

20 (6) (b) ~~This subsection does not require any light to be shone from~~ A duck blinds
21 blind constructed on emergent vegetation is not required to be lighted.

22 (7) PERFORMANCE DESIGN SPECIFICATIONS FOR LAMPS. Every white light
23 ~~prescribed~~ required by this section shall be of such character as designed to be visible
24 at a distance of at least 2 miles on a dark night with clear atmosphere. Every colored
25 light ~~prescribed~~ required by this section shall be of such character as designed to be

ASSEMBLY BILL 514

1 visible at a distance of at least one mile on a dark night with clear atmosphere. The
2 owner of a motorboat that is required to carry lighting equipment under this section
3 shall maintain the equipment so that the equipment functions as designed.

NOTE: The current statute requires lights to be “of such character” as to be “visible”. This language establishes a design standard for the lights, and the requirement is revised and clarified accordingly. A requirement to maintain the lights is added.

4 **(8) OPTIONAL LIGHTING REQUIREMENTS.** Any boat may carry and exhibit the lights
5 required by the federal international regulations for preventing collisions at sea,
6 ~~1948, federal act of October 11, 1951, (33 USC 143-147d) as amended, as~~
7 implemented by 33 CFR part 81 and interpreted by 33 CFR part 82 in lieu of the
8 lights required by subs. (2) and (3).

9 **SECTION 276.** 30.61 (9) of the statutes is repealed.

NOTE: The current statute requires DNR to promulgate rules to keep the lighting requirement consistent with federal law. This provision is replaced by a directive in new s. 30.5005 for the DNR to propose statutory amendments to keep statutory registration, equipment and operation requirements in conformity with federal regulations.

10 **SECTION 277.** 30.61 (10) of the statutes is renumbered 30.68 (13) and amended
11 to read:

12 30.68 **(13) OPERATION NIGHTTIME OPERATION OF PERSONAL WATERCRAFT.** (a)
13 ~~Notwithstanding subs. (1), (2), (8) and (9), no~~ No person may operate a personal
14 watercraft at any time from sunset to sunrise.

15 (b) If a person operates a personal watercraft in violation of par. (a), the
16 operation shall be subject to additional penalties for any failure to comply with the
17 applicable lighting requirements under ~~subs. s. 30.61 (1), (2), and (8) and (9).~~

18 **SECTION 278.** 30.62 (title), (1) and (2) (b) of the statutes are amended to read:

19 **30.62 (title) ~~Other equipment~~ Equipment other than lighting. (1) WHEN**
20 **EQUIPMENT REQUIRED.** No person shall may operate any boat on the waters of this

ASSEMBLY BILL 514

1 state unless ~~such~~ the boat is equipped as required by this section ~~and the rules of the~~
2 ~~department promulgated under this section.~~

3 **(1m) RENTAL BOATS.** No owner of a boat ~~shall~~ may rent ~~such a~~ a boat to any other
4 person for use ~~upon~~ on the waters of this state unless ~~such~~ the boat is equipped at
5 the time of rental as required by this section ~~and the rules of the department~~
6 ~~promulgated under this section. If such.~~ If the boat is properly equipped at the time
7 of rental for conditions then existing, the responsibility of the owner under this
8 section is met, notwithstanding a subsequent change in the number of passengers
9 or a change in time from daylight to dark.

NOTE: The provision regarding rules of the department is repealed and replaced
by a general provision in new s. 30.5005 as created by this bill. That provision states that
any reference to statutory requirements includes additional requirements promulgated
by the DNR by rule pursuant to that statutory requirement.

10 **(2) (b) Maximum noise levels for operation.** No person may operate a motorboat
11 powered by an engine ~~on the waters of this state~~ in such a manner as to exceed a noise
12 level of 86 measured on an “A” weighted decibel scale.

13 **SECTION 279.** 30.62 (2) (c) of the statutes is renumbered 30.62 (2) (c) 1. and
14 amended to read:

15 30.62 **(2) (c) 1.** No person may sell, resell, or offer for sale any motorboat for use
16 on the waters of the state if the motorboat has been so modified that it cannot be
17 operated ~~in such a manner that it will comply with the noise level requirements~~
18 ~~under~~ in compliance with par. (b).

19 **SECTION 280.** 30.62 (2) (c) 2. of the statutes is created to read:

20 30.62 **(2) (c) 2.** No person engaged in the business of selling motorboats at retail
21 within this state may sell a motorboat for use on the waters of this state in the
22 ordinary course of that person’s business if the motorboat cannot be operated in
23 compliance with par. (b).

ASSEMBLY BILL 514

NOTE: Current s. 30.62 (2) (d) prohibits the manufacture and sale of a motorboat for use in this state if it does not comply with maximum noise levels. That statute does not prohibit offering for sale a motorboat that does not meet maximum noise level standards if the boat is not manufactured in this state. This new provision prohibits the retail sale of a motorboat for use on the waters of this state if the motorboat does not meet noise level requirements.

1 **SECTION 281.** 30.62 (2) (d) 1. of the statutes is renumbered 30.62 (2) (d) and
2 amended to read:

3 30.62 (2) (d) *Maximum noise level for manufacture.* No person may
4 manufacture ~~and or~~ offer for sale any motorboat for use on the waters of this state
5 if the motorboat cannot be operated ~~in such a manner so as to comply with the noise~~
6 ~~level requirements under~~ in compliance with par. (b).

7 **SECTION 282.** 30.62 (2) (d) 2. of the statutes is renumbered 30.62 (2) (dm) and
8 amended to read:

9 30.62 (2) (dm) *Testing procedures.* The department may promulgate rules
10 establishing testing procedures to determine noise levels for the enforcement of this
11 section. The department may revise these rules as necessary to adjust to advances
12 in technology.

13 **SECTION 283.** 30.62 (2) (d) 3. of the statutes is repealed.

14 **SECTION 284.** 30.62 (2) (f) of the statutes is repealed.

NOTE: This provision requires local ordinances to be identical to this statute. This requirement is imposed by s. 30.77 and is unnecessary here.

15 **SECTION 285.** 30.62 (2) (g) 1. to 3. of the statutes are amended to read:

16 30.62 (2) (g) 1. A motorboat while competing in a water exhibition or race
17 conducted under a permit from a town, village or city local governmental unit that
18 enacts an ordinance under s. 30.77 or from an authorized agency of the federal
19 government.

NOTE: This provision is expanded by use of "local governmental unit" to include counties, town sanitary districts, and lake districts. The reference to a local governmental unit "that enacts an ordinance under s. 30.77" is meant to require that the

ASSEMBLY BILL 514

local governmental unit have some degree of commitment to local regulation of boating. However, this provision does not require the local governmental unit to enact an ordinance related to motor boat racing or speed records. The local governmental unit may simply issue the permit. “Water exhibition” is added to make this provision consistent with s. 30.742 and rules promulgated by the DNR under s. NR 5.19, Wis. Adm. Code.

1 2. A motorboat designed and intended solely for racing, while the boat
2 motorboat is operated incidentally to the testing or tuning up of the motorboat and
3 engine for the water exhibition or race in an area designated by and operated under
4 a permit specified under subd. 1.

5 3. A motorboat on an official trial for a speed record if conducted under a permit
6 from a ~~town, village or city~~ local governmental unit that enacts an ordinance under
7 s. 30.77.

8 **SECTION 286.** 30.62 (2) (i) of the statutes is repealed.

NOTE: The repealed provision exempts governmental agents from the noise limits when on official duties. This provision is repealed and replaced by a general statute applicable to all statutes and local regulations related to police, rescue, fire fighting, and other similar official boat users. See s. 30.64 (1).

9 **SECTION 287.** 30.62 (2m) and (3) (a) of the statutes are amended to read:

10 30.62 (2m) OVERPOWERING. No person may sell, equip, or operate, and no owner
11 of a boat motorboat may allow a person to operate, a boat motorboat with any motor
12 or other propulsion machinery beyond its safe power capacity, taking into
13 consideration the type and construction of ~~such watercraft and other existing~~
14 ~~operating conditions~~ the motorboat.

NOTE: The definition of “motorboat” in s. 30.50 (6) is “any boat equipped with propulsion machinery, whether or not the machinery is the principle source of propulsion”. This provision refers to a boat with a motor or propulsion machinery, which is by definition a motorboat. This provision is redrafted accordingly. The reference to “other existing operating conditions” is deleted on the grounds that safe power capacity is determined by the size and design of the motorboat and not by operating conditions.

15 (3) (a) Every boat, except a sailboard and except as provided in ~~par.~~ pars. (b)
16 and (c), shall carry at least one personal flotation device prescribed by federal

ASSEMBLY BILL 514

1 regulations 33 CFR part 175 for each person on board or being attended by the boat,
2 so placed as to be readily accessible and available to the persons.

3 **SECTION 288.** 30.62 (3) (c) of the statutes is created to read:

4 30.62 (3) (c) 1. In this paragraph, “racing vessel” means a manually propelled
5 racing shell, rowing scull, racing canoe, or racing kayak of the type that is recognized
6 by a national or international racing association for use in competitive racing.

7 2. Paragraph (a) does not apply to a racing vessel if all of the vessel’s occupants,
8 other than a coxswain, row, scull, or paddle the vessel and if the vessel is not designed
9 to carry and does not carry any equipment other than equipment used solely for
10 competitive racing.

NOTE: This provision duplicates the exemptions in current federal rules, 33 CFR
s. 175.17.

11 **SECTION 289.** 30.62 (4) (a) of the statutes is amended to read:

12 30.62 (4) (a) Every motorboat, ~~except outboards of open construction,~~ shall be
13 provided with ~~such number, size and type of~~ fire extinguishers, ~~capable of promptly~~
14 ~~and effectively extinguishing burning gasoline,~~ as prescribed by rules of the
15 department. ~~Such~~ The fire extinguishers shall be ~~at all times~~ kept in condition for
16 immediate and effective use and shall be ~~so placed as to be~~ readily accessible. “Open
17 construction” ~~means construction which will not permit the entrapment of explosive~~
18 ~~or flammable gases or vapors.~~

19 **SECTION 290.** 30.62 (4) (b) of the statutes is renumbered 30.62 (4) (b) (intro.)
20 and amended to read:

21 30.62 (4) (b) (intro.) This subsection does not apply to ~~a~~ any of the following:

22 1. A motorboat while competing in a race conducted pursuant to a permit from
23 a town, village or city local governmental unit that enacts an ordinance under s.

ASSEMBLY BILL 514

1 30.77 or from an authorized agency of the U.S. federal government, ~~nor does it apply~~
2 ~~to a~~.

3 2. A boat designed and intended solely for racing, while the boat is operated
4 incidentally to the tuning up of the boat and engine for the race at the race location
5 on the day of the race.

6 **SECTION 291.** 30.62 (4) (b) 3. of the statutes is created to read:

7 30.62 (4) (b) 3. A motorboat that is equipped with an outboard motor and that
8 is constructed in a manner that does not permit explosive or flammable gases or
9 vapors to become entrapped in the motorboat.

10 **SECTION 292.** 30.62 (5) of the statutes is amended to read:

11 30.62 (5) BACKFIRE FLAME ARRESTERS. Every ~~boat~~ motorboat equipped with an
12 inboard motor using gasoline as a fuel shall have the carburetors of every each
13 inboard gasoline motor fitted with an ~~efficient~~ effective device for arresting backfire
14 flames. The device shall ~~meet the specifications prescribed by~~ comply with federal
15 regulations.

16 **SECTION 293.** 30.62 (6) of the statutes is renumbered 30.62 (6) (a) and amended
17 to read:

18 30.62 (6) (a) ~~Every boat, except open boats, Except as provided in par. (b), every~~
19 motorboat using as fuel ~~any liquid of a volatile nature,~~ liquid fuel shall be provided
20 with an ~~efficient natural or mechanical~~ effective ventilation system which that is
21 capable of removing resulting ~~inflammable~~ flammable or explosive gases.

22 **SECTION 294.** 30.62 (6) (b) of the statutes is created to read:

23 30.62 (6) (b) Paragraph (a) does not apply to a motorboat that is constructed
24 in a manner that does not permit explosive or flammable gases or vapors to become
25 entrapped in the motorboat.

ASSEMBLY BILL 514

1 **SECTION 295.** 30.62 (8) of the statutes is amended to read:

2 30.62 (8) BATTERY COVER. ~~Every motorboat~~ If a boat is equipped with storage
3 ~~batteries a battery as part of the boat's electrical system, the battery~~ shall be
4 ~~provided with suitable supports and secured against shifting with the motion of the~~
5 ~~boat. Such storage batteries~~ Both battery terminals shall be equipped with a
6 ~~nonconductive shielding means covered~~ to prevent accidental shorting of battery
7 terminals.

NOTE: Several changes are proposed for the provision on batteries. The current statute applies only to motorboats. If a nonmotorized boat uses a battery to power an electrical system, there does not appear to be a reason why the nonmotorized boat should not require securing and covering the battery. The current reference to "storage batteries" is replaced by a reference to a battery that is part of the boat's electrical system. This will exclude from this requirement any other equipment such as depth finders, navigation lights or global positioning system units that are typically operated by dry cell batteries or by small, separate 12 volt lead-acid batteries.

8 **SECTION 296.** 30.62 (9) of the statutes is repealed.

NOTE: The current statute requires DNR to promulgate rules to conform state requirement regulations with federal law. This provision is replaced by a general directive in new s. 30.5005 for the DNR to propose statutory amendments, registration, operation and equipment standards in conformity with federal regulations.

9 **SECTION 297.** 30.625 (1) (intro.) and (2) of the statutes are amended to read:

10 30.625 (1) (intro.) No person who is ~~engaged in the rental or leasing of~~ rents
11 or leases personal watercraft to the public may do any of the following:

12 (2) The department ~~may~~ shall promulgate rules to establish minimum
13 standards for the instruction given under sub. (1) (a).

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority of DNR to promulgate rules under this subchapter. However, rather than repealing s. 30.625 (2), it is changed to a mandatory provision. This makes this provision consistent with what appears to be the legislative intent of this provision--that the DNR is required to supplement the statute with rules regarding standards for instruction on personal watercraft operation.

14 **SECTION 298.** 30.63 of the statutes is renumbered 30.62 (10) and amended to
15 read:

ASSEMBLY BILL 514

1 30.62 (10) SALE AND USE OF CERTAIN OUTBOARD MOTORS RESTRICTED. (a) *Sale*. No
2 person may sell any new outboard motor for use ~~in~~ on the waters of this state unless
3 ~~such~~ the motor is equipped with a crankcase effectively sealed to prevent the
4 drainage of raw fuel into the waters in which the motor is operated.

5 (b) *Use*. Beginning on January 1, 1990, no person may operate an outboard
6 motor ~~in~~ on the waters of this state unless ~~such~~ the motor is equipped with a
7 crankcase effectively sealed to prevent the drainage of raw fuel into the waters in
8 which ~~such~~ the motor is operated.

9 **SECTION 299.** 30.635 of the statutes is renumbered 30.66 (4) and amended to
10 read:

11 30.66 (4) ~~MOTORBOAT PROHIBITION~~ SLOW-NO-WAKE; LAKES 50 ACRES OR LESS. ~~On~~
12 No person may operate a motorboat in excess of slow-no-wake speed on lakes of 50
13 acres or less having public access, motorboats may not be operated in excess of
14 slow-no-wake speed, except when such the lakes serve as thoroughfares between 2
15 or more navigable lakes. The department by rule may modify or waive the
16 requirements of this ~~section as to particular~~ subsection for individual lakes, if it finds
17 that public safety is not impaired by ~~such~~ the modification or waiver.

18 **SECTION 300.** 30.64 of the statutes is renumbered 30.68 (14), and 30.68 (14) (a)
19 and (b), as renumbered, are amended to read:

20 30.68 (14) (a) The operator of a ~~duly authorized~~ patrol boat, when responding
21 to an emergency call or when in pursuit of an actual or suspected violator of the law,
22 need not comply with ~~state law or local~~ this subchapter or ordinances ~~fixing~~
23 ~~maximum speed limits under s. 30.77~~ when a siren is ~~being sounded or emergency~~
24 light is activated and if due regard is given to the safety of other persons in the
25 vicinity. If ~~a~~ an emergency light is used ~~in conjunction with a siren,~~ it shall be the

ASSEMBLY BILL 514

1 ~~oscillating or flashing type and be fitted with a blue lens~~ of a type and design specified
2 under 33 CFR 88.11 or 88.12.

NOTE: Patrol boats are subject to exceptions from various boat operation statutes in ss. 30.62 (2) (i), 30.68 (7) and 30.73 (2) (a). These individual exceptions are deleted in lieu of the general exemption from all boating operation statutes and local regulations for a "patrol boat", as defined in new s. 30.50 (9b).

A blue light is required for law enforcement patrol boats. Red and yellow lights are required for fire and emergency patrol boats.

3 (b) Upon the approach of a ~~duly authorized~~ patrol boat giving an audio or visual
4 signal, the operator of a boat shall reduce the boat speed to ~~that speed necessary to~~
5 ~~maintain steerage control~~ slow-no-wake and yield the right-of-way to the patrol
6 boat until it has passed.

7 **SECTION 301.** 30.65 (1) (intro.), (b) and (f) and (2) of the statutes are amended
8 to read:

9 **30.65 (1) MEETING; OVERTAKING; RIGHT-OF-WAY.** (intro.) Every person operating
10 a boat shall comply with the following traffic rules, except when deviation ~~therefrom~~
11 from these rules is necessary to comply with federal ~~pilot~~ inland navigational rules,
12 under 33 USC 2001 to 2073 and 33 CFR parts 84 to 90, while operating on the
13 navigable waters of the United States:

14 (b) When 2 motorboats are approaching each other obliquely or at right angles,
15 the boat ~~which~~ that has the other on her ~~the~~ right shall yield the right-of-way to the
16 other. "Right" means from dead ahead, clockwise to 2 points abaft the starboard
17 beam.

18 (f) A boat granted the right-of-way by this section shall maintain her course
19 and speed, unless to do so would probably result in a collision.

20 **(2) ADDITIONAL TRAFFIC RULES.** The department may promulgate ~~such~~
21 additional traffic rules ~~as it deems necessary in the interest of public safety.~~ ~~Such~~

ASSEMBLY BILL 514**SECTION 301**

1 ~~rules shall~~ that conform as nearly as possible to the federal pilot inland navigational
2 rules under 33 USC 2001 to 2073 and the regulations under 33 CFR parts 84 to 90.

3 **SECTION 302.** 30.66 (1), (2) (title) and (3) of the statutes are amended to read:

4 30.66 (1) SPEED TO BE REASONABLE AND PRUDENT. No person ~~shall~~ may operate
5 a motorboat at a speed greater than is reasonable and prudent under the conditions
6 and having regard for the actual and potential hazards then existing. The speed of
7 a motorboat shall be ~~so~~ controlled as to avoid colliding with any boat, object ~~lawfully~~
8 ~~in or on the water or with any, or~~ person, ~~boat or other conveyance~~ in or on the water
9 ~~in compliance with legal requirements and exercising due care.~~

NOTE: The 2nd sentence of this subsection requires the speed of a motorboat to be controlled to avoid collision with objects “lawfully in or on the water” or with persons or boats that are “in compliance with legal requirements and exercising due care”. This suggests that the speed of a motorboat does not need to be controlled to avoid collision with any object, boat or person that does not meet these requirements. The amendment to this subsection requires motorboat speed to be controlled so as to avoid collision with any boat, object or person in or on the water, whether or not that boat, object or person is lawfully in or on the water or in compliance with legal requirements or exercising due care. This change establishes a principle of “defensive driving” for motorboat operation. A motorboat operator is required to control motorboat speed so as to avoid collision, no matter how any other boat is operated, any object is placed in the water, or any person uses the water.

10 (2) (title) ~~FIXED~~ POSTED LIMITS.

11 (3) ~~PROHIBITED OPERATION~~ SLOW-NO-WAKE. (a) ~~Except under s. 30.69 (3), no~~ No
12 person may operate a motorboat within 100 feet of any dock, raft, pier, or buoyed
13 restricted area on any lake at a speed in excess of slow-no-wake speed.

NOTE: The cross-reference to s. 30.69 (3) relates to restrictions on operation of a motorboat in connection with water skiing. The cross-referenced provision establishes various restrictions on the distance that must be maintained between a motorboat or personal watercraft towing a skier and various other objects. The restrictions in s. 30.69 (3) (a) to (c) do not overlap or contradict the restrictions above in s. 30.66 (3) (a). Therefore, the phrase “Except under s. 30.69 (3)”, is deleted. The exception in current s. 30.69 (3) (d) remains relevant, and is duplicated below in new s. 30.66 (3) (c). See the description in the following comment.

14 (b) No person may operate a personal watercraft at a speed in excess of
15 slow-no-wake within 100 feet of any other boat or within 200 feet of the shoreline

ASSEMBLY BILL 514

1 of any lake. ~~This paragraph does not apply if s. 30.69 (3) (a), (c) or (d) applies to the~~
2 ~~operation of the personal watercraft.~~

NOTE: The restriction on the operation of a personal watercraft within 200 feet of the shoreline of a lake was added by 1997 Wisconsin Act 198. The placement of that language in the first sentence of s. 30.66 (3) (b) creates a problem in connection with the sentence that follows. Most of the restrictions in s. 30.69 (3) (a), (c) and (d) apply to operation of a motorboat that is towing a water skier, and the distances that must be maintained between the motorboat and other objects. The problem is that, for example, if a personal watercraft operator is towing a skier, the restriction on operation within 200 feet of the shoreline of the lake does not apply. This does not appear to be the intent of the legislature. The only portion of s. 30.69 (3) (a), (c) and (d) that applies to operation of a personal watercraft that is towing a skier in relation to the shoreline is s. 30.69 (3) (d), which applies to pickup and drop areas that are marked with regulatory markers and that are open to operators of personal watercraft and to motorboats engaged in water skiing. To resolve this problem, the bill deletes the cross-reference in par. (b) and recreates the substance of the exception for pickup and drop areas in s. 30.66 (3) (c), below.

3 **SECTION 303.** 30.66 (3) (c) of the statutes is created to read:

4 30.66 (3) (c) This subsection does not apply to pickup or drop areas that are
5 marked with regulatory markers and that are open to operators of personal
6 watercraft and to persons and motorboats engaged in water skiing or a similar
7 activity.

NOTE: See the comment to s. 30.66 (3) (b), above.

8 **SECTION 304.** 30.67 (1) of the statutes is renumbered 30.67 (1m) and amended
9 to read:

10 30.67 (1m) DUTY TO RENDER AID. ~~Insofar as~~ If the operator of a boat can do so
11 without serious danger to the operator's boat or to persons on board, the operator of
12 a boat involved in a boating accident shall stop the operator's boat and render ~~to other~~
13 ~~persons affected thereby such to any person affected by the accident any~~ assistance
14 as that may be practicable and necessary to save them from or feasible to save the
15 person or to minimize any danger caused by the accident. The operator shall give
16 the operator's name and address and identification of the operator's boat to any
17 person injured and to the owner of any property damaged in the accident.

ASSEMBLY BILL 514

NOTE: “Other persons” is replaced by “any person” to clearly provide that the duty to render aid applies to any person affected by the accident. The current statute commences with the provision that the operator must be able to render aid without danger to the operator’s boat or to persons on board. It is possible to read the current statute that “other persons” does not apply to the operator or to persons on board the operator’s boat.

“Practicable” is replaced by “feasible”, to use a more understandable word and with no intention of making a change to this requirement. In effect, this is a standard of reasonableness for the effort that must be undertaken to render aid at the scene of an accident. “Necessary” is deleted as superfluous.

1 **SECTION 305.** 30.67 (2) of the statutes is amended to read:

2 30.67 (2) DUTY TO REPORT. (a) If a boating accident results in death or injury
3 to any person, the disappearance of any person from a boat under circumstances
4 indicating death or injury, or property damage, every operator of a boat involved in
5 an accident shall, without delay and by the quickest means available, give notice of
6 the accident to a ~~conservation warden or local~~ law enforcement officer and shall file
7 a written report with the department on the form prescribed by it. ~~The department~~
8 ~~shall promulgate rules necessary to keep accident reporting requirements in~~
9 ~~conformity with rules adopted by the U.S. coast guard.~~

10 (b) If the operator of a boat is physically incapable of making the report required
11 by this subsection and there was another occupant in the boat at the time of the
12 accident capable of making the report, the other occupant shall make such the report.

NOTE: The rationale for the repeal of the last sentence of this provision is the same as that stated in the note describing the repeal of s. 30.501 (8).

13 **SECTION 306.** 30.67 (3) (intro.) of the statutes is renumbered 30.67 (1g) (intro.),
14 and 30.67 (1g) (title), as renumbered, is amended to read:

15 30.67 (1g) (title) ~~TERMS DEFINED~~ DEFINITIONS.

16 **SECTION 307.** 30.67 (3) (a) and (b) of the statutes are renumbered 30.67 (1g) (a)
17 and (b).

18 **SECTION 308.** 30.67 (3) (c) of the statutes is repealed.

ASSEMBLY BILL 514

NOTE: The definition of "total property damage" is eliminated because it is not used in s. 30.67, stats. This term was originally used in connection with a property damage threshold of \$100 for reporting under current s. 30.67 (2), but that threshold is no longer part of the current statute.

1 **SECTION 309.** 30.67 (4), (5) and (6) (b) of the statutes are amended to read:

2 30.67 (4) **REPORTS CONFIDENTIAL.** No report required by this section to be filed
3 with the department shall may be used as evidence in any trial, civil or criminal,
4 arising out of an accident, except that the department shall furnish upon demand of
5 any person who has or claims to have made ~~such~~ a report, or upon demand of any
6 court, a certificate showing that a specified accident report has or has not been made
7 to the department solely to prove a compliance or a failure to comply with the
8 requirement that ~~such~~ a report be made.

9 **(5) TRANSMITTAL OF INFORMATION TO FEDERAL AND STATE AUTHORITIES.** If any
10 request for information available on the basis of reports filed pursuant to this section
11 is ~~duly~~ made by an authorized official or agency of the U.S. federal government or
12 of the state ~~which~~ that registered the boat involved or the state where the accident
13 occurred, the department shall compile and furnish ~~such~~ the information in
14 accordance with ~~such~~ the request.

15 **(6) (b)** In cases of death involving a boat in which the person died within 6 hours
16 of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from
17 the body of the decedent within 12 hours after his or her death, by the coroner or
18 medical examiner, or by a physician so designated by the coroner or medical
19 examiner or by a qualified person at the direction of the physician. All morticians
20 shall obtain a release from the coroner or medical examiner prior to proceeding with
21 embalming any body ~~coming under the scope~~ that is subject to the requirements of
22 this section. The blood so drawn shall be forwarded to a laboratory approved by the
23 state health officer for analysis of the ~~alcoholic~~ alcohol content of the blood specimen.

ASSEMBLY BILL 514

1 The laboratory shall notify the coroner or medical examiner causing the blood to be
2 withdrawn ~~shall be notified~~ of the results of each analysis made and the coroner or
3 medical examiner shall forward the results of each analysis to the state health
4 officer. The state health officer shall keep a record of all examinations to be used for
5 statistical purposes only. The cumulative results of the examinations, without
6 identifying the individuals involved, shall be disseminated and made public by the
7 state health officer. The department shall reimburse coroners and medical
8 examiners for the costs incurred in submitting reports and taking blood specimens
9 and laboratories for the costs incurred in analyzing blood specimens under this
10 section.

11 **SECTION 310.** 30.675 (intro.) and (1) of the statutes are renumbered 30.675 (1g)
12 and (1r) and amended to read:

13 30.675 (1g) The display on a boat or by a person of ~~an orange flag approximately~~
14 ~~18 by 30 inches in size~~ a visual distress signal of a type approved by the U.S. coast
15 guard under 33 CFR 175.101 to 175.140 shall indicate that such boat or person is in
16 need of help.

17 (1r) ~~Insofar as~~ If it is possible without serious danger to the operator's boat or
18 persons on board, the operator of a boat observing a distress signal shall render to
19 the boat or person displaying the signal such assistance as ~~may be practicable and~~
20 ~~necessary~~ is feasible to save the boat or person or to minimize any danger to them.

21 **SECTION 311.** 30.675 (2) of the statutes is amended to read:

22 30.675 (2) No person shall ~~may~~ display a ~~flag like that~~ distress signal described
23 ~~in~~ under sub. (1) (1g) unless such person is in need of assistance to prevent bodily
24 injury or destruction of property.

25 **SECTION 312.** 30.68 (title) and (2) of the statutes are amended to read:

ASSEMBLY BILL 514

1 **30.68** (title) **Prohibited Boat operation.**

2 **(2)** NEGLIGENT OPERATION. No person may operate or use any boat, or
3 ~~manipulate any water skis, aquaplane~~ engage in water skiing or a similar device
4 ~~upon activity on~~ the waters of this state in a careless, negligent, or reckless manner
5 so as to endanger ~~that person's life, property or person or the life, or property or of~~
6 any person of another.

NOTE: "Manipulate" is replaced by "engage in" with no intention of making any change. "Water skiing or a similar activity" is defined in s. 30.50 by this bill. The last phrase of this provision is simplified to refer to "the life or property of any person". The reference to the "life" of a person refers to risks of both injury and death. The reference to "any person" simplifies the language while continuing to refer to the person operating or using a boat, water skis, or other device, any person on board the boat, as well as any other person.

7 **SECTION 313.** 30.68 (3) (a) of the statutes is renumbered 30.68 (3) and amended
8 to read:

9 **30.68 (3)** OPERATION BY INCAPACITATED PERSON OR MINOR. No person in charge or
10 control of a boat shall may authorize or knowingly permit the boat to be operated by
11 any person who by reason of physical or mental ~~disability~~ incapacity is incapable of
12 operating ~~such~~ the boat under the prevailing circumstances.

NOTE: This subsection is split into 2 subsections (see sub. (3m), below). Subsection (3) applies only to persons lacking the capability of operating a boat. This provision currently refers to physical or mental disability, but the title uses the word "incapacitated". The title suggests that this provision is meant to be broader than a narrow concept of physical or mental disability. This bill substitutes "incapacity" for "disability". Incapacity is broader than "physical or mental disability", as it could include any condition that has a bearing on the ability to operate a boat, such as physical strength or fatigue. The last phrase, "under the prevailing circumstances", makes it clear that the capacity to operate a boat under some conditions (e.g., in a sheltered bay) may not indicate a capacity to operate the boat under other conditions (e.g., on a wind-swept lake).

13 **SECTION 314.** 30.68 (3) (b) to (d) of the statutes are renumbered 30.68 (3m) (a)
14 to (c), and 30.68 (3m) (a) and (c), as renumbered, are amended to read:

15 **30.68 (3m)** (a) No person under the age of 10 years may operate a motorboat.
16 Persons at least 10 and less than 12 years of age may operate a motorboat only if they

ASSEMBLY BILL 514

1 are either accompanied in the boat by a parent or guardian or a person at least 18
2 years of age designated by a parent or guardian. Persons at least 12 and less than
3 16 years of age may operate a ~~motor of any horsepower~~ motorboat, but only if they
4 are either accompanied by a parent or guardian or a person at least 18 years of age
5 designated by a parent or guardian, or in possession of a certificate issued under s.
6 30.74 (1). This paragraph does not apply to personal watercraft.

NOTE: The reference to a motor of any horsepower is deleted because none of the other provisions related to age of a motorboat operator related to horse power.

7 (c) A violation of par. (a) or (b) ~~or (e)~~ done with the knowledge of a parent or
8 guardian ~~shall~~ may also be deemed a violation by the parent or guardian, ~~and~~
9 ~~punishable under s. 30.80.~~

NOTE: "Shall" is replaced by "may" to provide discretion in citing a parent or guardian under the particular circumstances. "Also" is added so that the violation of requirements related to operation, leasing or rental of a motorboat or personal watercraft by a minor applies both to the minor and to the parent or guardian who knew of the violation. The current statute could be interpreted to mean that only the parent or guardian who knew of the violation is deemed to be in violation of the statute. The reference to the punishment under s. 30.80 is eliminated as unnecessary.

10 **SECTION 315.** 30.68 (3m) (title) of the statutes is created to read:

11 30.68 (3m) (title) OPERATION OF MOTORBOATS BY MINORS.

12 **SECTION 316.** 30.68 (4) (a) of the statutes is renumbered 30.68 (4) and amended
13 to read:

14 30.68 (4) CREATING HAZARDOUS WAKE OR WASH. No person ~~shall~~ may operate a
15 motorboat ~~so as to approach or pass~~ near another boat in such a manner as to create
16 that creates a hazardous wake or wash.

NOTE: The phrase regarding approaching or passing another boat is eliminated to make this provision broader. There does not appear to be a reason to limit it to these conditions of boat operation. Eliminating this phrase applies this regulation to all methods of motorboat operation, including operation in a circular course.

17 **SECTION 317.** 30.68 (4) (b) of the statutes is repealed.

NOTE: Current s. 30.68 (4) (b) creates a standard of strict liability for damage caused by the wake or wash from a motorboat. A defense is provided if the negligence of

ASSEMBLY BILL 514

the other person was the primary cause of the damage. This statute relates to private remedies and not to DNR enforcement. The special committee determined that such damage should be subject to a standard of ordinary negligence, and thus recommends repeal of this provision.

1 **SECTION 318.** 30.68 (4m) (title) and (5) of the statutes are amended to read:

2 30.68 **(4m)** (title) ~~FACING~~ PERSONAL WATERCRAFT; FACING BACKWARDS.

3 **(5)** ~~OPERATING IN CIRCULAR~~ CIRCUITOUS COURSE. No person may operate a
4 motorboat repeatedly in a circuitous course around any other boat, or around any
5 person who is swimming, if such the circuitous course is within 200 feet of such the
6 boat or swimmer; ~~nor shall any.~~

7 **(5g)** OPERATION NEAR SKIN DIVER OR SWIMMER. No person may operate a boat or
8 water skier operate or approach and no person may engage in water skiing or a
9 similar activity closer than 100 feet to any skin diver's flag or any swimmer unless
10 the one of the following applies:

11 (a) The person is operating a boat that is part of the a skin diving operation or,

12 (b) The person is operating a boat that is accompanying the a swimmer, or
13 unless physical conditions make compliance impossible.

14 **SECTION 319.** 30.68 (5g) (c) of the statutes is created to read:

15 30.68 **(5g)** (c) There is insufficient room for the person to operate the boat 100
16 or more feet from the skin diver's flag or the swimmer and the boat is not being
17 operated in excess of slow-no-wake speed.

NOTE: The current statute prohibits operation of a boat or use of water skis or similar devices within 100 feet of a skin diver's flag or a swimmer. An exception is provided for boats that are part of a skin diving operation or that are accompanying a swimmer. A further exception applies if "physical conditions" make compliance impossible. Presumably, this latter exception applies to narrow areas on a body of water (e.g., channels or rivers) or when swimming or skin diving occurs near a boat landing. The language of the current statute is clarified to better describe the latter exception with a reference to the available room to navigate. Further, in the latter exception, a requirement to operate at slow-no-wake speed is imposed for boats operating within 100 feet of a skin diver's flag or a swimmer pursuant to this exception. It should be noted that s. 30.70 prohibits diving in established traffic lanes.

ASSEMBLY BILL 514

1 **SECTION 320.** 30.68 (5m) of the statutes is renumbered 30.66 (5) and amended
2 to read:

3 30.66 (5) ~~TOWING SLOW-NO-WAKE; TOWING~~ BY A PERSONAL WATERCRAFT. A person
4 may use a personal watercraft to tow a stranded or disabled boat if, during towing,
5 the speed of the personal watercraft does not exceed slow-no-wake.

6 **SECTION 321.** 30.68 (6) of the statutes is amended to read:

7 30.68 (6) ~~RIDING ON DECKS AND GUNWALES.~~ No person operating a motorboat may
8 ride or sit, or may allow any other person in the motorboat to ride or sit, on the
9 gunwales, on tops of seat backs or sides, or on the decking over the bow of the boat
10 in an unsafe manner while under way, unless ~~such~~ the person is inboard of guards
11 or railings provided on the boat to prevent persons from being lost overboard.
12 Nothing in this ~~section~~ subsection shall be construed to prohibit entry upon the
13 decking over the bow of the boat for the purpose of anchoring, mooring, or casting off
14 or other necessary purpose.

15 **SECTION 322.** 30.68 (7) (title) of the statutes is amended to read:

16 30.68 (7) (title) ~~RESTRICTED SWIMMING AREAS AND REGULATORY MARKERS.~~

17 **SECTION 323.** 30.68 (7) of the statutes is renumbered 30.68 (7) (a) and amended
18 to read:

19 30.68 (7) (a) No person shall may operate a boat within ~~a water~~ any area which
20 that has been clearly marked by regulatory markers or buoys ~~or some other~~
21 ~~distinguishing device as a bathing or swimming area; nor.~~

22 (b) No person may operate a boat in restricted use areas contrary to regulatory
23 notice pursuant to s. 30.74 (2). ~~This subsection does not apply in the case of an~~
24 ~~emergency, or to patrol or rescue craft~~ markers.

ASSEMBLY BILL 514

NOTE: The deletion of "restricted use areas" clarifies that this provision applies to all regulatory markers, whether or not the regulatory marker designates a restricted use area. See s. 30.68 (14) for the general exception for patrol boats.

1 **SECTION 324.** 30.68 (8) and (8m) (a) of the statutes are amended to read:

2 30.68 **(8)** ANCHORING IN TRAFFIC LANES. No person may anchor, place, affix, or
3 abandon any unattended boat, raft, float, or similar structure in the traveled portion
4 of any river or channel or in any traffic lane ~~established and legally marked~~
5 designated by aids to navigation, so as to prevent, impede or interfere with the safe
6 passage of any other boat ~~through the same~~.

7 **(8m)** (a) No person may use a mooring ~~or attach a boat to a mooring buoy~~ if the
8 mooring ~~or mooring buoy~~ violates s. 30.772 or 30.773.

NOTE: "Attach a boat to a mooring buoy" duplicates the prohibition on use of a mooring. "Mooring" is defined in s. 30.01 (3e), when used as a noun, to mean "a mooring anchor and mooring buoy together with attached chains, cables, ropes and pennants and related equipment, unless the term is qualified or restricted".

9 **SECTION 325.** 30.68 (8m) (c) of the statutes is created to read:

10 30.68 **(8m)** (c) No person may attach a boat to any aid to navigation or
11 regulatory marker, except to mooring buoys.

NOTE: The prohibition in new sub. (8m) (c) is moved to this location from s. 30.68 (12).

12 **SECTION 326.** 30.68 (9) and (11) of the statutes are amended to read:

13 30.68 **(9)** OVERLOADING. No person may operate, and no owner of a boat may
14 allow a person to operate, a boat that is loaded with passengers or cargo beyond its
15 safe carrying capacity, taking into ~~consideration weather and other~~ account existing
16 operating conditions.

17 **(11)** UNNECESSARILY SOUNDING WHISTLES HORNS; USE OF FLASHING LIGHTS. No
18 person shall may unnecessarily sound a horn, whistle or other sound-producing
19 device on any boat while ~~at anchor or under way~~ on the water. The use of a siren ~~or~~
20 a light that resembles an emergency light specified under sub. (14) (a) on any boat

ASSEMBLY BILL 514

1 except ~~duly authorized a patrol boats on patrol or rescue~~ boat that is on duty is
2 prohibited.

NOTE: "At anchor or underway" is replaced by "on the water" to make this prohibition broader. For example, the broader language would prohibit unnecessary sounding of a horn while a boat is tied to a dock. "Emergency light" is added to the prohibition on use of a siren.

3 **SECTION 327.** 30.68 (12) of the statutes is repealed.

NOTE: The prohibition on mooring or fastening a boat to aids to navigation or regulatory markers is deleted here and recreated in s. 30.68 (8m) (c), above.

4 **SECTION 328.** 30.68 (14) (title) of the statutes is created to read:

5 30.68 (14) (title) PATROL BOATS.

6 **SECTION 329.** 30.69 (title) of the statutes is amended to read:

7 **30.69** (title) **Water skiing and similar activities.**

8 **SECTION 330.** 30.69 (1) (title) of the statutes is amended to read:

9 30.69 (1) (title) ~~PROHIBITED AT CERTAIN TIMES~~ PROHIBITIONS; EXCEPTIONS.

10 **SECTION 331.** 30.69 (1) (a) of the statutes is renumbered 30.69 (1) (a) (intro.)
11 and amended to read:

12 30.69 (1) (a) (intro.) ~~Except as provided in par. (b), no~~ No person may operate
13 do any of the following:

14 1. Operate a motorboat towing a person ~~on~~ engaged in water skis, aquaplane
15 ~~or skiing or a similar device activity~~ unless there is in the boat a competent person
16 in addition to the operator ~~in a position to observe the progress of the person being~~
17 ~~towed. An observer shall be considered competent if that person~~ who is in a position
18 to observe, and can in fact observe, the person being towed and relay any signals to
19 the operator. ~~This observer requirement does not apply to motorboats classified as~~
20 ~~Class A motorboats by the department actually operated by the persons being towed~~

ASSEMBLY BILL 514

1 ~~and so constructed as to be incapable of carrying the operator in or on the motorboat.~~

2 ~~No person may engage~~

3 ~~2. Engage in water skiing, aquaplaning or a similar activity, or operate a~~
4 ~~motorboat towing a person engaged in water skiing or a similar activity, at any time~~
5 ~~from sunset to sunrise. This restriction of the hours of water skiing does not prevent~~
6 ~~restrictions of the hours of water skiing between sunrise and sunset by local~~
7 ~~ordinances enacted pursuant to s. 30.77 (3).~~

NOTE: The reference to local ordinances is eliminated, and all provisions related to local ordinances will be consolidated in s. 30.77. It is proposed to expand this prohibition to apply to the motorboat operator as well as to the person engaged in water skiing or a similar activity.

8 **SECTION 332.** 30.69 (1) (b) of the statutes is renumbered 30.69 (1) (b) (intro.)

9 and amended to read:

10 30.69 (1) (b) (intro.) Paragraph (a) 1. does not apply to ~~duly authorized water~~
11 any of the following:

12 1. Water ski tournaments, competitions, exhibitions ~~or trials therefor, where~~
13 adequate lighting is provided, or practice sessions that are authorized by a permit
14 from a local governmental unit that enacts an ordinance under s. 30.77.

NOTE: The reference to “duly authorized” water ski tournaments and other activities is unclear. A specific reference to authorization by means of a permit from a local governmental unit that adopts ordinances under s. 30.77 is substituted for that phrase.

“Practice sessions” is substituted for “trials”. The meaning of “trials” is not clear, although one sense of that word is a preliminary competition. The special committee believes that the exemption from the observer requirement is widely understood to apply to all activities related to organized water ski activities, including practice sessions, and that the broader exemption from the observer requirement is appropriate, so the statute is redrafted accordingly.

Current s. 30.69 (1) (a) commences with “Except as provided in par. (b)”. That provision is recreated above in s. 30.69 (1) (c), with the omission of the reference to the provision of adequate lighting. It appears to be the intent of the current statute that the observer requirement does not apply to water ski tournaments, competitions, exhibitions or practice sessions under any circumstances.

15 **SECTION 333.** 30.69 (1) (b) 2. of the statutes is created to read:

ASSEMBLY BILL 514

1 30.69 (1) (b) 2. Motorboats less than 16 feet long that are operated by the person
2 being towed and that are so constructed as to be incapable of carrying the operator
3 in or on the motorboat.

4 **SECTION 334.** 30.69 (1) (bm) of the statutes is created to read:

5 30.69 (1) (bm) Paragraph (a) 2. does not apply to water ski tournaments,
6 competitions, exhibitions, or practice sessions that are conducted under a permit
7 from a local governmental unit that enacts an ordinance under s. 30.77 and for which
8 adequate lighting is provided.

9 **SECTION 335.** 30.69 (1) (c) of the statutes is renumbered 30.69 (1) (b) 3. and
10 amended to read:

11 30.69 (1) (b) 3. ~~In addition to complying with par. (a), no person may operate~~
12 ~~a~~ A personal watercraft that is towing a person who is on engaged in water skis, an
13 ~~aquaplane skiing or a similar device activity unless the personal watercraft is~~
14 ~~designed to seat at least 3 persons.~~

15 **SECTION 336.** 30.69 (2) of the statutes is amended to read:

16 30.69 (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat
17 having in tow a person ~~on water skis, aquaplane or engaged in water skiing or a~~
18 ~~similar device activity shall operate such boat the motorboat in a careful and prudent~~
19 ~~manner and at a reasonable distance from persons and property so as not to~~
20 ~~endanger the life or property of any person.~~

21 **SECTION 337.** 30.69 (3) of the statutes is amended to read:

22 30.69 (3) RESTRICTIONS. (a) No person operating a motorboat that is towing
23 ~~persons~~ a person engaged in water skiing, ~~aquaplaning~~ or a similar activity may
24 operate the motorboat within 100 feet of any occupied, anchored boat, any personal
25 watercraft, or any marked swimming area or public boat landing.

ASSEMBLY BILL 514

1 (b) No person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity
2 may ~~get~~ come within 100 feet of a personal watercraft or allow the tow rope while in
3 use to ~~get~~ come within 100 feet of a personal watercraft.

4 (c) 1. A motorboat towing a person who is engaged in water skiing, ~~aquaplaning~~
5 or a similar activity.

6 2. The tow rope of a motorboat towing a person who is engaged in water skiing,
7 ~~aquaplaning~~ or a similar activity.

8 3. A person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity.

9 (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked
10 with regulatory markers and that are open to operators of personal watercraft and
11 to persons and motorboats engaged in water skiing or a similar activity.

12 **SECTION 338.** 30.69 (4) of the statutes is amended to read:

13 30.69 (4) INTOXICATED OPERATION. No person may use engage in water skis, ~~an~~
14 ~~aquaplane~~ skiing or a similar device activity while under the influence of an
15 intoxicant to a degree which renders him or her incapable of safely using engaging
16 in water skis, ~~an aquaplane~~ skiing or a similar device activity, or under the combined
17 influence of an intoxicant and any other drug to a degree which renders him or her
18 incapable of safely using engaging in water skis, ~~an aquaplane~~ skiing or a similar
19 device activity.

20 **SECTION 339.** 30.70 of the statutes is renumbered 30.70 (1) and amended to
21 read:

22 30.70 (1) No person may engage in ~~underwater diving~~ or swimming with the
23 use of swimming fins or skin diving in waters other than marked swimming areas
24 or within 150 feet of the shoreline, and ~~no~~ unless the location of the swimming or
25 diving is marked by a diver's flag. No person may engage in ~~underwater diving~~ or

ASSEMBLY BILL 514

1 swimming with the use of self-contained any underwater breathing apparatus in
2 waters other than marked swimming areas, unless the location of such the diving or
3 swimming is distinctly marked by a diver's flag, ~~not less than~~.

NOTE: "Underwater diving" is eliminated and "skin diving" is retained. Skin diving appears to be a clear reference to all types of diving that do not involve the use of an underwater breathing apparatus.

4 (2) A diver's flag under sub. (1) shall consist of a flag that is 12 inches high and
5 15 inches long, displaying and displays one diagonal white stripe 3 inches wide on
6 a red background, and. The diver's flag shall be of a height above the water so as to
7 be clearly apparent at a distance of 100 yards under normal conditions, and so
8 designed and displayed as to be visible from any point on the horizon. Except in case
9 of emergency, anyone no person engaging in such diving or swimming shall not that
10 requires a diver's flag may rise to the surface outside of a radius of 50 feet from such
11 the diver's flag.

12 (3) No person engaged in such diving or swimming shall that requires a diver's
13 flag may interfere with the operation of anyone fishing nor or engage in such diving
14 or swimming in established traffic lanes; nor shall any such person alone or with
15 another, intentionally or unintentionally, block or. No person engaged in diving or
16 swimming that requires a diver's flag may obstruct any boat in any manner from
17 proceeding to its destination in its course where -a- no reasonable alternative is
18 unavailable available. A reasonable alternative route course is available when the
19 otherwise unobstructed boat can proceed to its destination pass the diver's flag
20 without reducing its lawful speed, by passing to the right or to the left of a marked
21 diving operation while complying with s. 30.68 (5g).

NOTE: This provision is modified to eliminate the requirement that the boat must be proceeding to its destination in order for the prohibition on obstructing the boat to apply. This makes the prohibition on obstructing a boat applicable to any legal course

ASSEMBLY BILL 514

that the boat may take. The added reference to s. 30.68 (5g) is the newly numbered requirement for boats to remain at least 100 feet from a diver's flag.

1 **SECTION 340.** 30.71 (1) of the statutes is repealed.

NOTE: The definition of "outlying waters" duplicates the definition of that term in current s. 30.01 (4r).

2 **SECTION 341.** 30.73 (2) (a) of the statutes is amended to read:

3 30.73 (2) (a) ~~Peace officers or rescue units engaged in emergency operations~~
4 Patrol boat operators.

NOTE: See the exception for patrol boat operators in s. 30.68 (14), as renumbered from s. 30.64.

5 **SECTION 342.** 30.73 (4) of the statutes is repealed.

NOTE: Section 30.73 pertains to use regulations on the Brule River. Subsection (4) establishes a penalty by cross-reference to s. 30.80 (1). However, that cross-reference is unnecessary because s. 30.80 (1) provides that it establishes penalties for violation of ss. 30.50 to 30.80 for which a specific penalty is not provided elsewhere.

6 **SECTION 343.** 30.735 of the statutes is created to read:

7 **30.735 Tampering with navigation aids or regulatory markers.** No
8 unauthorized person may move, remove, molest, tamper with, destroy, or attempt to
9 destroy any aid to navigation or regulatory marker, sign, or other device established
10 and maintained to aid boaters.

NOTE: This provision is currently part of s. 30.68 (12), which is repealed in this bill.

11 **SECTION 344.** 30.74 (1) (c) and (d) of the statutes are amended to read:

12 30.74 (1) (c) A valid certificate issued by another state, as defined in s. 115.46
13 (2) (f), or a province of Canada or the Canadian government that is held by a person
14 will shall be honored if the course content substantially meets that established by
15 the department.

NOTE: Canadian provinces no longer issue boating safety certificates. This is done by the Canadian government.

ASSEMBLY BILL 514

1 (d) The department shall also prepare and disseminate information on water
2 safety to the public, including the informational pamphlets specified in s. 30.52 (5)
3 (a) 4. and (b) 3.

4 **SECTION 345.** 30.74 (2) (a) of the statutes is amended to read:

5 30.74 (2) (a) The department by rule shall establish uniform marking of the
6 ~~water areas~~ waters of this state through the placement of aids to navigation and
7 regulatory markers. These rules shall establish a marking system compatible with
8 the system of aids to navigation prescribed by the U.S. coast guard and shall give due
9 regard to the system of uniform waterway markers approved by the advisory panel
10 of state officials to the merchant marine council, U.S. coast guard.

11 (bm) No municipality local governmental unit that enacts an ordinance under
12 s. 30.77 or person may mark the waters of this state in any manner in conflict with
13 the marking system ~~prescribed~~ established by the department under par. (a). Any
14 regulatory marker or aid to navigation that does not comply with this marking
15 system is considered an unlawful obstruction to navigable waters and may be
16 removed ~~in accordance with law~~ under s. 30.975.

17 (c) The department may not prohibit the placement of a regulatory marker or
18 an aid to navigation if it complies with ~~this~~ the marking system established by the
19 department under par. (a) and if it is being placed pursuant to an ordinance ~~that has~~
20 ~~been enacted in compliance with~~ under s. 30.77.

NOTE: The advisory panel is obsolete.

21 **SECTION 346.** 30.74 (2) (b) of the statutes is repealed.

NOTE: The definitions of these terms are deleted here and recreated as definitions
in s. 30.50.

22 **SECTION 347.** 30.74 (3) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.74 (3) ENFORCEMENT. The department shall assist in the enforcement of ss.
2 30.50 to 30.80 ~~and in connection therewith.~~ The department may maintain patrol
3 boats and may operate such the patrol boats at such times and places as the
4 department deems necessary in the interest of boating safety and the effective
5 enforcement of boating laws. An ordinance enacted under s. 30.77 does not apply to
6 a patrol boat operated by the department if the patrol boat is engaged in a law
7 enforcement activity.

NOTE: This allows wardens to more effectively patrol lakes and streams, primarily
by avoiding the need to comply with extensive slow-no-wake ordinances.

8 **SECTION 348.** 30.742 of the statutes is renumbered 30.5005 (3).

9 **SECTION 349.** 30.77 of the statutes is repealed and recreated to read:

10 **30.77 Local regulation of boating. (1) DEFINITIONS.** In this section:

11 (a) "Footage of shoreline" means the length of shoreline in feet measured by use
12 of a map wheel on the U.S. geological survey 7 1/2 minute map series.

13 (c) "State law" means this section, ss. 30.50 to 30.71, and those penalties under
14 s. 30.80 that apply to ss. 30.50 to 30.71.

NOTE: SECTION 30.5005 (1) (b), as created by this bill, provides that a reference to
a statute in any of the boating statutes also includes the rules promulgated under that
statute. Thus, "state laws" includes the department of natural resources (DNR) boating
rules.

15 **(2) LOCAL REGULATION PROHIBITED; EXCEPTION.** State laws shall be uniform in
16 operation throughout the state. No local governmental unit may enact an ordinance
17 on any matter pertaining to a state law except as provided under this section, or as
18 provided under another statute that, by its express terms, and, notwithstanding this
19 section, authorizes enactment of an ordinance by a local governmental unit.

NOTE: This first part of this subsection restates current law. See current s. 30.77
(1). The purpose of this provision is to establish the policy that state boating laws are
intended to be uniform, and that the authorization of local regulation is within the
context of this uniformity.

ASSEMBLY BILL 514

The provision regarding statutory authority other than s. 30.77 is new and states expressly what is the apparent intent of s. 30.77, that this statute is the exclusive authority for local regulation of boating equipment and operations, as well as other matters subject to regulation under this section, unless specific authority is provided elsewhere in the statutes.

1 **(3) DUTIES OF THE DEPARTMENT.** (a) *Assistance.* The department shall draft and
2 disseminate model ordinances that meet the requirements of this section. The
3 department shall consult with and assist local governmental units in enacting and
4 enforcing ordinances that meet the requirements of this section.

NOTE: This provision creates a new requirement that DNR must prepare model ordinances and assist local governmental units in enforcing ordinances enacted by those governmental units.

5 (b) *Review of ordinances.* The department shall review ordinances as provided
6 under sub. (10).

7 **(4) JURISDICTION OF CERTAIN LOCAL GOVERNMENTAL UNITS.** (a) *Cities, villages, and*
8 *towns.* 1. A city, village, or town that has the entire shoreline of an inland lake within
9 the boundaries of the city, village, or town may enact ordinances applicable to that
10 lake.

11 2. A city, village, or town that has both banks of a stream within the boundaries
12 of the city, village, or town may enact ordinances applicable to that portion of the
13 stream that is within the boundaries of the city, village, or town.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to both lakes and streams “within its jurisdiction”. With respect to streams, the current statute does not clearly define the jurisdiction of a town, village, or city. This bill authorizes the town, village, or city to enact ordinances applicable to streams within its boundaries (i.e., the town, village, or city has territory on both banks of the stream). A later provision, in sub. (4) (e), provides that a town, village, or city that is adjacent to a stream may enact ordinances if the town, village, or city that is also adjacent to the stream (i.e., on the opposite shore) enacts the identical ordinance.

14 3. Notwithstanding pars. (b) 1. to 3. or (c) to (e), a city, village, or town may enact
15 ordinances applicable to waters of this state that pertain to issues of local concern
16 to that city, village, or town, as specified in sub. (5) (h). If there is a disagreement
17 among local governmental units regarding the content of an ordinance enacted

ASSEMBLY BILL 514

1 under this subdivision, or the priority of an ordinance enacted under this
2 subdivision, as provided in sub. (7) (c), the matter may be submitted to the
3 department for a determination.

NOTE: This provision is new. It authorizes ordinances that are of concern only to an individual town, village, or city. The provisions regarding priority of local governmental unit authority in sub. (7) (c) make it clear that a town, village, or city ordinance related only to local issues supersedes inconsistent provisions of any other ordinance applicable to the same body of water. The scope of these ordinances of local concern is limited by sub. (5) (h).

4 (b) *Counties*. 1. A county that has both banks of a stream within the county
5 boundaries may enact ordinances applicable to that portion of the stream.

NOTE: "Stream" is used instead of "river or stream", which is used in the current statute. There is not a substantive distinction between these 2 terms.

6 2. A county that has the entire shore of an inland lake within the county
7 boundaries may enact ordinances applicable to that lake.

8 2g. A county ordinance enacted under subd. 2. is void if the ordinance is enacted
9 with respect to a lake for which an ordinance is enacted under par. (a) 1., (c), or (d).

10 2r. A county ordinance enacted under subd. 2 with respect to a lake for which
11 an ordinance has not been enacted under par. (a) 1., (c), or (d) is void if any of the
12 following applies:

13 a. The entire shoreline of the lake is within the boundaries of a city, village, or
14 town that adopts a resolution declaring the county ordinance void, and the city,
15 village, or town files a copy of the resolution with the department.

16 b. At least 50% of the cities, villages, or towns with a portion of the shoreline
17 of the lake within the boundaries of the city, village, or town adopt a resolution
18 declaring the county ordinance void, a copy of the resolution is filed with the
19 department, and at least 40% of the footage of shoreline of the lake is within the
20 boundaries of those cities, villages, or towns.

ASSEMBLY BILL 514

NOTE: This provision is new. Counties have authority under the current statutes to enact ordinances related only to streams and county marina developments. This bill gives counties the authority to enact ordinances related to an inland lake if the entire shore of the inland lake is within the county boundaries. The county is not required to obtain authorization from the towns, villages, or cities bordering the lake. A county is not required to enact ordinances for all lakes, but rather may determine which lakes within the county merit regulation. Although not stated in the bill, it is obvious that one or more towns, villages, or cities bordering the lake may request the county to enact an ordinance.

Under the current statute, the primary authority to enact boating regulations, or to delegate authority to enact boating regulations, rests with the towns, villages, and cities. Although counties are given authority in this bill to enact boating ordinances, the preeminent authority of towns, villages, and cities is retained. If a town, village, or city enacts an ordinance applicable to a lake or adopts a resolution declaring the county ordinance void, the county ordinance is void with respect to that lake. Similarly, the towns, villages, or cities with concurrent jurisdiction of a lake may adopt a resolution declaring the county ordinance void, if the requisite number of municipalities do so, as provided in this bill. Finally, a town sanitary district or lake district that enacts an ordinance pursuant to authority granted by the towns, villages, or cities bordering a lake renders the county ordinance on that lake void.

- 1 3. A county may enact ordinances applicable to outlying waters that are
2 contiguous to the county.

NOTE: The current statute authorizes a town, village, or city to enact ordinances applicable to “waters of this state within its jurisdiction”. Municipal jurisdiction of outlying waters is determined by the municipal charter. It appears that there is some variability in jurisdiction, with the jurisdiction of some municipalities ending at the water’s edge and others extending into the Great Lakes for varying distances. It does not appear that there is substantial reason for towns, villages, or cities to adopt boating regulations on the Great Lakes other than in the near-shore areas. Therefore, this bill provides that counties may enact ordinances applicable to outlying waters. Towns, villages, and cities have authority in sub. (4) (a) 3. to enact ordinances of local concern on outlying waters, whether or not the county has adopted ordinances on those waters.

- 3 4. A county that operates a marina development adjacent to waters of this state
4 may enact ordinances that relate to the development, operation, and use of the
5 marina and the waters adjoining the marina.

- 6 (c) *Multiple cities, villages, and towns; inland lakes.* A city, village, or town may
7 enact ordinances applicable to an inland lake if the city, village, or town has a portion
8 of the shoreline of the lake within the boundaries of the city, village, or town and all
9 of the following apply:

- 10 1. At least 50% of the cities, villages, or towns with a portion of shoreline of the
11 lake within their boundaries enact an identical ordinance.

ASSEMBLY BILL 514

1 2. At least 60% of the footage of shoreline of the lake is within the boundaries
2 of the cities, villages, and towns that enact an identical ordinance.

3 (d) *Town sanitary district or lake district.* A town sanitary district or public
4 inland lake protection and rehabilitation district may enact ordinances applicable
5 to an inland lake if at least 60% of the footage of the shoreline of the lake is within
6 the town sanitary district or public inland lake protection and rehabilitation district
7 boundary and all of the following apply:

8 1. At least 50% of the cities, villages, or towns with a portion of the shoreline
9 of the lake within their boundaries adopt a resolution authorizing the town sanitary
10 district or public inland lake protection and rehabilitation district to enact the
11 ordinance.

12 2. At least 60% of the footage of shoreline of the lake is within the boundaries
13 of the cities, villages, and towns that adopt the resolution.

14 (e) *Multiple cities, villages, towns, and counties; streams.* 1. A city, village, or
15 town that is contiguous to a stream may enact ordinances applicable to any portion
16 of the stream if each city, village, or town that is contiguous to that portion of the
17 stream on the opposite bank enacts an identical ordinance.

18 2. A county that is contiguous to a stream may enact ordinances applicable to
19 any portion of the contiguous stream if each county that is contiguous to that portion
20 of the stream on the opposite bank enacts an identical ordinance.

NOTE: The current statute does not distinguish between streams within and streams contiguous to a county, town, village, or city. This bill makes that distinction, and requires identical ordinances in the latter case. (The requirement to adopt an identical ordinance is determined by the portion of the stream to which the ordinance applies.)

It should also be noted that the requirement for adopting identical ordinances with respect to a stream that is contiguous to a town, village, or city does not apply to the provision of this bill related to ordinances regarding local issues of concern only to the town, village, or city. See sub. (4) (a) 3., above.

ASSEMBLY BILL 514**SECTION 349**

1 **(5) STRICT CONFORMITY AND CONSISTENCY; PROHIBITIONS.** (a) *Ordinances*
2 *authorized.* A local governmental unit may enact and enforce ordinances as provided
3 under this subsection.

NOTE: The current statute, in several instances, authorizes a local governmental unit “to enact and enforce” ordinances. This phrase is not used consistently, and a number of other authorizations in the current statute refer only to “enacting” ordinances. Ordinarily, authority to enforce an ordinance would be implied by the authority to enact an ordinance. However, the jurisdiction of many local governmental units ends at the water’s edge, and the authority to enact ordinances under s. 30.77 is extraterritorial in some cases. This bill retains “enforce” with respect to ordinances in this general grant of authority to enact ordinances. The authority to enforce ordinances is intended to apply to any waters of the state for which the local governmental unit is authorized to enact ordinances.

4 (b) *Strict conformity required.* Ordinances that relate to the subject matter
5 encompassed by ss. 30.61, 30.62, 30.65, 30.67, 30.675, 30.68 (3m) (a) and (b) and (14),
6 30.681 to 30.687, and 30.71 shall be in strict conformity with these statutes.

NOTE: The current statutes provide that an ordinance may either be in strict conformity with or “not contrary to or inconsistent with” state law. The current statutes further provide that an ordinance which is “not contrary to or inconsistent with” state law must relate to “the equipment, use, or operation of boats or to any activity regulated by ss. 30.60 to 30.77”. The current statute does not provide sufficient guidance to determine which state laws require strict conformity, and which ones require consistency in the corresponding ordinances. Therefore, this bill simply lists the statutes that require strict conformity in ordinances on the same subject. Any statute that meets the definition of a “state law” in this bill, and is not on this list, requires consistency in a corresponding ordinance, but may also be in strict conformity with the state law.

7 (c) *Ordinances consistent with state law.* Except for a state law that requires
8 strict conformity under par. (b), every ordinance enacted by a local governmental
9 unit under this section shall be at least consistent with state law if all of the following
10 apply:

- 11 1. The ordinance is in the interest of public health, safety, or welfare, including
12 the public’s interest in preserving the state’s natural resources.
- 13 2. The ordinance relates either to the equipment, use, or operation of boats or
14 to any activity subject to a state law.

NOTE: Current s. 30.77 authorizes certain ordinances that are “not contrary to or inconsistent with” state law. “Consistent with” is substituted for that phrase in this bill.

ASSEMBLY BILL 514

There does not appear to be any substantive difference between these phrases. "Consistent with" is used in the interest of clarity, without intending any change in the standard for ordinances.

1 (d) *Standards for consistency.* An ordinance is consistent with state law even
2 if it varies from the specific provisions of state law if the ordinance achieves the same
3 general objective as state law, allows free use of the waters of this state within the
4 framework established by state law, and is a reasonable restriction on public rights
5 in waters of this state. An ordinance that meets the standards for consistency in this
6 paragraph is not inconsistent with state law solely because the ordinance establishes
7 standards that are more restrictive than the state law.

NOTE: This provision creates standards regarding what is meant by "consistency" between ordinances and state law. The effect of this statutory standard is to create a framework for the DNR to make comments on the issue of consistency in its advisory review under sub. (10) in this bill, and to guide the decision of the hearing examiner under the objection procedures in sub. (11) of this bill.

The special committee recognizes that it is difficult to draft statutory standards regarding consistency that draw a clear line between ordinances that are consistent and ordinances that are not consistent with state law. The new statutory standards are intended to aid in the discussion and adjudication of these issues.

8 (e) *Considerations in enacting ordinances.* In enacting an ordinance for an
9 individual body of water, a local governmental unit may take into account factors
10 that include the following:

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

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

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

18 (f) *Specific ordinances authorized.* Ordinances that require strict conformity
19 under par. (b) include those that relate to any of the following:

ASSEMBLY BILL 514

1 1. Restrictions on speed.

2 2. Restrictions on certain types of boating activities on all, or on specified parts,
3 of the lake or stream.

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

6 4. The operation, equipment, use, and inspection of boats carrying passengers
7 for hire that operate from a base within the jurisdiction of the local governmental
8 unit, including the regulation of reasonable fees for the inspection of such boats.

9 5. Reasonable fees for using a public boat launching facility that the local
10 governmental unit owns or operates.

11 6. Reasonable fees for the local governmental unit's costs for operating or
12 maintaining a water safety patrol unit, as defined in s. 30.79 (1) (b) 2.

13 7. Reasonable fees for the local governmental unit's costs of providing other
14 recreational boating services.

NOTE: The provision regarding fees for "other recreational boating services" retains current law. The special committee discussed the possibility of repealing or modifying this provision, but decided against making changes. The special committee acknowledges that although the current statute authorizes "reasonable" fees, a fee related to boating that might be reasonable for purposes of the police power may nevertheless exceed the bounds of the public trust in navigable waters under art. IX, s. 1, Wis. const. However, the special committee concluded that local governments should have the opportunity to impose reasonable fees that do not violate the public trust, and that the statute should continue to allow this.

15 (g) *Prohibitions.* 1. An ordinance may not require numbering, registration, or
16 licensing of boats.

17 2. An ordinance may not charge a fee for inspection of boats, except as provided
18 in par. (f) 4.

19 (h) *Cities, villages, and towns; issues of local concern.* A city, village, or town
20 may enact ordinances under sub. (4) (a) 3. that relate only to establishing

ASSEMBLY BILL 514

1 slow-no-wake zones and prohibiting boats from designated areas and that apply
2 only within the following areas:

3 1. A mooring area designated under s. 30.773 by the city, village, or town.

4 2. A bridge, dam, channel, canal, or other similar hazard to navigation that is
5 within the corporate limits of the city, village, or town.

6 3. Any construction project that requires a permit under subch. II or ch. 31 and
7 either is undertaken by the city, village, or town or is within the corporate limits of
8 the city, village, or town.

9 4. A marina that is either owned by the city, village, or town or is within the
10 corporate limits of the city, village, or town.

11 5. An area that is within 200 feet from any riparian property or lake bed that
12 is owned by the city, village, or town.

13 6. An area within a breakwater that is adjacent to the city, village, or town.

14 7. A harbor that is within the corporate limits of the city, village, or town.

15 **(6) RESCINDING AUTHORITY TO ENACT ORDINANCES.** (a) *Multiple cities, villages,*
16 *and towns.* If a city, village, or town enacts an ordinance for an inland lake under
17 sub. (4) (c) and the city, village, or town amends or repeals the ordinance, that
18 ordinance is void for each city, village, or town with shoreline on the inland lake
19 unless the requirements of sub. (4) (c) 1. and 2. continue to apply.

20 (b) *Delegated jurisdiction.* If a public inland lake protection and rehabilitation
21 district or town sanitary district is authorized to enact ordinances for an inland lake
22 under sub. (4) (d) and a city, village, or town rescinds the resolution that grants that
23 authority, the public inland lake protection and rehabilitation district or town
24 sanitary district may not enact ordinances for that inland lake and any ordinance
25 enacted by the public inland lake protection and rehabilitation district or town

ASSEMBLY BILL 514

1 sanitary district for that inland lake is void, unless the requirements of sub. (4) (d)

2 1. and 2. continue to apply.

3 (7) PRIORITY OF ORDINANCES. (a) *Counties*. 1. An ordinance enacted by a county
4 for a stream under sub. (4) (b) 1. or (e) 2. supersedes any provision of an ordinance
5 enacted by a city, village, or town for a stream under sub. (4) (a) 2. or (e) 1. that is
6 inconsistent with the county ordinance.

7 2. An ordinance enacted by a county for a marina under sub. (4) (b) 4.
8 supersedes any provision of an ordinance enacted by another local governmental
9 unit that is inconsistent with the county ordinance.

10 (b) *Town sanitary districts and lake districts*. An ordinance enacted by a public
11 inland lake protection and rehabilitation district or a town sanitary district for an
12 inland lake under sub. (4) (d) supersedes any provision of an ordinance enacted by
13 a city, village, or town under sub. (4) (a) 1. or (c) that is inconsistent with the public
14 inland lake protection and rehabilitation district or town sanitary district ordinance.

15 (c) *Cities, villages, or towns; ordinances of local concern*. An ordinance enacted
16 by a city, village, or town for any waters of this state under sub. (4) (a) 3. supersedes
17 any provision of an ordinance enacted under sub. (4) (b) 1. to 3. and (c) to (e) that is
18 inconsistent with the city, village, or town ordinance under sub. (4) (a) 3.

19 (8) POSTING ORDINANCES. All ordinances enacted under this section applicable
20 to a lake or stream shall be prominently posted by the local governmental unit that
21 enacted them at each point of public access to the lake or stream within the local
22 governmental unit. For ordinances enacted under sub. (4) (c), the ordinances shall
23 be posted by each local governmental unit at any point of public access to the lake
24 or stream within the boundaries of that local governmental unit.

ASSEMBLY BILL 514

1 **(9) HEARINGS.** (a) *Ordinances.* A local governmental unit shall hold a public
2 hearing under this subsection before enacting, amending, or repealing an ordinance.

3 (b) *Resolutions.* A local governmental unit shall hold a public hearing under
4 this subsection before rescinding a resolution that is adopted under sub. (4) (d).

5 (c) *Procedures.* 1. A public hearing under this subsection shall be held at least
6 30 days before an ordinance is enacted, amended, or repealed or a resolution is
7 rescinded. If the action on an ordinance or resolution is proposed by more than one
8 local governmental unit, the local governmental units may publish the notice and
9 conduct the public hearing jointly.

10 2. At least 30 days before the public hearing, a local governmental unit shall
11 publish a class 1 notice, under ch. 985, of the hearing under this subsection in one
12 or more newspapers likely to give notice of the hearing in all cities, villages, towns,
13 and counties that have shoreline of the lake or stream within their boundaries.

14 3. A local governmental unit that publishes a notice of a public hearing under
15 subd. 1. shall send a copy of the notice, at least 30 days before the hearing, to the
16 department, to each city, village, town, and county that has shoreline of the lake or
17 stream within its boundaries and, if the proposal relates to an inland lake, to each
18 lake association for the lake and each public inland lake protection and
19 rehabilitation district for the lake.

NOTE: This provision expands and harmonizes the current requirements for a public hearing. This bill requires a public hearing each time an ordinance is proposed to be enacted, amended, or repealed, or a resolution rescinded, rather than the more limited requirements in the current statute. A public hearing must be held under this bill for all ordinances, rather than only those affecting inland lakes, as under the current statute. This bill applies the public hearing requirement to the amendment or repeal of an ordinance, rather than to only the enactment of an ordinance, as under the current statute. This bill requires all local governmental units to give notice of the public hearing, rather than only the one with the most shoreline, as under the current statute.

ASSEMBLY BILL 514

1 **(10) REVIEW BY DEPARTMENT.** (a) *Review required.* 1. The department shall
2 review each ordinance or amendment to an ordinance proposed under this section
3 to determine if the ordinance complies with this section.

NOTE: This expands the scope of DNR review so that it applies to all ordinances enacted or amended under s. 30.77. The current statute applies DNR review only to ordinances regarding the equipment, use or operation of boats and only to inland lakes. This expands DNR review to apply to streams and outlying waters as well, and to any other ordinances regarding boating.

4 2. This paragraph does not apply to the repeal of an ordinance.

5 (b) *Copy of ordinance to department.* The local governmental unit shall submit
6 a proposed ordinance to the department at least 60 days prior to final action on the
7 ordinance.

8 (c) *Report by department.* The department shall prepare a report of its review.
9 The report shall include findings regarding compliance of the ordinance with this
10 section. If the department determines that the ordinance does not comply with this
11 section, the report shall contain suggestions for changes that would bring the
12 ordinance into compliance with this section.

13 (d) *Deadline for review.* The department shall complete its review within 20
14 days after receiving a copy of a proposed ordinance under par. (b).

15 (e) *Distribution of report.* The department shall send a copy of any report
16 prepared under par. (c) to each local governmental unit affected by the ordinance.

17 (f) *Modifications.* If a local governmental unit modifies an ordinance following
18 receipt of a department report under par. (c), whether or not the modification is in
19 response to the department report, the local governmental unit shall submit the
20 modified, proposed ordinance in final form to the department prior to enactment.
21 The department is not required to review the modified ordinance under this

ASSEMBLY BILL 514

1 subsection if the modifications relate to the subject matter of the ordinance
2 submitted to the department under par. (b).

NOTE: This provision is not expressly stated in the current statute. However, it is implied by the statement in current s. 30.77 (3) (d) that local regulations must be submitted to the DNR at least 60 days prior to "final action" by the local governmental unit.

3 (g) *Validity of ordinance.* 1. An ordinance is not valid unless the local
4 governmental unit complies with all procedural requirements imposed on local
5 governmental units by this section and the contents of the ordinance comply with
6 this section.

NOTE: This provides an express statement of the requirement for a local governmental unit to comply with procedural and substantive requirements of s. 30.77. This requirement can be reasonably implied from the language in the current statute. Ordinances must also conform to the constitutional public trust in navigable waters.

7 2. A department report under this subsection is advisory only and does not
8 affect the validity of an ordinance.

NOTE: This provision is new. Although not expressed in the current statute, this appears to be the legal effect of DNR review. The phrase "advisory review" is used in current s. 30.77 (3) (d).

9 (h) *Filing copies.* A local governmental unit that enacts, amends, or repeals an
10 ordinance under this section shall file a signed copy of the ordinance, amendment,
11 or repeal with the department. The department shall retain a copy of each ordinance,
12 amendment, or repeal submitted under this paragraph.

13 **(11) OBJECTION PROCEDURE.** (a) Any of the following may file with the
14 department an objection to an ordinance enacted under this section, on the grounds
15 that any portion of the ordinance does not comply with this section:

- 16 1. A local governmental unit.
- 17 2. A qualified lake association, as defined in s. 281.68 (1) (b).
- 18 3. A nonprofit conservation organization, as defined in s. 23.0955 (1).

ASSEMBLY BILL 514

1 4. A local governmental unit, as defined in s. 66.0131 (1) (a), that is established
2 for the purpose of lake management.

3 5. A nonstock corporation organized under ch. 181 whose primary purpose is
4 to promote boating activities.

5 6. The department.

NOTE: The current statute allows an objection on the grounds that an ordinance is contrary to or inconsistent with ch. 30. The reference to all of ch. 30 does not appear to be appropriate because s. 30.77 relates only to a local authority to enact ordinances related to ss. 30.50 to 30.71. Therefore, this reference is changed to “this section” which incorporates the new definition of “state law”.

The grounds for objection in current law are that the ordinance is “contrary to or inconsistent with” the statute. The proposal above allows an objection on the grounds that the ordinance “does not comply with” the statute. This expands the scope of the current grounds for objection by allowing objection based on any failure of a local governmental unit to comply with s. 30.77, such as failure to comply with procedural requirements.

The current statute allows an objection to an ordinance that applies to a river or stream 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”. This standard sets a much lower threshold for challenging ordinances, making it much more difficult for a local governmental unit to defend the ordinance. As redrafted, the standards in this section provide sufficient guidance and limitations for protecting the public by reference to compliance with s. 30.77. Therefore, the “not necessary” standard is deleted.

6 (b) 1. Upon receipt of an objection under par. (a), the department shall order
7 a hearing on the objection under ch. 227. The hearing shall be a contested case
8 hearing, and the administrator of the division of hearings and appeals in the
9 department of administration shall assign a hearing examiner to the hearing as
10 provided in s. 227.43. Persons who are not parties to the contested case may present
11 testimony and evidence at the hearing.

12 2. The hearing examiner shall issue an order on the objection within 90 days
13 after the date on which the hearing is ordered.

14 3. If the hearing examiner finds in favor of the objecting party, the hearing
15 examiner shall issue an order declaring the ordinance or a portion of it void and
16 prohibiting the enforcement of the ordinance or that portion of the ordinance.

ASSEMBLY BILL 514

1 (c) The procedure under this subsection does not supersede any other legal
2 right or procedure that a person has to contest an ordinance enacted under this
3 section.

4 **SECTION 350.** 30.771 of the statutes is created to read:

5 **30.771 Emergency powers; local regulation of boating. (1)** A sheriff may
6 issue an emergency regulation applicable to boating on any waters of this state
7 within the sheriff's county. The emergency regulation shall be issued in written
8 form, and the sheriff shall include with the emergency regulation findings of fact that
9 support the need for the emergency regulation. The emergency regulation may
10 establish slow-no-wake zones and may prohibit boats from designated areas. The
11 emergency regulation may not be more restrictive than is necessary to address the
12 emergency condition. The emergency regulation shall apply for a term specified by
13 the sheriff, not to exceed 30 days. The sheriff may reissue an emergency regulation,
14 for a term not to exceed 30 days, upon expiration of any prior emergency regulation
15 or reissued emergency regulation. The sheriff shall publish and post the emergency
16 regulation in a manner likely to give notice to users of the waters of this state that
17 are subject to the emergency regulation and may mark or require the marking of the
18 waters subject to the regulation by regulatory markers, if appropriate for the
19 purpose of the regulation.

20 **(2)** A city, village, or town may issue an emergency regulation in connection
21 with a construction project in any waters of this state that are within the jurisdiction
22 of or adjacent to the city, village, or town. The city, village, or town shall issue the
23 emergency regulation in writing. The emergency regulation may establish a
24 slow-no-wake zone and may prohibit boats from designated areas. The emergency
25 regulation may not be more restrictive than is necessary to address the conditions

ASSEMBLY BILL 514

1 related to the construction project. The emergency regulation shall apply for the
2 duration of the construction project or 30 days, whichever is less. If necessary, the
3 city, village, or town may reissue the emergency regulation upon expiration of the
4 prior emergency regulation. The city, village, or town shall publish and post the
5 emergency regulation in a manner likely to give notice to users of the waters of this
6 state that are subject to the emergency regulation, and shall mark or require the
7 marking of the waters subject to the regulation by appropriate regulatory markers.

8 (3) Emergency regulations under this section are not subject to the procedures
9 in s. 30.77, except that objection may be made to emergency regulations under this
10 section using the procedures in s. 30.77 (11).

11 (4) If waters subject to emergency regulations under sub. (1) or (2) are marked
12 with regulatory markers, the sheriff or the city, village, or town shall obtain
13 department approval of the regulatory markers. The sheriff or the city, village, or
14 town may place the markers after obtaining department approval or, in cases
15 requiring immediate placement of markers, the sheriff or the city, village, or town
16 may place the markers and immediately notify the boating law administrator of the
17 department that the emergency regulation is in effect and the markers have been
18 placed. The department shall approve or decline to approve a regulatory marker
19 under sub. (1) or (2) within 2 working days after receiving a request for approval from
20 the sheriff or the city, village, or town. If the department declines to approve a
21 regulatory marker after the sheriff or the city, village, or town has placed the marker,
22 the marker shall be immediately removed.

NOTE: This section codifies what apparently is the current practice of sheriffs in this state, and places some limits on the emergency regulations. Although the emergency regulations are not subject to the procedures and standards for local ordinances under s. 30.77, there should be a means to object to unreasonable emergency regulations. This

ASSEMBLY BILL 514

provision allows an objection using the procedures in s. 30.77. However, the grounds for objection are the standards in new s. 30.771, rather than the standards in s. 30.77.

1 **SECTION 351.** 30.772 (3) (d) 4. of the statutes is amended to read:

2 30.772 (3) (d) 4. The provisions and procedures of ch. 68 shall apply to the grant
3 issuance, denial, or revocation of a mooring permit by a municipality.

4 **SECTION 352.** 30.772 (4) of the statutes is amended to read:

5 30.772 (4) DEPARTMENT PERMITS. The department may issue a permit
6 authorizing the placement or use of a mooring beyond 150 feet from the ordinary
7 high-water mark if the municipality does not have an established permit procedure,
8 or more than 200 feet from the ordinary high-water mark if sub. (3) (a) 5. applies.
9 The department may place conditions or restrictions on any permit issued under this
10 subsection. The decision of the department under this subsection is subject to the
11 time limits in s. 30.251.

12 **SECTION 353.** 30.78 (1) (intro.) of the statutes is repealed and recreated to read:

13 30.78 (1) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit
14 that has authority to enact an ordinance under s. 30.77 (4) may, after public hearing,
15 by ordinance do any of the following:

16 **SECTION 354.** 30.78 (1g) of the statutes is repealed.

NOTE: The amendments to s. 30.78 expand the scope of local regulation of seaplanes, so that any local governmental unit may also enact ordinances for seaplanes. This authority applies to the same waters that may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate seaplanes, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

17 **SECTION 355.** 30.78 (1r) and (2) of the statutes are amended to read:

18 30.78 (1r) NOTICE TO DEPARTMENT OF TRANSPORTATION. The department of
19 transportation shall receive timely notice of the public hearing required under subs.
20 sub. (1) and (1g) and shall have an opportunity to present testimony on the proposed

ASSEMBLY BILL 514

1 ordinance. An ordinance under sub. (1) (b) ~~or (1g)~~ that regulates or restricts an area
2 of surface waters for landing or take-off purposes shall be filed with the department
3 of transportation.

4 **(2) MARKING OF REGULATED OR RESTRICTED AREAS.** Any ordinance that regulates
5 or restricts an area of surface waters under sub. (1) ~~or (1g)~~ shall direct that the area
6 be marked by standard marking devices.

7 **SECTION 356.** 30.78 (3) of the statutes is repealed.

8 **SECTION 357.** 30.79 (1) (a) of the statutes is repealed.

NOTE: The definition of "local governmental unit" in s. 30.79 (1) (a) is no longer
necessary. See s. 30.50 (4u) as created in this bill.

9 **SECTION 358.** 30.79 (1) (b) 1. and 2. of the statutes are amended to read:

10 30.79 **(1)** (b) 1. A unit within an existing municipal law enforcement agency or
11 a separate municipal agency, created by a municipality or by a number of
12 municipalities riparian to a single body of water for the purpose of enforcing ss. 30.50
13 to 30.80 and any rules promulgated and ordinances enacted under ~~ss. 30.50 to 30.80~~
14 s. 30.77 and for the purpose of conducting search and rescue operations.

15 2. A unit created by ~~a public inland lake protection and rehabilitation district,~~
16 ~~by a lake sanitary district or by a number of one or more local governmental units~~
17 ~~riparian to a single lake, at least one of which is a lake district or a lake sanitary~~
18 ~~district,~~ for the purposes specified in subd. 1.

19 **SECTION 359.** 30.79 (2), (3) and (4) of the statutes are amended to read:

20 30.79 **(2) STATE AID.** In order to protect public rights in navigable waters and
21 to promote public health, safety, and welfare and the prudent and equitable use of
22 the navigable waters of the state, a system of state aids for local enforcement of ss.

ASSEMBLY BILL 514

1 30.50 to 30.80 and ordinances enacted under ~~ss. 30.50 to 30.80~~ s. 30.77 and for
2 conducting search and rescue operations is established.

3 (3) ENFORCEMENT POWERS. Officers patrolling the waters as part of a water
4 safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50
5 to 30.80 or any rules promulgated or ordinances enacted under ~~ss. 30.50 to 30.80~~ s.
6 30.77 and for conducting search and rescue operations, if the officers have reasonable
7 cause to believe there is a violation of the sections, rules or ordinances or the stopping
8 and boarding of any boat is essential to conduct a search and rescue operation.

9 (4) JURISDICTION. Upon petition by any local governmental unit or group of local
10 governmental units operating or intending to operate a water safety patrol unit, the
11 department shall, if it finds that it is in the interest of efficient and effective
12 enforcement to do so, by rule define the waters which may be patrolled by the unit,
13 including waters lying within the territorial jurisdiction of some other ~~town~~ city,
14 village, or city town if the ~~town~~ city, village, or city town consents to the patrol of its
15 waters. Such consent is not required if the petitioner is a local governmental unit
16 containing a population of 5,000 or more, bordering upon the waters to be affected
17 by the rule in counties having a population of less than 500,000. Officers patrolling
18 the waters as part of the water safety patrol unit shall have the powers of sheriff in
19 enforcing ss. 30.50 to 30.80, or ~~rules promulgated or ordinances enacted under ss.~~
20 ~~30.50 to 30.80~~ s. 30.77 and in conducting search and rescue operations, on any of the
21 waters so defined, whether or not the waters are within the jurisdiction of the local
22 governmental unit for other purposes.

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority
of DNR to promulgate rules under this subchapter. The specific reference to DNR
rule-making authority is repealed.

23 **SECTION 360.** 30.80 (2) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.80 (2) Any person violating s. 30.68 (2) shall be fined not more than \$200
2 or imprisoned for not more than 6 months or both. ~~Any person violating s. 30.68 shall~~
3 ~~be required to obtain a certificate of satisfactory completion of a safety course under~~
4 ~~s. 30.74 (1).~~

NOTE: The stricken language duplicates s. 30.80 (2m).

5 **SECTION 361.** 30.80 (3) of the statutes is amended to read:

6 30.80 (3) Any person violating s. 30.71 ~~or any rule promulgated under that~~
7 ~~section~~ shall forfeit not more than \$100 for the first offense and shall forfeit not more
8 than \$200 upon conviction of the same offense a 2nd or subsequent time within one
9 year.

10 **SECTION 362.** 30.80 (4) of the statutes is amended to read:

11 30.80 (4) Any person violating any provision of s. 30.72 ~~or the rules~~
12 ~~promulgated under s. 30.72~~ shall forfeit not more than \$100 for the first offense and
13 shall forfeit not more than \$200 upon conviction of the same offense a 2nd or
14 subsequent time within one year.

NOTE: Section 30.5005 (1) (b), as created by this bill, states the general authority
of DNR to promulgate rules under this subchapter. The specific reference to DNR
rule-making authority in s. 30.80 (3) and (4) is deleted.

15 **SECTION 363.** 30.81 (1) (intro.) of the statutes is repealed and recreated to read:

16 30.81 (1) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit
17 that has authority to enact an ordinance under s. 30.77 (4) may, after public hearing,
18 enact an ordinance that is not inconsistent with this chapter, relative to the use or
19 operation of boats and other craft, including snowmobiles and other motor vehicles,
20 on icebound inland waters.

21 **SECTION 364.** 30.81 (1m) and (2) of the statutes are repealed.

22 **SECTION 365.** 30.81 (3) of the statutes is amended to read:

ASSEMBLY BILL 514

1 30.81 (3) LIABILITY OF LOCAL GOVERNMENT. All traffic on icebound, inland waters
2 shall be at the risk of the traveler. An ordinance ~~by any municipality or any public~~
3 ~~inland lake protection and rehabilitation district that is enacted under this section~~
4 permitting traffic on icebound inland waters shall not render the ~~municipality or~~
5 ~~lake district~~ local governmental unit enacting the ordinance liable for any accident
6 to those engaged in permitted traffic while the ordinance is in effect.

7 **SECTION 366.** 30.81 (4) of the statutes is amended to read:

8 30.81 (4) ENFORCEMENT. A law enforcement officer of a town, village or city local
9 governmental unit that is subject to enacts an ordinance enacted under sub. (1) or
10 (1m) has the powers of sheriff in enforcing the ordinance on any portion of the lake
11 waters, whether or not that portion of the lake waters is within the jurisdiction of the
12 town, village or city local governmental unit for other purposes.

NOTE: The amendments to s. 30.81 expand the scope of local regulation of icebound waters, so that any local governmental unit that has jurisdiction and current authority to enact local ordinances under s. 30.77 may also enact ordinances for icebound waters. This authority applies to the same waters that may be regulated by the local governmental unit under s. 30.77. Although s. 30.77 is used to define the scope of local authority to regulate icebound waters, it should be noted that the procedures in s. 30.77 do not apply to these ordinances.

13 **SECTION 367.** 30.90 (1) of the statutes is amended to read:

14 30.90 (1) As long as Lake Lions Lake in the town of Alban, Portage County,
15 continues to be used as a recreational area for the physically handicapped, all of the
16 following shall apply:

17 (a) Neither the county or town may provide, nor shall any subdivider be
18 required or permitted to provide, public access to Lake Lions Lake, if the public
19 access will in any way interfere with the use of the lake as a recreational area for the
20 physically handicapped.

ASSEMBLY BILL 514

1 (b) The department may stock Lake Lions Lake with fish, any provision in ch.
2 29 to the contrary notwithstanding.

3 **SECTION 368.** 30.90 (2) of the statutes is amended to read:

4 30.90 (2) The town board of the town of Alban shall have jurisdiction over Lake
5 Lions Lake and may enact and enforce any ordinances necessary to prevent any
6 deterioration of the waters of Lake Lions Lake or any nuisances that would adversely
7 affect the public health or safety of the people.

8 **SECTION 369.** Subchapter VI (title) of chapter 30 [precedes 30.95] of the
9 statutes is created to read:

10 **CHAPTER 30**

11 **SUBCHAPTER VI**

12 **ENFORCEMENT; PENALTIES**

13 **SECTION 370.** 30.96 (title) of the statutes is created to read:

14 **30.96 (title) Infringement of public rights.**

15 **SECTION 371.** 30.98 (title) of the statutes is created to read:

16 **30.98 (title) Penalties.**

17 **SECTION 372.** 30.98 (3) (title) of the statutes is created to read:

18 30.98 (3) (title) VIOLATION OF PERMIT, CONTRACT, OR ORDER.

19 **SECTION 373.** 31.03 of the statutes is amended to read:

20 **31.03 Permits for the Lower Wisconsin State Riverway.** For activities in
21 the Lower Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining~~
22 the department shall include a condition in a permit issued under this chapter that
23 the person obtaining the permit may not start or engage in the activity for which the
24 permit was issued unless the person obtains any permit that is required for the
25 activity under s. 30.44 or 30.445.

ASSEMBLY BILL 514

1 **SECTION 374.** 31.93 of the statutes is created to read:

2 **31.93 Enforcement of forfeitures.** The district attorney of the appropriate
3 county or, at the request of the department, the attorney general shall institute
4 proceedings to recover any forfeiture imposed or to abate any nuisance committed
5 under this chapter.

6 **SECTION 375.** 33.475 of the statutes is amended to read:

7 **33.475 Boating fees.** Notwithstanding the prohibition in s. 30.77 ~~(1)~~ against
8 ordinances and local regulations that exclude any boat from the free use of the waters
9 of the state ~~(2)~~, and in addition to the powers granted the county under ss. 30.77 ~~(3)~~
10 ~~(e)~~ (5) (f) 5. to 7. and 59.54 (2), the county may charge boat operators reasonable fees
11 for the costs of providing other recreational boating services not specified in ss. 30.77
12 ~~(3)~~ ~~(e)~~ (5) (f) 5. to 7. and 59.54 (2).

13 **SECTION 376.** 60.782 (1m) of the statutes is created to read:

14 60.782 **(1m)** For purposes of this section, a town sanitary district shall
15 determine footage of shoreline by use of a map wheel on the U.S. geological survey
16 7 1/2 minute series map.

17 **SECTION 377.** 60.782 (2) (d) of the statutes is amended to read:

18 60.782 **(2)** (d) Lease or acquire, including by condemnation, any real property
19 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
20 or ~~30.275~~ 30.359 (4).

21 **SECTION 378.** 200.35 (4) of the statutes is amended to read:

22 200.35 **(4)** DELIVERY OF DEEDS; ~~DNR~~ DEPARTMENT OF NATURAL RESOURCES PERMITS.
23 Upon application of the commission the proper officers of this state shall execute,
24 acknowledge, and deliver to the proper officers of the district any deed or other
25 instrument as that may be proper for the purpose of fully confirming the grants

ASSEMBLY BILL 514

1 under subs. (2) and (3). Notwithstanding s. ~~30.05~~ 30.233, the district may not
2 commence an action under sub. (2) or (3) without obtaining all of the necessary
3 permits from the department of natural resources under ch. 30.

4 **SECTION 379.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

5 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
6 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
7 petition the city, village, town, or county that owns the public access to construct
8 shoreline erosion control measures. Subject to par. (e), the city, village, town, or
9 county shall construct the requested shoreline erosion control measures or request
10 the department of natural resources to determine the need for shoreline erosion
11 control measures. Upon receipt of a request under this paragraph from a city, village,
12 town, or county, the department of natural resources shall follow the procedures in
13 s. ~~30.02 (3) and (4)~~ 30.245, treating the request for a determination as a permit
14 application. Subject to par. (e), the city, village, town or county shall construct
15 shoreline erosion control measures as required by the department of natural
16 resources if the department of natural resources determines all of the following:

17 **SECTION 380.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

18 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
19 withdrawal or increase the amount of an existing withdrawal, the person shall apply
20 to the department under s. 30.18, 281.17 (1), or 281.41 for a new permit or approval
21 or a modification of its existing permit or approval if either of the following conditions
22 applies:

23 **SECTION 381.** 293.65 (2) (b) of the statutes is amended to read:

24 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
25 determine the minimum stream flow or lake level necessary to protect public rights,

ASSEMBLY BILL 514

1 the minimum flow or level necessary to protect the rights of affected ~~riparians~~
2 riparian owners, the point downstream beyond which riparian rights are not likely
3 to be injured by the proposed diversion, and the amount of surplus water, as defined
4 in ~~s. 30.01 (6d)~~, if any, at the point of the proposed diversion.

5 **SECTION 382.** 299.05 (1) and (2) (a) of the statutes are amended to read:

6 299.05 (1) The department shall promulgate rules under which the
7 department refunds fees paid by an applicant for a permit, license, or approval that
8 is issued under ~~ss. 30.10 to 30.205 or 30.21 to 30.27~~, subch. II of ch. 30, except ss.
9 30.221 and 30.223; chs. 280 to 292; or subch. II of ch. 295 and that is of a type specified
10 in the rule if the department fails to make a determination on the application within
11 the time limit specified in the rule for that type of permit, license or approval. The
12 rules under this subsection do not apply to an applicant for a license or other approval
13 related to mining, as defined in s. 293.01 (9), prospecting, as defined in s. 293.01 (18),
14 or nonmetallic mining, as defined in s. 295.11 (3).

15 (2) (a) Permits and other approvals under ~~ss. 30.10 to 30.205 and 30.21 to 30.27~~
16 subch. II of ch. 30, except ss. 30.221 and 30.223.

17 **SECTION 383.** 709.03 (form) C. 27. of the statutes is renumbered 709.03 (form)
18 C. 28.

19 **SECTION 384.** 709.03 (form) C. 27. of the statutes is created to read:

20 **709.03** (form)

21 C. 27. I am aware that the property is located in a
22 drainage district or that legally binding
23 obligations may require that I contribute to
24 the cost of draining the property.

ASSEMBLY BILL 514

NOTE: This adds a provision to the seller's disclosure form for residential real estate transactions.

1 **SECTION 385. Nonstatutory provisions.**

2 (1) **ADVISORY COMMITTEE; RULES ON NAVIGABILITY.** The department of natural
3 resources shall appoint an advisory committee under section 227.13 of the statutes
4 to advise and assist the department with respect to the promulgation of rules under
5 section 30.04 (2) of the statutes, as created by this act. The department shall appoint
6 members to the advisory committee who collectively possess a wide range of
7 knowledge, experience, and interest in the navigable waters of this state.

8 (2) **REPORT ON DRAINAGE OF AGRICULTURAL LAND.** The department of agriculture,
9 trade and consumer protection and the department of natural resources shall
10 prepare a joint report on the drainage of agricultural land, with particular emphasis
11 on the drainage that occurs in organized drainage districts. The report shall describe
12 all of the following:

13 (a) A summary of the history of each department's involvement with the
14 supervision of and assistance to those involved in the drainage of land.

15 (b) The current statutory authority and responsibilities of each department
16 with respect to the drainage of land.

17 (c) The current efforts of each department to carry out its authority and
18 responsibility.

19 (d) The efforts of the departments to cooperate with each other with respect to
20 the drainage of land, and the potential for increasing the level of cooperation between
21 the departments.

22 (e) Any areas of disagreement between the departments regarding the
23 authorities and responsibilities of each.

ASSEMBLY BILL 514

1 **SECTION 386. Cross-reference changes.** In the sections of the statutes
2 listed in Column A, the cross-references shown in Column B are changed to the
3 cross-references shown in column C:

A Statute Sections	B Old Cross-Reference	C New Cross-Reference
20.370 (1) (mu)	30.203, 30.277	30.355, 30.361
20.370 (4) (bi)	30.28	30.243
20.370 (4) (mu)	30.203 and 30.277	30.355, and 30.361
20.370 (6) (ca)	30.275	30.359
20.370 (7) (aa)	30.203	30.355
23.09 (2) (d) 16.	30.24	30.357
23.09 (2r) (b)	30.277	30.361
23.0915 (1g)	30.277	30.361
23.0915 (1r) (c)	30.277	30.361
23.0915 (1r) (c)	30.277 (2) (a)	30.361 (2) (a)
23.0915 (2g)	30.277	30.361
23.0917 (3) (c) 1.	30.26	30.271
23.0917 (4) (b) 4.	30.277	30.361
23.0917 (7) (a)	30.24 (4) and 30.277	30.357 (4), and 30.361
23.0917 (7) (e)	30.277	30.361
23.096 (2) (a)	30.24 and 30.277	30.357, and 30.361
23.197 (2) (a)	30.277 (5)	30.361 (5)

ASSEMBLY BILL 514

1	23.33 (13) (cg)	30.67 (3) (b)	30.67 (1g) (b)
2	24.39 (4) (a) 1.	30.01	30.01 (3)
3	24.39 (4) (a) 2.	30.01	30.01 (4)
4	24.39 (4) (c), (f) and (h)	30.11 (5)	30.343
5	24.39 (4) (i)	30.11	30.343
6	29.193 (1m) (b)	30.77 (3)	30.77
7	29.519 (2) (fm)	30.50 (2)	30.01 (1bm)
8	29.601 (3) (a)	30.12 (3) (a) 1.	30.12 (4) (a) 1.
9	29.601 (5) (a)	30.12 (4)	30.341
10	30.01 (1p)	30.121	30.281
11	30.40 (3)	30.50 (2)	30.01 (1bm)
12	30.772 (3) (e)	30.294	30.86
13	30.773 (2) and (3) (intro.)	30.11	30.321
14	30.80 (2g) (intro.)	30.67 (1)	30.67 (1m)
15	30.92 (4) (b) 8. c. and d.	30.74 (2) (b)	30.50 (1b)
16	31.39 (2m) (c)	30.28 (2) (a)	30.243 (2) (a)
17	33.455 (3) (b)	30.77 (3) (a)	30.77
18	33.46 (2) (c)	30.77 (3) (e)	30.77 (5) (f) 5. to 7.
19	60.0133 (3)	30.32	30.493
20	60.24 (3) (f)	30.37 (3)	30.497 (3)
21	61.351 (2m)	30.11	30.321
22	62.231 (2m)	30.11	30.321

ASSEMBLY BILL 514

1	84.18 (6)	30.12 (4)	30.341
2	85.095 (1) (a)	30.37	30.497
3	100.42 (1) (b)	30.50 (2)	30.01 (1bm)
4	281.22 (2) (c)	30.28 (2) (a)	30.243 (2) (a)
5	281.35 (1) (b) 2.	30.18 (6) (c)	30.18 (6) (bm)
6	281.37 (1) (a) 3.	30.26	30.271
7	281.37 (1) (a) 3.	30.275	30.359
8	295.16 (2)	30.30 and 30.31	30.491, and 30.492
9	295.16 (4) (j)	30.21	30.293
10	295.33 (4)	30.20 (2) (b)	30.20 (3) (b)
11	350.11 (2m)	30.67 (3) (b)	30.67 (1g) (b)
12	422.413 (2g) (intro.)	30.50 (2)	30.01 (1bm)
13	895.55 (2) (intro.)	subchs. II and IV	subchs. II and III
14	938.17 (1) (intro.)	30.67 (1)	30.67 (1m)
15	938.396 (3)	30.67 (1)	30.67 (1m)
16	943.13 (4m) (c)	30.134	30.85
17	978.05 (6) (a)	30.03 (2)	30.97

18 SECTION 387. Initial applicability.

19 (1) The repeal of sections 30.12 (3) (d), 30.12 (4) (title), 30.12 (5), 30.123 (5),
20 30.18 (3) (title) and (a) (title), 1. and 2., 30.18 (3) (a) 4., 30.18 (3) (b), 30.18 (9), 30.19
21 (1m) (c) and (d), 30.19 (2) (intro.) and (a) to (d), 30.19 (2) (f), 30.19 (3) (title), 30.19 (3)
22 (b), and 30.195 (4) and (7) of the statutes; the renumbering of sections 30.12 (3) (bt)

ASSEMBLY BILL 514

1 1. to 8., 30.12 (3) (bt) 9., 30.12 (4) (d), 30.18 (6) (d) (title), and 30.18 (8) of the statutes;
2 the renumbering and amendment of sections 30.12 (3) (bt) (intro.), 30.12 (4) (a), 30.12
3 (4) (b), 30.12 (4) (c), 30.12 (4) (e), 30.12 (4) (f), 30.12 (4m), 30.123 (1), 30.18 (3) (a) 3.,
4 30.18 (4) (a), 30.18 (6) (b), 30.18 (6) (c), 30.18 (6) (d), 30.19 (1) (intro.), 30.19 (1) (a),
5 30.19 (1) (b), 30.19 (1) (c), 30.19 (2) (e), 30.19 (3) (a), 30.19 (4), 30.195 (3), 30.196, 30.20
6 (1) (b), 30.20 (1) (d), 30.20 (2) (c), 30.206, and 30.207 of the statutes; the amendment
7 of sections 30.12 (title), 30.12 (1) (intro.), 30.12 (1) (a), 30.12 (1) (b), 30.12 (3) (a) 6.,
8 30.12 (3) (bn), 30.12 (3) (c), 30.123 (2), 30.123 (4), 30.135 (1) (a) (intro.) and 2., 30.135
9 (2) (a) and (4), 30.18 (2) (a) (intro.), 30.18 (2) (b), 30.18 (4) (b), 30.18 (5) (a) (intro.),
10 30.18 (5) (a) 1., 30.18 (5) (a) 2., 30.18 (5) (b), 30.18 (6) (title), 30.18 (6) (a), 30.18 (6m)
11 (a) (intro.), 30.18 (6m) (a) 1. and 2., 30.18 (6m) (b), 30.18 (6m) (c), 30.18 (7), 30.19 (1m)
12 (intro.), 30.19 (1m) (a), 30.19 (1m) (b), 30.19 (1m) (e), 30.19 (5), 30.195 (1), 30.20 (1)
13 (a), and 30.20 (2) (title), (a) and (b) of the statutes; the repeal and recreation of
14 sections 30.12 (2), 30.12 (3) (a) (intro.), 30.12 (3) (b), 30.123 (title), 30.123 (3), 30.18
15 (4) (title), 30.18 (5) (title), 30.18 (6m) (title), 30.195 (2), 30.20 (1) (title), and 30.20 (1)
16 (c) of the statutes; and the creation of sections 30.12 (3) (a) 9., 30.12 (3) (am), 30.12
17 (3) (bg), 30.12 (3) (br), 30.123 (6), 30.135 (1) (title), 30.18 (1) (intro.), 30.18 (1) (b),
18 30.18 (3m) (intro.), 30.18 (3m) (b), 30.18 (4) (a) 1., 30.18 (5) (a) 1m., 30.18 (6) (cm) 3.,
19 30.19 (1b), 30.19 (1m) (f), 30.19 (3b) (intro.), 30.19 (4) (a), 30.20 (1) (b) 1. and 2., 30.20
20 (3) (title) and (b), and 30.20 (4) of the statutes first apply to permits applied for on
21 the effective date of this subsection.

22 (2) The treatment of section 30.20 (1) (title), (a), (b) 1. and 2., (c), and (d), (2)
23 (title), (a), (b), and (c), (3) (title) and (b), and (4) of the statutes and the renumbering
24 and amendment of section 30.20 (1) (b) of the statutes first apply to contracts applied
25 for on the effective date of this subsection.

ASSEMBLY BILL 514

- 1 (3) The treatment of section 30.77 of the statutes first applies to an ordinance
2 relating to the regulation of boating that is enacted or adopted on the effective date
3 of this subsection.

NOTE: This provision relates to the applicability of amended s. 30.77 to preexisting boating ordinances. The general rule established above is that amended s. 30.77 applies prospectively only. That is, only local boating ordinances enacted after the effective date of the legislation are subject to the amended statute. This allows preexisting ordinances to be judged, in any challenge, by the statutory standards in place when the ordinance was adopted, and does not raise doubts about the authority for preexisting ordinances.

However, if a preexisting ordinance is amended after the effective date of this legislation, this provision makes the newly amended statute applicable to the entirety of the ordinance enacted before the effective date of the legislation. This avoids the confusion that would potentially result if preexisting portions of a boating ordinance were subject to the prior statute, and new or amended portions of the boating ordinance were subject to the amended statute. This does not mean that any portion of a preexisting ordinance must necessarily be amended when any portion of the ordinance is being amended or any new provision is being added to the ordinance. What it means is that a local governmental unit should review the preexisting ordinance in light of the amended statute, to determine if additional changes are necessary.

For the most part, the special committee believes that changes to preexisting ordinances will not be necessary. Most of the requirements in s. 30.77, as amended, are simply restatements and extensions of current statutory requirements.

4

(END)