



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0209/1
MGG&RNK:lmk:jf

2005 ASSEMBLY BILL 500

June 16, 2005 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Natural Resources.

1 **AN ACT** *to repeal* 30.03 (title), 30.03 (3), 30.10 (2), 30.10 (4) (title), 30.10 (4) (c),
2 30.105, 30.11 (5) (title), 30.12 (5), 30.123 (5), 30.126 (10) (title) and (a) (title),
3 30.126 (10) (b) (title), 30.13 (3) (title), 30.13 (6) (title), 30.14 (title), 30.14 (1)
4 (title), 30.15 (title), 30.18 (3) (title) and (a) (title), 1. and 2., 30.18 (3) (a) 4., 30.18
5 (3) (b), 30.18 (9), 30.19 (1m) (c), (cm) and (d), 30.195 (4) and (7), 30.2035, 30.292,
6 30.298 (title), 30.501 (8), 30.537 (4) (e), 30.60, 30.61 (9), 30.62 (2) (d) 3., 30.62
7 (2) (f), 30.62 (2) (i), 30.62 (9), 30.67 (3) (title), 30.67 (3) (c), 30.68 (4) (b), 30.68
8 (12), 30.71 (1), 30.73 (4), 30.74 (2) (b), 30.78 (1g), 30.78 (3), 30.79 (1) (a) and 30.81
9 (1m) and (2); *to renumber* 30.01 (1b), 30.01 (1m), 30.01 (1t), 30.01 (3e), 30.01
10 (3m), 30.01 (3s), 30.01 (6d), 30.01 (7m), 30.01 (9), 30.01 (10), 30.10 (4) (d),
11 30.103, 30.11 (title), 30.11 (5) (a), 30.11 (5) (b) and (c), 30.11 (6), 30.121 (title) and
12 (2) to (3w), 30.121 (5) and (6), 30.1235 (title), 30.1235, 30.1255, 30.13 (6), 30.133,
13 30.134, 30.14 (1), 30.15 (1) (intro.), 30.15 (3), 30.16, 30.18 (6) (d) (title), 30.18 (8),
14 30.2022 (title), 30.2022 (3) to (6), 30.2023 (1) to (9), 30.2026, 30.2037, 30.207

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1 (title), 30.207 (1m), (2) and (3) (title), 30.207 (3) (b) and (c) (intro.) and 1. to 5.,
2 30.207 (3) (d) and (4) (intro.), (a) and (c) (intro.), 30.207 (4) (c) 2. to 4. and (6)
3 (title), 30.207 (6) (b) and (7) (title), 30.207 (7) (c) and (8) to (10), 30.21, 30.24,
4 30.25, 30.26, 30.265, 30.27, 30.275, 30.277, 30.285, 30.29, 30.294, 30.298 (2),
5 subchapter III (title) of chapter 30 [precedes 30.299], 30.32, 30.33, subchapter
6 IV (title) of chapter 30 [precedes 30.40], 30.67 (3) (a) and (b), 30.742 and 709.03
7 (form) C. 27.; **to renumber and amend** 30.025, 30.027, 30.03 (2), 30.03 (4) (a),
8 30.03 (4) (b), 30.05, 30.056, 30.06, 30.10 (title), 30.10 (1) (title), 30.10 (1), 30.10
9 (3), 30.10 (4) (a), 30.10 (4) (b), 30.11 (1) to (4), 30.12 (1m), 30.121 (4), 30.121 (7),
10 30.122, 30.124, 30.126 (title) and (2) to (9), 30.126 (10) (a), 30.126 (10) (b), 30.13
11 (3), 30.131, 30.14 (2), 30.15 (1) (title), 30.15 (1) (a), (b) and (c), 30.15 (1) (d), 30.18
12 (3) (a) 3., 30.18 (6) (b), 30.18 (6) (c), 30.18 (6) (d), 30.196, 30.20 (1g) (c), 30.202,
13 30.2022 (1), 30.2022 (2), 30.2023 (intro.), 30.2025, 30.203, 30.204, 30.205,
14 30.206, 30.207 (1), 30.207 (3) (a), 30.207 (3) (c) 6., 30.207 (4) (c) 1., 30.207 (6) (a),
15 30.207 (7) (a), 30.207 (7) (b), 30.208, 30.209, 30.2095 (title), 30.2095 (1) (a),
16 30.2095 (1) (b), 30.2095 (2), 30.28 (title) and (1) to (3), 30.291, 30.298 (1), 30.298
17 (3), 30.298 (4), 30.298 (5), 30.30, 30.31, 30.34, 30.35, 30.37, 30.38, 30.50 (2),
18 30.61 (10), 30.62 (2) (c), 30.62 (2) (d) 1., 30.62 (2) (d) 2., 30.62 (4) (b), 30.62 (6),
19 30.63, 30.635, 30.64, 30.67 (1), 30.675 (intro.) and (1), 30.68 (3) (a), 30.68 (3) (b)
20 to (d), 30.68 (4) (a), 30.68 (5m), 30.68 (7), 30.69 (1) (a), 30.69 (1) (b), 30.69 (1) (c)
21 and 30.70; **to amend** 20.370 (1) (mu), 25.29 (1) (a), 28.11 (12), 29.601 (5) (a),
22 subchapter II (title) of chapter 30 [precedes 30.035], 30.12 (title), 30.12 (2m) (b),
23 30.12 (2r) (b) 1., 30.12 (3) (a) (intro.), 30.12 (3m) (b), 30.123 (title), 30.123 (6) (a),
24 30.123 (6) (b), 30.123 (6m) (b), 30.123 (6r) (b) 1., 30.123 (7) (a) (intro.), 30.123
25 (8) (b), 30.13 (title), (1) (intro.), (b) and (c), 30.13 (4) (c), 30.135 (2), 30.18 (2) (a)

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1 (intro.), 30.18 (2) (b), 30.18 (4) (a), 30.18 (4) (b), 30.18 (5) (a) (intro.), 30.18 (5)
2 (a) 1., 30.18 (5) (a) 2., 30.18 (5) (b), 30.18 (6) (title), 30.18 (6) (a), 30.18 (6m) (a)
3 (intro.), 30.18 (6m) (a) 1. and 2., 30.18 (6m) (b), 30.18 (6m) (c), 30.18 (7), 30.19
4 (3r) (a) (intro.), 30.19 (4) (b), 30.19 (4) (c) 2., 30.195 (2) (b), 30.20 (1g) (a) 1., 30.20
5 (1m) (b), 30.20 (1r) (b) 1., 30.20 (1t) (a), 30.20 (2) (e), 30.50 (4q), 30.50 (9), 30.501
6 (9), 30.505, 30.52 (1) (b) 1r., 30.54 (2), 30.571, 30.61 (1), (2) (intro.), (3) (intro.),
7 (4), (6) (b), (7) and (8), 30.62 (title), (1) and (2) (b), 30.62 (2) (g) 1. to 3., 30.62 (2m)
8 and (3) (a), 30.62 (4) (a), 30.62 (5), 30.62 (8), 30.625 (1) (intro.) and (2), 30.65 (1)
9 (intro.), (b) and (f) and (2), 30.66 (1), (2) (title) and (3), 30.67 (2), 30.67 (4), (5)
10 and (6) (b), 30.675 (2), 30.68 (title) and (2), 30.68 (4m) (title) and (5), 30.68 (6),
11 30.68 (7) (title), 30.68 (8) and (8m) (a), 30.68 (9) and (11), 30.69 (title), 30.69 (1)
12 (title), 30.69 (2), 30.69 (3), 30.69 (4), 30.74 (1) (c) and (d), 30.74 (2) (a), 30.74 (3),
13 30.772 (3) (d) 4., 30.772 (4), 30.78 (1r) and (2), 30.79 (1) (b) 1. and 2., 30.79 (2),
14 (3) and (4), 30.80 (2), 30.80 (3), 30.80 (4), 30.81 (3), 30.81 (4), 30.90 (title), 30.90
15 (1), 30.90 (2), 31.03, 33.475, 60.782 (2) (d), 200.35 (4), 236.16 (3) (d) (intro.),
16 281.35 (4) (b) (intro.), 293.65 (2) (b), 299.05 (1), 299.05 (2) (a), 299.85 (7) (a) 2.
17 and 299.85 (7) (a) 4.; **to repeal and recreate** subchapter I (title) of chapter 30
18 [precedes 30.01], 30.18 (4) (title), 30.18 (5) (title), 30.18 (6m) (title), 30.73 (2) (a),
19 30.77, 30.78 (1) (intro.) and 30.81 (1); and **to create** 30.01 (1nq), 30.01 (1nw),
20 30.01 (6r), 30.035 (1) (b), 30.035 (3) and (4), 30.04, 30.18 (1) (intro.), 30.18 (1)
21 (b), 30.18 (3m) (intro.), 30.18 (3m) (b), 30.18 (4) (a) 1., 30.18 (5) (a) 1m., 30.18
22 (6) (cm) 3., 30.18 (6m) (bm), 30.215, 30.244 (3) (am), 30.246, 30.253, 30.263
23 (title), 30.263 (1) (title), 30.266 (1) (intro.), 30.323 (title), 30.327 (title), 30.341
24 (1), 30.343 (title), 30.381 (title), 30.381 (3) (title), 30.381 (4) (title), 30.381 (4) (b),
25 30.381 (5), 30.381 (6) (title), 30.50 (1b), 30.50 (4u), 30.50 (9b), 30.50 (10g), 30.50

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1 (13r), 30.5005, 30.605, 30.62 (2) (c) 2., 30.62 (3) (c), 30.62 (4) (b) 3., 30.62 (6) (b),
2 30.66 (3) (c), 30.67 (1g) (title), 30.68 (3m) (title), 30.68 (5g) (c), 30.68 (8m) (c),
3 30.68 (14) (title), 30.69 (1) (b) 2., 30.69 (1) (bm), 30.735, 30.771, subchapter VI
4 (title) of chapter 30 [precedes 30.94], 30.96 (title), 30.98 (title), 30.98 (3) (title),
5 31.93, 60.782 (1m) and 709.03 (form) C. 27. of the statutes; **relating to:**
6 determinations concerning the navigability of bodies of water; determinations
7 as to whether bodies of waters are lakes or streams; procedures, requirements,
8 and exemptions that apply to permits and contracts for activities that affect
9 navigable waters; maintenance of bridges over navigable streams; liability for
10 changing the courses of streams; rights of the public and riparian owners in
11 navigable waters; mediation in making determinations in issuing individual
12 permits and entering contracts for certain activities that affect navigable
13 waters; elimination of obsolete provisions of ch. 30; recodification of chapter 30;
14 the duties and powers of the department of natural resources relating to the
15 regulation of boating; certificate of number and registration requirements for
16 boats; equipment requirements for boats; requirements regarding boat
17 operation; regulation of water skiing and similar activities; marking of water
18 areas; local regulation of boating and seaplanes; placement and use of
19 moorings; local water safety patrols; local regulations on icebound waters;

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1 boating fees charged by counties; requiring the exercise of rule-making
2 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.

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.

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

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

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.

1 **SECTION 1.** 20.370 (1) (mu) of the statutes is amended to read:
2 20.370 (1) (mu) *General program operations — state funds.* The amounts in
3 the schedule for general program operations that do not relate to the management

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1 and protection of the state's fishery resources and that are conducted under ss. 23.09
2 to 23.11, 27.01, ~~30.203, 30.277~~ 30.355, 30.361, and 90.21, and chs. 29 and 169 and for
3 transfers to the appropriation account under s. 20.285 (1) (kf).

4 **SECTION 2.** 25.29 (1) (a) of the statutes is amended to read:

5 25.29 (1) (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing
6 to the state for or in behalf of the department under chs. 26, 27, 28, 29, 169, and 350,
7 subchs. I and VI of ch. 77, and ss. 23.09 to 23.31, 23.325 to 23.42, 23.50 to 23.99, 30.50
8 to ~~30.55~~ 30.578, 70.58, 71.10 (5), 71.30 (10), and 90.21, including grants received from
9 the federal government or any of its agencies except as otherwise provided by law.

10 **SECTION 3.** 28.11 (12) of the statutes is amended to read:

11 28.11 (12) ENFORCEMENT. If at any time it appears to the department that the
12 lands are not being managed in accordance with violation of this section it, the
13 department shall so advise the county forestry committee and the county clerk. If
14 the condition persists, the department may proceed against the persons responsible
15 for such noncompliance under s. 30.03 (4) the possible violation by ordering a hearing
16 under ch. 227. The department may request that the hearing examiner issue an
17 order directing the responsible persons to perform or refrain from acts in order to
18 fully protect the county forest lands. If any person fails or neglects to obey an order,
19 the department may request the attorney general to institute proceedings for the
20 enforcement of the order in the name of the state. The proceeding shall be brought
21 in the manner and with the effect of proceedings under s. 111.07 (7). No penalty may
22 be imposed for violating a hearing examiner's order under this subsection, but the
23 violation of a judgment enforcing the order may be punished in civil contempt
24 proceedings.

25 **SECTION 4.** 29.601 (5) (a) of the statutes is amended to read:

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1 29.601 (5) (a) This section does not apply to any activities carried out under the
2 direction and supervision of the department of transportation in connection with the
3 construction, reconstruction, maintenance and repair of highways and bridges in
4 accordance with s. ~~30.2022~~ 30.341.

5 **SECTION 5.** Subchapter I (title) of chapter 30 [precedes 30.01] of the statutes
6 is repealed and recreated to read:

CHAPTER 30**SUBCHAPTER I****DEFINITIONS**

7
8
9
10 **SECTION 6.** 30.01 (1b) of the statutes is renumbered 30.18 (1) (a).

11 **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.

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

13 30.01 (1nq) “Environmental pollution” has the meaning given in s. 299.01 (4).

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

15 30.01 (1nw) “Farm drainage ditch” means any artificial channel that drains
16 water from lands that are used for agricultural purposes.

17 **SECTION 10.** 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.

18 **SECTION 11.** 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.

19 **SECTION 12.** 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.

20 **SECTION 13.** 30.01 (3s) of the statutes is renumbered 30.50 (5r).

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

1 **SECTION 14.** 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 15.** 30.01 (6r) of the statutes is created to read:

3 30.01 (6r) "Vessel" has the meaning given for "boat" in sub. (1bm).

4 **SECTION 16.** 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.

5 **SECTION 17.** 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.

6 **SECTION 18.** 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.

7 **SECTION 19.** 30.025 of the statutes is renumbered 30.295, and 30.295 (1b) (b)
8 and (5), as renumbered, are amended to read:

9 30.295 (1b) (b) "Permit" means an individual permit, a general permit, an
10 approval, or a contract required under this subchapter or subch. II, a permit or an
11 approval required under ch. 31, a storm water discharge permit required under s.
12 283.33 (1) (a), or a water quality certification required under s. 281.36 or under rules
13 promulgated under subch. II of ch. 281 to implement 33 USC 1341 (a).

14 (5) EXEMPTION FROM CERTAIN PROCEDURES. Sections ~~30.208~~ 30.244 and ~~30.209~~
15 30.245 do not apply to an application for any permit under this section.

16 **SECTION 20.** 30.027 of the statutes is renumbered 30.255 and amended to read:

17 **30.255 Lower Wisconsin State Riverway.** For activities in the Lower
18 Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining the~~
19 department shall include a condition in a permit issued under subchs. I, II or V this

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1 subchapter that the person obtaining the permit may not start or engage in the
2 activity for which the permit was issued unless the person obtains any permit that
3 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.

4 **SECTION 21.** 30.03 (title) of the statutes is repealed.

5 **SECTION 22.** 30.03 (2) of the statutes is renumbered 30.97 and amended to read:

6 **30.97 Enforcement of forfeitures; abatement of nuisances.** The district
7 attorney of the appropriate county or, at the request of the department, the attorney
8 general shall institute proceedings to recover any forfeiture imposed or to abate any
9 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.

10 **SECTION 23.** 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.

11 **SECTION 24.** 30.03 (4) (a) of the statutes is renumbered 30.96 (1) and amended
12 to read:

13 30.96 (1) If the department learns of a possible violation of the statutes relating
14 to navigable waters or a possible infringement of the public rights relating to
15 navigable waters, and the department determines that the public interest may not
16 be adequately served by imposition of a penalty or forfeiture, the department may
17 proceed as provided in this ~~paragraph~~ subsection, either in lieu of or in addition to
18 any other relief provided by law. The department may order a hearing under ch. 227

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1 concerning the possible violation or infringement, and may request the hearing
2 examiner to issue an order directing the responsible parties to perform or refrain
3 from performing acts in order to fully protect the interests of the public in the
4 navigable waters. If any person fails or neglects to obey an order, the department
5 may request the attorney general to institute proceedings for the enforcement of the
6 department's order in the name of the state. The proceedings shall be brought in the
7 manner and with the effect of proceedings under s. 111.07 (7).

8 **SECTION 25.** 30.03 (4) (b) of the statutes is renumbered 30.96 (2) and amended
9 to read:

10 30.96 (2) No penalty may be imposed for ~~violation of~~ violating a hearing
11 examiner's order under this ~~subsection~~ section, but the violation of a judgment
12 enforcing the order may be punished in civil contempt proceedings.

13 **SECTION 26.** Subchapter II (title) of chapter 30 [precedes 30.035] of the statutes
14 is amended to read:

CHAPTER 30

SUBCHAPTER II

NAVIGABLE WATERS AND

NAVIGATION IN GENERAL

19 **SECTION 27.** 30.035 (1) (b) of the statutes is created to read:

20 30.035 (1) (b) A stream is navigable in fact if it is capable of floating any boat,
21 skiff, or canoe that is of the shallowest draft and is of a type used for recreational
22 purposes.

23 **SECTION 28.** 30.035 (3) and (4) of the statutes are created to read:

24 30.035 (3) DETERMINING NAVIGABILITY OF STREAMS BY DEPARTMENT. (a) The
25 department may determine whether a stream is navigable in fact by means of actual

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1 navigation. If the department does so, the department shall use a boat, skiff, or
2 canoe, carrying one adult, that is of the shallowest draft and that is of a type used
3 for recreational purposes. The department may determine the stream to be
4 navigable in fact by means of navigation even though any of the following applies:

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

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

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

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

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

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

22 (4) MAPS AND DATA. The department shall develop, and make publicly available,
23 maps and data that show the results of determinations of navigability that are made
24 by the department. At a minimum, the maps and data shall include navigability
25 determinations made after the effective date of this subsection ... [revisor inserts

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1 date]. To the extent practicable, within the constraints of available staff and funds,
2 the department shall incorporate past determinations of navigability into the maps
3 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.

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,

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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 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.

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

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

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

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

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

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

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

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

18 (4) Any reference to this subchapter includes any rules promulgated under this
19 subchapter, and any reference to any provision of this subchapter includes any rules
20 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.

21 **SECTION 30.** 30.05 of the statutes is renumbered 30.233 and amended to read:

22 **30.233 Applicability of ~~chapter to municipally-owned submerged~~**
23 **shorelands subchapter to lake beds or stream beds under the jurisdiction**

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1 **of a municipality.** Nothing in this ~~chapter~~ subchapter relative to the establishment
2 of bulkhead or pierhead lines or the placing of structures or deposits in navigable
3 waters or the removal of materials from the beds of navigable waters is ~~applicable~~
4 ~~to submerged shorelands in Lake Michigan~~ applies to any lake bed, the title to which
5 has been granted by the state to a municipality or to any stream bed which the
6 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.

7 **SECTION 31.** 30.056 of the statutes is renumbered 30.261 and amended to read:

8 **30.261 Exemption from certain permit requirements Crayfish Creek.**

9 Notwithstanding ss. 30.12, 30.19, 30.195, and ~~30.294~~ 30.94, the city of Oak Creek
10 may not be required to remove any structure or concrete or other deposit that was
11 placed in Crayfish Creek in the city of Oak Creek before June 1, 1991, and may
12 continue to maintain the structure, concrete, or deposit without having a permit or
13 other approval from the department.

14 **SECTION 32.** 30.06 of the statutes is renumbered 30.331 and amended to read:

15 **30.331 Waiver of certain provisions of Federal concurrent jurisdiction;**

16 **waivers under this chapter subchapter.** The department, by rule, may waive
17 the applicability to specified navigable waters of the United States of all or part of
18 those provisions of this ~~chapter~~ subchapter which relate to the establishment of
19 bulkhead or pierhead lines or the placing of structures or deposits in navigable
20 waters or the removal of materials from the beds of navigable waters. The
21 department may promulgate such the rule only after it the department has entered
22 into an agreement, with the appropriate federal agency wherein it is agreed, an
23 agreement that requires that the comparable federal law will be enforced on the

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

9 **SECTION 33.** 30.10 (title) of the statutes is renumbered 30.035 (title) and
10 amended to read:

11 **30.035 (title) Declarations and determinations of navigability.**

12 **SECTION 34.** 30.10 (1) (title) of the statutes is renumbered 30.035 (1) (title) and
13 amended to read:

14 30.035 (1) (title) LAKES AND STREAMS.

15 **SECTION 35.** 30.10 (1) of the statutes is renumbered 30.035 (1) (a) and amended
16 to read:

17 30.035 (1) (a) ~~All lakes wholly or partly within this state which~~ Lakes and
18 streams that are navigable in fact for any purpose whatsoever are declared to be
19 navigable ~~and public waters, and all persons have the same rights therein and~~
20 ~~thereto as they have in and to any other navigable or public waters.~~

21 **SECTION 36.** 30.10 (2) of the statutes is repealed.

22 **SECTION 37.** 30.10 (3) of the statutes is renumbered 30.035 (2) and amended
23 to read:

24 30.035 (2) ~~ENLARGEMENTS OR IMPROVEMENTS IN NAVIGABLE WATERS.~~ All
25 enlargements in navigable waters, including inner and outer harbors, turning

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1 basins, waterways, slips, and canals ~~created by any municipality to be used by the~~
2 ~~public for purposes of navigation, and all outer harbors connecting interior~~
3 ~~navigation with lake navigation, are declared to be navigable waters and are subject~~
4 ~~to the same control and regulation that navigable streams are subjected to as regards~~
5 ~~improvement, use and bridging.~~

6 **SECTION 38.** 30.10 (4) (title) of the statutes is repealed.

7 **SECTION 39.** 30.10 (4) (a) of the statutes is renumbered 30.213 (2) and amended
8 to read:

9 30.213 (2) ~~This section~~ Section 30.035 does not impair the powers granted by
10 law under ~~s. 30.1235 sub. (1)~~ or by other law to municipalities to construct highway
11 bridges, arches, or culverts over streams.

12 **SECTION 40.** 30.10 (4) (b) of the statutes is renumbered 30.09 and amended to
13 read:

14 **30.09 Boundaries of lands adjoining waters.** The boundaries of lands
15 adjoining waters and the rights of the state and of individuals with respect to all such
16 those lands and waters shall be determined in conformity to the common law so far
17 as applicable, but in the case of a lake or stream erroneously meandered in the
18 original U.S. government survey, the owner of title to lands adjoining the meandered
19 lake or stream, as shown on ~~such~~ the original survey, is conclusively presumed to own
20 to the actual shorelines unless it is first established in a suit in equity, brought by
21 the U.S. federal government for that purpose, that the government was in fact
22 defrauded by such survey. If the proper claims of adjacent owners of riparian lots of
23 lands between meander and actual shorelines conflict, each shall have his or her
24 proportion of ~~such~~ those shorelands.

25 **SECTION 41.** 30.10 (4) (c) of the statutes is repealed.

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

1 **SECTION 42.** 30.10 (4) (d) of the statutes is renumbered 30.263 (1).

2 **SECTION 43.** 30.103 of the statutes is renumbered 30.325.

3 **SECTION 44.** 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.

4 **SECTION 45.** 30.11 (title) of the statutes is renumbered 30.321 (title).

5 **SECTION 46.** 30.11 (1) to (4) of the statutes are renumbered 30.321 (1) to (4) and
6 amended to read:

7 30.321 (1) ~~WHO~~ MUNICIPALITY MAY ESTABLISH. Any municipality may, subject to
8 the approval of the department, by ordinance establish or reestablish a bulkhead line
9 ~~and from time to time reestablish the same~~ along any section of the shore of any
10 navigable waters within its boundaries.

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

18 (3) ~~HOW ESTABLISHED~~ ESTABLISHMENT OF LINES. ~~Whenever any~~ If a municipality
19 proposes to establish or reestablish a bulkhead line ~~or to reestablish an existing~~
20 ~~bulkhead line~~, the municipality shall indicate both the existing shore and the
21 proposed bulkhead line upon a map and shall file with the department for its
22 approval 6 copies of the map and 6 copies of the ordinance establishing the bulkhead

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1 line. The map shall use a scale of not less than 100 feet to an inch or any other scale
2 required by the department. The map and a metes and bounds description of the
3 bulkhead line shall be prepared by a land surveyor registered in this state. The
4 department may require the installation of permanent reference markers ~~to~~ for the
5 bulkhead line. Upon approval by the department, the municipality shall deliver the
6 map, description, and ordinance to the office of the register of deeds of the county in
7 which the bulkhead line lies, ~~to be recorded by the.~~ The register of deeds shall record
8 the map, description, and ordinance.

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

12 **SECTION 47.** 30.11 (5) (title) of the statutes is repealed.

13 **SECTION 48.** 30.11 (5) (a) of the statutes is renumbered 30.343 (1).

14 **SECTION 49.** 30.11 (5) (b) and (c) of the statutes are renumbered 30.343 (2) and
15 (3).

16 **SECTION 50.** 30.11 (6) of the statutes is renumbered 30.321 (5).

17 **SECTION 51.** 30.12 (title) of the statutes is amended to read:

18 **30.12** (title) ~~Structures~~ **Regulation of structures and deposits in**
19 **navigable waters.**

20 **SECTION 52.** 30.12 (1m) of the statutes is renumbered 30.263 (2), and 30.263
21 (2) (intro.), as renumbered, is amended to read:

22 **30.263 (2) DUCK CREEK DRAINAGE DISTRICT STRUCTURES AND DEPOSITS.** (intro.)

23 A structure or deposit that the drainage board for the Duck Creek Drainage District
24 places in a drain that the board operates in the Duck Creek Drainage District is

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1 exempt from the permit requirements under ~~this section~~ s. 30.12 if either of the
2 following applies:

3 **SECTION 53.** 30.12 (2m) (b) of the statutes is amended to read:

4 30.12 **(2m)** (b) Environmental pollution, ~~as defined in s. 299.01 (4).~~

5 **SECTION 54.** 30.12 (2r) (b) 1. of the statutes is amended to read:

6 30.12 **(2r)** (b) 1. Enter and inspect the site on which the activity is located,
7 subject to s. ~~30.291~~ 30.239, if the department determines such an inspection is
8 necessary.

9 **SECTION 55.** 30.12 (3) (a) (intro.) of the statutes is amended to read:

10 30.12 **(3)** (a) (intro.) The department shall issue statewide general permits
11 under s. ~~30.206~~ 30.221 that authorize riparian owners to do all of the following:

12 **SECTION 56.** 30.12 (3m) (b) of the statutes is amended to read:

13 30.12 **(3m)** (b) The notice and hearing provisions of s. ~~30.208~~ 30.244 (3) to (5)
14 shall apply to an application under par. (a).

15 **SECTION 57.** 30.12 (5) of the statutes is repealed.

16 **SECTION 58.** 30.121 (title) and (2) to (3w) of the statutes are renumbered 30.281
17 (title) and (2) to (3w).

18 **SECTION 59.** 30.121 (4) of the statutes is renumbered 30.281 (4) and amended
19 to read:

20 30.281 **(4)** MAJOR REPAIR, ABANDONED STRUCTURES AND OBSTRUCTIONS TO
21 NAVIGATION. The owner of a boathouse or a fixed houseboat which extends beyond the
22 ordinary high-water mark of any navigable waterway and which is in a major state
23 of disrepair or is a material obstruction to navigation may be ordered by the
24 department to remove the structure from the waterway. The department shall follow
25 the procedures set forth in s. ~~30.03 (4) (a)~~ 30.96 (1) for ordering removal of a structure.

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1 If such a structure is abandoned and the department, after due diligence, cannot
2 locate the owner, the department shall utilize the procedures set forth in s. 31.187
3 (1) for removing the abandoned structure.

4 **SECTION 60.** 30.121 (5) and (6) of the statutes are renumbered 30.281 (5) and
5 (6).

6 **SECTION 61.** 30.121 (7) of the statutes is renumbered 30.381 (2) and amended
7 to read:

8 30.381 (2) ~~PENALTIES~~ BOATHOUSES AND HOUSEBOATS. Any person who constructs,
9 owns, or maintains a boathouse or fixed houseboat in violation of ~~this section s.~~
10 30.281 or in violation of any order issued under ~~this section s. 30.281~~ shall forfeit not
11 less than \$10 nor more than \$50 for each offense. Each day during which a structure
12 boathouse or a fixed houseboat exists in violation of ~~this section~~ constitutes s. 30.281
13 is a separate offense.

14 **SECTION 62.** 30.122 of the statutes is renumbered 30.217 and amended to read:

15 **30.217 Unauthorized structures.** All permanent alterations, deposits, or
16 structures affecting navigable waters, other than boathouses, which were
17 constructed before December 9, 1977 and which did not require a permit at the time
18 of construction, shall be presumed in conformity with the law, ~~unless a written~~
19 ~~complaint is filed within 180 days of December 9, 1977.~~ Upon the filing of a
20 complaint, the department shall proceed with an action to enforce the applicable
21 statutes.

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

22 **SECTION 63.** 30.123 (title) of the statutes is amended to read:

23 **30.123 (title) Bridges Regulation of bridges and culverts.**

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1 **SECTION 64.** 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 65.** 30.123 (6) (a) of the statutes is amended to read:

3 30.123 **(6)** (a) The construction and maintenance of highway bridges to which
4 s. ~~30.1235~~ 30.213 applies.

5 **SECTION 66.** 30.123 (6) (b) of the statutes is amended to read:

6 30.123 **(6)** (b) The construction and maintenance of bridges by the department
7 of transportation in accordance with s. ~~30.2022~~ 30.341.

8 **SECTION 67.** 30.123 (6m) (b) of the statutes is amended to read:

9 30.123 **(6m)** (b) Environmental pollution, ~~as defined in s. 299.01 (4).~~

10 **SECTION 68.** 30.123 (6r) (b) 1. of the statutes is amended to read:

11 30.123 **(6r)** (b) 1. Enter and inspect the site on which the activity is located,
12 subject to s. ~~30.291~~ 30.239, if the department determines such an inspection is
13 necessary.

14 **SECTION 69.** 30.123 (7) (a) (intro.) of the statutes is amended to read:

15 30.123 **(7)** (a) (intro.) The department shall issue statewide general permits
16 under s. ~~30.206~~ 30.221 that authorize any person to do all of the following:

17 **SECTION 70.** 30.123 (8) (b) of the statutes is amended to read:

18 30.123 **(8)** (b) The notice and hearing provisions of s. ~~30.208~~ 30.244 (3) to (5)
19 shall apply to an application under par. (a).

20 **SECTION 71.** 30.1235 (title) of the statutes is renumbered 30.213 (title).

21 **SECTION 72.** 30.1235 of the statutes is renumbered 30.213 (1).

22 **SECTION 73.** 30.124 of the statutes is renumbered 30.351, and 30.351 (1)
23 (intro.), as renumbered, is amended to read:

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1 30.351 (1) (intro.) Notwithstanding ss. 30.12, 30.20, 30.44, and 30.45, and if the
2 department finds that the activity will not adversely affect the public interest or
3 private rights or interests in fish and wildlife populations, navigation, or waterway
4 flood flow capacity and will not result in environmental pollution, ~~as defined in s.~~
5 ~~299.01 (4)~~, the department may do all of the following on public lands or waters:

6 **SECTION 74.** 30.1255 of the statutes is renumbered 30.352.

7 **SECTION 75.** 30.126 (title) and (2) to (9) of the statutes are renumbered 30.266
8 (title) and (2) to (9), and 30.266 (5) (g), as renumbered, is amended to read:

9 30.266 (5) (g) *May not have improper flotation devices.* No person may
10 construct, place, or maintain a fishing raft on authorized portions of the Wolf River
11 unless each flotation device used on the fishing raft is clean and uncontaminated,
12 properly attached to the fishing raft, and properly maintained in conformity with
13 minimum standards established by the department by rule. The department shall
14 establish minimum standards for the condition, attachment, and maintenance of
15 flotation devices used on fishing rafts. This paragraph applies to any device used to
16 provide flotation for a fishing raft, including each individual barrel or styrofoam
17 coffin.

18 **SECTION 76.** 30.126 (10) (title) and (a) (title) of the statutes are repealed.

19 **SECTION 77.** 30.126 (10) (a) of the statutes is renumbered 30.381 (3) (a) and
20 amended to read:

21 30.381 (3) (a) A person who violates ~~this section~~, any rule promulgated under
22 ~~this section s. 30.266~~ or any order issued by the department under ~~this section s.~~
23 ~~30.266~~ shall forfeit not less than \$10 nor more than \$250 for each offense. Each day
24 of violation ~~constitutes~~ during which a fishing raft exists in violation of s. 30.266 is
25 a separate offense.

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1 **SECTION 78.** 30.126 (10) (b) (title) of the statutes is repealed.

2 **SECTION 79.** 30.126 (10) (b) of the statutes is renumbered 30.381 (3) (b) and
3 amended to read:

4 30.381 (3) (b) A person who violates any ordinance adopted or order issued by
5 the municipality under ~~this section s. 30.266~~ is subject to the penalty established by
6 ordinance. A Wolf River municipality may not establish this penalty at a level which
7 is less severe than the penalty established under par. (a).

8 **SECTION 80.** 30.13 (title), (1) (intro.), (b) and (c) of the statutes are amended to
9 read:

10 **30.13 (title) Regulation of wharves, piers, and swimming rafts;
11 establishment of pierhead lines. (1) CONSTRUCTION ALLOWED WITHOUT PERMIT
12 UNDER CERTAIN CIRCUMSTANCES. (intro.)** A riparian ~~proprietor~~ owner may construct
13 a wharf or pier in a navigable waterway extending beyond the ordinary high-water
14 mark or an established bulkhead line in aid of navigation without obtaining a permit
15 under s. 30.12 if all of the following conditions are met:

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

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

20 **SECTION 81.** 30.13 (3) (title) of the statutes is repealed.

21 **SECTION 82.** 30.13 (3) of the statutes is renumbered 30.323 (1), and 30.323 (1)
22 (a), as renumbered, is amended to read:

23 30.323 (1) (a) Any municipality authorized by s. ~~30.11~~ 30.321 to establish a
24 bulkhead line may also establish a pierhead line in the same manner as it is
25 authorized to establish a bulkhead line, except that a metes and bounds legal

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1 description is not required nor is the map required to be prepared by a registered land
2 surveyor and except that if the municipality has created a board of harbor
3 commissioners the municipality must obtain the approval of the board concerning
4 the establishment of the pierhead line in addition to obtaining the approval of the
5 department.

6 **SECTION 83.** 30.13 (4) (c) of the statutes is amended to read:

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

23 **SECTION 84.** 30.13 (6) (title) of the statutes is repealed.

24 **SECTION 85.** 30.13 (6) of the statutes is renumbered 30.323 (2).

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1 **SECTION 86.** 30.131 of the statutes is renumbered 30.283, and 30.283 (1) (intro.)
2 and (f) and (2), as renumbered, are amended to read:

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

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

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

15 **SECTION 87.** 30.133 of the statutes is renumbered 30.095.

16 **SECTION 88.** 30.134 of the statutes is renumbered 30.85.

17 **SECTION 89.** 30.135 (2) of the statutes is amended to read:

18 30.135 **(2)** If the department determines that any of the requirements under
19 sub. (1) are not met, the riparian owner shall submit an application for an individual
20 permit to the department. The notice and hearing provisions under s. ~~30.208~~ 30.244
21 (3) to (5) apply to the application.

22 **SECTION 90.** 30.14 (title) of the statutes is repealed.

23 **SECTION 91.** 30.14 (1) (title) of the statutes is repealed.

24 **SECTION 92.** 30.14 (1) of the statutes is renumbered 30.327.

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1 **SECTION 93.** 30.14 (2) of the statutes is renumbered 30.247 and amended to
2 read:

3 **30.247 Hearings by department.** Upon complaint by any person to the
4 department that any wharf, pier, or other structure exists in navigable water in
5 violation of s. 30.12 ~~or~~, 30.13, or ~~30.207~~ 30.223 or that any wharf, pier, or other
6 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13, or
7 ~~30.207~~ 30.223, the department shall investigate and may hold a hearing to
8 determine whether the wharf, pier, or other structure is or would be in violation of
9 those sections. If no hearing is held, the complainant shall be informed of the results
10 of the investigation.

11 **SECTION 94.** 30.15 (title) of the statutes is repealed.

12 **SECTION 95.** 30.15 (1) (title) of the statutes is renumbered 30.98 (1) (title) and
13 amended to read:

14 30.98 (1) (title) OBSTRUCTIONS PENALIZED.

15 **SECTION 96.** 30.15 (1) (intro.) of the statutes is renumbered 30.98 (1) (intro.).

16 **SECTION 97.** 30.15 (1) (a), (b) and (c) of the statutes are renumbered 30.98 (1)
17 (a), (b) and (c) and amended to read:

18 30.98 (1) (a) Unlawfully obstructs any navigable waters water and thereby
19 impairs the free navigation ~~thereof~~ of the navigable water.

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

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

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1 **SECTION 98.** 30.15 (1) (d) of the statutes is renumbered 30.381 (4) (a) and
2 amended to read:

3 30.381 (4) (a) ~~Constructs~~ Except as provided in par. (b), any person who
4 constructs or places any structure or deposits any material in navigable waters in
5 violation of s. 30.12 ~~or 30.13~~ shall forfeit not less than \$100 nor more than \$500 for
6 each offense. Each day during which a structure or deposit of material exists in
7 violation of s. 30.12 is a separate offense under this paragraph.

8 **SECTION 99.** 30.15 (3) of the statutes is renumbered 30.98 (2).

9 **SECTION 100.** 30.16 of the statutes is renumbered 30.95.

10 **SECTION 101.** 30.18 (1) (intro.) of the statutes is created to read:

11 30.18 (1) DEFINITIONS. (intro.) In this section:

12 **SECTION 102.** 30.18 (1) (b) of the statutes is created to read:

13 30.18 (1) (b) “Major diversion” means a diversion that will result in a water loss
14 averaging, in any 30-day period, at least 2,000,000 gallons per day above a
15 permittee’s authorized base level of water loss.

16 **SECTION 103.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

17 30.18 (2) (a) ~~Streams~~ Diversions from streams. (intro.) ~~No~~ Unless an individual
18 permit has been issued under this section, no person may divert water from a stream
19 in this state without an individual permit under this section if the diversion meets
20 either of the following conditions if any of the following applies:

21 **SECTION 104.** 30.18 (2) (b) of the statutes is amended to read:

22 30.18 (2) (b) ~~Streams or~~ Major diversions from streams or lakes. ~~No~~ Unless an
23 individual permit has been issued under this section, no person, except a person
24 required to obtain an approval under s. 281.41, may divert water from any lake or
25 stream in this state without an individual permit under this section if the diversion

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1 will result in a water loss averaging 2,000,000 gallons per day in any 30-day period
2 above the person's authorized base level of water loss is a major diversion. This
3 paragraph does not apply to a person who is required to obtain an approval under
4 s. 281.41.

5 **SECTION 105.** 30.18 (3) (title) and (a) (title), 1. and 2. of the statutes are
6 repealed.

7 **SECTION 106.** 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
8 amended to read:

9 30.18 (3m) (a) ~~For a diversion under sub. (2) (a) 2., the application shall include~~
10 ~~written~~ Written statements of consent to the diversion from all riparian owners who
11 are making beneficial use of the water proposed to be diverted.

12 **SECTION 107.** 30.18 (3) (a) 4. of the statutes is repealed.

13 **SECTION 108.** 30.18 (3) (b) of the statutes is repealed.

14 **SECTION 109.** 30.18 (3m) (intro.) of the statutes is created to read:

15 30.18 (3m) APPLICATIONS FOR PERMITS; SPECIFIC REQUIREMENTS. (intro.) An
16 application for a permit under this section to divert water from a stream for the
17 purpose of agriculture or irrigation shall include all of the following:

18 **SECTION 110.** 30.18 (3m) (b) of the statutes is created to read:

19 30.18 (3m) (b) Evidence of permission or authority to enter any land through
20 which it is proposed to divert the water for the purpose of obtaining information
21 required for drafting the plans for the project.

22 **SECTION 111.** 30.18 (4) (title) of the statutes is repealed and recreated to read:

23 30.18 (4) (title) ACTION BY DEPARTMENT.

24 **SECTION 112.** 30.18 (4) (a) of the statutes is amended to read:

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1 30.18 (4) (a) Upon receipt of a complete application for a permit under this
2 section, the department shall follow the notice and hearing procedures under s.
3 ~~30.208~~ 30.244 (3) to (5). In addition to providing notice as required under s. ~~30.208~~
4 30.244 (3) to (5), the department shall mail a copy of the notice to ~~every person upon~~
5 ~~whose land any part of the canal or any other structure will be located, to the~~ all of
6 the following:

7 2. ~~The clerk of the next town~~ municipality that is the next municipality
8 ~~downstream, to the~~ from the point of the proposed diversion.

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

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

13 **SECTION 113.** 30.18 (4) (a) 1. of the statutes is created to read:

14 30.18 (4) (a) 1. Each owner of land over which water is proposed to be diverted.

15 **SECTION 114.** 30.18 (4) (b) of the statutes is amended to read:

16 30.18 (4) (b) If a hearing on the application for a permit under this section is
17 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
18 in that section supersede the notice and hearing provisions ~~of par. (a)~~ under ss.
19 30.244 and 30.245.

20 **SECTION 115.** 30.18 (5) (title) of the statutes is repealed and recreated to read:

21 30.18 (5) (title) ISSUANCE OF PERMITS.

22 **SECTION 116.** 30.18 (5) (a) (intro.) of the statutes is amended to read:

23 30.18 (5) (a) *Streams Diversions from streams.* (intro.) The department shall
24 ~~approve an application for~~ issue a permit required under sub. (2) (a) if the
25 department determines ~~both~~ that all of the following conditions apply:

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1 **SECTION 117.** 30.18 (5) (a) 1. of the statutes is amended to read:

2 30.18 (5) (a) 1. ~~That the~~ The proposed diversion will not injure any public rights
3 ~~in navigable waters~~ be detrimental to the public interest.

4 **SECTION 118.** 30.18 (5) (a) 1m. of the statutes is created to read:

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

6 **SECTION 119.** 30.18 (5) (a) 2. of the statutes is amended to read:

7 30.18 (5) (a) 2. ~~That the~~ Either the water to be diverted is surplus water, or if
8 ~~it is not surplus water, that all riparians not being beneficially used or all riparian~~
9 ~~owners~~ who may be adversely affected by the diversion have consented to the
10 proposed diversion.

11 **SECTION 120.** 30.18 (5) (b) of the statutes is amended to read:

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

18 **SECTION 121.** 30.18 (6) (title) of the statutes is amended to read:

19 30.18 (6) (title) ~~PERMITS; USE OF WATER~~ PERMIT CONDITIONS; REPORTING; REVIEW.

20 **SECTION 122.** 30.18 (6) (a) of the statutes is amended to read:

21 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
22 issued under this section the quantity of water that may be diverted and the times
23 during which water may be diverted. In addition, if the permit is one which is
24 required under sub. (2) (b) for a major diversion, the permit shall comply with s.
25 281.35 (6).

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1 **SECTION 123.** 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (dm) and
2 amended to read:

3 30.18 (6) (dm) *Use of water.* A person who is issued a permit under this section
4 for the purpose of irrigation or agriculture may use the water on any land contiguous
5 to the permittee's riparian land, but may not withdraw more water than ~~it did~~ the
6 permittee withdrew before August 1, 1957, ~~without applying to the department for~~
7 ~~a modification of the permit~~ unless the department approves the additional amount
8 to be withdrawn by modifying the permittee's permit.

9 **SECTION 124.** 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (bm) and
10 amended to read:

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

16 **SECTION 125.** 30.18 (6) (cm) 3. of the statutes is created to read:

17 30.18 (6) (cm) 3. A permit issued under this section before August 1, 1957, is
18 exempt from the review requirements under subds. 1. and 2.

19 **SECTION 126.** 30.18 (6) (d) (title) of the statutes is renumbered 30.18 (6) (cm)
20 (title).

21 **SECTION 127.** 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (cm) 1. and
22 amended to read:

23 30.18 (6) (cm) 1. ~~If the permit is one that is required under sub. (2) (a), but not~~
24 ~~under sub. (2) (b), and the permit was issued on or after August 1, 1957,~~ Except as

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1 provided in subds. 2. and 3. the department shall review the each permit issued
2 under this section at least once every 5 years.

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

5 **SECTION 128.** 30.18 (6m) (title) of the statutes is repealed and recreated to read:

6 30.18 **(6m)** (title) RESCISSION.

7 **SECTION 129.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

8 30.18 **(6m)** (a) Streams; mandatory rescission. (intro.) The department shall
9 revoke rescind a permit issued under sub. (5) (a), which is not subject to sub. (2) (b),
10 if it a permit for a major diversion, if the department finds that any of the following
11 applies:

12 **SECTION 130.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

13 30.18 **(6m)** (a) 1. ~~That the~~ The water being diverted is no longer surplus water,
14 ~~except that the department may allow the diversion to continue if all riparians has~~
15 ~~become water that is being beneficially used, unless all riparian owners adversely~~
16 affected by the diversion continue to consent to it.

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

19 **SECTION 131.** 30.18 (6m) (b) of the statutes is amended to read:

20 30.18 **(6m)** (b) Streams; discretionary rescission. The department may ~~revoke~~
21 ~~rescind~~ any permit issued under sub. (5) (a), which is not subject to sub. (2) (b), if it
22 a permit for a major diversion, if the department finds that the diversion is
23 detrimental to the stream from which the water is diverted.

24 **SECTION 132.** 30.18 (6m) (bm) of the statutes is created to read:

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1 30.18 (6m) (bm) *Procedure for rescission.* The procedure under s. 30.249 (2)
2 applies to rescissions under pars. (a) and (b).

3 **SECTION 133.** 30.18 (6m) (c) of the statutes is amended to read:

4 30.18 (6m) (c) *Major diversion.* The department may ~~revoke a~~ rescind any
5 permit issued under sub. (5) (b) for a major diversion only as provided under s. 281.35
6 (6).

7 **SECTION 134.** 30.18 (7) of the statutes is amended to read:

8 30.18 (7) PREREQUISITES TO PROJECT CONSTRUCTION WORK. ~~After an application~~
9 ~~under this section has been filed with the department, the applicant may enter any~~
10 ~~land through which it is proposed to divert the water for the purposes of making any~~
11 ~~surveys required for drafting the plans for the project, but no work shall~~ Work may
12 not be commenced on the canal, headworks, or other structures necessary for the
13 project for which a permit has been issued under this section until the plans for the
14 same canal, headworks, or other structures have been approved by the department.
15 Any person ~~having received~~ who has been issued a permit required under sub. (2) (a)
16 for a diversion that is not a major diversion may ~~construct~~ commence the work upon
17 the land of another ~~the canal and other works~~ as authorized by the permit only after
18 the damage which will be ~~sustained by the owner or owners of such~~ of that land has
19 been ~~satisfied, or has been determined as provided for in ch. 32, and~~ compensated for
20 any damages that the owner will incur as a result of the work or after the final sum
21 so for condemnation of the property under ch. 32 has been determined and all costs
22 have been paid to the persons entitled thereto owner or to the clerk of the circuit court
23 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.

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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.

1 **SECTION 135.** 30.18 (8) of the statutes is renumbered 30.353.

2 **SECTION 136.** 30.18 (9) of the statutes is repealed.

3 **SECTION 137.** 30.19 (1m) (c), (cm) 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. 30.233) continues to apply where lake bed grants have been made.

4 **SECTION 138.** 30.19 (3r) (a) (intro.) of the statutes is amended to read:

5 30.19 (3r) (a) (intro.) The department shall issue statewide general permits
6 under s. ~~30.206~~ 30.221 that authorize persons to do all of the following:

7 **SECTION 139.** 30.19 (4) (b) of the statutes is amended to read:

8 30.19 (4) (b) The notice and hearing provisions of s. ~~30.208~~ 30.244 (3) to (5)
9 apply to an application under par. (a).

10 **SECTION 140.** 30.19 (4) (c) 2. of the statutes is amended to read:

11 30.19 (4) (c) 2. The activity will not cause environmental pollution, as defined
12 in s. ~~299.01~~ (4).

13 **SECTION 141.** 30.195 (2) (b) of the statutes is amended to read:

14 30.195 (2) (b) The notice and hearing provisions of s. ~~30.208~~ 30.244 (3) to (5)
15 apply to an application under par. (a).

16 **SECTION 142.** 30.195 (4) and (7) of the statutes are repealed.

NOTE: 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

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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 143.** 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 an individual permit.
7 The department may grant this permit to a municipality after following the notice
8 and hearing requirements under s. ~~30.208~~ 30.244 (3) to (5) if it finds that granting
9 the permit:

10 **SECTION 144.** 30.20 (1g) (a) 1. of the statutes is amended to read:

11 30.20 (1g) (a) 1. A removal of material for an agricultural purpose from the bed
12 of a farm drainage ditch ~~which~~ that was not a navigable stream before ditching is
13 exempt from the individual and general permit requirements under this section
14 unless the department finds that the proposed removal may have a long-term
15 adverse effect on cold-water fishery resources or may destroy fish spawning beds or
16 nursery areas.

17 **SECTION 145.** 30.20 (1g) (c) of the statutes is renumbered 30.263 (3) and
18 amended to read:

19 30.263 (3) REMOVAL OF MATERIAL. A removal of material by the drainage board
20 for the Duck Creek Drainage District from a drain that the board operates in the
21 Duck Creek Drainage District is exempt from the individual and general permit
22 requirements under ~~this section~~ s. 30.20 if the removal is required, under rules
23 promulgated by the department of agriculture, trade and consumer protection, in

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1 order to conform the drain to specifications imposed by the department of
2 agriculture, trade and consumer protection after consulting with the department of
3 natural resources.

4 **SECTION 146.** 30.20 (1m) (b) of the statutes is amended to read:

5 30.20 (1m) (b) Environmental pollution, ~~as defined in s. 299.01 (4).~~

6 **SECTION 147.** 30.20 (1r) (b) 1. of the statutes is amended to read:

7 30.20 (1r) (b) 1. Enter and inspect the site on which the activity is located,
8 subject to s. ~~30.291~~ 30.239, if the department determines such an inspection is
9 necessary.

10 **SECTION 148.** 30.20 (1t) (a) of the statutes is amended to read:

11 30.20 (1t) (a) The department shall issue statewide general permits under s.
12 ~~30.206~~ 30.221 that authorize any person to remove material for maintenance
13 purposes from an area from which material has been previously removed.

14 **SECTION 149.** 30.20 (2) (e) of the statutes is amended to read:

15 30.20 (2) (e) The notice and hearing provisions of s. ~~30.208~~ 30.244 (3) to (5)
16 apply to an application for a permit or contract under this subsection.

17 **SECTION 150.** 30.202 of the statutes is renumbered 30.333, and 30.333 (3), as
18 renumbered, is amended to read:

19 30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
20 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
21 permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty
22 specified under this chapter, s. 29.601, ~~30.01 to 30.20, 30.21 to 30.99, 59.692, 61.351,~~
23 62.231, or 87.30, or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any
24 rule promulgated, order issued, or ordinance adopted under those sections or
25 chapters.

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1 **SECTION 151.** 30.2022 (title) of the statutes is renumbered 30.341 (title).

2 **SECTION 152.** 30.2022 (1) of the statutes is renumbered 30.341 (2) and amended
3 to read:

4 30.341 (2) Activities affecting inland waters of the state, as defined in s. 281.01
5 (18), or outlying waters that are carried out under the direction and supervision of
6 the department of transportation in connection with highway, bridge, or other
7 transportation project design, location, construction, reconstruction, maintenance,
8 and repair are not subject to the prohibitions or permit or approval requirements
9 specified under s. 29.601, ~~30.11~~, 30.12, 30.123, 30.19, 30.195, 30.20, 30.321, 30.343,
10 59.692, 61.351, 62.231 or 87.30 or chs. 281 to 285 or 289 to 299, except s. 281.48.
11 However, at the earliest practical time prior to the commencement of these activities,
12 the department of transportation shall notify the department of the location, nature,
13 and extent of the proposed work that may affect ~~the~~ inland waters of the state or
14 outlying waters.

15 **SECTION 153.** 30.2022 (2) of the statutes is renumbered 30.341 (3) and amended
16 to read:

17 30.341 (3) The exemption under sub. (1) (2) does not apply unless the activity
18 is accomplished in accordance with interdepartmental liaison procedures
19 established by the department and the department of transportation for the purpose
20 of minimizing the adverse environmental impact, if any, of the activity.

21 **SECTION 154.** 30.2022 (3) to (6) of the statutes are renumbered 30.341 (4) to (7).

22 **SECTION 155.** 30.2023 (intro.) of the statutes is renumbered 30.276 (intro.) and
23 amended to read:

24 **30.276 Seawalls; Wolf River and Fox River basins.** (intro.) A riparian
25 owner is exempt from the permit requirements under s. 30.12 for a structure that is

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1 placed on the bed of a navigable water in the Wolf River and Fox River basin area,
2 as described in s. ~~30.207~~ 30.223 (1), and that extends beyond the ordinary
3 high-water mark, if the following conditions apply:

4 **SECTION 156.** 30.2023 (1) to (9) of the statutes are renumbered 30.276 (1) to (9).

5 **SECTION 157.** 30.2025 of the statutes is renumbered 30.278, and 30.278 (5) (d),
6 as renumbered is amended to read:

7 30.278 (5) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
8 (4).

9 **SECTION 158.** 30.2026 of the statutes is renumbered 30.279.

10 **SECTION 159.** 30.203 of the statutes is renumbered 30.355, and 30.355 (4) (d),
11 as renumbered, is amended to read:

12 30.355 (4) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
13 (4).

14 **SECTION 160.** 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.

15 **SECTION 161.** 30.2037 of the statutes is renumbered 30.267.

16 **SECTION 162.** 30.204 of the statutes is renumbered 30.373, and 30.373 (5), as
17 renumbered, is amended to read:

18 30.373 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
19 department in conducting the lake acidification experiment are exempt from any
20 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
21 notice, hearing, procedure, or penalty specified under this subchapter and subchs.
22 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
23 30.99, 59.692, 61.351, 62.231, 87.30, 287.81, 299.15 to 299.23, 299.91, 299.95, or

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1 299.97 or chs. 281, 283 or 289 to 292 or specified in any rule promulgated, order
2 issued, or ordinance adopted under any of those sections or chapters.

3 **SECTION 163.** 30.205 of the statutes is renumbered 30.335, and 30.335 (title),
4 as renumbered, is amended to read:

5 **30.335** (title) **Water resources development projects; federal**
6 **agreements.**

7 **SECTION 164.** 30.206 of the statutes is renumbered 30.221, and 30.221 (1) (c)
8 (intro.), (3) (a), (3r) (a) 2. and (7), as renumbered, are amended to read:

9 30.221 (1) (c) (intro.) To ensure that the cumulative adverse environmental
10 impact of the activities authorized by a general permit is insignificant and that the
11 issuance of the general permit will not injure public rights or interests, cause
12 environmental pollution, ~~as defined in s. 299.01 (4),~~ or result in material injury to the
13 rights of any riparian owner, the department may impose any of the following
14 conditions on the permit:

15 (3) (a) A person wishing to proceed with an activity that may be authorized by
16 a general permit shall apply to the department, with written notification of the
17 person's wish to proceed, not less than 30 days before commencing the activity
18 authorized by a general permit. The notification shall provide information
19 describing the activity in order to allow the department to determine whether the
20 activity is authorized by the general permit and shall give the department consent
21 to enter and inspect the site, subject to s. ~~30.291~~ 30.239. The department may make
22 a request for additional information one time during the 30-day period. If the
23 department makes a request for additional information, the 30-day period is tolled
24 from the date the person applying for authorization to proceed receives the request
25 until the date on which the department receives the information.

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1 **(3r)** (a) 2. The department has conducted an investigation and visited the site
2 and has determined that conditions specific to the site require restrictions on the
3 activity in order to prevent significant adverse impacts to the public rights and
4 interest, environmental pollution, as defined in s. ~~299.01 (4)~~, or material injury to the
5 riparian rights of any riparian owner.

6 **(7)** This section does not apply to an application for a general permit for the
7 Wolf River and Fox River basin area or any area designated under s. ~~30.207~~ 30.223
8 (1m).

9 **SECTION 165.** 30.207 (title) of the statutes is renumbered 30.223 (title).

10 **SECTION 166.** 30.207 (1) of the statutes is renumbered 30.223 (1) and amended
11 to read:

12 **30.223 (1) GEOGRAPHICAL AREA.** For purposes of this section and s. ~~30.2023~~
13 30.276, the Wolf River and Fox River basin area consists of all of Winnebago County;
14 the portion and shoreline of Lake Poygan in Waushara County; the area south of
15 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
16 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
17 portion of Outagamie County south and east of USH 41; that portion of Waupaca
18 County that includes the town of Mukwa, city of New London, town of Caledonia,
19 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
20 in the town of Weyauwega.

21 **SECTION 167.** 30.207 (1m), (2) and (3) (title) of the statutes are renumbered
22 30.223 (1m), (2) and (3) (title).

23 **SECTION 168.** 30.207 (3) (a) of the statutes is renumbered 30.223 (3) (a) and
24 amended to read:

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1 30.223 (3) (a) Any local entity, ~~as defined listed in s. 30.77 (3) (dm)~~ (11) (a), any
2 group of 10 riparian owners who will be affected by the issuance of a general permit,
3 or any contractor who is or has been involved in the construction of structures or
4 along navigable waters may apply for a general permit under this section.

5 **SECTION 169.** 30.207 (3) (b) and (c) (intro.) and 1. to 5. of the statutes are
6 renumbered 30.223 (3) (b) and (c) (intro.) and 1. to 5.

7 **SECTION 170.** 30.207 (3) (c) 6. of the statutes is renumbered 30.223 (3) (c) 6. and
8 amended to read:

9 30.223 (3) (c) 6. The names and addresses of at least 5 persons who own real
10 property located adjacent to the navigable waters located in the proposed permit
11 area. If fewer than 5 persons own real property adjacent to such these waters, the
12 application shall include the names and addresses of all of these persons.

13 **SECTION 171.** 30.207 (3) (d) and (4) (intro.), (a) and (c) (intro.) of the statutes
14 are renumbered 30.223 (3) (d) and (4) (intro.), (a) and (c) (intro.).

15 **SECTION 172.** 30.207 (4) (c) 1. of the statutes is renumbered 30.223 (4) (c) 1. and
16 amended to read:

17 30.223 (4) (c) 1. Any local entity, ~~as defined in s. 30.77 (3) (dm)~~, (11) (a) that has
18 an interest in the quality or use of or that has jurisdiction over the navigable waters
19 located in the proposed permit area.

20 **SECTION 173.** 30.207 (4) (c) 2. to 4. and (6) (title) of the statutes are renumbered
21 30.223 (4) (c) 2. to 4. and (6) (title).

22 **SECTION 174.** 30.207 (6) (a) of the statutes is renumbered 30.223 (6) (a) and
23 amended to read:

24 30.223 (6) (a) The department shall issue a general permit under this section
25 if the department determines that the cumulative adverse environmental impact of

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1 the activity in the proposed permit area is insignificant and that the issuance of the
2 general permit will not injure public rights or interest, cause environmental
3 pollution, ~~as defined in s. 299.01 (4)~~, or result in material injury to the rights of any
4 riparian owners.

5 **SECTION 175.** 30.207 (6) (b) and (7) (title) of the statutes are renumbered 30.223
6 (6) (b) and (7) (title).

7 **SECTION 176.** 30.207 (7) (a) of the statutes is renumbered 30.223 (7) (a) and
8 amended to read:

9 30.223 (7) (a) At least 15 days before beginning the activity that is authorized
10 by a general permit under this section, the person who wishes to conduct the activity
11 shall submit a notice to the department and shall pay the fee specified in s. ~~30.28~~
12 30.241 (2) (b) 2. The notice shall describe the activity, state the name of the person
13 that will be conducting the activity, and state the site where the activity will be
14 conducted. The notice shall also contain a statement signed by the person conducting
15 the activity that the person will act in conformance with the standards contained in
16 the general permit.

17 **SECTION 177.** 30.207 (7) (b) of the statutes is renumbered 30.223 (7) (b) and
18 amended to read:

19 30.223 (7) (b) Upon receipt of a notice that complies with par. (a), the
20 department may inform the person that the activity may not be conducted under the
21 general permit if conditions at the site where the activity would be conducted would
22 cause adverse environmental impact, injure public rights and interests, or cause
23 environmental pollution, ~~as defined in s. 299.01 (4)~~. The department shall respond
24 to the person within 15 days after receiving the notice. Failure of the department

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1 to respond within 15 days shall constitute the department's approval of the activity
2 under the general permit.

3 **SECTION 178.** 30.207 (7) (c) and (8) to (10) of the statutes are renumbered 30.223
4 (7) (c) and (8) to (10).

5 **SECTION 179.** 30.208 of the statutes is renumbered 30.244, and 30.244 (3) (a),
6 (c) and (e) and (5) (a) (intro.), (b) (intro.), 2. and 4. and (c) (intro.), as renumbered, are
7 amended to read:

8 30.244 (3) (a) Upon determination by the department that an application
9 submitted under sub. (1) is complete, the department shall provide notice of complete
10 application to the applicant and to interested and potentially interested members of
11 the public, as determined by the department. The department shall provide the
12 notice within 15 days after the determination that the application is complete. The
13 department shall also post the notice on the Internet at a Web site to be determined
14 by the department. If the applicant has requested a public hearing as part of the
15 submitted application, a notice of public hearing shall be part of the notice of
16 complete application.

17 (c) A request for a public hearing under par. (b) must be submitted to the
18 department or the department's decision to hold a public hearing must occur within
19 30 days after the department completes providing the notice of complete application.
20 The department shall provide notice of public hearing within 15 days after the
21 request for public hearing is submitted or the department makes its determination
22 to hold a public hearing.

23 (e) Within 30 days after the public hearing is held or, if no public hearing is held,
24 within 30 days of the 30-day comment period under sub. (4) (a), the department shall

ASSEMBLY BILL 500**SECTION 179**

1 render a decision, issuing, denying, or modifying the permit or approving or denying
2 the contract that is the subject of the application submitted under sub. (1).

3 (5) (a) (intro.) The department shall, by rule, establish procedures for providing
4 notices of complete applications and notices of public hearings to be provided under
5 sub. (3), and notices of administrative hearings to be provided under s. ~~30.209~~ 30.245
6 (1m). The procedures shall require all of the following:

7 (b) (intro.) The department shall, by rule, prescribe the form and content of
8 notices of complete applications and notices of public hearings to be provided under
9 sub. (3), and notices of administrative hearings to be provided under s. ~~30.209~~ 30.245
10 (1m). Each notice shall include all of the following information:

11 2. A brief description of each applicant’s activity or project that requires the
12 permit or contract.

13 4. For a notice of complete application and a notice of public hearing under sub.
14 (3), a statement of the tentative determination to issue, modify, or deny a permit or
15 to approve or deny the contract for the activity or project described in the application.

16 (c) (intro.) The department may delegate the department’s requirement to
17 provide notice under sub. (3) or s. ~~30.209~~ 30.245 (1m) by doing any of the following:

18 **SECTION 180.** 30.209 of the statutes is renumbered 30.245, and 30.245 (title),
19 (1), (1m) (a) 1. and (b) (intro.) and 1. and (2) (d) 3., as renumbered, are amended to
20 read:

21 **30.245** (title) **~~Contracts and individual~~ Individual permits and**
22 **contracts; administrative and judicial review.**

23 (1) DEFINITION. In this section, “applicant” means any person applying to
24 receive ~~a~~ an individual permit or contract under this subchapter or any person who
25 has received a permit or contract under this subchapter.

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1 **(1m)** (a) 1. The issuance, denial, ~~or~~ modification, or rescission of any individual
2 permit issued or contract entered into under this subchapter.

3 (b) (intro.) If the petitioner is not the applicant, the petition shall describe the
4 petitioner's objection to the individual permit or contract and shall contain all of the
5 following:

6 1. A description of the objection that is sufficiently specific to allow the
7 department to determine which provisions of this subchapter may be violated if the
8 proposed activity or project under the individual permit or contract is allowed to
9 proceed.

10 **(2)** (d) 3. Any other persons required to receive notice under the rules
11 promulgated under s. ~~30.208~~ 30.244 (5).

12 **SECTION 181.** 30.2095 (title) of the statutes is renumbered 30.248 (title) and
13 amended to read:

14 **30.248** (title) ~~Limits and conditions for~~ Duration of individual permits
15 ~~and contracts.~~

16 **SECTION 182.** 30.2095 (1) (a) of the statutes is renumbered 30.248 (1) and
17 amended to read:

18 30.248 **(1)** Except as provided in par. (b) sub. (2), every individual permit ~~or~~
19 ~~contract~~ issued under ~~ss. 30.01 to 30.29~~ this subchapter for which a time limit is not
20 provided by s. 30.20 (2) (d) is void unless the activity or project is completed within
21 3 years after the individual permit ~~or contract~~ was issued.

22 **SECTION 183.** 30.2095 (1) (b) of the statutes is renumbered 30.248 (2) and
23 amended to read:

24 30.248 **(2)** The department may specify a time limit of less than 3 years for ~~a~~
25 an individual permit ~~or contract~~ issued under ~~ss. 30.01 to 30.29.~~ For this subchapter.

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1 Except as provided in s. 30.20 (2) (d), for good cause, the department may extend the
2 time limit for ~~a~~ an individual permit ~~or contract~~ issued under ~~ss. 30.01 to 30.29~~ this
3 subchapter for no longer than 2 years if the grantee person issued the permit
4 requests an extension prior to expiration of the initial time limit.

5 **SECTION 184.** 30.2095 (2) of the statutes is renumbered 30.445 and amended
6 to read:

7 **30.445 Department modifications and rescissions.** For good cause, the
8 department on its own behalf may issue an order to modify or rescind any individual
9 permit or contract issued under ~~ss. 30.01 to 30.29~~ this subchapter before its
10 expiration.

11 **SECTION 185.** 30.21 of the statutes is renumbered 30.293.

12 **SECTION 186.** 30.215 of the statutes is created to read:

13 **30.215 Farm drainage ditches.** Except as provided in s. 30.20 (1g) (a), a
14 project that is for an agricultural purpose and is located in or adjacent to a farm
15 drainage ditch is exempt from the requirement for a permit, contract, or approval
16 under this subchapter unless it is shown, by means of a U.S. geological survey map
17 or other reliable scientific evidence, that the farm drainage ditch was a stream that
18 was a 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 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.

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1 **SECTION 187.** 30.24 of the statutes is renumbered 30.357.

2 **SECTION 188.** 30.244 (3) (am) of the statutes is created to read:

3 30.244 **(3)** (am) In lieu of providing notice of the complete application under par.
4 (a), the department may provide notice of denial to the applicant without following
5 the procedures under this subsection. If the department provides this notice, the
6 applicant may file a petition for administrative review under s. 30.245.

7 **SECTION 189.** 30.246 of the statutes is created to read:

8 **30.246 Mediation. (1)** At any time after notice of complete application is
9 provided by the department under s. 30.244 (2) and before any administrative
10 hearing under s. 30.245 (2) will begin, the department shall allow for mediation if the
11 department, the applicant for the individual permit or contract, any person
12 requesting a public hearing under s. 30.244 (3) (b), and any person filing a petition
13 for administrative review under s. 30.245 (1m) all agree to mediation and agree how
14 the mediator is to be selected and compensated.

15 **(2)** An agreement for mediation will hold in abeyance any public hearing under
16 s. 30.244 (3) (b) and any administrative review under s. 30.245 (1m). If the mediator
17 determines that an agreement cannot be reached by mediation, the mediator shall
18 certify the mediation as having ended. Within 30 days after the date on which the
19 mediation is certified as having ended, any participant in the mediation may request
20 in writing to the department that the department proceed on the application.

21 **(3)** If the department does not receive a request under sub. (2) within the
22 30-day period, the department shall either approve the application or deny the
23 application without further public hearing or administrative review.

NOTE: 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

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near the proposed project. If an agreement is not reached in mediation, the parties to the mediation may request a contested case hearing.

1 **SECTION 190.** 30.25 of the statutes is renumbered 30.269.

2 **SECTION 191.** 30.253 of the statutes is created to read:

3 **30.253 Conditions on individual permits and contracts.** The department
4 may impose additional conditions on an individual permit or contract under this
5 subchapter if the department determines that the conditions are necessary to ensure
6 compliance with any applicable provision under this subchapter. A department's
7 decision to impose a condition on an individual permit or contract under this
8 subchapter shall be subject to the review procedures under s. 30.245.

9 **SECTION 192.** 30.26 of the statutes is renumbered 30.271.

10 **SECTION 193.** 30.263 (title) of the statutes is created to read:

11 **30.263 (title) Duck Creek Drainage District.**

12 **SECTION 194.** 30.263 (1) (title) of the statutes is created to read:

13 **30.263 (1) (title) DECLARATION OF NAVIGABILITY.**

14 **SECTION 195.** 30.265 of the statutes is renumbered 30.375.

15 **SECTION 196.** 30.266 (1) (intro.) of the statutes is created to read:

16 **30.266 (1) DEFINITIONS.** (intro.) In this section:

17 **SECTION 197.** 30.27 of the statutes is renumbered 30.273.

18 **SECTION 198.** 30.275 of the statutes is renumbered 30.359.

19 **SECTION 199.** 30.277 of the statutes is renumbered 30.361.

20 **SECTION 200.** 30.28 (title) and (1) to (3) of the statutes are renumbered 30.241
21 (title) and (1) to (3), and 30.241 (1), (2) (a) (intro.) and (b), (2m) (am), (b) and (d) and
22 (2r) (b), as renumbered, are amended to read:

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1 30.241 (1) FEES REQUIRED. The department shall charge a permit or approval
2 fee for carrying out its duties and responsibilities under ~~ss. 30.10 to 30.205, 30.207~~
3 ~~and 30.21 to 30.27~~ this subchapter, except s. 30.221. The permit or approval fee shall
4 accompany the permit application, notice, or request for approval.

5 (2) (a) (intro.) ~~For~~ Except as provided in par. (b), for fees charged for permits
6 and approvals under ~~ss. 30.10 to 30.205 and 30.21 to 30.27~~ as authorized under sub.
7 (1), the department shall classify the types of permits and approvals based on the
8 estimated time spent by the department in reviewing, investigating, and making
9 determinations whether to ~~grant~~ issue the permits or approvals. The department
10 shall then set the fees as follows:

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

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

14 (2m) (am) The department shall refund 50% of the fee specified in sub. (2) (b)
15 1. if the department denies an application for a general permit under s. ~~30.207~~ 30.223
16 (3) (d) 1. or does not issue a general permit under s. ~~30.207~~ 30.223 (6).

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

21 (d) The department, by rule, may increase any fee specified in sub. (2) (a). The
22 department, by rule, may increase a fee specified in sub. (2) (b) only if the increase
23 is necessary to meet the costs incurred by the department in acting on general
24 permits or on notices submitted under s. ~~30.207~~ 30.223.

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1 **(2r)** (b) If the department promulgates a rule under par. (a), the rule shall
2 contain a time limit for each type of permit or approval classified under sub. (2) (a)
3 for determining whether the department will ~~grant~~ issue the permit or approval.

4 **SECTION 201.** 30.285 of the statutes is renumbered 30.237.

5 **SECTION 202.** 30.29 of the statutes is renumbered 30.83.

6 **SECTION 203.** 30.291 of the statutes is renumbered 30.239, and 30.239 (1) and
7 (4), as renumbered, are amended to read:

8 **30.239 (1)** For purposes of determining whether an exemption is appropriate
9 under s. 30.12 (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether a general
10 permit is appropriate under s. ~~30.206~~ 30.221 (3), or whether authorization to proceed
11 under a general permit is appropriate under s. ~~30.206~~ 30.221 (3r), any employee or
12 other representative of the department, upon presenting his or her credentials, may
13 enter the site and inspect any property on the site.

14 **(4)** If the owner of the site refuses to give consent for an entry and inspection
15 to determine whether authorization to proceed under a general permit is appropriate
16 under s. ~~30.206~~ 30.221 (3r), the department shall deny authorization to proceed
17 under the general permit and shall allow an application to be submitted for an
18 individual permit for the activity.

19 **SECTION 204.** 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.

20 **SECTION 205.** 30.294 of the statutes is renumbered 30.94.

21 **SECTION 206.** 30.298 (title) of the statutes is repealed.

22 **SECTION 207.** 30.298 (1) of the statutes is renumbered 30.381 (1) and amended
23 to read:

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1 30.381 (1) GENERAL PENALTY. Any person who violates any provision of ss. ~~30.12~~
2 ~~to 30.21~~ 30.095, 30.123, 30.135 to 30.20, 30.217, 30.223, 30.266, 30.276 to 30.293,
3 30.313, 30.355, or 30.85 for which a penalty is not provided under the applicable
4 section or by sub. (2) or (3) subs. (2) to (7) shall forfeit not less than \$100 nor more
5 than \$10,000 for the first offense and shall forfeit not less than \$500 nor more than
6 \$10,000 upon conviction of the same offense a 2nd or subsequent time.

7 **SECTION 208.** 30.298 (2) of the statutes is renumbered 30.381 (6).

8 **SECTION 209.** 30.298 (3) of the statutes is renumbered 30.381 (7) and amended
9 to read:

10 30.381 (7) GENERAL PERMITS. Any person who violates a general permit under
11 s. ~~30.206~~ 30.221 shall forfeit not less than \$10 nor more than \$500 for the first offense
12 and shall forfeit not less than \$50 nor more than \$500 upon conviction of the same
13 offense a 2nd or subsequent time.

14 **SECTION 210.** 30.298 (4) of the statutes is renumbered 30.98 (3) and amended
15 to read:

16 30.98 (3) A violation of a permit, contract, or order issued under this chapter,
17 or a violation of a condition or term under the permit, contract, or order, is a violation
18 of the statute under which the permit, contract, or order was issued.

19 **SECTION 211.** 30.298 (5) of the statutes is renumbered 30.381 (8) and amended
20 to read:

21 30.381 (8) ADDITIONAL ORDERS. In addition to the any forfeitures specified under
22 subs. (1) ~~to (3), (6), and (7),~~ the court may order the defendant to perform or refrain
23 from performing such acts as may be necessary to fully protect and effectuate the
24 public interest in navigable waters. The court may order abatement of a nuisance,

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1 restoration of a natural resource, or other appropriate action designed to eliminate
2 or minimize any environmental damage caused by the defendant.

3 **SECTION 212.** Subchapter III (title) of chapter 30 [precedes 30.299] of the
4 statutes is renumbered subchapter IV (title) of chapter 30 [precedes 30.4909].

5 **SECTION 213.** 30.30 of the statutes is renumbered 30.491, and 30.491 (5) and
6 (7), as renumbered, are amended to read:

7 30.491 (5) ACQUISITION OF LAND. Acquire such lands or interests therein as it
8 deems necessary for properly carrying out its powers under this ~~chapter~~ subchapter,
9 including such lands outside the municipal limits as are necessary to protect its
10 property or to carry out its powers under sub. (3). Such acquisition may be by
11 condemnation proceedings.

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

17 **SECTION 214.** 30.31 of the statutes is renumbered 30.492, and 30.492 (1), (4)
18 and (6), as renumbered, are amended to read:

19 30.492 (1) SUPERVISION OF WORK. In exercising the powers granted by s. ~~30.30~~
20 30.491 (1) to (3), a municipality shall be governed by the law governing the laying out,
21 improvement, and repair of streets and bridges in such municipality, so far as
22 applicable, except that no petition of property owners for doing any such work is
23 necessary. If the municipality has established a board of harbor commissioners, such
24 board shall be in charge of the work unless the board determines that it is not
25 equipped to supervise the work and by resolution delegates such function to the

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1 agency which ordinarily performs such function for the municipality. If the
2 municipality does not have a board of harbor commissioners, the municipality's
3 board of public works or, in the event there is no such board, the municipality's
4 governing body shall be in charge of the work.

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

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

25 **SECTION 215.** 30.32 of the statutes is renumbered 30.493.

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1 **SECTION 216.** 30.323 (title) of the statutes is created to read:

2 **30.323** (title) **Pierhead lines.**

3 **SECTION 217.** 30.327 (title) of the statutes is created to read:

4 **30.327** (title) **Municipal duty to report violations.**

5 **SECTION 218.** 30.33 of the statutes is renumbered 30.494.

6 **SECTION 219.** 30.34 of the statutes is renumbered 30.495, and 30.495 (1), (2),
7 (3) (a) and (4), as renumbered, are amended to read:

8 30.495 (1) HARBOR FUND TO BE CREATED. All municipalities operating a public
9 harbor through a board of harbor commissioners shall establish in the municipal
10 treasury a revolving fund to be known as the “harbor fund”. Moneys for such fund
11 may be raised by appropriation from the general fund or by taxation or loan as other
12 moneys in the general fund are raised. Moneys in such fund may be expended only
13 as provided in s. ~~30.38~~ 30.498 (13).

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

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1 levies a direct annual tax sufficient to pay the principal and interest thereon as they
2 fall due.

3 **(3)** (a) Any municipality may, with the consent of its board of harbor
4 commissioners, finance the cost of acquisition, construction, alteration, or repair of
5 any harbor facility by issuing evidences of indebtedness payable only out of the
6 revenue obtained from the public harbor facilities. Such evidences of indebtedness
7 may be revenue bonds, refunding bonds, or bond anticipation notes issued under s.
8 ~~30.35~~ 30.496 or 66.1103 or may be pledges or assignments of net profits, issued
9 pursuant to s. 66.0621 (5) as if the harbor facility were a public utility.

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

16 **SECTION 220.** 30.341 (1) of the statutes is created to read:

17 30.341 (1) In this section, "inland waters" has the meaning given in s. 29.001
18 (45).

19 **SECTION 221.** 30.343 (title) of the statutes is created to read:

20 **30.343 (title) Activities of board of commissioners of public lands.**

21 **SECTION 222.** 30.35 of the statutes is renumbered 30.496, and 30.496 (6), as
22 renumbered, is amended to read:

23 30.496 (6) BONDHOLDERS AND NOTEHOLDERS HAVE LIEN. Title to all of the harbor
24 facilities for which revenue bonds, refunding bonds, or bond anticipation notes are
25 issued remains in the municipality, but a statutory lien exists in favor of the

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1 bondholders and noteholders against the facilities which have been acquired,
2 constructed, altered, or remodeled and the cost of which has been financed with
3 funds obtained through the issuance of such bonds and notes. To provide further
4 security for the bondholders and noteholders, the ordinance or resolution
5 authorizing the issuance of revenue bonds, refunding bonds, or bond anticipation
6 notes may provide for a pledge of the revenues of the facilities, including, if the
7 facilities are leased under ~~sub. (6)~~ this subsection, an assignment of all or part of the
8 municipality's rights as lessor.

9 **SECTION 223.** 30.37 of the statutes is renumbered 30.497, and 30.497 (6) and
10 (7), as renumbered, are amended to read:

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

22 (7) MILWAUKEE COUNTY. Milwaukee County, with respect to the land ceded or
23 granted to Milwaukee County as described in 1997 Wisconsin Act 70, section 3, may
24 directly exercise all of the powers and perform all of the duties conferred on a board
25 of harbor commissioners under ss. ~~30.34, 30.35 and 30.38~~ 30.495, 30.496, and 30.498,

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1 but Milwaukee County may not create a board of harbor commissioners if sub. (1) (b)
2 applies. Milwaukee County shall have exclusive jurisdiction over the operation,
3 administration, maintenance, improvement, alteration, and repair of any marina
4 facility or marina related anchorage located on this land.

5 **SECTION 224.** 30.38 of the statutes is renumbered 30.498, and 30.498 (3) and
6 (13) (a) and (b), as renumbered, are amended to read:

7 30.498 (3) CONTRACT PROCEDURES. In the letting of work relative to the
8 construction, repair, or maintenance of a harbor or harbor facility or in the purchase
9 of equipment, supplies, or materials relative to carrying out its powers and duties,
10 a board of harbor commissioners shall be governed by the procedures and
11 requirements set forth in s. ~~30.32~~ 30.493.

12 (13) (a) All moneys appropriated to a board of harbor commissioners, all
13 revenues derived from the operation of the public harbor except in the case of a joint
14 harbor revenue from joint improvements before division thereof, and all other
15 revenues of the board shall be paid into the municipal treasury and credited to the
16 harbor fund, except that revenues assigned or pledged under s. ~~30.35~~ 30.496 (6) or
17 66.1103 shall be paid into the fund or funds provided for in the ordinance or
18 resolution authorizing the issuance of the bonds and shall be applied in accordance
19 with that ordinance or resolution.

20 (b) Subject to the limitations and conditions otherwise expressed in this section
21 and to a budget approved by the municipal governing body, moneys in the harbor
22 fund may be used for the acquisition, construction, improvement, repair,
23 maintenance, operation, and administration of the public harbor and harbor
24 facilities and for the acquisition, chartering, and operation of vessels under sub. (8)
25 (b) 3. Except as provided in s. ~~30.34~~ 30.495 (4), such moneys shall be paid out of the

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1 harbor fund only on orders signed by the president and secretary of the board, or
2 some other official authorized by the board, after the allowance of claims by the board
3 or on orders entered in the minutes of the board. Disbursements from the harbor
4 fund shall be audited as other municipal disbursements are audited; however, the
5 board may determine on some other procedure it deems appropriate for the
6 consideration of claims and the reporting thereof notwithstanding the provisions of
7 this paragraph. If a procedure other than that set forth in this paragraph is
8 prescribed by the board, the approval of the chief auditing officer shall be obtained.

9 **SECTION 225.** 30.381 (title) of the statutes is created to read:

10 **30.381 (title) Subchapter penalties.**

11 **SECTION 226.** 30.381 (3) (title) of the statutes is created to read:

12 30.381 (3) (title) FISHING RAFTS.

13 **SECTION 227.** 30.381 (4) (title) of the statutes is created to read:

14 30.381 (4) (title) STRUCTURES AND DEPOSITS.

15 **SECTION 228.** 30.381 (4) (b) of the statutes is created to read:

16 30.381 (4) (b) Any person who, after having been found under this subsection
17 to have violated s. 30.12, violates s. 30.12 shall be fined not more than \$1,000 or
18 imprisoned for not more than 6 months or both if the present offense occurs within
19 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.

20 **SECTION 229.** 30.381 (5) of the statutes is created to read:

21 30.381 (5) WHARVES, PIERS, AND SWIMMING RAFTS. Any person who constructs or
22 places a wharf, pier, or swimming raft in navigable waters in violation of s. 30.13

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1 shall forfeit not less than \$100 nor more than \$500 for each offense. Each day during
2 which a wharf, pier, or swimming rafts exists in violation of s. 30.13 is a separate
3 offense.

4 **SECTION 230.** 30.381 (6) (title) of the statutes is created to read:

5 30.381 (6) (title) DIVERSIONS OF WATER; CHANGING OF STREAM COURSES.

6 **SECTION 231.** Subchapter IV (title) of chapter 30 [precedes 30.40] of the
7 statutes is renumbered subchapter III (title) of chapter 30 [precedes 30.40].

8 **SECTION 232.** 30.50 (1b) of the statutes is created to read:

9 30.50 (1b) "Aids to navigation" means buoys, beacons, and other fixed objects
10 in the water that are used to mark obstructions to navigation or to direct navigation
11 through safe channels.

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

12 **SECTION 233.** 30.50 (2) of the statutes is renumbered 30.01 (1bm) and amended
13 to read:

14 30.01 (1bm) "Boat" ~~or "vessel"~~ means every description of watercraft used or
15 capable of being used as a means of transportation on water, except a seaplane on the
16 water and a fishing raft.

NOTE: The definition of "boat" and "vessel" are relocated to the definitions
applicable to the entire chapter.

17 **SECTION 234.** 30.50 (4q) of the statutes is amended to read:

18 30.50 (4q) "Lake sanitary district" means a town sanitary district that has
19 within its boundaries at least 60% of the footage of shoreline of a public inland lake,
20 as defined in s. 60.782 (1), for which a public inland lake protection and rehabilitation
21 district is not in effect. The footage of shoreline shall be measured by use of a map
22 wheel on the U.S. geological survey 7 1/2 minute series map.

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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.

1 **SECTION 235.** 30.50 (4u) of the statutes is created to read:

2 30.50 (4u) “Local governmental unit” means a city, village, town, county, town
3 sanitary district, or public inland lake protection and rehabilitation district.

4 **SECTION 236.** 30.50 (9) of the statutes is amended to read:

5 30.50 (9) “Owner” Except as provided in s. 30.605, “owner” means the person
6 who has lawful possession of a boat by virtue of legal title or equitable interest
7 therein which entitles the person to lawful possession.

8 **SECTION 237.** 30.50 (9b) of the statutes is created to read:

9 30.50 (9b) “Patrol boat” means a boat authorized by this state or by a local
10 governmental unit for the purpose of law enforcement, search and rescue, fire
11 fighting, emergency response, or water safety operations, including a water safety
12 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.

13 **SECTION 238.** 30.50 (10g) of the statutes is created to read:

14 30.50 (10g) “Regulatory marker” means any anchored or fixed marker in the
15 water or anchored platform on the surface of the water, other than aids to navigation,
16 and includes a swimming area marker, speed zone marker, information marker,
17 mooring buoy, fishing buoy, and restricted activity area marker.

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

18 **SECTION 239.** 30.50 (13r) of the statutes is created to read:

19 30.50 (13r) “Water skiing or a similar activity” means any activity in which a
20 person is towed in the water behind or alongside of a boat, including barefoot skiing,
21 aquaplaning, kneeboarding, or being towed on an inflatable device.

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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.

1 **SECTION 240.** 30.5005 of the statutes is created to read:

2 **30.5005 Department duties and powers. (1) FEDERAL LAW.** The department
3 shall submit proposed legislation to the legislature in the manner provided under s.
4 13.172 (2) in order to conform the requirements under ss. 30.50 to 30.71 with federal
5 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 statutory authority for any rules promulgated by the DNR that adopt federal statutes or regulations, whether wholly or in part.

6 **(2) RULES; GENERALLY.** The department may promulgate rules under this
7 subchapter. Any reference to a provision of this subchapter includes any rule
8 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.

9 **SECTION 241.** 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.

10 **SECTION 242.** 30.501 (9) of the statutes is amended to read:

11 **30.501 (9)** This section applies to vessels manufactured after January 1, 1966
12 ~~and~~ prior to November 1, 1972. All vessels manufactured on or after November 1,

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1 1972, shall comply with appropriate federal regulations and the capacity
2 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.

3 **SECTION 243.** 30.505 of the statutes is amended to read:

4 **30.505 Certificate of number system to conform to federal system.** The
5 certificate of number system and the issuance of identification numbers employed
6 by the department shall be in conformity with the overall system of identification
7 numbering for boats established by the U.S. federal government. ~~The department~~
8 ~~shall promulgate rules as are necessary to bring the state certificate of number~~
9 ~~system and the issuance of identification numbers into conformity with this federal~~
10 ~~system.~~

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

11 **SECTION 244.** 30.52 (1) (b) 1r. of the statutes is amended to read:

12 30.52 (1) (b) 1r. ~~A When a person applying applies for registration of a federally~~
13 ~~documented vessel, the department shall submit as part of the application a~~
14 ~~photocopy of the front and back of verify that the federal certificate of documentation~~
15 ~~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.

16 **SECTION 245.** 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.

17 **SECTION 246.** 30.54 (2) of the statutes is amended to read:

18 30.54 (2) If a person applies for a replacement certificate under sub. (1),
19 conservation wardens or local law enforcement officials, after presenting

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1 appropriate credentials to the owner or legal representative of the owner named in
2 the certificate of title, shall may inspect the boat's engine serial number or hull
3 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.

4 **SECTION 247.** 30.571 of the statutes is amended to read:

5 **30.571 Notification of person who has perfected security interest.** If the
6 department receives information from another state that a boat that is titled in this
7 state is being titled in the other state and the information does not show that a
8 perfected security interest, as shown by the records of the department, has been
9 satisfied, the department shall notify the person who has perfected the security
10 interest. ~~The person shall pay the department the fee under s. 30.537 (4) (e) for each~~
11 ~~notification.~~

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

12 **SECTION 248.** 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.

13 **SECTION 249.** 30.605 of the statutes is created to read:

14 **30.605 Owner; definition.** In ss. 30.61 to 30.71, "owner" means any of the
15 following:

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

17 (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

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to boat titling and registration statutes. “Lessee” does not include short-term rental of boats, such as on a daily or weekly basis.

1 **SECTION 250.** 30.61 (1), (2) (intro.), (3) (intro.), (4), (6) (b), (7) and (8) of the
2 statutes are amended to read:

3 30.61 (1) **WHEN LIGHTS REQUIRED; PROHIBITED LIGHTS.** (a) No person shall may
4 operate any motorboat at any time from sunset to sunrise unless ~~such~~ the motorboat
5 carries the lighting equipment required by this section and unless ~~such~~ the lighting
6 equipment is lighted when and as required by this section.

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

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

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

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

19 **(4) SAILBOATS WITH MOTORS.** ~~Sailboats~~ A sailboat equipped with ~~motors~~ a motor
20 and being propelled in whole or in part by ~~such~~ the motor ~~must~~ shall comply with sub.
21 (2) or (3), ~~whichever is~~ as applicable. Whenever ~~such~~ a sailboat is being propelled
22 entirely by sail at any time from sunset to sunrise, it shall have lighted the lamps
23 showing the colored lights specified in sub. (2) or (3), but not the lamps showing the

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1 white lights, and shall carry ready at hand a lantern or flashlight showing a white
2 light which shall be exhibited in sufficient time to avert collision.

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

5 **(7) PERFORMANCE DESIGN SPECIFICATIONS FOR LAMPS.** Every white light
6 ~~prescribed required~~ by this section shall be of such character as designed to be visible
7 at a distance of at least 2 miles on a dark night with clear atmosphere. Every colored
8 light ~~prescribed required~~ by this section shall be of such character as designed to be
9 visible at a distance of at least one mile on a dark night with clear atmosphere. The
10 owner of a motorboat that is required to carry lighting equipment under this section
11 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.

12 **(8) OPTIONAL LIGHTING REQUIREMENTS.** Any boat may carry and exhibit the lights
13 required by the federal international regulations for preventing collisions at sea,
14 ~~1948, federal act of October 11, 1951, (33 USC 143-147d) as amended, as~~
15 implemented by 33 CFR part 81 and interpreted by 33 CFR part 82 in lieu of the
16 lights required by subs. (2) and (3).

17 **SECTION 251.** 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.

18 **SECTION 252.** 30.61 (10) of the statutes is renumbered 30.68 (13) and amended
19 to read:

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

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

7 **SECTION 253.** 30.62 (title), (1) and (2) (b) of the statutes are amended to read:

8 **30.62** (title) ~~Other equipment~~ **Equipment other than lighting.** (1) WHEN
9 EQUIPMENT REQUIRED. No person shall may operate any boat on the waters of this
10 state unless such the boat is equipped as required by this section ~~and the rules of the~~
11 ~~department promulgated under this section.~~

12 **(1m) RENTAL BOATS.** No owner of a boat shall may rent such a boat to any other
13 person for use ~~upon~~ on the waters of this state unless such the boat is equipped at
14 the time of rental as required by this section ~~and the rules of the department~~
15 ~~promulgated under this section.~~ ~~If such.~~ If the boat is properly equipped at the time
16 of rental for conditions then existing, the responsibility of the owner under this
17 section is met, notwithstanding a subsequent change in the number of passengers
18 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.

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

22 **SECTION 254.** 30.62 (2) (c) of the statutes is renumbered 30.62 (2) (c) 1. and
23 amended to read:

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

5 **SECTION 255.** 30.62 (2) (c) 2. of the statutes is created to read:

6 30.62 (2) (c) 2. No person engaged in the business of selling motorboats at retail
7 within this state may sell a motorboat for use on the waters of this state in the
8 ordinary course of that person's business if the motorboat cannot be operated in
9 compliance with par. (b).

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.

10 **SECTION 256.** 30.62 (2) (d) 1. of the statutes is renumbered 30.62 (2) (d) and
11 amended to read:

12 30.62 (2) (d) *Maximum noise level for manufacture.* No person may
13 manufacture ~~and or~~ offer for sale any motorboat for use on the waters of this state
14 if the motorboat cannot be operated ~~in such a manner so as to comply with the noise~~
15 ~~level requirements under in compliance with~~ par. (b).

16 **SECTION 257.** 30.62 (2) (d) 2. of the statutes is renumbered 30.62 (2) (dm) and
17 amended to read:

18 30.62 (2) (dm) *Testing procedures.* The department may promulgate rules
19 establishing testing procedures to determine noise levels for the enforcement of this
20 section. The department may revise these rules as necessary to adjust to advances
21 in technology.

22 **SECTION 258.** 30.62 (2) (d) 3. of the statutes is repealed.

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1 **SECTION 259.** 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.

2 **SECTION 260.** 30.62 (2) (g) 1. to 3. of the statutes are amended to read:

3 30.62 (2) (g) 1. A motorboat while competing in a water exhibition or race
4 conducted under a permit from a ~~town, village or city~~ local governmental unit that
5 enacts an ordinance under s. 30.77 or from an authorized agency of the federal
6 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 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.

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

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

14 **SECTION 261.** 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).

15 **SECTION 262.** 30.62 (2m) and (3) (a) of the statutes are amended to read:

16 30.62 (2m) OVERPOWERING. No person may sell, equip, or operate, and no owner
17 of a ~~boat~~ motorboat may allow a person to operate, a ~~boat~~ motorboat with any ~~motor~~

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1 ~~or other~~ propulsion machinery beyond its safe power capacity, taking into
2 consideration the type and construction of such ~~watercraft and other existing~~
3 ~~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.

4 **(3)** (a) Every boat, except a sailboard and except as provided in ~~par.~~ pars. (b)
5 and (c), shall carry at least one personal flotation device prescribed by federal
6 regulations 33 CFR part 175 for each person on board or being attended by the boat,
7 so placed as to be readily accessible and available to the persons.

8 **SECTION 263.** 30.62 (3) (c) of the statutes is created to read:

9 30.62 **(3)** (c) 1. In this paragraph, "racing vessel" means a manually propelled
10 racing shell, rowing scull, racing canoe, or racing kayak of the type that is recognized
11 by a national or international racing association for use in competitive racing.

12 2. Paragraph (a) does not apply to a racing vessel if all of the vessel's occupants,
13 other than a coxswain, row, scull, or paddle the vessel and if the vessel is not designed
14 to carry and does not carry any equipment other than equipment used solely for
15 competitive racing.

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

16 **SECTION 264.** 30.62 (4) (a) of the statutes is amended to read:

17 30.62 **(4)** (a) Every motorboat, ~~except outboards of open construction,~~ shall be
18 provided with such ~~number, size and type of~~ fire extinguishers, capable of promptly
19 ~~and effectively extinguishing burning gasoline,~~ as prescribed by rules of the
20 department. ~~Such~~ The fire extinguishers shall be ~~at all times~~ kept in condition for

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1 immediate and effective use and shall be so placed as to be readily accessible. “Open
2 construction” means construction which will not permit the entrapment of explosive
3 or flammable gases or vapors.

4 **SECTION 265.** 30.62 (4) (b) of the statutes is renumbered 30.62 (4) (b) (intro.)
5 and amended to read:

6 30.62 (4) (b) (intro.) This subsection does not apply to ~~a~~ any of the following:

7 1. A motorboat while competing in a race conducted pursuant to a permit from
8 a town, village or city local governmental unit that enacts an ordinance under s.
9 30.77 or from an authorized agency of the U.S. federal government, nor does it apply
10 to a.

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

14 **SECTION 266.** 30.62 (4) (b) 3. of the statutes is created to read:

15 30.62 (4) (b) 3. A motorboat that is equipped with an outboard motor and that
16 is constructed in a manner that does not permit explosive or flammable gases or
17 vapors to become entrapped in the motorboat.

18 **SECTION 267.** 30.62 (5) of the statutes is amended to read:

19 30.62 (5) BACKFIRE FLAME ARRESTERS. Every ~~boat~~ motorboat equipped with an
20 inboard motor using gasoline as a fuel shall have the carburetors of ~~every~~ each
21 inboard gasoline motor fitted with an ~~efficient~~ effective device for arresting backfire
22 flames. The device shall ~~meet the specifications prescribed by~~ comply with federal
23 regulations.

24 **SECTION 268.** 30.62 (6) of the statutes is renumbered 30.62 (6) (a) and amended
25 to read:

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1 30.62 (6) (a) ~~Every boat, except open boats, Except as provided in par. (b), every~~
2 ~~motorboat~~ using as fuel any liquid of a volatile nature, liquid fuel shall be provided
3 with an ~~efficient natural or mechanical~~ effective ventilation system ~~which that~~ is
4 capable of removing resulting ~~inflammable~~ flammable or explosive gases.

5 **SECTION 269.** 30.62 (6) (b) of the statutes is created to read:

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

9 **SECTION 270.** 30.62 (8) of the statutes is amended to read:

10 30.62 (8) ~~BATTERY COVER. Every motorboat~~ If a boat is equipped with storage
11 batteries a battery as part of the boat's electrical system, the battery shall be
12 provided with suitable supports and secured against shifting with the motion of the
13 boat. ~~Such storage batteries~~ Both battery terminals shall be equipped with a
14 ~~nonconductive shielding means~~ covered to prevent accidental shorting of battery
15 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.

16 **SECTION 271.** 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.

17 **SECTION 272.** 30.625 (1) (intro.) and (2) of the statutes are amended to read:

18 30.625 (1) (intro.) No person who is engaged in the rental or leasing of rents
19 or leases personal watercraft to the public may do any of the following:

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1 (2) The department ~~may~~ shall promulgate rules to establish minimum
2 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.

3 **SECTION 273.** 30.63 of the statutes is renumbered 30.62 (10) and amended to
4 read:

5 30.62 (10) SALE AND USE OF CERTAIN OUTBOARD MOTORS RESTRICTED. (a) *Sale.* No
6 person may sell any new outboard motor for use ~~in~~ on the waters of this state unless
7 ~~such~~ the motor is equipped with a crankcase effectively sealed to prevent the
8 drainage of raw fuel into the waters in which the motor is operated.

9 (b) *Use.* ~~Beginning January 1, 1990, no~~ No person may operate an outboard
10 motor ~~in~~ on the waters of this state unless ~~such~~ the motor is equipped with a
11 crankcase effectively sealed to prevent the drainage of raw fuel into the waters in
12 which ~~such~~ the motor is operated.

13 **SECTION 274.** 30.635 of the statutes is renumbered 30.66 (4) and amended to
14 read:

15 30.66 (4) ~~MOTORBOAT PROHIBITION~~ SLOW-NO-WAKE; LAKES 50 ACRES OR LESS. ~~On~~
16 No person may operate a motorboat in excess of slow-no-wake speed on lakes of 50
17 acres or less having public access, ~~motorboats may not be operated in excess of~~
18 ~~slow-no-wake speed,~~ except when ~~such~~ the lakes serve as thoroughfares between 2
19 or more navigable lakes. The department by rule may modify or waive the
20 requirements of this ~~section as to particular~~ subsection for individual lakes, if it finds
21 that public safety is not impaired by ~~such~~ the modification or waiver.

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1 **SECTION 275.** 30.64 of the statutes is renumbered 30.68 (14), and 30.68 (14) (a)
2 and (b), as renumbered, are amended to read:

3 30.68 (14) (a) The operator of a ~~duly authorized~~ patrol boat, when responding
4 to an emergency call or when in pursuit of an actual or suspected violator of the law,
5 need not comply with ~~state law or local~~ this subchapter or ordinances fixing
6 maximum speed limits under s. 30.77 when a siren is ~~being sounded or emergency~~
7 light is activated and if due regard is given to the safety of other persons in the
8 vicinity. If ~~a~~ an emergency light is used ~~in conjunction with a siren,~~ it shall be the
9 ~~oscillating or flashing type and be fitted with a blue lens~~ of a type and design specified
10 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.

11 (b) Upon the approach of a ~~duly authorized~~ patrol boat giving an audio or visual
12 signal, the operator of a boat shall reduce the boat speed to ~~that speed necessary to~~
13 ~~maintain steering control~~ slow-no-wake and yield the right-of-way to the patrol
14 boat until it has passed.

15 **SECTION 276.** 30.65 (1) (intro.), (b) and (f) and (2) of the statutes are amended
16 to read:

17 30.65 (1) MEETING; OVERTAKING; RIGHT-OF-WAY. (intro.) Every person operating
18 a boat shall comply with the following traffic rules, except when deviation ~~therefrom~~
19 from these rules is necessary to comply with federal pilot inland navigational rules,
20 under 33 USC 2001 to 2073 and 33 CFR parts 84 to 90, while operating on the
21 navigable waters of the United States:

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1 (b) When 2 motorboats are approaching each other obliquely or at right angles,
2 the boat which ~~that~~ has the other on her ~~the~~ right shall yield the right-of-way to the
3 other. “Right” means from dead ahead, clockwise to 2 points abaft the starboard
4 beam.

5 (f) A boat granted the right-of-way by this section shall maintain her course
6 and speed, unless to do so would probably result in a collision.

7 **(2) ADDITIONAL TRAFFIC RULES.** The department may promulgate such
8 additional traffic rules as it deems necessary in the interest of public safety. Such
9 rules shall ~~that~~ conform as nearly as possible to the federal ~~pilot~~ inland navigational
10 rules under 33 USC 2001 to 2073 and the regulations under 33 CFR parts 84 to 90.

11 **SECTION 277.** 30.66 (1), (2) (title) and (3) of the statutes are amended to read:

12 30.66 **(1) SPEED TO BE REASONABLE AND PRUDENT.** No person shall ~~may~~ operate
13 a motorboat at a speed greater than is reasonable and prudent under the conditions
14 and having regard for the actual and potential hazards then existing. The speed of
15 a motorboat shall be so controlled as to avoid colliding with any boat, object lawfully
16 ~~in or on the water or with any, or person, boat or other conveyance~~ in or on the water
17 ~~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.

18 **(2) (title) FIXED POSTED LIMITS.**

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1 **(3) ~~PROHIBITED OPERATION SLOW-NO-WAKE.~~** (a) ~~Except under s. 30.69 (3), no~~ **No**
2 person may operate a motorboat within 100 feet of any dock, raft, pier, or buoyed
3 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.

4 (b) No person may operate a personal watercraft at a speed in excess of
5 slow-no-wake within 100 feet of any other boat or within 200 feet of the shoreline
6 of any lake. ~~This paragraph does not apply if s. 30.69 (3) (a), (c) or (d) applies to the~~
7 ~~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.

8 **SECTION 278.** 30.66 (3) (c) of the statutes is created to read:

9 **30.66 (3) (c)** This subsection does not apply to pickup or drop areas that are
10 marked with regulatory markers and that are open to operators of personal
11 watercraft and to persons and motorboats engaged in water skiing or a similar
12 activity.

NOTE: See the comment to s. 30.66 (3) (b), above.

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1 **SECTION 279.** 30.67 (1) of the statutes is renumbered 30.67 (1m) and amended
2 to read:

3 **30.67 (1m) DUTY TO RENDER AID.** ~~Insofar as~~ If the operator of a boat can do so
4 without serious danger to the operator's boat or to persons on board, the operator of
5 a boat involved in a boating accident shall stop the operator's boat and render to ~~other~~
6 ~~persons affected thereby such to any person affected by the accident any assistance~~
7 ~~as that may be practicable and necessary to save them from or~~ feasible to save the
8 person or to minimize any danger caused by the accident. The operator shall give
9 the operator's name and address and identification of the operator's boat to any
10 person injured and to the owner of any property damaged in the accident.

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.

11 **SECTION 280.** 30.67 (1g) (title) of the statutes is created to read:

12 **30.67 (1g) (title) DEFINITIONS.**

13 **SECTION 281.** 30.67 (2) of the statutes is amended to read:

14 **30.67 (2) DUTY TO REPORT.** (a) If a boating accident results in death or injury
15 to any person, the disappearance of any person from a boat under circumstances
16 indicating death or injury, or property damage, every operator of a boat involved in
17 an accident shall, without delay and by the quickest means available, give notice of
18 the accident to a ~~conservation warden or local~~ law enforcement officer and shall file
19 a written report with the department on the form prescribed by it. ~~The department~~

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1 ~~shall promulgate rules necessary to keep accident reporting requirements in~~
2 ~~conformity with rules adopted by the U.S. coast guard.~~

3 (b) If the operator of a boat is physically incapable of making the report required
4 by this subsection and there was another occupant in the boat at the time of the
5 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).

6 **SECTION 282.** 30.67 (3) (title) of the statutes is repealed.

7 **SECTION 283.** 30.67 (3) (a) and (b) of the statutes are renumbered 30.67 (1g) (a)
8 and (b).

9 **SECTION 284.** 30.67 (3) (c) of the statutes is repealed.

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.

10 **SECTION 285.** 30.67 (4), (5) and (6) (b) of the statutes are amended to read:

11 30.67 (4) REPORTS CONFIDENTIAL. No report required by this section to be filed
12 with the department ~~shall~~ may be used as evidence in any trial, civil or criminal,
13 arising out of an accident, except that the department shall furnish upon demand of
14 any person who has or claims to have made ~~such~~ a report, or upon demand of any
15 court, a certificate showing that a specified accident report has or has not been made
16 to the department solely to prove a compliance or a failure to comply with the
17 requirement that ~~such~~ a report be made.

18 (5) TRANSMITTAL OF INFORMATION TO FEDERAL AND STATE AUTHORITIES. If any
19 request for information available on the basis of reports filed pursuant to this section
20 is duly made by an authorized official or agency of the U.S. federal government or
21 of the state ~~which~~ that registered the boat involved or the state where the accident

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1 occurred, the department shall compile and furnish ~~such~~ the information in
2 accordance with ~~such~~ the request.

3 (6) (b) In cases of death involving a boat in which the person died within 6 hours
4 of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from
5 the body of the decedent within 12 hours after his or her death, by the coroner or
6 medical examiner, or by a physician so designated by the coroner or medical
7 examiner or by a qualified person at the direction of the physician. All morticians
8 shall obtain a release from the coroner or medical examiner prior to proceeding with
9 embalming any body ~~coming under the scope~~ that is subject to the requirements of
10 this section. The blood so drawn shall be forwarded to a laboratory approved by the
11 state health officer for analysis of the ~~alcoholic~~ alcohol content of the blood specimen.
12 The laboratory shall notify the coroner or medical examiner causing the blood to be
13 withdrawn ~~shall be notified~~ of the results of each analysis made and the coroner or
14 medical examiner shall forward the results of each analysis to the state health
15 officer. The state health officer shall keep a record of all examinations to be used for
16 statistical purposes only. The cumulative results of the examinations, without
17 identifying the individuals involved, shall be disseminated and made public by the
18 state health officer. The department shall reimburse coroners and medical
19 examiners for the costs incurred in submitting reports and taking blood specimens
20 and laboratories for the costs incurred in analyzing blood specimens under this
21 section.

22 **SECTION 286.** 30.675 (intro.) and (1) of the statutes are renumbered 30.675 (1g)
23 and (1r) and amended to read:

24 30.675 (1g) The display on a boat or by a person of ~~an orange flag~~ approximately
25 ~~18 by 30 inches in size~~ a visual distress signal of a type approved by the U.S. coast

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1 guard under 33 CFR 175.101 to 175.140 shall indicate that such boat or person is in
2 need of help.

3 ~~(1r) Insofar as~~ If it is possible without serious danger to the operator's boat or
4 persons on board, the operator of a boat observing a distress signal shall render to
5 the boat or person displaying the signal such assistance as ~~may be practicable and~~
6 ~~necessary~~ is feasible to save the boat or person or to minimize any danger to them.

7 **SECTION 287.** 30.675 (2) of the statutes is amended to read:

8 30.675 (2) No person ~~shall~~ may display a flag like that distress signal described
9 ~~in~~ under sub. (1) ~~(1g)~~ unless such person is in need of assistance to prevent bodily
10 injury or destruction of property.

11 **SECTION 288.** 30.68 (title) and (2) of the statutes are amended to read:

12 **30.68** (title) **Prohibited Boat operation.**

13 (2) NEGLIGENT OPERATION. No person may operate or use any boat, or
14 ~~manipulate any water skis, aquaplane~~ engage in water skiing or a similar device
15 upon activity on the waters of this state in a careless, negligent, or reckless manner
16 so as to endanger ~~that person's life, property or person or the life, or property or of~~
17 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.

18 **SECTION 289.** 30.68 (3) (a) of the statutes is renumbered 30.68 (3) and amended
19 to read:

20 30.68 (3) OPERATION BY INCAPACITATED PERSON OR MINOR. No person in charge or
21 control of a boat ~~shall~~ may authorize or knowingly permit the boat to be operated by

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1 any person who by reason of physical or mental ~~disability~~ incapacity is incapable of
2 operating ~~sueh~~ 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).

3 **SECTION 290.** 30.68 (3) (b) to (d) of the statutes are renumbered 30.68 (3m) (a)
4 to (c), and 30.68 (3m) (a) and (c), as renumbered, are amended to read:

5 30.68 **(3m)** (a) No person under the age of 10 years may operate a motorboat.
6 Persons at least 10 and less than 12 years of age may operate a motorboat only if they
7 are either accompanied in the boat by a parent or guardian or a person at least 18
8 years of age designated by a parent or guardian. Persons at least 12 and less than
9 16 years of age may operate a ~~motor of any horsepower~~ motorboat, but only if they
10 are either accompanied by a parent or guardian or a person at least 18 years of age
11 designated by a parent or guardian, or in possession of a certificate issued under s.
12 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.

13 (c) A violation of par. (a) or (b) ~~or (c)~~ done with the knowledge of a parent or
14 guardian ~~shall~~ may also be deemed a violation by the parent or guardian, ~~and~~
15 ~~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.

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1 **SECTION 291.** 30.68 (3m) (title) of the statutes is created to read:

2 30.68 **(3m)** (title) OPERATION OF MOTORBOATS BY MINORS.

3 **SECTION 292.** 30.68 (4) (a) of the statutes is renumbered 30.68 (4) and amended
4 to read:

5 30.68 **(4)** CREATING HAZARDOUS WAKE OR WASH. No person shall may operate a
6 motorboat so as to approach or pass near another boat in such a manner as to create
7 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.

8 **SECTION 293.** 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 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.

9 **SECTION 294.** 30.68 (4m) (title) and (5) of the statutes are amended to read:

10 30.68 **(4m)** (title) ~~FACING~~ PERSONAL WATERCRAFT; FACING BACKWARDS.

11 **(5)** ~~OPERATING IN CIRCULAR~~ CIRCUITOUS COURSE. No person may operate a
12 motorboat repeatedly in a circuitous course around any other boat, or around any
13 person who is swimming, if such the circuitous course is within 200 feet of such the
14 boat or swimmer; ~~nor shall any.~~

15 **(5g)** OPERATION NEAR SKIN DIVER OR SWIMMER. No person may operate a boat or
16 water skier operate or approach and no person may engage in water skiing or a
17 similar activity closer than 100 feet to any skin diver's flag or any swimmer unless
18 the one of the following applies:

19 (a) The person is operating a boat that is part of the a skin diving operation or,

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1 **(b)** ~~The person is operating a boat that is accompanying the a swimmer, or~~
2 unless physical conditions make compliance impossible.

3 **SECTION 295.** 30.68 (5g) (c) of the statutes is created to read:

4 30.68 **(5g)** (c) There is insufficient room for the person to operate the boat 100
5 or more feet from the skin diver's flag or the swimmer and the boat is not being
6 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.

7 **SECTION 296.** 30.68 (5m) of the statutes is renumbered 30.66 (5) and amended
8 to read:

9 30.66 **(5)** ~~TOWING SLOW-NO-WAKE; TOWING BY A PERSONAL WATERCRAFT.~~ A person
10 may use a personal watercraft to tow a stranded or disabled boat if, during towing,
11 the speed of the personal watercraft does not exceed slow-no-wake.

12 **SECTION 297.** 30.68 (6) of the statutes is amended to read:

13 30.68 **(6)** ~~RIDING ON DECKS AND GUNWALES.~~ No person operating a motorboat may
14 ride or sit, or may allow any other person in the motorboat to ride or sit, on the
15 gunwales, on tops of seat backs or sides, or on the decking over the bow of the boat
16 in an unsafe manner while under way, unless ~~such~~ the person is inboard of guards
17 or railings provided on the boat to prevent persons from being lost overboard.
18 Nothing in this ~~section~~ subsection shall be construed to prohibit entry upon the

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1 decking over the bow of the boat for the purpose of anchoring, mooring, or casting off
2 or other necessary purpose.

3 **SECTION 298.** 30.68 (7) (title) of the statutes is amended to read:

4 30.68 (7) (title) ~~RESTRICTED~~ SWIMMING AREAS AND REGULATORY MARKERS.

5 **SECTION 299.** 30.68 (7) of the statutes is renumbered 30.68 (7) (a) and amended
6 to read:

7 30.68 (7) (a) No person shall may operate a boat within ~~a water~~ any area which
8 that has been clearly marked by regulatory markers or buoys ~~or some other~~
9 ~~distinguishing device as a bathing or swimming area; nor,~~

10 (b) No person may operate a boat in restricted use areas contrary to regulatory
11 notice pursuant to s. 30.74 (2). ~~This subsection does not apply in the case of an~~
12 ~~emergency, or to patrol or rescue craft~~ markers.

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.

13 **SECTION 300.** 30.68 (8) and (8m) (a) of the statutes are amended to read:

14 30.68 (8) ANCHORING IN TRAFFIC LANES. No person may anchor, place, affix, or
15 abandon any unattended boat, raft, float, or similar structure in the traveled portion
16 of any river or channel or in any traffic lane ~~established and legally marked~~
17 designated by aids to navigation, so as to ~~prevent, impede or interfere~~ with the safe
18 passage of any other boat ~~through the same.~~

19 **(8m)** (a) No person may use a mooring ~~or attach a boat to a mooring buoy~~ if the
20 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".

21 **SECTION 301.** 30.68 (8m) (c) of the statutes is created to read:

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1 30.68 **(8m)** (c) No person may attach a boat to any aid to navigation or
2 regulatory marker, except to mooring buoys.

NOTE: The prohibition in new sub. (8m) (c) is moved to this location from s. 30.68
(12).

3 **SECTION 302.** 30.68 (9) and (11) of the statutes are amended to read:

4 30.68 **(9)** OVERLOADING. No person may operate, and no owner of a boat may
5 allow a person to operate, a boat that is loaded with passengers or cargo beyond its
6 safe carrying capacity, taking into ~~consideration weather and other~~ account existing
7 operating conditions.

8 **(11)** ~~UNNECESSARILY SOUNDING WHISTLES~~ HORNS; USE OF FLASHING LIGHTS. No
9 person shall may unnecessarily sound a horn, whistle, or other sound-producing
10 device on any boat while ~~at anchor or under way~~ on the water. The use of a siren or
11 a light that resembles an emergency light specified under sub. (14) (a) on any boat
12 except ~~duly authorized~~ a patrol boats on patrol or rescue boat that is on duty is
13 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.

14 **SECTION 303.** 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.

15 **SECTION 304.** 30.68 (14) (title) of the statutes is created to read:

16 30.68 **(14)** (title) PATROL BOATS.

17 **SECTION 305.** 30.69 (title) of the statutes is amended to read:

18 **30.69** (title) **Water skiing and similar activities.**

19 **SECTION 306.** 30.69 (1) (title) of the statutes is amended to read:

20 30.69 **(1)** (title) ~~PROHIBITED AT CERTAIN TIMES~~ PROHIBITIONS; EXCEPTIONS.

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1 **SECTION 307.** 30.69 (1) (a) of the statutes is renumbered 30.69 (1) (a) (intro.)

2 and amended to read:

3 30.69 (1) (a) (intro.) ~~Except as provided in par. (b), no~~ No person may operate
4 do any of the following:

5 1. Operate a motorboat towing a person ~~on~~ engaged in water skis, aquaplane
6 ~~or skiing or a similar device activity~~ unless there is in the boat a competent person
7 in addition to the operator ~~in a position to observe the progress of the person being~~
8 ~~towed. An observer shall be considered competent if that person~~ who is in a position
9 to observe, and can in fact observe, the person being towed and relay any signals to
10 the operator. ~~This observer requirement does not apply to motorboats classified as~~
11 ~~Class A motorboats by the department actually operated by the persons being towed~~
12 ~~and so constructed as to be incapable of carrying the operator in or on the motorboat.~~
13 ~~No person may engage~~

14 2. Engage in water skiing, aquaplaning or a similar activity, or operate a
15 motorboat towing a person engaged in water skiing or a similar activity, at any time
16 from sunset to sunrise. ~~This restriction of the hours of water skiing does not prevent~~
17 ~~restrictions of the hours of water skiing between sunrise and sunset by local~~
18 ~~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.

19 **SECTION 308.** 30.69 (1) (b) of the statutes is renumbered 30.69 (1) (b) (intro.)

20 and amended to read:

21 30.69 (1) (b) (intro.) Paragraph (a) 1. does not apply to ~~duly authorized water~~
22 any of the following:

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1 1. Water ski tournaments, competitions, exhibitions or trials therefor, where
2 adequate lighting is provided, or practice sessions that are authorized by a permit
3 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.

4 **SECTION 309.** 30.69 (1) (b) 2. of the statutes is created to read:

5 30.69 (1) (b) 2. Motorboats less than 16 feet long that are operated by the person
6 being towed and that are so constructed as to be incapable of carrying the operator
7 in or on the motorboat.

8 **SECTION 310.** 30.69 (1) (bm) of the statutes is created to read:

9 30.69 (1) (bm) Paragraph (a) 2. does not apply to water ski tournaments,
10 competitions, exhibitions, or practice sessions that are conducted under a permit
11 from a local governmental unit that enacts an ordinance under s. 30.77 and for which
12 adequate lighting is provided.

13 **SECTION 311.** 30.69 (1) (c) of the statutes is renumbered 30.69 (1) (b) 3. and
14 amended to read:

15 30.69 (1) (b) 3. ~~In addition to complying with par. (a), no person may operate~~
16 ~~a~~ A personal watercraft that is towing a person who is on engaged in water skis, an
17 aquaplane skiing or a similar device activity unless the personal watercraft is
18 designed to seat at least 3 persons.

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1 **SECTION 312.** 30.69 (2) of the statutes is amended to read:

2 30.69 (2) CAREFUL AND PRUDENT OPERATION. A person operating a motorboat
3 having in tow a person ~~on water skis, aquaplane or engaged in water skiing or a~~
4 similar device activity shall operate ~~such boat~~ the motorboat in a careful and prudent
5 manner and at a reasonable distance from persons and property so as not to
6 endanger the life or property of any person.

7 **SECTION 313.** 30.69 (3) of the statutes is amended to read:

8 30.69 (3) RESTRICTIONS. (a) No person operating a motorboat that is towing
9 ~~persons~~ a person engaged in water skiing, ~~aquaplaning~~ or a similar activity may
10 operate the motorboat within 100 feet of any occupied anchored boat, any personal
11 watercraft, or any marked swimming area or public boat landing.

12 (b) No person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity
13 may ~~get~~ come within 100 feet of a personal watercraft or allow the tow rope while in
14 use to ~~get~~ come within 100 feet of a personal watercraft.

15 (c) 1. A motorboat towing a person who is engaged in water skiing, ~~aquaplaning~~
16 or a similar activity.

17 2. The tow rope of a motorboat towing a person who is engaged in water skiing,
18 ~~aquaplaning~~ or a similar activity.

19 3. A person who is engaged in water skiing, ~~aquaplaning~~ or a similar activity.

20 (d) Paragraphs (a) to (c) do not apply to pickup or drop areas that are marked
21 with regulatory markers and that are open to operators of personal watercraft and
22 to persons and motorboats engaged in water skiing or a similar activity.

23 **SECTION 314.** 30.69 (4) of the statutes is amended to read:

24 30.69 (4) INTOXICATED OPERATION. No person may use engage in water skis, ~~an~~
25 ~~aquaplane~~ skiing or a similar device activity while under the influence of an

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1 intoxicant to a degree which renders him or her incapable of safely using engaging
2 in water skis, an aquaplane skiing or a similar device activity, or under the combined
3 influence of an intoxicant and any other drug to a degree which renders him or her
4 incapable of safely using engaging in water skis, an aquaplane skiing or a similar
5 device activity.

6 **SECTION 315.** 30.70 of the statutes is renumbered 30.70 (1) and amended to
7 read:

8 30.70 (1) No person may engage in ~~underwater diving or~~ swimming with the
9 use of swimming fins or skin diving in waters other than marked swimming areas
10 or within 150 feet of the shoreline, and no unless the location of the swimming or
11 diving is marked by a diver's flag. No person may engage in ~~underwater diving or~~
12 ~~swimming~~ with the use of self-contained any underwater breathing apparatus in
13 waters other than marked swimming areas, unless the location of such the diving or
14 ~~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.

15 **(2)** A diver's flag under sub. (1) shall consist of a flag that is 12 inches high and
16 15 inches long, displaying and displays one diagonal white stripe 3 inches wide on
17 a red background, and. The diver's flag shall be of a height above the water so as to
18 be clearly apparent at a distance of 100 yards under normal conditions, and so
19 designed and displayed as to be visible from any point on the horizon. Except in case
20 of emergency, anyone no person engaging in such diving or swimming shall not that
21 requires a diver's flag may rise to the surface outside of a radius of 50 feet from such
22 the diver's flag.

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1 **(3)** No person engaged in such diving or swimming shall that requires a diver's
2 flag may interfere with the operation of anyone fishing ~~nor or~~ engage in such diving
3 or swimming in established traffic lanes; ~~nor shall any such person alone or with~~
4 ~~another, intentionally or unintentionally, block or.~~ No person engaged in diving or
5 swimming that requires a diver's flag may obstruct any boat in any manner from
6 proceeding to its destination in its course where ~~a~~ no reasonable alternative is
7 ~~unavailable~~ available. A reasonable alternative route course is available when the
8 otherwise unobstructed boat can ~~proceed to its destination~~ pass the diver's flag
9 without reducing its lawful speed, ~~by passing to the right or to the left of a marked~~
10 ~~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 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.

11 **SECTION 316.** 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).

12 **SECTION 317.** 30.73 (2) (a) of the statutes is repealed and recreated to read:
13 **30.73 (2) (a)** Patrol boat operators.

NOTE: See the exception for patrol boat operators in s. 30.68 (14), as renumbered from s. 30.64.

14 **SECTION 318.** 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.

15 **SECTION 319.** 30.735 of the statutes is created to read:

16 **30.735 Tampering with navigation aids or regulatory markers.** No
17 unauthorized person may move, remove, molest, tamper with, destroy, or attempt to

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1 destroy any aid to navigation or regulatory marker, sign, or other device established
2 and maintained to aid boaters.

NOTE: This provision is currently part of s. 30.68 (12), which is repealed in this bill.

3 **SECTION 320.** 30.74 (1) (c) and (d) of the statutes are amended to read:

4 30.74 (1) (c) A valid certificate issued by another state, as defined in s. 115.46
5 (2) (f), or a province of Canada or the Canadian government that is held by a person
6 ~~will~~ shall be honored if the course content substantially meets that established by
7 the department.

NOTE: Canadian provinces no longer issue boating safety certificates. This is done
by the Canadian government.

8 (d) The department shall also prepare and disseminate information on water
9 safety to the public, including the informational pamphlets specified in s. 30.52 (5)
10 (a) 4. and (b) 3.

11 **SECTION 321.** 30.74 (2) (a) of the statutes is amended to read:

12 30.74 (2) (a) The department by rule shall establish uniform marking of the
13 ~~water areas~~ waters of this state through the placement of aids to navigation and
14 regulatory markers. These rules shall establish a marking system compatible with
15 the system of aids to navigation prescribed by the U.S. coast guard ~~and shall give due~~
16 ~~regard to the system of uniform waterway markers approved by the advisory panel~~
17 ~~of state officials to the merchant marine council, U.S. coast guard.~~

18 (bm) No municipality local governmental unit that enacts an ordinance under
19 s. 30.77 or person may mark the waters of this state in ~~any manner in conflict with~~
20 the marking system ~~prescribed~~ established by the department under par. (a). Any
21 regulatory marker or aid to navigation that does not comply with this marking
22 system is considered an unlawful obstruction to navigable waters and may be
23 removed ~~in accordance with law~~ under s. 30.95.

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1 (c) The department may not prohibit the placement of a regulatory marker or
2 an aid to navigation if it complies with ~~this~~ the marking system established by the
3 department under par. (a) and if it is being placed pursuant to an ordinance ~~that has~~
4 ~~been enacted in compliance with~~ under s. 30.77.

NOTE: The advisory panel is obsolete.

5 **SECTION 322.** 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.

6 **SECTION 323.** 30.74 (3) of the statutes is amended to read:

7 30.74 (3) ENFORCEMENT. The department shall assist in the enforcement of ss.
8 30.50 to 30.80 ~~and in connection therewith.~~ The department may maintain patrol
9 boats and may operate such the patrol boats at such times and places as the
10 department deems necessary in the interest of boating safety and the effective
11 enforcement of boating laws. An ordinance enacted under s. 30.77 does not apply to
12 a patrol boat operated by the department if the patrol boat is engaged in a law
13 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.

14 **SECTION 324.** 30.742 of the statutes is renumbered 30.5005 (3).

15 **SECTION 325.** 30.77 of the statutes is repealed and recreated to read:

16 **30.77 Local regulation of boating. (1) DEFINITIONS.** In this section:

17 (a) "Footage of shoreline" means the length of shoreline in feet measured by use
18 of a map wheel on the U.S. geological survey 7 1/2 minute map series.

19 (b) "State law" means this section, ss. 30.50 to 30.71, and those penalties under
20 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 DNR boating rules.

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1 **(2) LOCAL REGULATION PROHIBITED; EXCEPTION.** State laws shall be uniform in
2 operation throughout the state. No local governmental unit may enact an ordinance
3 on any matter pertaining to a state law except as provided under this section, or as
4 provided under another statute that, by its express terms, and, notwithstanding this
5 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.

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.

6 **(3) DUTIES OF THE DEPARTMENT.** (a) *Assistance.* The department shall draft and
7 disseminate model ordinances that meet the requirements of this section. The
8 department shall consult with and assist local governmental units in enacting and
9 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.

10 (b) *Review of ordinances.* The department shall review ordinances as provided
11 under sub. (10).

12 **(4) JURISDICTION OF CERTAIN LOCAL GOVERNMENTAL UNITS.** (a) *Cities, villages, and*
13 *towns.* 1. A city, village, or town that has the entire shoreline of an inland lake within
14 the boundaries of the city, village, or town may enact ordinances applicable to that
15 lake.

16 2. A city, village, or town that has both banks of a stream within the boundaries
17 of the city, village, or town may enact ordinances applicable to that portion of the
18 stream that is within the boundaries of the city, village, or town.

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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.

1 3. Notwithstanding pars. (b) 1. to 3. or (c) to (e), a city, village, or town may enact
2 ordinances applicable to waters of this state that pertain to issues of local concern
3 to that city, village, or town, as specified in sub. (5) (h). If there is a disagreement
4 among local governmental units regarding the content of an ordinance enacted
5 under this subdivision, or the priority of an ordinance enacted under this
6 subdivision, as provided in sub. (7) (c), the matter may be submitted to the
7 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).

8 (b) *Counties*. 1. A county that has both banks of a stream within the county
9 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.

10 2. A county that has the entire shore of an inland lake within the county
11 boundaries may enact ordinances applicable to that lake.

12 2g. A county ordinance enacted under subd. 2. is void if the ordinance is enacted
13 with respect to a lake for which an ordinance is enacted under par. (a) 1., (c), or (d).

14 2r. A county ordinance enacted under subd. 2 with respect to a lake for which
15 an ordinance has not been enacted under par. (a) 1., (c), or (d) is void if any of the
16 following applies:

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1 a. The entire shoreline of the lake is within the boundaries of a city, village, or
2 town that adopts a resolution declaring the county ordinance void, and the city,
3 village, or town files a copy of the resolution with the department.

4 b. At least 50 percent of the cities, villages, or towns with a portion of the
5 shoreline of the lake within the boundaries of the city, village, or town adopt a
6 resolution declaring the county ordinance void, a copy of the resolution is filed with
7 the department, and at least 40 percent of the footage of shoreline of the lake is
8 within the boundaries of those cities, villages, or towns.

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.

9 3. A county may enact ordinances applicable to outlying waters that are
10 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.

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1 4. A county that operates a marina development adjacent to waters of this state
2 may enact ordinances that relate to the development, operation, and use of the
3 marina and the waters adjoining the marina.

4 (c) *Multiple cities, villages, and towns; inland lakes.* A city, village, or town may
5 enact ordinances applicable to an inland lake if the city, village, or town has a portion
6 of the shoreline of the lake within the boundaries of the city, village, or town and all
7 of the following apply:

8 1. At least 50 percent of the cities, villages, or towns with a portion of shoreline
9 of the lake within their boundaries enact an identical ordinance.

10 2. At least 60 percent of the footage of shoreline of the lake is within the
11 boundaries of the cities, villages, and towns that enact an identical ordinance.

12 (d) *Town sanitary district or lake district.* A town sanitary district or public
13 inland lake protection and rehabilitation district may enact ordinances applicable
14 to an inland lake if at least 60 percent of the footage of the shoreline of the lake is
15 within the town sanitary district or public inland lake protection and rehabilitation
16 district boundary and all of the following apply:

17 1. At least 50 percent of the cities, villages, or towns with a portion of the
18 shoreline of the lake within their boundaries adopt a resolution authorizing the town
19 sanitary district or public inland lake protection and rehabilitation district to enact
20 the ordinance.

21 2. At least 60 percent of the footage of shoreline of the lake is within the
22 boundaries of the cities, villages, and towns that adopt the resolution.

23 (e) *Multiple cities, villages, towns, and counties; streams.* 1. A city, village, or
24 town that is contiguous to a stream may enact ordinances applicable to any portion

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1 of the stream if each city, village, or town that is contiguous to that portion of the
2 stream on the opposite bank enacts an identical ordinance.

3 2. A county that is contiguous to a stream may enact ordinances applicable to
4 any portion of the contiguous stream if each county that is contiguous to that portion
5 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.

6 **(5) STRICT CONFORMITY AND CONSISTENCY; PROHIBITIONS.** (a) *Ordinances*
7 *authorized.* A local governmental unit may enact and enforce ordinances as provided
8 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.

9 (b) *Strict conformity required.* Ordinances that relate to the subject matter
10 encompassed by ss. 30.61, 30.62, 30.65, 30.67, 30.675, 30.68 (3m) (a) and (b) and (14),
11 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.

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1 (c) *Ordinances consistent with state law.* Except for a state law that requires
2 strict conformity under par. (b), every ordinance enacted by a local governmental
3 unit under this section shall be consistent with state law if all of the following apply:

4 1. The ordinance is in the interest of public health, safety, or welfare, including
5 the public's interest in preserving the state's natural resources.

6 2. The ordinance relates either to the equipment, use, or operation of boats or
7 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.
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.

8 (d) *Standards for consistency.* An ordinance is consistent with state law even
9 if it varies from the specific provisions of state law if the ordinance achieves the same
10 general objective as state law, allows free use of the waters of this state within the
11 framework established by state law, and is a reasonable restriction on public rights
12 in waters of this state. An ordinance that meets the standards for consistency in this
13 paragraph is not inconsistent with state law solely because the ordinance establishes
14 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.

15 (e) *Considerations in enacting ordinances.* In enacting an ordinance for an
16 individual body of water, a local governmental unit may take into account factors
17 that include the following:

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

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

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

8 (f) *Specific ordinances authorized.* Ordinances that require consistency under
9 par. (c) include those that relate to any of the following:

10 1. Restrictions on speed.

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

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

15 4. The operation, equipment, use, and inspection of boats carrying passengers
16 for hire that operate from a base within the jurisdiction of the local governmental
17 unit, including the regulation of reasonable fees for the inspection of such boats.

18 5. Reasonable fees for using a public boat launching facility that the local
19 governmental unit owns or operates.

20 6. Reasonable fees for the local governmental unit's costs for operating or
21 maintaining a water safety patrol unit, as defined in s. 30.79 (1) (b) 2.

22 7. Reasonable fees for the local governmental unit's costs of providing other
23 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

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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 article IX, section 1, of the Wisconsin constitution. 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.

1 (g) *Prohibitions.* 1. An ordinance may not require numbering, registration, or
2 licensing of boats.

3 2. An ordinance may not charge a fee for inspection of boats, except as provided
4 in par. (f) 4.

5 (h) *Cities, villages, and towns; issues of local concern.* A city, village, or town
6 may enact ordinances under sub. (4) (a) 3. that relate only to establishing
7 slow-no-wake zones and prohibiting boats from designated areas and that apply
8 only within the following areas:

9 1. A mooring area designated under s. 30.773 by the city, village, or town.

10 2. A bridge, dam, channel, canal, or other similar hazard to navigation that is
11 within the corporate limits of the city, village, or town.

12 3. Any construction project that requires a permit under subch. II or ch. 31 and
13 either is undertaken by the city, village, or town or is within the corporate limits of
14 the city, village, or town.

15 4. A marina that is either owned by the city, village, or town or is within the
16 corporate limits of the city, village, or town.

17 5. An area that is within 200 feet from any riparian property or lake bed that
18 is owned by the city, village, or town.

19 6. An area within a breakwater that is adjacent to the city, village, or town.

20 7. A harbor that is within the corporate limits of the city, village, or town.

21 **(6) RESCINDING AUTHORITY TO ENACT ORDINANCES.** (a) *Multiple cities, villages,*
22 *and towns.* If a city, village, or town enacts an ordinance for an inland lake under

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1 sub. (4) (c) and the city, village, or town amends or repeals the ordinance, that
2 ordinance is void for each city, village, or town with shoreline on the inland lake
3 unless the requirements of sub. (4) (c) 1. and 2. continue to apply.

4 (b) *Delegated jurisdiction.* If a public inland lake protection and rehabilitation
5 district or town sanitary district is authorized to enact ordinances for an inland lake
6 under sub. (4) (d) and a city, village, or town rescinds the resolution that grants that
7 authority, the public inland lake protection and rehabilitation district or town
8 sanitary district may not enact ordinances for that inland lake and any ordinance
9 enacted by the public inland lake protection and rehabilitation district or town
10 sanitary district for that inland lake is void, unless the requirements of sub. (4) (d)
11 1. and 2. continue to apply.

12 (7) PRIORITY OF ORDINANCES. (a) *Counties.* 1. An ordinance enacted by a county
13 for a stream under sub. (4) (b) 1. or (e) 2. supersedes any provision of an ordinance
14 enacted by a city, village, or town for a stream under sub. (4) (a) 2. or (e) 1. that is
15 inconsistent with the county ordinance.

16 2. An ordinance enacted by a county for a marina under sub. (4) (b) 4.
17 supersedes any provision of an ordinance enacted by another local governmental
18 unit that is inconsistent with the county ordinance.

19 (b) *Town sanitary districts and lake districts.* An ordinance enacted by a public
20 inland lake protection and rehabilitation district or a town sanitary district for an
21 inland lake under sub. (4) (d) supersedes any provision of an ordinance enacted by
22 a city, village, or town under sub. (4) (a) 1. or (c) that is inconsistent with the public
23 inland lake protection and rehabilitation district or town sanitary district ordinance.

24 (c) *Cities, villages, or towns; ordinances of local concern.* An ordinance enacted
25 by a city, village, or town for any waters of this state under sub. (4) (a) 3. supersedes

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1 any provision of an ordinance enacted under sub. (4) (b) 1. to 3. and (c) to (e) that is
2 inconsistent with the city, village, or town ordinance under sub. (4) (a) 3.

3 **(8) POSTING ORDINANCES.** All ordinances enacted under this section applicable
4 to a lake or stream shall be prominently posted by the local governmental unit that
5 enacted them at each point of public access to the lake or stream within the local
6 governmental unit. For ordinances enacted under sub. (4) (c), the ordinances shall
7 be posted by each local governmental unit at any point of public access to the lake
8 or stream within the boundaries of that local governmental unit.

9 **(9) HEARINGS.** (a) *Ordinances.* A local governmental unit shall hold a public
10 hearing under this subsection before enacting, amending, or repealing an ordinance.

11 (b) *Resolutions.* A local governmental unit shall hold a public hearing under
12 this subsection before rescinding a resolution that is adopted under sub. (4) (d).

13 (c) *Procedures.* 1. A public hearing under this subsection shall be held at least
14 30 days before an ordinance is enacted, amended, or repealed or a resolution is
15 rescinded. If the action on an ordinance or resolution is proposed by more than one
16 local governmental unit, the local governmental units may publish the notice and
17 conduct the public hearing jointly.

18 2. At least 30 days before the public hearing, a local governmental unit shall
19 publish a class 1 notice, under ch. 985, of the hearing under this subsection in one
20 or more newspapers likely to give notice of the hearing in all cities, villages, towns,
21 and counties that have shoreline of the lake or stream within their boundaries.

22 3. A local governmental unit that publishes a notice of a public hearing under
23 subd. 1. shall send a copy of the notice, at least 30 days before the hearing, to the
24 department, to each city, village, town, and county that has shoreline of the lake or
25 stream within its boundaries and, if the proposal relates to an inland lake, to each

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1 lake association for the lake and each public inland lake protection and
2 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.

3 **(10) REVIEW BY DEPARTMENT.** (a) *Review required.* 1. The department shall
4 review each ordinance or amendment to an ordinance proposed under this section
5 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.

6 2. This paragraph does not apply to the repeal of an ordinance.

7 (b) *Copy of ordinance to department.* The local governmental unit shall submit
8 a proposed ordinance to the department at least 60 days prior to final action on the
9 ordinance.

10 (c) *Report by department.* The department shall prepare a report of its review.
11 The report shall include findings regarding compliance of the ordinance with this
12 section. If the department determines that the ordinance does not comply with this
13 section, the report shall contain suggestions for changes that would bring the
14 ordinance into compliance with this section.

15 (d) *Deadline for review.* The department shall complete its review within 20
16 days after receiving a copy of a proposed ordinance under par. (b).

17 (e) *Distribution of report.* The department shall send a copy of any report
18 prepared under par. (c) to each local governmental unit affected by the ordinance.

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1 (f) *Modifications.* If a local governmental unit modifies an ordinance following
2 receipt of a department report under par. (c), whether or not the modification is in
3 response to the department report, the local governmental unit shall submit the
4 modified, proposed ordinance in final form to the department prior to enactment.
5 The department is not required to review the modified ordinance under this
6 subsection if the modifications relate to the subject matter of the ordinance
7 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.

8 (g) *Validity of ordinance.* 1. An ordinance is not valid unless the local
9 governmental unit complies with all procedural requirements imposed on local
10 governmental units by this section and the contents of the ordinance comply with
11 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.

12 2. A department report under this subsection is advisory only and does not
13 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).

14 (h) *Filing copies.* A local governmental unit that enacts, amends, or repeals an
15 ordinance under this section shall file a signed copy of the ordinance, amendment,
16 or repeal with the department. The department shall retain a copy of each ordinance,
17 amendment, or repeal submitted under this paragraph.

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1 **(11) OBJECTION PROCEDURE.** (a) Any of the following may file with the
2 department an objection to an ordinance enacted under this section, on the grounds
3 that any portion of the ordinance does not comply with this section:

4 1. A local governmental unit.

5 2. A qualified lake association, as defined in s. 281.68 (1) (b).

6 3. A nonprofit conservation organization, as defined in s. 23.0955 (1).

7 4. A local governmental unit, as defined in s. 66.0131 (1) (a), that is established
8 for the purpose of lake management.

9 5. A nonstock corporation organized under ch. 181 whose primary purpose is
10 to promote boating activities.

11 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.

12 (b) 1. Upon receipt of an objection under par. (a), the department shall order
13 a hearing on the objection under ch. 227. The hearing shall be a contested case
14 hearing, and the administrator of the division of hearings and appeals in the
15 department of administration shall assign a hearing examiner to the hearing as

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1 provided in s. 227.43. Persons who are not parties to the contested case may present
2 testimony and evidence at the hearing.

3 2. The hearing examiner shall issue an order on the objection within 90 days
4 after the date on which the hearing is ordered.

5 3. If the hearing examiner finds in favor of the objecting party, the hearing
6 examiner shall issue an order declaring the ordinance or a portion of it void and
7 prohibiting the enforcement of the ordinance or that portion of the ordinance.

8 (c) The procedure under this subsection does not supersede any other legal
9 right or procedure that a person has to contest an ordinance enacted under this
10 section.

11 **SECTION 326.** 30.771 of the statutes is created to read:

12 **30.771 Emergency powers; local regulation of boating. (1)** A sheriff may
13 issue an emergency regulation applicable to boating on any waters of this state
14 within the sheriff's county. The emergency regulation shall be issued in written
15 form, and the sheriff shall include with the emergency regulation findings of fact that
16 support the need for the emergency regulation. The emergency regulation may
17 establish slow-no-wake zones and may prohibit boats from designated areas. The
18 emergency regulation may not be more restrictive than is necessary to address the
19 emergency condition. The emergency regulation shall apply for a term specified by
20 the sheriff, not to exceed 30 days. The sheriff may reissue an emergency regulation,
21 for a term not to exceed 30 days, upon expiration of any prior emergency regulation
22 or reissued emergency regulation. The sheriff shall publish and post the emergency
23 regulation in a manner likely to give notice to users of the waters of this state that
24 are subject to the emergency regulation and may mark or require the marking of the

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1 waters subject to the regulation by regulatory markers, if appropriate for the
2 purpose of the regulation.

3 (2) A city, village, or town may issue an emergency regulation in connection
4 with a construction project in any waters of this state that are within the jurisdiction
5 of or adjacent to the city, village, or town. The city, village, or town shall issue the
6 emergency regulation in writing. The emergency regulation may establish a
7 slow-no-wake zone and may prohibit boats from designated areas. The emergency
8 regulation may not be more restrictive than is necessary to address the conditions
9 related to the construction project. The emergency regulation shall apply for the
10 duration of the construction project or 30 days, whichever is less. If necessary, the
11 city, village, or town may reissue the emergency regulation upon expiration of the
12 prior emergency regulation. The city, village, or town shall publish and post the
13 emergency regulation in a manner likely to give notice to users of the waters of this
14 state that are subject to the emergency regulation, and shall mark or require the
15 marking of the waters subject to the regulation by appropriate regulatory markers.

16 (3) Emergency regulations under this section are not subject to the procedures
17 in s. 30.77, except that objection may be made to emergency regulations under this
18 section using the procedures in s. 30.77 (11).

19 (4) If waters subject to emergency regulations under sub. (1) or (2) are marked
20 with regulatory markers, the sheriff or the city, village, or town shall obtain
21 department approval of the regulatory markers. The sheriff or the city, village, or
22 town may place the markers after obtaining department approval or, in cases
23 requiring immediate placement of markers, the sheriff or the city, village, or town
24 may place the markers and immediately notify the boating law administrator of the
25 department that the emergency regulation is in effect and the markers have been

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1 placed. The department shall approve or decline to approve a regulatory marker
2 under sub. (1) or (2) within 2 working days after receiving a request for approval from
3 the sheriff or the city, village, or town. If the department declines to approve a
4 regulatory marker after the sheriff or the city, village, or town has placed the marker,
5 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 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.

6 **SECTION 327.** 30.772 (3) (d) 4. of the statutes is amended to read:

7 30.772 (3) (d) 4. The provisions and procedures of ch. 68 shall apply to the ~~grant~~
8 issuance, denial, or revocation of a mooring permit by a municipality.

9 **SECTION 328.** 30.772 (4) of the statutes is amended to read:

10 30.772 (4) DEPARTMENT PERMITS. The department may issue a permit
11 authorizing the placement or use of a mooring beyond 150 feet from the ordinary
12 high-water mark if the municipality does not have an established permit procedure,
13 or more than 200 feet from the ordinary high-water mark if sub. (3) (a) 5. applies.
14 The department may place conditions or restrictions on any permit issued under this
15 subsection. The decision of the department under this subsection is subject to the
16 time limits in s. 30.221.

17 **SECTION 329.** 30.78 (1) (intro.) of the statutes is repealed and recreated to read:

18 30.78 (1) LOCAL REGULATION AUTHORIZED. (intro.) A local governmental unit
19 that has authority to enact an ordinance under s. 30.77 (4) may, after public hearing,
20 by ordinance do any of the following:

21 **SECTION 330.** 30.78 (1g) of the statutes is repealed.

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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.

1 **SECTION 331.** 30.78 (1r) and (2) of the statutes are amended to read:

2 30.78 (1r) NOTICE TO DEPARTMENT OF TRANSPORTATION. The department of
3 transportation shall receive timely notice of the public hearing required under subs.
4 sub. (1) ~~and (1g)~~ and shall have an opportunity to present testimony on the proposed
5 ordinance. An ordinance under sub. (1) (b) ~~or (1g)~~ that regulates or restricts an area
6 of surface waters for landing or take-off purposes shall be filed with the department
7 of transportation.

8 (2) MARKING OF REGULATED OR RESTRICTED AREAS. Any ordinance that regulates
9 or restricts an area of surface waters under sub. (1) ~~or (1g)~~ shall direct that the area
10 be marked by standard marking devices.

11 **SECTION 332.** 30.78 (3) of the statutes is repealed.

12 **SECTION 333.** 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.

13 **SECTION 334.** 30.79 (1) (b) 1. and 2. of the statutes are amended to read:

14 30.79 (1) (b) 1. A unit within an existing municipal law enforcement agency or
15 a separate municipal agency, created by a municipality or by a number of
16 municipalities riparian to a single body of water for the purpose of enforcing ss. 30.50
17 to 30.80 and any ~~rules promulgated and ordinances enacted under ss. 30.50 to 30.80~~
18 s. 30.77 and for the purpose of conducting search and rescue operations.

19 2. A unit created by ~~a public inland lake protection and rehabilitation district,~~
20 ~~by a lake sanitary district or by a number of~~ one or more local governmental units

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1 riparian to a single lake, ~~at least one of which is a lake district or a lake sanitary~~
2 ~~district~~, for the purposes specified in subd. 1.

3 **SECTION 335.** 30.79 (2), (3) and (4) of the statutes are amended to read:

4 30.79 (2) STATE AID. In order to protect public rights in navigable waters and
5 to promote public health, safety, and welfare and the prudent and equitable use of
6 the navigable waters of the state, a system of state aids for local enforcement of ss.
7 30.50 to 30.80 and ordinances enacted under ~~ss. 30.50 to 30.80~~ s. 30.77 and for
8 conducting search and rescue operations is established.

9 (3) ENFORCEMENT POWERS. Officers patrolling the waters as part of a water
10 safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50
11 to 30.80 or ~~any rules promulgated or ordinances enacted under ss. 30.50 to 30.80~~ s.
12 30.77 and for conducting search and rescue operations, if the officers have reasonable
13 cause to believe there is a violation of the sections, ~~rules~~ or ordinances or the stopping
14 and boarding of any boat is essential to conduct a search and rescue operation.

15 (4) JURISDICTION. Upon petition by any local governmental unit or group of local
16 governmental units operating or intending to operate a water safety patrol unit, the
17 department shall, if it finds that it is in the interest of efficient and effective
18 enforcement to do so, by rule define the waters which may be patrolled by the unit,
19 including waters lying within the territorial jurisdiction of some other ~~town~~ city,
20 ~~village, or city town~~ village, or city town if the ~~town city, village, or city town~~ consents to the patrol of its
21 waters. Such consent is not required if the petitioner is a local governmental unit
22 containing a population of 5,000 or more, bordering upon the waters to be affected
23 by the rule in counties having a population of less than 500,000. Officers patrolling
24 the waters as part of the water safety patrol unit shall have the powers of sheriff in
25 enforcing ss. 30.50 to 30.80, or ~~rules promulgated or ordinances enacted under ss.~~

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1 ~~30.50 to 30.80~~ s. 30.77 and in conducting search and rescue operations, on any of the
2 waters so defined, whether or not the waters are within the jurisdiction of the local
3 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.

4 **SECTION 336.** 30.80 (2) of the statutes is amended to read:

5 30.80 (2) Any person violating s. 30.68 (2) shall be fined not more than \$200
6 or imprisoned for not more than 6 months or both. ~~Any person violating s. 30.68 shall~~
7 ~~be required to obtain a certificate of satisfactory completion of a safety course under~~
8 ~~s. 30.74 (1).~~

NOTE: The stricken language duplicates s. 30.80 (2m).

9 **SECTION 337.** 30.80 (3) of the statutes is amended to read:

10 30.80 (3) Any person violating s. 30.71 ~~or any rule promulgated under that~~
11 ~~section~~ shall forfeit not more than \$100 for the first offense and shall forfeit not more
12 than \$200 upon conviction of the same offense a 2nd or subsequent time within one
13 year.

14 **SECTION 338.** 30.80 (4) of the statutes is amended to read:

15 30.80 (4) Any person violating any provision of s. 30.72 ~~or the rules~~
16 ~~promulgated under s. 30.72~~ shall forfeit not more than \$100 for the first offense and
17 shall forfeit not more than \$200 upon conviction of the same offense a 2nd or
18 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.

19 **SECTION 339.** 30.81 (1) of the statutes is repealed and recreated to read:

20 30.81 (1) LOCAL REGULATION AUTHORIZED. A local governmental unit that has
21 authority to enact an ordinance under s. 30.77 (4) may, after public hearing, enact

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1 an ordinance that is not inconsistent with this chapter, relative to the use or
2 operation of boats and other craft, including snowmobiles and other motor vehicles,
3 on icebound inland waters.

4 **SECTION 340.** 30.81 (1m) and (2) of the statutes are repealed.

5 **SECTION 341.** 30.81 (3) of the statutes is amended to read:

6 30.81 (3) LIABILITY OF LOCAL GOVERNMENT. All traffic on icebound, inland waters
7 shall be at the risk of the traveler. An ordinance ~~by any municipality or any public~~
8 ~~inland lake protection and rehabilitation district that is enacted under this section~~
9 permitting traffic on icebound inland waters shall not render the ~~municipality or~~
10 ~~lake district~~ local governmental unit enacting the ordinance liable for any accident
11 to those engaged in permitted traffic while the ordinance is in effect.

12 **SECTION 342.** 30.81 (4) of the statutes is amended to read:

13 30.81 (4) ENFORCEMENT. A law enforcement officer of a ~~town, village or city~~ local
14 governmental unit that is ~~subject to~~ enacts an ordinance enacted under sub. (1) ~~or~~
15 ~~(1m)~~ has the powers of sheriff in enforcing the ordinance on any portion of the ~~lake~~
16 waters, whether or not that portion of the ~~lake~~ waters is within the jurisdiction of the
17 ~~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.

18 **SECTION 343.** 30.90 (title) of the statutes is amended to read:

19 **30.90 (title) Public access to Lake Lions Lake.**

20 **SECTION 344.** 30.90 (1) of the statutes is amended to read:

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1 30.90 (1) As long as ~~Lake Lions~~ Lake in the town of Alban, Portage County,
2 continues to be used as a recreational area for the physically handicapped, all of the
3 following shall apply:

4 (a) Neither the county or town may provide, nor shall any subdivider be
5 required or permitted to provide, public access to ~~Lake Lions~~ Lake, if the public
6 access will in any way interfere with the use of the lake as a recreational area for the
7 physically handicapped.

8 (b) The department may stock ~~Lake Lions~~ Lake with fish, any provision in ch.
9 29 to the contrary notwithstanding.

10 **SECTION 345.** 30.90 (2) of the statutes is amended to read:

11 30.90 (2) The town board of the town of Alban shall have jurisdiction over ~~Lake~~
12 ~~Lions~~ Lake and may enact and enforce any ordinances necessary to prevent any
13 deterioration of the waters of ~~Lake Lions~~ Lake or any nuisances that would adversely
14 affect the public health or safety of ~~the people~~.

15 **SECTION 346.** Subchapter VI (title) of chapter 30 [precedes 30.94] of the
16 statutes is created to read:

CHAPTER 30

SUBCHAPTER VI

ENFORCEMENT; PENALTIES

17
18
19
20 **SECTION 347.** 30.96 (title) of the statutes is created to read:

21 **30.96 (title) Infringement of public rights.**

22 **SECTION 348.** 30.98 (title) of the statutes is created to read:

23 **30.98 (title) Penalties.**

24 **SECTION 349.** 30.98 (3) (title) of the statutes is created to read:

25 30.98 (3) (title) VIOLATION OF PERMIT, CONTRACT, OR ORDER.

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1 **SECTION 350.** 31.03 of the statutes is amended to read:

2 **31.03 Permits for the Lower Wisconsin State Riverway.** For activities in
3 the Lower Wisconsin State Riverway, as defined in s. 30.40 (15), ~~no person obtaining~~
4 the department shall include a condition in a permit issued under this chapter that
5 the person obtaining the permit may not start or engage in the activity for which the
6 permit was issued unless the person obtains any permit that is required for the
7 activity under s. 30.44 or 30.445.

8 **SECTION 351.** 31.93 of the statutes is created to read:

9 **31.93 Enforcement of forfeitures.** The district attorney of the appropriate
10 county or, at the request of the department, the attorney general shall institute
11 proceedings to recover any forfeiture imposed or to abate any nuisance committed
12 under this chapter.

13 **SECTION 352.** 33.475 of the statutes is amended to read:

14 **33.475 Boating fees.** Notwithstanding the prohibition in s. 30.77 ~~(1)~~ against
15 ordinances and local regulations that exclude any boat from the free use of the waters
16 of the state ~~(2)~~, and in addition to the powers granted the county under ss. 30.77 ~~(3)~~
17 ~~(e)~~ (5) (f) 5. to 7. and 59.54 (2), the county may charge boat operators reasonable fees
18 for the costs of providing other recreational boating services not specified in ss. 30.77
19 ~~(3)~~ (5) (f) 5. to 7. and 59.54 (2).

20 **SECTION 353.** 60.782 (1m) of the statutes is created to read:

21 **60.782 (1m)** For purposes of this section, a town sanitary district shall
22 determine footage of shoreline by use of a map wheel on the U.S. geological survey
23 7 1/2 minute series map.

24 **SECTION 354.** 60.782 (2) (d) of the statutes is amended to read:

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1 60.782 (2) (d) Lease or acquire, including by condemnation, any real property
2 situated in this state that may be needed for the purposes of s. 23.09 (19), 23.094 (3g)
3 or ~~30.275~~ 30.359 (4).

4 **SECTION 355.** 200.35 (4) of the statutes is amended to read:

5 200.35 (4) DELIVERY OF DEEDS; ~~DNR~~ DEPARTMENT OF NATURAL RESOURCES PERMITS.

6 Upon application of the commission the proper officers of this state shall execute,
7 acknowledge, and deliver to the proper officers of the district any deed or other
8 instrument as that may be proper for the purpose of fully confirming the grants
9 under subs. (2) and (3). Notwithstanding s. ~~30.05~~ 30.233, the district may not
10 commence an action under sub. (2) or (3) without obtaining all of the necessary
11 permits from the department of natural resources under ch. 30.

12 **SECTION 356.** 236.16 (3) (d) (intro.) of the statutes is amended to read:

13 236.16 (3) (d) (intro.) All of the owners of all of the land adjacent to a public
14 access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may
15 petition the city, village, town or county that owns the public access to construct
16 shoreline erosion control measures. Subject to par. (e), the city, village, town or
17 county shall construct the requested shoreline erosion control measures or request
18 the department of natural resources to determine the need for shoreline erosion
19 control measures. Upon receipt of a request under this paragraph from a city, village,
20 town or county, the department of natural resources shall follow the notice and
21 hearing procedures in s. ~~30.208~~ 30.244 (3) to (5). Subject to par. (e), the city, village,
22 town or county shall construct shoreline erosion control measures as required by the
23 department of natural resources if the department of natural resources determines
24 all of the following:

25 **SECTION 357.** 281.35 (4) (b) (intro.) of the statutes is amended to read:

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1 281.35 (4) (b) (intro.) Before any person specified in par. (a) may begin a new
2 withdrawal or increase the amount of an existing withdrawal, the person shall apply
3 to the department under s. 30.18, ~~281.17(1)~~, 281.34, or 281.41 for a new permit or
4 approval or a modification of its existing permit or approval if either of the following
5 conditions applies:

6 **SECTION 358.** 293.65 (2) (b) of the statutes is amended to read:

7 293.65 (2) (b) The department, upon receipt of an application for a permit, shall
8 determine the minimum stream flow or lake level necessary to protect public rights,
9 the minimum flow or level necessary to protect the rights of affected ~~riparians~~
10 riparian owners, the point downstream beyond which riparian rights are not likely
11 to be injured by the proposed diversion, and the amount of surplus water, ~~as defined~~
12 ~~in s. 30.01(6d)~~, if any, at the point of the proposed diversion.

13 **SECTION 359.** 299.05 (1) of the statutes is amended to read:

14 299.05 (1) The department shall promulgate rules under which the
15 department refunds fees paid by an applicant for a permit, license, or approval that
16 is issued under ~~ss. 30.10 to 30.205 or 30.21 to 30.27~~, subch. II of ch. 30, except ss.
17 30.221 and 30.223; chs. 280 to 292; or subch. II of ch. 295 and that is of a type specified
18 in the rule if the department fails to make a determination on the application within
19 the time limit specified in the rule for that type of permit, license or approval. The
20 rules under this subsection do not apply to an applicant for a license or other approval
21 related to mining, as defined in s. 293.01 (9), prospecting, as defined in s. 293.01 (18),
22 or nonmetallic mining, as defined in s. 295.11 (3).

23 **SECTION 360.** 299.05 (2) (a) of the statutes is amended to read:

24 299.05 (2) (a) Permits, contracts, and other approvals under ~~ss. 30.10 to 30.205~~
25 ~~and 30.21 to 30.27~~ subch. II of ch. 30, except ss. 30.221 and 30.223.

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1 **SECTION 361.** 299.85 (7) (a) 2. of the statutes is amended to read:

2 299.85 (7) (a) 2. Notwithstanding minimum or maximum forfeitures specified
3 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
4 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), ~~30.298 (1), (2), and~~
5 ~~(3) 30.381 (1), (2), (3) (a), (4) (a), (5), (6), and (7),~~ 30.49 (1) (a) and (c), 31.23 (2), 281.75
6 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57 (5), 285.59 (8), 285.87
7 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1)
8 and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b) 1., 295.37 (2), 299.15
9 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if a regulated
10 entity that qualifies under sub. (2) for participation in the Environmental
11 Improvement Program corrects violations that it discloses in a report that meets the
12 requirements of sub. (3) within 90 days after the department receives the report that
13 meets the requirements of sub. (3), the regulated entity may not be required to forfeit
14 more than \$500 for each violation, regardless of the number of days during which the
15 violation continues.

16 **SECTION 362.** 299.85 (7) (a) 4. of the statutes is amended to read:

17 299.85 (7) (a) 4. Notwithstanding minimum or maximum forfeitures specified
18 in ss. 29.314 (7), 29.334 (2), 29.604 (5) (a), 29.611 (11), 29.889 (10) (c) 2., 29.969,
19 29.971 (1) (a), (1m) (a), (3), (3m), (11g) (b), (11m) (b), and (11r) (b), ~~30.298 (1), (2), and~~
20 ~~(3) 30.381 (1), (2), (3) (a), (4) (a), (5), (6), and (7),~~ 30.49 (1) (a) and (c), 31.23 (2), 281.75
21 (19), 281.98 (1), 281.99 (2) (a) 1., 283.91 (2), 285.41 (7), 285.57 (5), 285.59 (8), 285.87
22 (1), 287.95 (1), (2) (b), and (3) (b), 287.97, 289.96 (2) and (3) (a), 291.97 (1), 292.99 (1)
23 and (1m), 293.81, 293.87 (3) and (4) (a), 295.19 (3) (a) and (b) 1., 295.37 (2), 299.15
24 (4), 299.51 (5), 299.53 (4) (c) 1., 299.62 (3) (a) and (c), and 299.97 (1), if the department
25 approves a compliance schedule under sub. (6) and the regulated entity corrects the

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1 violations according to the compliance schedule, the regulated entity may not be
2 required to forfeit more than \$500 for each violation, regardless of the number of days
3 during which the violation continues.

4 **SECTION 363.** 709.03 (form) C. 27. of the statutes is renumbered 709.03 (form)
5 C. 28.

6 **SECTION 364.** 709.03 (form) C. 27. of the statutes is created to read:

7 **709.03** (form)

8 C. 27. I am aware that the property is located in a
9 drainage district or that legally binding
10 obligations may require that I contribute to
11 the cost of draining the property.

NOTE: This adds a provision to the seller's disclosure form for residential real estate transactions.

12 **SECTION 365. Nonstatutory provisions.**

13 (1) **ADVISORY COMMITTEE; RULES ON NAVIGABILITY.** The department of natural
14 resources shall appoint an advisory committee under section 227.13 of the statutes
15 to advise and assist the department with respect to the promulgation of rules under
16 section 30.04 (2) of the statutes, as created by this act. The department shall appoint
17 members to the advisory committee who collectively possess a wide range of
18 knowledge, experience, and interest in the navigable waters of this state.

19 (2) **REPORT ON DRAINAGE OF AGRICULTURAL LAND.** The department of agriculture,
20 trade and consumer protection and the department of natural resources shall
21 prepare a joint report on the drainage of agricultural land, with particular emphasis
22 on the drainage that occurs in organized drainage districts. The report shall describe
23 all of the following:

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1 (a) A summary of the history of each department's involvement with the
2 supervision of and assistance to those involved in the drainage of land.

3 (b) The current statutory authority and responsibilities of each department
4 with respect to the drainage of land.

5 (c) The current efforts of each department to carry out its authority and
6 responsibility.

7 (d) The efforts of the departments to cooperate with each other with respect to
8 the drainage of land, and the potential for increasing the level of cooperation between
9 the departments.

10 (e) Any areas of disagreement between the departments regarding the
11 authorities and responsibilities of each.

12 **SECTION 366. Cross-reference changes.** In the sections of the statutes
13 listed in Column A, the cross-references shown in Column B are changed to the
14 cross-references shown in column C:

A Statute Sections	B Old Cross-Reference	C New Cross-Reference
20.370 (4) (bi)	30.28	30.241
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

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1	23.0915 (1r) (c)	30.277	30.361
2	23.0915 (1r) (c)	30.277 (2) (a)	30.361 (2) (a)
3	23.0915 (2g)	30.277	30.361
4	23.0917 (3) (c) 1.	30.26	30.271
5	23.0917 (4) (b) 4.	30.277	30.361
6	23.0917 (7) (a)	30.24 (4) and 30.277	30.357 (4), and 30.361
7	23.0917 (7) (e)	30.277	30.361
8	23.096 (2) (a)	30.24 and 30.277	30.357, and 30.361
9	23.197 (2) (a)	30.277 (5)	30.361 (5)
10	23.33 (13) (cg)	30.67 (3) (b)	30.67 (1g) (b)
11	24.39 (4) (a) 1.	30.01	30.01 (3)
12	24.39 (4) (a) 2.	30.01	30.01 (4)
13	24.39 (4) (c), (f) and (h)	30.11 (5)	30.343
14	24.39 (4) (i)	30.11	30.343
15	29.193 (1m) (b)	30.77 (3)	30.77
16	29.519 (2) (fm)	30.50 (2)	30.01 (1bm)
17	30.01 (1p)	30.121	30.281
18	30.40 (3)	30.50 (2)	30.01 (1bm)
19	30.772 (3) (e)	30.294	30.94
20	30.773 (2) and (3) (intro.)	30.11	30.321
21	30.80 (2g) (intro.)	30.67 (1)	30.67 (1m)
22	30.92 (4) (b) 8. c. and d.	30.74 (2) (b)	30.50 (1b)

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1	31.39 (2m) (c)	30.28 (2) (a)	30.241 (2) (a)
2	33.455 (3) (b)	30.77 (3) (a)	30.77
3	33.46 (2) (c)	30.77 (3) (e)	30.77 (5) (f) 5. to 7.
4	60.0133 (3)	30.32	30.493
5	60.24 (3) (f)	30.37 (3)	30.497 (3)
6	61.351 (2m)	30.11	30.321
7	62.231 (2m)	30.11	30.321
8	66.0133 (3)	30.32	30.493
9	84.18 (6)	30.2022	30.341
10	85.095 (1) (a)	30.37	30.497
11	100.42 (1) (b)	30.50 (2)	30.01 (1bm)
12	100.48 (1) (ag)	30.50 (2)	30.01 (1bm)
13	281.22 (2) (c)	30.28 (2) (a)	30.241 (2) (a)
14	281.35 (1) (b) 2.	30.18 (6) (c)	30.18 (6) (bm)
15	281.37 (1) (a) 3.	30.26	30.271
16	281.37 (1) (a) 3.	30.275	30.359
17	295.16 (2)	30.30 and 30.31	30.491, and 30.492
18	295.16 (4) (j)	30.21	30.293
19	350.11 (2m)	30.67 (3) (b)	30.67 (1g) (b)
20	422.413 (2g) (intro.)	30.50 (2)	30.01 (1bm)
21	895.55 (2) (intro.)	subchs. II and IV	subchs. II and III
22	938.17 (1) (intro.)	30.67 (1)	30.67 (1m)

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1	938.396 (3)	30.67 (1)	30.67 (1m)
2	943.13 (4m) (c)	30.134	30.85
3	978.05 (6) (a)	30.03 (2)	30.97

4 **SECTION 367. Initial applicability.**

5 (1) The treatment of section 30.77 of the statutes first applies to an ordinance
6 relating to the regulation of boating that is enacted or adopted on the effective date
7 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.

8

(END)