

CHAPTER 33

PUBLIC INLAND LAKE PROTECTION AND REHABILITATION

SUBCHAPTER I INTENT; DEFINITIONS; AND DEPARTMENTAL POWERS		SUBCHAPTER IV PUBLIC INLAND LAKE PROTECTION AND REHA- BILITATION DISTRICTS	
33 001	Declaration of intent	33 21	Public inland lake protection and rehabilitation districts; purposes.
33 01	Definitions	33 22	District; powers.
33 02	Department; powers and duties	33 23	Municipalities may establish district.
33 03	Cooperation by state agencies	33 235	Conversion and merger of town sanitary districts.
SUBCHAPTER II INLAND LAKES PROTECTION AND REHABILITA- TION COUNCIL		33 24	County board may establish district.
33 05	Council duties	33 25	Petition
SUBCHAPTER III LAKE PROTECTION AND REHABILITATION PROJECTS		33 26	Hearings, time, notice, boundaries, approval, limitations
33 11	Goals	33 265	Notice and filing requirements
33 12	Scope	33 27	Initial district board of commissioners
33 13	Feasibility study	33 28	District board of commissioners
33 14	Plan preparation and adoption.	33 285	Property owning requirements.
33 15	Implementation	33 29	Board of commissioners; officers; powers and duties
33 16	Financial assistance program.	33 30	Annual meeting of district
33 17	Unfunded application to continue.	33 31	Power to finance
33 18	Use of tax incremental financing prohibited.	33 32	Special assessments and special charges
		33 33	Merger, attachment, detachment
		33 35	Dissolution of districts
		33 36	Alteration of districts
		33 37	Districts in more than one county

SUBCHAPTER I

INTENT; DEFINITIONS; AND
DEPARTMENTAL POWERS

33.001 Declaration of intent. The legislature finds environmental values, wildlife, public rights in navigable waters, and the public welfare are threatened by the deterioration of public lakes; that the protection and rehabilitation of the public inland lakes of this state are in the best interest of the citizens of this state; that the public health and welfare will be benefited thereby; that the current state effort to abate water pollution will not undo the eutrophic and other deteriorated conditions of many lakes; that lakes form an important basis of the state's recreation industry; that the increasing recreational usage of the waters of this state justifies state action to enhance and restore the potential of our inland lakes to satisfy the needs of the citizenry; and that the positive public duty of this state as trustee of waters requires affirmative steps to protect and enhance this resource and protect environmental values. To this end, the legislature declares that it is necessary to embark upon a program of lake protection and rehabilitation, to authorize a conjunctive state and local program of lake protection and rehabilitation to fulfill the positive duty of the state as trustee of navigable waters, and protect envi-

ronmental values. The legislature finds that a state effort of research, analysis, planning and financing, and a local effort undertaken by lake rehabilitation and protection districts of planning and plan implementation is necessary and desirable and that the local districts should be formed by persons directly affected by the deteriorated condition of inland waters and willing to assist financially, or through other means, in remedying lake problems. The legislature further finds that state efforts are needed to aid and assist local efforts, to ensure that projects are undertaken only if they promote the public rights in navigable waters, environmental values, and the public welfare, and to administer a program of financial aids to support rehabilitation projects with benefits to all state citizens.

History: 1973 c 301.

33.01 Definitions. As used in this chapter:

(1) "Council" means the inland lakes protection and rehabilitation council created by s. 15.347 (8).

(2) "Department" means the department of natural resources.

(3) "District" means a public inland lake protection and rehabilitation district.

(4) "Lake rehabilitation" means the improvement or restoration of lakes from an undesirable or degraded condition to a former,

less deteriorated condition or to a condition of greater usefulness.

(5) "Municipality" means any city, village or town.

(6) "Program" means measures to effect lake protection and rehabilitation, including surveys of sources of degradation, treatment of aquatic nuisances, securing cooperation of units of general purpose government to enact necessary ordinances, undertaking of projects as defined in sub. (7) and any other necessary measures.

(7) "Project" means activities or works such as are described in s. 33.15 (4) which are subject to the procedures of subch. III.

(8) "Public inland lake" or "lake" means a lake, reservoir or flowage within the boundaries of the state that is accessible to the public via contiguous public lands or easements giving public access.

(9) "Owner", "property owner" or "landowner" means:

(a) For the purpose of petitioning and receiving notice under this chapter, the person whose name appears on the assessment roll prepared for purposes of real property taxation; and

(b) For the purpose of voting at meetings and holding office in the district, the person whose name appears on the assessment roll prepared for the purposes of real property taxation, and who is a U.S. citizen and 18 years of age or older.

(10) "Valuation" or "equalized full value" means the assessed value of the property adjusted to reflect full value as determined by the department of revenue under s. 70.57.

History: 1973 c. 301, 336; 1975 c. 197, 198, 422; 1977 c. 391; 1979 c. 299.

33.02 Department; powers and duties. (1) RULES. (a) *Generally.* The department shall adopt rules necessary to administer this chapter.

(b) *Financial aids.* These rules shall provide for the administration of financial aids to districts and shall prescribe data to be secured, methods of analysis and evaluation, duration of data gathering and other technical regulations for the efficient administration of the program and efficient intergovernmental organization.

(c) *Priorities for funding levels.* These rules shall establish priorities for different methods utilized in implementing lake protection and for lake rehabilitation based on cost-effectiveness and factors considered under s. 33.16 (4) especially s. 33.16 (4) (f).

(d) *Funding levels for different methods.* These rules shall establish differing levels for the

share of state funds to be provided for financial assistance for implementation work depending on the methods to be utilized on the projects based on priorities established under par. (c).

(e) *Priorities when inadequate funds.* If the department does not have adequate appropriations to provide financial assistance under s. 33.16 for eligible projects, it shall establish priorities based on the type of project and methods to be utilized in implementing the projects and these priorities shall rank dredging, other than dredging to provide public access, as a low priority.

(f) *Dredging; sedimentation control.* These rules shall require that an application for financial assistance for the implementation of any project involving dredging include the identification of long-term controls which are being or will be undertaken to prevent sedimentation.

(g) *Algae abatement; nutrient control.* These rules shall require that an application for financial assistance for the implementation of any project involving algae or aquatic plant abatement programs include the identification of long-term controls which are being or will be undertaken to reduce or prevent nutrient pollution.

(h) *Guidelines for feasibility and implementation grants.* These rules shall establish guidelines for providing financial assistance for feasibility studies and implementation costs.

(2) **STUDIES, INVENTORIES.** The department shall undertake studies and inventories to assist the council in carrying out its duties.

(3) **AIDS.** The department shall administer a program of financial assistance to districts, using such funds as are appropriated by the legislature or made available from other sources.

(4) **ASSISTANCE.** The department shall assist districts seeking technical aid in any phase of lake protection or rehabilitation activity.

(5) **CLEARINGHOUSE.** The department shall serve as a clearinghouse for scientific data on lakes and information on accepted and experimental lake protection or rehabilitation techniques.

History: 1973 c. 301; 1975 c. 197; 1977 c. 26, 325; 1979 c. 154; 1981 c. 317.

33.03 Cooperation by state agencies. All departments and agencies of state government shall make available to the department such information and assistance as may be necessary to enable it to carry out its functions under this chapter.

History: 1973 c. 301; 1977 c. 26.

33.05 PUBLIC INLAND LAKE PROTECTION AND REHABILITATION

878

SUBCHAPTER II

INLAND LAKES PROTECTION AND REHABILITATION COUNCIL

33.05 Council duties. The inland lakes protection and rehabilitation council shall advise the department on all matters pertaining to lake rehabilitation and preservation and the abatement of pollution of lakes. The council's duties include, but are not limited to:

(1) Recommending a classification system for the selection of eligible lakes for study or treatment and for determining priority of treatment among eligible lakes; taking into consideration such factors as amount of public use and private development, potential for adequate pollution and erosion controls within the drainage basin, special environmental values, potential for future successful management, and other factors.

(2) Recommending standards and guidelines for lake rehabilitation plans, to ensure that rehabilitation efforts and expenditures yield maximum returns, that environmental values are protected, and that rehabilitated lakes are protected from degradation to the maximum extent possible in the future.

(3) Making recommendations on the utilization of any federal or state funds available for lake rehabilitation and supporting research activities.

(4) Making recommendations on the qualifications of the personnel to staff the interdisciplinary subunit of the department created for the purpose of dealing with lake rehabilitation.

(5) Recommending to the department lakes to be used as benchmarks in measuring man-induced effects on lake environments.

(6) Recommending research programs and projects on lake degradation, protection or rehabilitation.

(7) Recommending procedures that the department may utilize to ensure that projects receiving financial assistance under s. 33.16 comply with the requirements of this chapter.

History: 1973 c. 301; 1975 c. 197; 1981 c. 317

SUBCHAPTER III

LAKE PROTECTION AND REHABILITATION PROJECTS

33.11 Goals. The primary goal of activity under this chapter shall be to improve or protect the quality of public inland lakes. In addition, compilation of basic scientific data on lakes of this state and assessment of experimental and innovative techniques of lake rehabilitation and protection shall be goals of the pro-

gram. Districts may undertake protection and rehabilitation projects to achieve the purposes of such districts specified in s. 33.21. Projects may be undertaken in cooperation with the department, the university of Wisconsin system, and other government agencies, and public and private organizations. Projects shall be divided into study, planning and implementation phases.

History: 1973 c. 301; 1975 c. 197.

33.12 Scope. Any proposed activity by a district which does not involve an application for state aids or an application for a ch. 30 permit is exempt from subch. III. If a proposed activity by a district involves an application for state aids, subch. III applies. If a proposed activity by a district involves an application for a ch. 30 permit, subch. III shall apply only if the department determines that the activity requiring the permit is an integral part of a lake rehabilitation project.

History: 1973 c. 301.

33.13 Feasibility study. (1) Feasibility study work done through government agencies and public or private organizations shall include gathering data on the lake, drainage basin, sources of pollution or nutrients or other information necessary to determine the causes of degradation and remedial courses of action to prevent continued degradation or to determine potential causes of degradation and preventive courses of action. The department shall prescribe data to be secured, methods of analysis and evaluation, and duration of data-gathering to be used in feasibility studies.

(2) (a) The district may contract for feasibility study work with the lowest responsible bidder who submits a bid in the manner the district commissioners prescribe.

(b) In order to receive financial assistance for feasibility study work the district shall obtain the advice and approval of the department before entering a contract for feasibility study work and the department shall be made a party to the contract.

(3) Data gathered shall be forwarded to the department, which shall analyze it on an interdisciplinary basis.

(4) The department shall formulate suggested alternative methods, including cost estimates, of protecting or rehabilitating the water quality of the lake or portions thereof. Alternative protection schemes shall include steps necessary to maintain the water quality of the lake. Alternative rehabilitative schemes shall include steps necessary to abate continued degradation of the

lake following implementation of a given rehabilitative plan.

History: 1973 c. 301; 1975 c. 197; 1981 c. 317

33.14 Plan preparation and adoption. (1)

PROPOSED PLAN. If specific lake protection and rehabilitation measures developed under s. 33.13 appear feasible and if financial assistance under s. 33.16 is sought, then the commissioners of the district shall develop a proposed plan based upon the recommendations of the department and the formulated alternatives or upon other technically valid bases.

(2) SUBMISSION OF PROPOSED PLAN. Prior to adopting a plan by formal resolution under s. 33.15, the commissioners shall:

(a) Forward a copy of the proposed plan to the department;

(b) Refer the proposed plan to the appropriate county land conservation committee and to the appropriate regional planning agency for the area, if any, for review and comment within 60 days of receipt; and

(c) Make application for any required permits and file an application for financial aid.

(3) DEPARTMENT REVIEW. Within 21 days after receipt of the proposed plan and applications the department shall advise the lake district if additional information is needed to conduct its technical and environmental review of the proposal. If an environmental impact statement is required, the department shall complete its environmental impact review before taking final action on the proposed plan.

(3m) NOTICE; HEARING. The department shall schedule a hearing on the proposed plan or follow the notice procedures under s. 31.06 (1).

(4) CONSIDERATIONS AT HEARING. If a hearing is conducted, the department shall consider the following:

(a) Compliance with s. 1.11;

(b) The issuance of permits which have been applied for;

(c) Whether the implementation of the plan is likely to cause long-range environmental pollution as defined in s. 144.01 (3);

(d) Comments made by the reviewing county land conservation committee and regional planning agency, if any; and

(e) Such other subjects as the department by rule deems necessary for making the order required by sub. (5).

(5) APPROVAL. Within 60 days following the hearing, the department shall by order either approve, approve with modification or disapprove the plan. The department shall concurrently rule on all permit applications.

History: 1973 c. 301; 1975 c. 197; 1979 c. 34 s. 2102 (39) (g); 1981 c. 20. 317; 1981 c. 346 s. 38.

33.15 Implementation. (1) No plan developed under this subchapter which involves financial assistance under s. 33.16 may be formally adopted for implementation by the district until the department approves the plans or whatever modifications it finds appropriate. If the department modifies an application by order, it shall clearly explain reasons why the modifications are being made.

(2) Following receipt of the department's order, the district may adopt the approved plan by resolution, in which case it shall forward a copy of the resolution and plan to the department.

(3) The district may then carry out the adopted plan of implementation.

(4) Implementation work may consist of any work in the lake or its watershed which will protect or enhance the opportunities for public enjoyment of the lake.

History: 1973 c. 301; 1975 c. 197; 1981 c. 20.

33.16 Financial assistance program. (1)

Feasibility work contracted under s. 33.13 (2) (b) is eligible for financial assistance subject to guidelines established by rule by the department for funding feasibility studies. Receipt of financial assistance for feasibility work does not guarantee financial assistance for implementation costs and the department may not make this type of commitment for future financial assistance.

(3) A district desiring financial assistance shall apply to the department on forms provided by it and prescribing the information to be submitted.

(4) The department shall review all applications for financial assistance under this section. In the course of review of applications for financial assistance for implementation work the department shall consider, without limitation because of enumeration, the following factors where appropriate:

(a) Whether the citizens of the state will reasonably benefit from any improvements made or information obtained, and the degree of benefit;

(b) Whether sufficient long- and short-term benefits will be derived from the project, in relation to its cost;

(c) Whether the project is financially viable, given the resources of the district and the possibility of financial and nonmonetary aid;

(d) Whether adequate steps have been or will be taken to ensure that the improved conditions resulting from the project will be sustained by adequate controls over potential sources of lake degradation including, where appropriate, con-

33.16 PUBLIC INLAND LAKE PROTECTION AND REHABILITATION

880

trol of sediments as suggested by the county land conservation committee;

(e) Whether experimental techniques involving a high risk of failure are being undertaken;

(f) Whether contamination from deleterious substances emitted by residential, municipal or industrial sources, sedimentation, siltation and nutrient fertilization from uncontrolled agricultural sources or septic tanks, groundwater, municipal and industrial wastes and other drainage sources, and any other sources responsible for lake degradation, are or will be substantially eliminated as a source of lake degradation, in order that any lake rehabilitated under this chapter may be protected or maintained in its protected or rehabilitated state;

(g) Whether the project involves dredging and, if it does, the expected useful duration of the proposed dredging, whether other techniques are available to provide relief from the problem to be solved by dredging and whether long-term controls are or will be undertaken to prevent sedimentation; and

(h) Whether the project involves algae or aquatic plant abatement programs and, if it does, whether long-term controls are or will be undertaken to reduce or prevent nutrient pollution.

(5) The department may not approve any application for financial assistance for the implementation of any project which involves dredging if the expected useful duration of the dredging is less than 50 years. The department may not approve any application for financial assistance for the implementation of any project which involves dredging if the state funding provided by the department under the financial assistance program would provide more than 50% of the funding necessary for dredging other than dredging to provide public access. The department may not approve any application for financial assistance for the implementation of dredging if the amount of the financial assistance to be provided for dredging for a single project exceeds 10% of the funds available for all projects in the biennium. The department may not approve any application for financial assistance for the implementation of dredging unless no other reasonable alternative is available to provide relief from the problem to be solved by dredging.

(6) The department shall act upon each application for financial assistance within 60 days following plan approval and issuance of permits unless lack of adequate funding or the need to invoke a priority system dictates a delay in determination. Plan disapproval, delay in funding or other action not approving the application shall be explained by the department to the district in writing.

(7) (a) *District share.* The department may not grant financial assistance for implementation work in an amount which reduces a district's share of the project cost to less than 10%, except that up to 100% funding may be allowed on high-risk experimental projects where eventual results are highly uncertain.

(b) *Grant limit.* No grant for financial assistance under this section may exceed 25% of state funds available in the biennium.

(c) *Dredging limit.* No grant for financial assistance under this section may provide for funding for dredging in an amount which exceeds 10% of the funds available in the biennium.

(d) *Renewal.* The department may not renew a grant for financial assistance under this section in future bienniums unless the council finds that a special situation exists and recommends renewal of the grant.

(e) *North-south split.* The department shall grant financial assistance under this section so that not less than 25% of the moneys granted biennially are granted to districts north of a line running east-west across the state and commencing at the southernmost point on the southern boundary of the city of Stevens Point except that this subsection does not preclude the full utilization of available funds if all applications north of this line aggregate less than 25% of the biennial appropriations.

(f) *Level of funding; priorities.* The department shall grant financial assistance under this section with the appropriate level of state funding based upon rules promulgated under s. 33.02 (1) (d). The department may deny financial assistance under this section based upon priorities promulgated by rule under s. 33.02 (1) (e).

(8) The department may evaluate or contract with the university of Wisconsin system to evaluate projects receiving financial assistance under this section.

History: 1973 c. 301; 1975 c. 197; 1981 c. 20, 317; 1981 c. 346 s. 38; 1981 c. 391.

33.17 Unfunded application to continue. (1)

Aid applications approved but unfunded because of a lack of funds remain eligible for future funding, subject to updating as the department may require. A lack of funding under this subchapter does not preclude a district from implementing all or part of an approved plan with funding from any other source but these projects are not eligible for retroactive financial assistance.

(2) The department shall return rejected applications to the district with a concise statement of the reasons for rejection.

History: 1973 c. 301; 1975 c. 197; 1981 c. 20.

33.18 Use of tax incremental financing prohibited. A district may not apply for or utilize tax incremental financing to fund an inland lake protection and rehabilitation program or project.

History: 1981 c. 317.

SUBCHAPTER IV

PUBLIC INLAND LAKE PROTECTION AND REHABILITATION DISTRICTS

33.21 Public inland lake protection and rehabilitation districts; purposes. Public inland lake protection and rehabilitation districts may be created for the purpose of undertaking a program of lake protection and rehabilitation of a lake or parts thereof within the district.

History: 1973 c. 301.

District may rehabilitate part of lake only if entire lake lies within district. *Kaiser v. City of Mauston*, 99 W (2d) 345, 299 NW (2d) 259 (Ct. App. 1980).

33.22 District; powers. (1) Any district organized under this chapter may sue and be sued, make contracts, accept gifts, purchase, lease, devise or otherwise acquire, hold or dispose of property, disburse money, contract debt and do any other acts necessary to carry out a program of lake protection and rehabilitation. All contracts in excess of \$2,500 for the performance of any work or the purchase of any materials shall be let by the commissioners to the lowest responsible bidder in the manner they prescribe.

(2) The district may require that a contracting party give adequate security to assure performance of his contract and to pay all damages which may arise from inadequate performance.

(3) Any district organized under this chapter may have such powers of a town sanitary district under ss. 60.77 and 60.78, other than s. 60.77 (6) (b), as are authorized by resolution of the board of the town having the largest portion by valuation of the district. Any town sanitary district powers which a district is authorized to exercise by resolution of the town board shall be exercised under the terms and procedures of this chapter. Requests for such powers shall be made by resolution adopted by the annual meeting of the district. Prior to adopting such resolution, the town board shall conduct a hearing on the issue of granting such powers. The procedures specified under s. 60.71 (4) (b) and (c) shall apply to the hearing. The board of commissioners shall possess the powers of town sanitary district commissioners under s. 60.77 as authorized by resolution of the town board, except that the annual meeting of the district shall approve or disapprove by majority vote

any work or project having a cost to the district in excess of \$5,000.

(4) Districts shall not exercise the town sanitary district powers authorized under sub. (3) within the boundaries of an incorporated municipality unless the governing body of the municipality consents. In addition, districts shall not exercise town sanitary district powers in any territory included in an existing town sanitary district except by contract under s. 66.30 or unless the sanitary district merges into the public inland lake protection and rehabilitation district under s. 33.235.

(5) Nothing in this chapter shall limit the authority of the department to establish town sanitary districts under s. 60.72.

History: 1973 c. 301; 1975 c. 197; 1977 c. 391; 1983 a. 532 s. 36.

See note to 813.01, citing *Aqua-Tech v. Como Lake Protect. & Rehab. Dist.* 71 W (2d) 541, 239 NW (2d) 25.

33.23 Municipalities may establish district.

(1) The governing body of a municipality may by resolution establish a public inland lake protection and rehabilitation district if the municipality encompasses within its boundaries all the lake frontage within this state. Except as provided under sub. (3), the governing body of the municipality which establishes the district shall perform the function of the board of commissioners.

(2) Establishment of lake districts by towns under this section shall conform to the procedures of ss. 33.25 and 33.26 except that the town clerk shall perform the functions of the county clerk and the town board shall perform the functions of the county board and in addition shall hold the hearing.

(3) Districts established by municipalities under this section may adopt the form of governance provided under s. 33.28 by petition to the governing body of the municipality. Upon presentation of a petition requesting the change and signed by at least 20% of the property owners within the district, the governing body of the municipality shall provide for the necessary election of commissioners. The election shall be held by secret ballot at the next annual meeting of the district and the change becomes effective at that time unless a challenge to the results of that election is initiated in circuit court within 14 days after the election. The court shall stay the change pending the decision on the challenge.

History: 1973 c. 301; 1975 c. 197; 1977 c. 141, 391; 1981 c. 18, 229.

See note to 33.21, citing *Kaiser v. City of Mauston*, 99 W (2d) 345, 299 NW (2d) 259 (Ct. App. 1980).

33.235 Conversion and merger of town sanitary districts. (1) A town board by resolution

may convert a town sanitary district which encompasses all the frontage of a lake within its boundaries into a public inland lake protection and rehabilitation district. The town sanitary district commissioners shall serve as the initial board of commissioners until the first annual meeting of the lake district, at which time the commissioners shall be selected under s. 33.28. Conversion shall not affect any preexisting rights or liabilities of the town sanitary district. All such rights or liabilities shall be assumed automatically by the newly created public inland lake protection and rehabilitation district.

(2) The commissioners of a town sanitary district which does not encompass all the frontage of a lake within its boundaries may, with approval of the town board, petition under s. 33.25 for the formation of a district to include the territory of the existing sanitary district and the additional lake frontage. The commissioners may sign the petition for the landowners in the sanitary district. If necessary to meet the requirements of s. 33.25, signatures of owners of land lying outside the sanitary district shall be obtained. Creation of a district which includes such additional territory shall not affect any preexisting rights or liabilities of the town sanitary district, and all such rights and liabilities shall be assumed automatically by the newly created public inland lake protection and rehabilitation district. The method by which such rights and liabilities are apportioned within the newly created district shall be determined by the county board, and set out in the order issued under s. 33.26 (3) creating the district.

(3) Town sanitary districts having boundaries coterminous or contiguous to a public inland lake protection and rehabilitation district may merge into the lake district. Merger is effected by approval of an identical merger resolution by a two-thirds vote of the commissioners of each district, followed by ratification by a majority of those voting at an annual meeting of a lake district and a majority of those voting in a referendum of the town sanitary district under s. 60.785 (2). Merger may not become effective unless the town board which created the sanitary district approves the merger. The commissioners of each district shall act jointly until the next annual meeting of the district and selection of new commissioners under s. 33.28. Merger does not affect the preexisting rights or liabilities of the districts. All these rights and liabilities are assumed automatically by the merged district, but the method of discharging these rights or obligations shall be set out in the merger resolution.

(4) Any district which results from the conversion of a town sanitary district under sub.

(1), the formation of a district from a preexisting town sanitary district under sub. (2), or the merger with a town sanitary district under sub. (3), shall have all powers granted to districts under this chapter and to town sanitary districts under ch. 60, except the taxation power under s. 60.77 (6) (b). Such powers shall be exercised using the procedures and methods set out in this chapter.

History: 1975 c. 197; 1979 c. 299; 1983 a. 532 s. 36

33.24 County board may establish district.

The county board of any county may establish public inland lake protection and rehabilitation districts within the county if the conditions stated in s. 33.26 are found to exist. Before a district that includes any portion of a city or village, may be formed under authority of this section the city council or village board must have previously approved the inclusion of its territory within the boundaries of a proposed district.

History: 1973 c. 301

33.25 Petition. (1) WHO TO MAKE. Before a county board may establish a district under s. 33.24, a petition requesting establishment shall be filed with the county clerk, addressed to the board and signed by persons constituting 51% of the landowners or the owners of 51% of the lands within the proposed district. Governmental subdivisions, other than the state or federal governments, owning lands within the proposed district are eligible to sign such petition. A city council or village board may by resolution represent persons owning lands within the proposed district who are within its jurisdiction, and sign for all such landowners.

(2) **CONTENTS.** The petition shall set forth:

- (a) The proposed name of the district;
- (b) The necessity for the proposed district;
- (c) That the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district and that the lands to be included therein will be benefited by such establishment; and
- (d) The boundaries of the territory to be included in the proposed district.

(3) **VERIFICATION, PLAT.** The petition shall be verified by one of the petitioners, and shall be accompanied by a plat or sketch indicating the approximate area and boundaries of the district.

(4) **PRESUMPTION.** Every petition is presumed to have been signed by the persons whose signatures appear thereon, until proved otherwise.

History: 1973 c. 301; 1975 c. 197.

33.26 Hearings, time, notice, boundaries, approval, limitations. (1) Upon receipt of the petition the county board shall arrange a hearing to be held not later than 30 days from the date of presentation of the petition, and shall appoint a committee to conduct the hearing. At the hearing all interested persons may offer objections, criticisms or suggestions as to the necessity of the proposed district as outlined and to the question of whether their property will be benefited by the establishment of such district. Any person wishing to object to the organization of such district may, before the date set for the hearing, file his objections to the formation of such district with the county clerk.

(2) Notice announcing the hearing and stating the boundaries of the proposed district shall be published in a paper of general circulation in the county in which the proposed district is located as a class 1 notice, under ch. 985, and shall be mailed by the county board to the last-known address of each landowner within the proposed district.

(3) Following the hearing, the committee shall report to the county board. If it appears to the board, after consideration of all objections, that the petition is signed by the requisite owners as provided in s. 33.25, that the proposed district is necessary, that the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district, that the property to be included in the district will be benefited by the establishment thereof, and that formation of the proposed district will not cause or contribute to long-range environmental pollution as defined in s. 144.01 (3), the board, by formal order, shall declare its findings, shall establish the boundaries and shall declare the district organized and give it a corporate name by which it shall be known. Thereupon the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out this chapter.

(4) If the board finds against the petition, it shall dismiss the proceedings, stating in writing its reasons for disapproval.

(5) The department shall be notified in writing of the hearing for the creation of the district at the time the hearing date is set.

(6) In establishing the district, the county board may change the boundaries from those originally proposed. However, lands not originally proposed for inclusion may not be included until a public hearing is held under this section.

(7) Any person aggrieved by the action of the board may petition the circuit court for judicial review. A verified petition shall be presented to

the court not more than 30 days after the decision of the board, and shall specify the grounds upon which the appeal is based.

History: 1973 c. 301; 1979 c. 34 s. 2102 (39) (g); 1981 c. 20.

33.265 Notice and filing requirements. If a district is created or its boundaries altered, the board of commissioners shall file a copy of the authorizing document, including a legal description of the boundary, with the register of deeds in each county where the district is situated, with the department of natural resources and with the department of revenue.

History: 1981 c. 20

33.27 Initial district board of commissioners.

(1) The county board shall, at the time of making the order establishing a district, appoint 3 owners of property within the district, at least one of whom is a resident of the district, to serve as commissioners until the first annual meeting of the district, and shall also make the appointment required under s. 33.28 (2).

(2) Within 30 days following the county board's order establishing the district, the governing body of the town, city or village having the largest portion by valuation within the district shall appoint one of its members to the district board under s. 33.28 (2).

(3) Within the 60 days following the expiration of time for appeal to the circuit court, or following the final judgment in any appeal, the district board shall hold an organizational meeting, shall select officers to serve until the first annual meeting, and may commence conducting the affairs of the district.

(4) The board may make an initial assessment of all taxable property within the district to raise funds to pay organizational costs and operate the district until the receipt of the tax voted by the first annual meeting. The manner of making the assessment shall be within the discretion of the board.

History: 1973 c. 301; 1975 c. 197; 1979 c. 299.

33.28 District board of commissioners. (1)

Management of the affairs of the district shall be delegated to a board of commissioners.

(2) The board of commissioners shall consist of:

(a) One person appointed by the county board who is a member of the county land conservation committee or is nominated by the county land conservation committee and appointed by the county board;

(b) One member of the governing body of the town, village or city within which the largest portion by valuation of the district lies, ap-

33.28 PUBLIC INLAND LAKE PROTECTION AND REHABILITATION

884

pointed by the governing body and owning property within the district if possible; and

(c) Three electors or owners of property within the district elected by secret ballot by the qualified electors and property owners within the district, for staggered 3-year terms. At least one of the elected commissioners shall be a resident of the district.

(3) Three commissioners shall constitute a quorum for the transaction of business.

(4) The board shall select a chairman, secretary and treasurer from among its members.

(5) Commissioners shall be paid actual and necessary expenses incurred while conducting business of the district, plus such compensation as may be established by the annual meeting.

(6) The board shall meet at least quarterly, and at other times on the call of the chairman or the petition of 3 of the members.

History: 1973 c. 301; 1975 c. 197; 1977 c. 391; 1979 c. 299; 1981 c. 18, 346.

33.285 Property owning requirements. Any requirement under s. 33.27 (1) or 33.28 that a person own property within the district to be eligible for membership on the board of commissioners is satisfied if a person is an official representative, officer or employe of any trust, foundation, corporation, association or organization which is an owner of property within the district.

History: 1975 c. 197; 1979 c. 299.

33.29 Board of commissioners; officers; powers and duties. (1) The board shall be responsible for:

(a) Initiating and coordinating research and surveys for the purpose of gathering data on the lake, related shorelands and the drainage basin;

(b) Planning lake rehabilitation projects;

(c) Contacting and attempting to secure the cooperation of officials of units of general purpose government in the area for the purpose of enacting ordinances deemed necessary by the board as furthering the objectives of the district;

(d) Adopting and carrying out lake protection and rehabilitation plans and obtaining any necessary permits therefor; and

(e) Maintaining liaison with those officials of state government involved in lake protection and rehabilitation.

(2) The board shall have control over the fiscal matters of the district, subject to the powers and directives of the annual meeting. The board shall annually at the close of the fiscal year cause an audit to be made of the financial transactions of the district, which shall be submitted to the annual meeting.

(3) The board, immediately after each annual meeting, shall elect a chairman, secretary and treasurer, whose duties shall be as follows:

(a) The chairman shall preside at the annual meeting, all meetings of the board and all public hearings held by the board.

(b) The secretary shall keep minutes of all meetings of the board and hearings held by it, and shall annually notify the department of the continued existence of the district.

(c) The treasurer shall receive and take charge of all moneys of the district, and pay out the same only on order of the board.

History: 1973 c. 301.

33.30 Annual meeting of district. (1) Every public inland lake protection and rehabilitation district shall have an annual meeting. The first annual meeting shall be scheduled during the time period between May 22 and September 8, and shall be held annually thereafter unless changed by vote of the previous annual meeting.

(2) The annual meeting shall be preceded by written notice mailed at least 10 days in advance of the meeting to all electors within the district and owners of property within the district, whose address is known or can be ascertained with reasonable diligence, and to the department. The district board of commissioners may substitute a class 2 notice, under ch. 985, in lieu of sending written notice to electors residing within the district.

(3) At the annual meeting, electors and property owners shall:

(a) Elect by secret ballot one or more commissioners to fill vacancies in the district board;

(b) Approve a budget for the coming year;

(c) Vote a tax upon all taxable property within the district for the costs of operation for the coming year, which tax shall not exceed a rate of 2.5 mills of equalized valuation as determined by the department of revenue and reported to the district board. The tax shall be apportioned among the municipalities having property within the district on the basis of equalized full value, and a report shall be delivered by the treasurer, by November 1, by certified statement to the clerk of each municipality having property within the district for collection.

(d) Approve or disapprove all proposed projects by the district having a cost to the district in excess of \$5,000. The annual meeting may also authorize the board of commissioners, during the succeeding year until the next annual meeting, to approve or disapprove projects having a cost to the district in excess of \$5,000, and to enter into contracts accordingly.

(e) Take up and consider such other business as comes before it.

(f) Establish compensation, if any, to be paid the district board commissioners.

(g) Adopt rules relating to voting at annual and special meetings.

History: 1973 c. 301; 1975 c. 197; 1977 c. 142, 391, 447; 1979 c. 299; 1981 c. 18, 20.

33.31 Power to finance. (1) Every district may borrow money and use any other financing method prescribed by law. In utilizing financing powers, the commission shall follow the procedures required by statute for the selected financing methods so far as they are applicable and not in conflict with this subchapter.

(2) Any district, when in temporary need, may borrow money under s. 67.12. The required tax levy therefor shall be levied without limitation as to rate or amount on all taxable property within the district, shall be reported in accordance with s. 33.29 (3) (c), and shall not be included nor includable in the operations tax limit of s. 33.30 (3) (c).

History: 1973 c. 301; 1975 c. 197; 1977 c. 391; 1983 a. 207.

33.32 Special assessments and special charges. (1) Special assessments for the purpose of carrying out district protection and rehabilitation projects, or for other lake management or sanitary service activities undertaken by the district, may be levied by the commissioners in the following manner:

(a) Upon approval of plans for any work by the annual meeting of the district, the commissioners shall determine the entire cost to the district of the work to be done.

(b) The commissioners shall then examine each parcel within the district, other than state or federal lands, and determine the benefits to each from the project, considering such factors as size, proximity to the lake and present and potential use of the parcel, including applicable zoning regulations. After benefits to each parcel are determined, assessments shall be made in an aggregate amount equal to the cost to the district of the project. Such assessments shall be made in accordance with s. 66.60, so far as it is applicable and not in conflict with this subchapter.

(c) The commissioners shall file in the office of the county clerk a report of the assessments made. Notice shall be given to each owner, mortgagee, lessee or other person having an interest in an affected parcel that the report is open for review at a specified place within the district for 30 days after the date of the notice and that on a day named therein, which shall not be more than 3 days after the expiration of

the 30 days, the commissioners will hear objections that may be made to the report. Notice shall be by mail to each person whose post-office address is known or can be ascertained with reasonable diligence, accompanied by a statement of the assessment, and shall also be published as a class 2 notice, under ch. 985, in a newspaper having general circulation within the district.

(d) At the time specified for hearing objections to the report, the commissioners shall hear parties interested who may appear for that purpose and may review, modify and correct the report as they deem just and at the conclusion of the hearing shall make a final determination of assessments. No assessment may be increased without additional notice to affected persons and provisions for hearing objections to such increases.

(e) When a final determination of assessments has been made, the secretary shall publish a class 1 notice, under ch. 985, within the district that a final determination has been made, and shall notify by mail each person entitled to notice under par. (c) of the amount assessed against the affected parcel.

(f) If the owner, mortgagee, lessee or other person having an interest in any parcel affected by the determination feels aggrieved thereby, he may, within 40 days after the date of mailing of notice, appeal therefrom to the circuit court of the county in which the district is located by causing a written notice of appeal to be served upon the secretary of the district. The secretary in case such appeal is taken shall make a brief statement of the proceedings had in the matter and shall transmit the same with all papers in the matter to the clerk of the circuit court. Such appeal shall be tried and determined in the same manner as cases originally commenced in said court.

(2) The commissioners of any district may provide that special assessments levied may be paid in annual instalments, not more than 10 in number, in the manner provided in s. 66.54 (7).

(3) (a) County and municipally owned real estate within a district shall be subject to special assessments.

(b) If a county or municipality fails to pay a special assessment levied by a district, the clerk of the district may certify this fact to the department of administration, and shall state the amount due. The department, at the time of making the next scheduled distribution under s. 79.03, shall deduct the amount claimed from the payment due the county or municipality, and shall forward it to the district.

(4) Outstanding unpaid assessments on privately owned lands shall be paid in full by any

33.32 PUBLIC INLAND LAKE PROTECTION AND REHABILITATION

886

public body, including the state, which purchases such lands.

(5) Sewerage system service charges imposed by districts with town sanitary district powers shall be in conformance with s. 66.076. Special charges for other services identified in the annual budget adopted under s. 33.30 (3) (b) shall also be collected directly by the commissioners. The commissioners shall allocate the charges to the property served in a manner prescribed by them unless the manner is specified by a resolution of the annual meeting. Delinquent special charges shall be governed by s. 66.60 (16) (b).

History: 1973 c. 301; 1975 c. 197; 1977 c. 391; 1983 a. 27 s. 2202 (45).

33.33 Merger, attachment, detachment. (1)

MERGER. Any district may be merged with a contiguous district by resolution passed by a four-fifths vote of all the members of each board of commissioners. At the next annual meeting the electors and property owners shall vote on whether to ratify the merger. If a majority of the electors and property owners present and voting in each district endorse the merger, it takes effect. Following ratification, the boards of commissioners of merging districts shall act jointly until the next annual meeting, at which time the board of the merged district shall be conformed to the requirements specified in s. 33.28. The governing body of the county, town, village or city having the largest portion by valuation within the district shall make the appointments under s. 33.28 (2). The bylaws of the larger of the merging districts apply to the newly created district.

(2) **ATTACHMENT.** Contiguous territory may be attached to a district upon petition by the owner or motion of the commissioners.

(a) *Petition.* A petition by an owner, directed to the district and requesting attachment, may be accepted by majority vote of the commissioners, upon which the attachment shall become effective.

(b) *Motion.* If the commissioners by motion initiate attachment proceedings, they shall notify the owners of the territory contemplated for attachment and the county board. The county board shall schedule a hearing on the motion, using the procedure of s. 33.26 as far as is applicable. Following the hearing, the board shall make a finding on the necessity of attachment of territory, using the standards of s. 33.26 (3), and shall declare the territory to be either attached or not. Appeals of the board's decision shall be taken under s. 33.26 (7).

(3) **DETACHMENT.** Territory may be detached from the district following petition of the owner or motion of the commissioners. Proposals for detachment shall be considered by the commis-

sioners, and territory may be detached upon a finding that such territory is not benefited by continued inclusion in the district. Appeals of the commissioners' decision may be taken under s. 33.26 (7).

History: 1973 c. 301; 1975 c. 197; 1981 c. 20.

33.35 Dissolution of districts. An existing district created under this chapter may be dissolved upon a two-thirds vote of the membership at an annual meeting to petition the county board for dissolution. The county board may by order dissolve the district following receipt of the petition. The order shall be conditioned upon proper petition to the circuit court and appointment of a receiver to administer the winding up of the district under the supervision of the court and a final order of the court. The attorney general shall represent the state and shall be a party to every dissolution proceeding where state money is involved.

History: 1973 c. 301.

33.36 Alteration of districts. (1) Whenever any territory which contains an entire district is incorporated as a city or village, or annexed to a city or village, the district shall survive and shall thereafter be subject to s. 33.23.

(2) Whenever any territory containing less than an entire district is incorporated as a city or village, or is annexed to a city or village, that portion of the district within the city or village shall survive, and the district shall continue to operate under this chapter, subject to the following modifications:

(a) The district shall exercise only those powers granted under this chapter. Sanitary district powers shall not be exercised unless consent for such exercise is obtained in advance from the governing body of the city or village.

(b) The governing body of the city, village or town having the largest portion by valuation of the district within its jurisdiction shall make the appointment under s. 33.28.

(c) Ownership of any water or sewerage system shall be determined according to s. 60.79 (2).

(d).

History: 1975 c. 197; 1983 a. 532 s. 36.

33.37 Districts in more than one county. (1)

Where the proposed district is in more than one county, the county board of the county within which the largest portion, by valuation, of the proposed district lies shall have jurisdiction under ss. 33.24 to 33.28.

(2) The county within which the largest portion, by valuation, of a district lies shall have jurisdiction on motions for attachment under s. 33.33 (2) (b) and on petitions for dissolution under s. 33.35.

History: 1977 c. 391.