

1987 Assembly Bill 589

Date of enactment: **April 18, 1988**
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1987 Wisconsin Act 291

AN ACT relating to granting authorization to construct artificial barriers in Delavan lake.

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

SECTION 1. Authorization. Subject to the conditions under SECTION 3 of this act, the state of Wisconsin authorizes the town of Delavan to place fill material on the portion of the bed of Delavan lake described under SECTION 2 of this act to create artificial barriers for the purpose of improving the fish and wildlife habitat, recreational use, aesthetic enjoyment and water quality of Delavan lake.

SECTION 2. Description of artificial barrier. The fill material which is authorized under SECTION 1 of this act may be placed on the lake bed at the northern end of Delavan lake, which is located in the N-1/2 of Sections 21 and 22, Township 2 North, Range 16 East, Town of Delavan, Walworth County, Wisconsin, for the purpose of creating an artificial barrier in the area more particularly described as follows:

(1) A peninsula may be constructed from the park located at the mouth of Jackson Creek within the area defined as follows:

A parcel of submerged land located in Delavan lake in the N-1/2 of Section 22, Township 2 North, Range 16 East, Town of Delavan, Walworth County, Wisconsin, more particularly described as follows:

Commencing at a monument at the East-1/4 corner of Section 22; thence N 42 degrees 26 minutes 50 seconds W, 854.23 feet to a chiseled cross in a concrete curb at the southeast corner of bridge; thence S 48 degrees 21 minutes 35 seconds W, 767.06 feet to the point of beginning; thence S 51 degrees 20 minutes 25 seconds W, 100.00 feet; thence N 38 degrees 39 minutes 35 seconds W, 672.33 feet; thence N 60 degrees 20 minutes 25 seconds W, 414.28 feet; thence N 42 degrees 33 minutes 50 seconds W, 665.28 feet; thence N 24 degrees 00 minutes 15 seconds E, 108.99 feet; thence S 42 degrees 33 minutes 50 seconds E, 692.98 feet; thence S 60 degrees 20 minutes 25 seconds E, 417.79 feet; thence S 38 degrees 39 minutes 35 seconds E, 691.48 feet to the point of beginning.

(2) From the farthest west point of the peninsula described in subsection (1), a submerged barrier may be constructed within the area defined as follows:

A parcel of submerged land located in Delavan lake in the N-1/2 of Section 22, Township 2 North, Range 16 East, Town of Delavan, Walworth County, Wisconsin, more particularly described as follows:

Commencing at monument at the East-1/4 corner of Section 22; thence N 42 degrees 26 minutes 50 seconds W, 854.23 feet to a chiseled cross in a concrete curb at the southeast corner of bridge; thence S 48 degrees 21 minutes 35 seconds W, 767.06 feet; thence S 51 degrees 20 minutes 25 seconds W, 100.00 feet; thence N 38 degrees 39 minutes 35 seconds W, 672.33 feet; thence N 60 degrees 20 minutes 25 seconds W, 414.28 feet; thence N 42 degrees 33 minutes 50 seconds W, 665.28 feet to the point of beginning; thence S 89 degrees 27 minutes 15 seconds W, 1050.05 feet; thence N 00 degrees 00 minutes 00 seconds E, 120.00 feet;

thence S 89 degrees 27 minutes 15 seconds E, 1094.39 feet; thence S 24 degrees 00 minutes 15 seconds W, 108.99 feet to the point of beginning.

SECTION 3. Conditions. The authorization created under SECTION 1 of this act is subject to all of the following conditions:

(1) The town of Delavan shall obtain approval from the department of natural resources for any activity undertaken to create the artificial barriers authorized under SECTION 1 of this act.

(2) The town of Delavan shall provide the department of natural resources with plans and any other information which the department of natural resources considers necessary to effectively evaluate the structural and functional integrity of the artificial barriers and to determine whether the barriers comply with the requirements of this SECTION.

(3) The town of Delavan shall construct the artificial barriers such that the barriers do not materially obstruct navigation or reduce the effective flood flow capacity of a stream and are not detrimental to the public interest.

(4) The town of Delavan shall provide that the artificial barriers shall be owned by a public entity and that the public is granted access to the barriers.

(5) The town of Delavan shall provide that the artificial barriers shall remain in as natural a condition as is practicable, that no structures are placed on the barriers and that the barriers may be used only for open space recreational purposes. The town of Delavan shall maintain the artificial barrier in the manner approved by the department of natural resources. If the town fails to maintain the artificial barrier in the manner approved by the department of natural resources, any owner of more than 500 feet of Delavan lake shoreline within 1,000 feet of the artificial barrier may maintain the artificial barrier in the manner approved by the department, if the owner first consults the department.

(6) The town of Delavan shall comply with all requirements of state law governing navigable waters, including but not limited to chapter 30 of the statutes, except section 30.12 (1) and (2) of the statutes, when constructing and maintaining the artificial barriers.

(7) The department of natural resources may require the town of Delavan to maintain the artificial barriers in a structurally and functionally adequate condition, subject to inspection by the department of natural resources.

(8) The town of Delavan may not expend more than \$500,000 to create the artificial barriers.

(9) The town of Delavan shall assure that any draw down of Delavan lake related to the creation of the artificial barrier or to any other aspect of the Delavan lake improvement project shall occur only once and shall begin no earlier than August 15 and shall cease no later than March 1 of the following year.

(10) The town, its engineers and contractors shall not use any construction equipment in any way

related to construction of the artificial barrier or any other aspect of the Delavan lake improvement project in the area described as follows:

All submerged lands lying northerly of the following described line of demarcation to the shoreline of Delavan lake, located in Delavan lake in the N-1/2 of Section 21 and the N-1/2 of Section 22, Township 2 North, Range 16 East, Town of Delavan, Walworth County, Wisconsin, more particularly described as follows:

Commencing at a monument at the East-1/4 corner of Section 22; thence N 42 degrees 26 minutes 50 seconds W, 854.23 feet to a chiseled cross in a concrete curb at the southeast corner of bridge; thence N 47 degrees 52 minutes 00 seconds W, 190.59 feet to the point of beginning; thence N 69 degrees 55 minutes 45

seconds W, 1805.31 feet; thence N 89 degrees 27 minutes 15 seconds W, 1094.39 feet; thence S 64 degrees 33 minutes 30 seconds W, 2281.23 feet; thence S 90 degrees 00 minutes 00 seconds W, 2050.00 feet to the termination of said line of demarcation.

SECTION 4. Costs. Any costs incurred by the state to construct, maintain, improve or remove the artificial barriers authorized under SECTION 1 of this act shall be paid by the town of Delavan or its successors or assigns.

SECTION 5. Immunity. The authorization granted to the town of Delavan under SECTION 1 of this act excludes the state from any liability for injury or damage incurred as a result of the construction, maintenance or use of the artificial barriers.