

# **LAKE RIPLEY MANAGEMENT DISTRICT OPERATING AUTHORITY AND BY-LAWS**

## **OPERATING AUTHORITY**

The Lake Ripley Management District (hereinafter “District”) is a local, special-purpose unit of government created by resolution of the Jefferson County Board, and under the authority of Chapter 33 of the Wisconsin Statutes, as a public inland lake protection and rehabilitation district. As such, the District, its officers and committees shall operate in accordance with Wisconsin Statutes, Subchapters I, III and IV, Chapters 33.001-33.37 (Appendix A); Wisconsin Open Meetings Law (Appendix B); and any by-laws adopted by the Annual Meeting of the District electors that are not in conflict with current statute. The adoption of any by-laws or by-law amendments shall be listed below and documented in approved meeting minutes.

## **BY-LAWS**

**Number of Commissioners:** The Board of Commissioners shall be expanded from five to seven members as authorized by Ch. 33.28(2m). [08-20-94]

**Nomination of Commissioners:** The Board shall nominate candidates to fill all vacancies on the Board that may occur between annual meetings as provided in Ch. 33.28(2m)(7). Incumbent commissioners, whose terms are expiring and who wish to run for re-election, shall notify the secretary of their intentions at least 45 days prior to the annual meeting. Any three electors may nominate additional candidates by submitting written nomination papers to the secretary at least 45 days prior to the annual meeting. The names of all nominated candidates shall appear on the written and published notices of the annual meeting. Ballots printed for the election shall provide space for write-in candidates. [05-25-91]

**Commissioner Stipends:** Board commissioners shall receive a stipend of \$50 per meeting attended as authorized by Ch. 33.30(4)(c). [08-22-98] The chair and treasurer shall each receive an additional \$100 per month stipend. [08-17-02]

**Elections Committee:** The chair shall appoint three electors who are not running for the office of commissioner to serve as the elections committee. The committee shall distribute, collect, and count the ballots at the annual meeting and report the results to the annual meeting. [05-25-91]

**Auditing Committee:** The chair shall appoint three electors to serve as the auditing committee. The committee shall examine all financial records of the District and report its conclusions to the annual meeting. [05-25-91]

**Other Committees:** The chair may appoint other committees deemed necessary to further the interests of the District. Committee members shall serve at the pleasure of the chair, and shall receive no remuneration for service to the District. With prior approval from the Board, committee members may submit vouchers for actual and necessary expenses incurred while conducting the business of the District. [05-25-91]

**Conduct of Meetings:** All meetings of the District shall be conducted according to Roberts Revised Rules of Order. The chair, or a person appointed by the chair, shall serve as parliamentarian. [05-25-91]

**Conflict of Interest:** Any commissioners shall abstain from voting on any matter before the Board in which they, as private people, or in which any member of their immediate families (spouse, parent, or child), have a financial interest. [05-25-91]

**Amending By-Laws:** By-law changes may be proposed by a majority of the commissioners or a majority vote of the previous annual meeting. These by-laws may be amended at any legal annual meeting of the District providing the proposed change was included in the notice. Amendments shall require a two-thirds vote of the electors present and voting at the meeting. All amendments must be consistent with Chapter 33, Wisconsin Statutes, which supersede these by-laws.

**Last Revised: 11-15-08**

**Initials of editor: P.D.**

## **APPENDIX A**

### **Wisconsin Governing Statutes**

Electronic reproduction of 2005–06 Wis. Stats. database, updated and current through February 29, 2008 and 2007 Wis. Act 54. Text from the 2005–06 Wis. Stats. database updated by the Revisor of Statutes. Only printed statutes are certified under s. 35.18(2), stats. Statutory changes effective prior to 4–2–08 are printed as if currently in effect. Statutory changes effective on or after 4–2–08 are designated by NOTES. Report errors at (608) 266–3561, FAX 264–6948, <http://www.legis.state.wi.us/rsb/stats.html>

## **CHAPTER 33**

### **PUBLIC INLAND WATERS**

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## SUBCHAPTER I

### INTENT; DEFINITIONS; AND DEPARTMENTAL POWERS

**33.001 Findings and declaration of intent.** (1) 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 current efforts to protect and rehabilitate the water quality of the navigable waters in Dane County, which receive intense urban, recreational and agricultural usage, are seriously handicapped by the fact that numerous governmental bodies have jurisdiction over the management of the watersheds in Dane County; 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.

(2) In accordance with sub. (1), the legislature declares all the following:

(a) 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 environmental values.

(b) A state effort of research, analysis, planning and financing, and a local effort undertaken by districts, the Dane County Lakes and Watershed Commission and the Southeastern Wisconsin Fox River Commission of Planning and Plan Implementation are necessary and desirable and that the 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.

(c) 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.

(d) State efforts are needed to administer a program of financial aids to support protection and rehabilitation projects with benefits to all state citizens.

**History:** 1973 c. 301; 1985 a. 332; 1989 a. 159, 324, 359; 1995 a. 349; 1997 a. 27.

**33.01 Definitions.** In ss. 33.001 to 33.37:

(1c) "Capital costs" means the cost of acquiring equipment and other capital assets, including sewerage system capital costs, for a program undertaken under ss. 33.001 to 33.37.

(1g) "Costs of operation" means all costs of a program undertaken under ss. 33.001 to 33.37, except capital costs.

(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. "Lake" also includes any lake, reservoir or flowage within the boundaries of the state that is under the jurisdiction of a restructured district.

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

(a) For the purpose of receiving notice under this chapter, a person whose name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year.

(am) For the purpose of petitioning under this chapter, any of the following:

1. A person whose name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year.

2. The spouse of a person whose name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year if the spouse is referred to on that tax roll.

(ar) For the purpose of voting at meetings of the district, a person who is a U.S. citizen and 18 years of age or older and who meets any of the following requirements:

1. The person's name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year.

2. The person owns title to real property but the person's name does not appear as an owner of real property on the tax roll specified in subd. 1.

3. The person is the official representative, officer or employee who is authorized to vote on behalf of a trust, foundation, corporation, association or organization that owns real property in the district.

(b) For the purpose of holding office in the district, a person who is a U.S. citizen and 18 years of age or older and either:

1. Whose name appears as an owner of real property on the tax roll under s. 70.65 (2) (a) 1. that was delivered under s. 74.03 on or before the 3rd Monday in December of the previous year; or

2. Who owns title to real property but whose name does not appear as an owner of real property on the tax roll specified in subd. 1.

(9g) "Restructured district" means a district for a lake that results from a conversion under s. 33.235 (1m), a formation under s. 33.235 (2) or a merger under s. 33.235 (3).

(9m) "Sewerage system capital costs" has the meaning given for capital costs in s. 200.21 (1).

(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; 1989 a. 159, 324; 1991 a. 39; 1993 a. 167; 1995 a. 349; 1997 a. 27; 1999 a. 150 s. 672.

**33.02 Department; powers and duties. (1) RULES.** (a) *Generally.* The department shall promulgate 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; Stats. 1977 s. 33.02; 1979 c. 154; 1981 c. 317; 1985 a. 332 s. 251 (1).

**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; Stats. 1977 s. 33.03.

## 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 program. 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 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. 299.01 (4);
- (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; 1995 a. 227, 349.

**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 non-monetary 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, control 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 in any fiscal year 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 annual 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; 1987 a. 27.

**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.** 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; 1995 a. 349. A district may rehabilitate part of a lake only if the entire lake lies within the district. *Kaiser v. City of Mauston*, 99 Wis. 2d 345, 299 N.W.2d 259 (Ct. App. 1980).

**33.22 District; powers. (1)** Any district organized under this chapter may select a name for the district, sue and be sued, make contracts, accept gifts, purchase, lease, devise or otherwise acquire, hold, maintain 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 the contract and to pay all damages which may arise from inadequate performance.

(2m) Any district may create, operate and maintain a water safety patrol unit, as defined in s. 0.79 (1) (b) 2.

(3) (a) 1. Except as provided in par. (b) 1., any district organized under this chapter may have the powers of a town sanitary district under ss. 60.77 and 60.78, other than the power under s. 60.77 (6) (b), that are authorized by resolution of the board of the town having the largest portion by valuation of the district.

2. The board of commissioners of a district that has the powers of a sanitary district under subd. 1. shall possess the powers of town sanitary district commissioners under s. 60.77 that are authorized by resolution of the town board that adopts the resolution under subd. 1.

(b) 1. Beginning on April 9, 1994, any district organized under this chapter may assume the powers of a town sanitary district under ss. 60.77 and 60.78, other than the power under s. 60.77 (6) (b), that are authorized by resolution by the annual meeting of the district.

2. The board of commissioners of a district that assumes the powers of a sanitary district under subd. 1. shall possess the powers of town sanitary district commissioners that are authorized by resolution by the annual meeting of the district.

(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. 66.0301 or unless the sanitary district merges under s. 33.235 (3).

(4m) A district may undertake projects to enhance the recreational uses of a lake within its jurisdiction, including recreational boating facilities as defined under s. 30.92 (1) (c).

(4r) If authorized by an annual meeting of a district, the district may appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the district or beneficial to the district.

(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; 1989 a. 159; 1991 a. 316; 1993 a. 167; 1995 a. 349; 1999 a. 150 s. 672.

A low bidder under s. 33.22 who is apparently a “responsible” bidder has standing to seek a permanent injunction against the award of a contract to any other bidder. *Aqua-Tech v. Como Lake Protection & Rehabilitation District*, 71 Wis. 2d 541, 239 N.W.2d 25 (1976).

**33.23 Municipalities may establish district. (1)** The governing body of a municipality may by resolution establish a district if the municipality encompasses within its boundaries all the frontage of the public inland lake 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. For purposes of this subsection, “district” does not include a restructured district.

(2) Establishment of 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 conforming to the requirements of s. 8.40 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 or special meeting, whichever occurs first, 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; 1989 a. 159, 192, 359; 1995 a. 349.

**33.235 Restructured districts; conversion and merger of town sanitary districts. (1)** In this section:

(a) “Lake” means a lake, reservoir or flowage within the boundaries of the state.

(b) “Lake district” means a public inland lake protection and rehabilitation district that does not include a restructured district.

(1m) A town board by resolution may convert a town sanitary district which encompasses all the frontage of a lake within its boundaries into a restructured district. The town sanitary district commissioners shall serve as the initial board of commissioners until the first annual meeting of the restructured 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 restructured district.

(2) The commissioners of a town sanitary district that 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 restructured district to include the territory of the existing sanitary district and any additional frontage on the lake that is deemed appropriate by the commissioners. 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. Formation of a restructured district that includes such additional territory shall not affect any preexisting rights or liabilities of the town sanitary district, and all these rights and liabilities shall be assumed automatically by the restructured district. The method by which these rights and liabilities are apportioned within the restructured district shall be determined by the county board, and set out in the order issued under s. 33.26 (3) forming the restructured district.

(3) A town sanitary district having boundaries coterminous or contiguous to a lake 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 the town sanitary district and the lake district, followed by ratification by a majority of those voting at an annual or special meeting of the 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 the town sanitary district and the district shall act jointly until the next annual or special meeting, whichever occurs first, of the restructured district at which time the board of the restructured district shall be created subject to the requirements under s. 33.28. Merger does not affect the preexisting rights or liabilities of the town sanitary district or the lake district. All these rights and liabilities are assumed automatically by the restructured district, but the method of discharging these rights or obligations shall be set out in the merger resolution.

(4) Any restructured district 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; 1989 a. 159; 1995 a. 349.

**33.24 County board may establish district. (1)** Notwithstanding s. 33.01 (3), in this section, “district” does not include a restructured district.

(2) The county board of any county may establish 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; 1995 a. 349.

**33.25 Petition. (1) WHO TO MAKE.** (a) Before a county board may establish a district under s. 33.235 or 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 or town board may by resolution represent persons owning lands within the proposed district who are within its jurisdiction, and sign for all such landowners.

(b) For a landowner that is a trust, foundation, corporation, association or organization, a petition under par. (a) shall be signed by an official representative, officer or employee who is authorized to do so by that landowner.

(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.

(5) WITHDRAWING FROM PETITION. Any landowner who is considered to have signed the petition under sub. (1) may withdraw from the petition if the landowner files a written notice of the withdrawal with the county clerk at least 10 days before the date of the hearing under s. 33.26.

**History:** 1973 c. 301; 1975 c. 197; 1993 a. 167, 246; 1995 a. 349. The requirements for a verification under sub. (3) are that it is made under oath and carries the jurat of a notary public. Every person giving the oath is considered to have been lawfully sworn. Use of the word “certify” rather than “verify” is irrelevant. *Nielsen v. Waukesha County Board of Supervisors*, 178 Wis. 2d 498, 504 N.W.2d 621 (Ct. App. 1993).

**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 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) The committee shall report to the county board within 3 months after the date of the hearing. Within 6 months after the date of the hearing, the board shall issue its order under this subsection. If the board finds, after consideration of the committee’s report and any other evidence submitted to the board, 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, and that the property to be included in the district will be benefited by the establishment of the proposed district, the board, by 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. If the board does not so find, the board, by order, shall declare its findings and deny the petition.

(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; 1991 a. 316; 1993 a. 167; 1995 a. 227; 2003 a. 275. Although not specified, the right to review under sub. (7) is by statutory certiorari. *Donaldson v. Board of Commissioners of Rock-Koshkonong Lake District*, 2004 WI 67, 272 Wis. 2d 146, 680 N.W.2d 762, 01-3396.

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

**History:** 1981 c. 20; 1993 a. 301.

**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).

**(1m)** If no resident is willing to serve as required under sub. (1), the residency requirement shall be waived for the initial district board of commissioners.

**(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)** At any time following the making of the order establishing a district, but no later than 60 days following the expiration of time for appeal to the circuit court, or, if appealed, no later than 60 days 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; 1993 a. 167.

**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, appointed 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.

**(2m)** (a) An annual meeting may permanently increase the number of members of the board of commissioners to be elected under sub. (2) (c) from 3 to 5.

(b) If no resident is willing to be elected as required under sub. (2) (c) for a given term, the residency requirement shall be waived until the end of that term.

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

**(4)** The board shall select a chairperson, 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 chairperson or the petition of 3 of the members.

**(7)** If a vacancy occurs in the membership of the board under sub. (2) (a) or (b), the appointing authority shall appoint a person to fill the vacancy. If a vacancy occurs in the membership of the board under sub. (2) (c), the chairperson of the board shall appoint a person to fill the remainder of the unexpired term, subject to approval by a majority vote of the board.

**History:** 1973 c. 301; 1975 c. 197; 1977 c. 391; 1979 c. 299; 1981 c. 18, 346; 1989 a. 159, 359; 1991 a. 32; 1993 a. 167.

**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 employee 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 protection and 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, and providing the department with the names and addresses of the current commissioners.
- (f) Scheduling the annual meeting of the district.
- (g) Preparing the proposed annual budget for presentation at the annual meeting of the district. The proposed annual budget shall include all of the following:
  - 1. A list of all existing indebtedness and all anticipated revenue from all sources during the ensuing year.
  - 2. A list of all proposed appropriations for each department, activity, and reserve account during the ensuing year.
  - 3. The actual revenues and expenditures for the preceding year.
  - 4. The actual revenues and expenditures for not less than the first 6 months of the current year.
  - 5. The estimated revenues and expenditures for the balance of the current year.
  - 6. For informational purposes by fund, all anticipated unexpended or unappropriated balances and surpluses.

(2) The board shall have control over the fiscal matters of the district, subject to the powers and directives of the annual or a special 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 chairperson, secretary and treasurer, whose duties shall be as follows:

- (a) The chairperson shall preside at the annual meeting, at all special meetings and meetings of the board and at all public hearings held by the board.
- (b) The secretary shall keep minutes of all meetings of the board and hearings held by it. The secretary shall prepare and send the notices required for the annual meeting, any special meeting, and any meeting of the board.
- (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; 1989 a. 159, 359; 2003 a. 275.

**33.30 Annual meeting of district. (1)** Every district shall have an annual meeting. Each annual meeting shall be scheduled during the time period between May 22 and September 8 unless scheduled outside those dates by majority vote of the previous annual meeting.

(2) (a) The annual meeting shall be preceded by written notice mailed at least 14 days in advance of the meeting to all electors within the district whose address is known or can be ascertained with reasonable diligence, to all owners of property within the district at the owner's address as listed in the tax roll, 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.

(b) No absentee ballots or proxies are permitted at the annual meeting.

(2m) The notice of the annual meeting under sub. (2) shall include all of the following:

- (a) The proposed annual budget required under s. 33.29 (1) (g).
- (b) A list of each item proposed for consideration at the annual meeting in addition to the proposed annual budget.
- (c) A list of any items proposed for consideration at the annual meeting by persons eligible to vote at the annual meeting if all of the following conditions are met:
  - 1. The item relates to an issue that is within the district's authority.

2. Each item is submitted by a petition to the board at least 30 days before the annual meeting.
3. The petition is signed by persons who are eligible to vote at the annual meeting.
4. The number of persons signing the petition equals or exceeds 20 percent of the number of parcels located in the district that are subject to the property tax.

(3) At the annual meeting, electors and property owners who attend the meeting shall do all of the following:

(a) Elect by secret ballot one or more commissioners to fill vacancies occurring in the elected membership of the district board.

(b) Approve a budget for the coming year. The electors and property owners may consider and vote on amendments to the budget before approving that budget. The budget shall separately identify the capital costs and the costs of operation of the district, shall conform with the applicable requirements under s. 33.29 (1) (g) and shall specify any item that has a cost to the district in excess of \$10,000.

(4) At the annual meeting, electors and property owners may do any of the following:

(a) Vote by majority a tax upon all taxable property within the district. That portion of the tax that is for the costs of operation for the coming year may 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.

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

(c) Establish compensation to be paid the district board commissioners.

(d) Create a nonlapsible fund to finance specifically identified capital costs and for maintenance of capital equipment.

**History:** 1973 c. 301; 1975 c. 197; 1977 c. 142, 391, 447; 1979 c. 299; 1981 c. 18, 20; 1989 a. 159; 1993 a. 167; 1995 a. 349; 2003 a. 275, 327.

**33.305 Special meetings of district. (1)** The board of commissioners of a district may schedule a special meeting of the district at any time. The board of commissioners shall schedule a special meeting upon receipt of a petition signed by at least 10% of the electors and property owners in the district.

(2) Written notice of a special meeting shall be given to the same persons and in the same manner required under s. 33.30 (2) (a).

(3) At a special meeting, electors and property owners may take any action that is required or allowed to be taken at an annual meeting, except they may not do any of the following:

(a) Approve an annual budget but they may consider and vote on amendments to the annual budget.

(c) Consider the dissolution of the district or dissolve the district.

(d) Consider a matter that was resolved during another special meeting that was held since the previous annual meeting.

(4) No absentee ballots or proxies are permitted at a special meeting.

**History:** 1989 a. 159; 1995 a. 349; 2003 a. 275.

**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.

(3) The district shall levy an annual, irrevocable tax to pay the principal and interest of the indebtedness incurred under subs. (1) and (2) when they are due. The district shall levy this tax without limitation as to rate or amount on all taxable property within the district. The tax shall be reported in accordance with s. 33.30 (4) (a) and may not be included nor includable in the operations tax limit of s. 33.30 (4) (a).

(4) At an annual or special meeting, the district may not consider or approve any borrowing or any tax to pay the indebtedness incurred under sub. (1) or (2) unless the meeting notice under s. 33.30 (2) (a) or 33.305 (2) includes a statement that borrowing or a tax levy to pay the indebtedness will be considered at the meeting.

**History:** 1973 c. 301; 1975 c. 197; 1977 c. 391; 1983 a. 207; 1989 a. 159; 1993 a. 167; 2003 a. 275.

**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 as an exercise of the district's police powers in the following manner:

(a) Upon approval of plans for any work by the annual or by a special 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 apportion the special assessment within the district, other than state or federal lands, on a reasonable basis. In apportioning the special assessment, the commissioners shall examine each parcel and determine the benefits to each parcel 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. 66.0703, 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) An owner, mortgagee, lessee or other person having an interest in any parcel affected by the determination who feels aggrieved thereby 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 installments, not more than 10 in number, in the manner provided in s. 66.0715 (3).

(2m) Any delinquent special assessment or special charge that is collected under s. 66.0627 (4) or 66.0703 (13) shall be levied without limitation as to rate or amount on all taxable property within the district, shall be reported in accordance with s. 33.30 (4) (a) and shall not be included or includable in the operations tax limit of s. 33.30 (4) (a).

(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 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. 66.0821. Special charges may be imposed for other services identified in the annual budget adopted under s. 33.30 (3) (b). The special charges may not exceed the rate of \$2.50 per \$1,000 of assessed valuation. The special charges may be certified by the district secretary to the clerk of each municipality having property within the district for collection and settlement in the same manner as provided under ch. 74. 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 or of a special meeting. Delinquent special charges shall be governed by s. 66.0627 (4).

**History:** 1973 c. 301; 1975 c. 197; 1977 c. 391; 1983 a. 27 s. 2202 (45); 1989 a. 159; 1991 a. 316; 1993 a. 167; 1997 a. 35; 1999 a. 150 s. 672; 2001 a. 30; 2003 a. 275.



**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 or special meeting, whichever occurs first, 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 or special meeting whichever occurs first, 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).

**(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 commissioners, 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; 1989 a. 159; 2003 a. 275. It is not always necessary for the petitioner in a detachment proceeding to prove that there has been a change in circumstances since the district was created. The finding of benefit to property required under s. 33.26 (3) in forming a district is not the same as the finding that the property is not benefited required under s. 33.33 (3) to detach a property from the district. The s. 33.26 (3) finding is general and predictive. Section. 33.33 (3) requires an individualized evaluation of property under present circumstances. *Donaldson v. Board of Commissioners of Rock-Koshkonong Lake District*, 2004 WI 67, 272 Wis. 2d 146, 680 N.W.2d 762, 01-3396. Although not specified, the right to review under sub. (3) is by statutory certiorari. *Donaldson v. Board of Commissioners of Rock-Koshkonong Lake District*, 2004 WI 67, 272 Wis. 2d 146, 680 N.W.2d 762, 01-3396.

**33.35 Dissolution of districts.** A petition to dissolve an existing district created under this chapter may not be considered at an annual meeting of the district unless an elector within the district or a property owner within the district notifies the district board of commissioners in writing at least 90 days before the annual meeting that the elector or property owner intends to petition for dissolution at that annual meeting. The notice of the annual meeting must include a statement that a petition to dissolve the district will be considered. The district may be dissolved upon a two-thirds vote of the electors and property owners present at the annual meeting. The county board shall by order dissolve the district following receipt of the petition if the county board finds that one or more of the standards for the creation of a district under s. 33.26 (3) are not met. The order for dissolution 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; 1989 a. 159.

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

**(2)** Whenever any territory containing less than an entire district is incorporated as a city or village, consolidated with a city or village or is annexed to a city or village, the district 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; 1989 a. 159.

**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

## **APPENDIX B**

### **Wisconsin Open Meetings Law**

#### **Wisconsin Open Meetings Law** **Wis. Stat. § 19.81-19.98**

##### **19.81 Declaration of policy.**

(1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

##### **19.82 Definitions.**

As used in this subchapter:

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; any public purpose corporation, as defined in s. 181.79 (1); a nonprofit corporation operating the Olympic ice training center under s. 42.11 (3); or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV or V of ch. 111.

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k) or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in s. 101.13 (1).

##### **19.83 Meetings of governmental bodies.**

(1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.

#### **19.84 Public notice.**

(1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and (b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any university of Wisconsin system institution or campus and a nonprofit corporation operating the Olympic ice training center under s. 42.11 (3) are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

#### **19.85 Exemptions.**

(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employe or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employe or person licensed is given actual notice of any evidentiary hearing which may be

held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employe or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employe over which the governmental body has jurisdiction or exercises responsibility.

(d) Except as provided by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(ee) Deliberating by the council on unemployment compensation in a meeting at which all employer members of the council or all employe members of the council are excluded.

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employe members of the council are excluded.

(em) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the ethics board under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

(i) Considering any and all matters related to acts by businesses under s. 560.15 which, if discussed in public, could adversely affect the business, its employes or former employes.

(j) Considering financial information relating to the support by a person, other than an authority, of a nonprofit corporation operating the Olympic ice training center under s. 42.11 (3), if the information is exempt from disclosure under s. 42.115 or would be so exempt were the information to be contained in a record. In this paragraph, "authority" and "record" have the meanings given under s. 19.32.

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV or V of ch. 111 which has been negotiated by such body or on its behalf.

#### **19.86 Notice of collective bargaining negotiations.**

Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. I, IV or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be

given by the employer's chief officer or such person's designee. This section does not apply to a nonprofit corporation operating the Olympic ice training center under s. 42.11 (3).

#### **19.87 Legislative meetings.**

This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

(4) Meetings of the senate or assembly committee on organization under s. 71.78 (4) (c) or 77.61

(5) (b) 3. shall be closed to the public.

#### **19.88 Ballots, votes and records.**

(1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in subch. II of ch. 19.

#### **19.89 Exclusion of members.**

No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

#### **19.90 Use of equipment in open session.**

Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

#### **19.96 Penalty.**

Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

### **19.97 Enforcement.**

(1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

### **19.98 Interpretation by attorney general.**

Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.