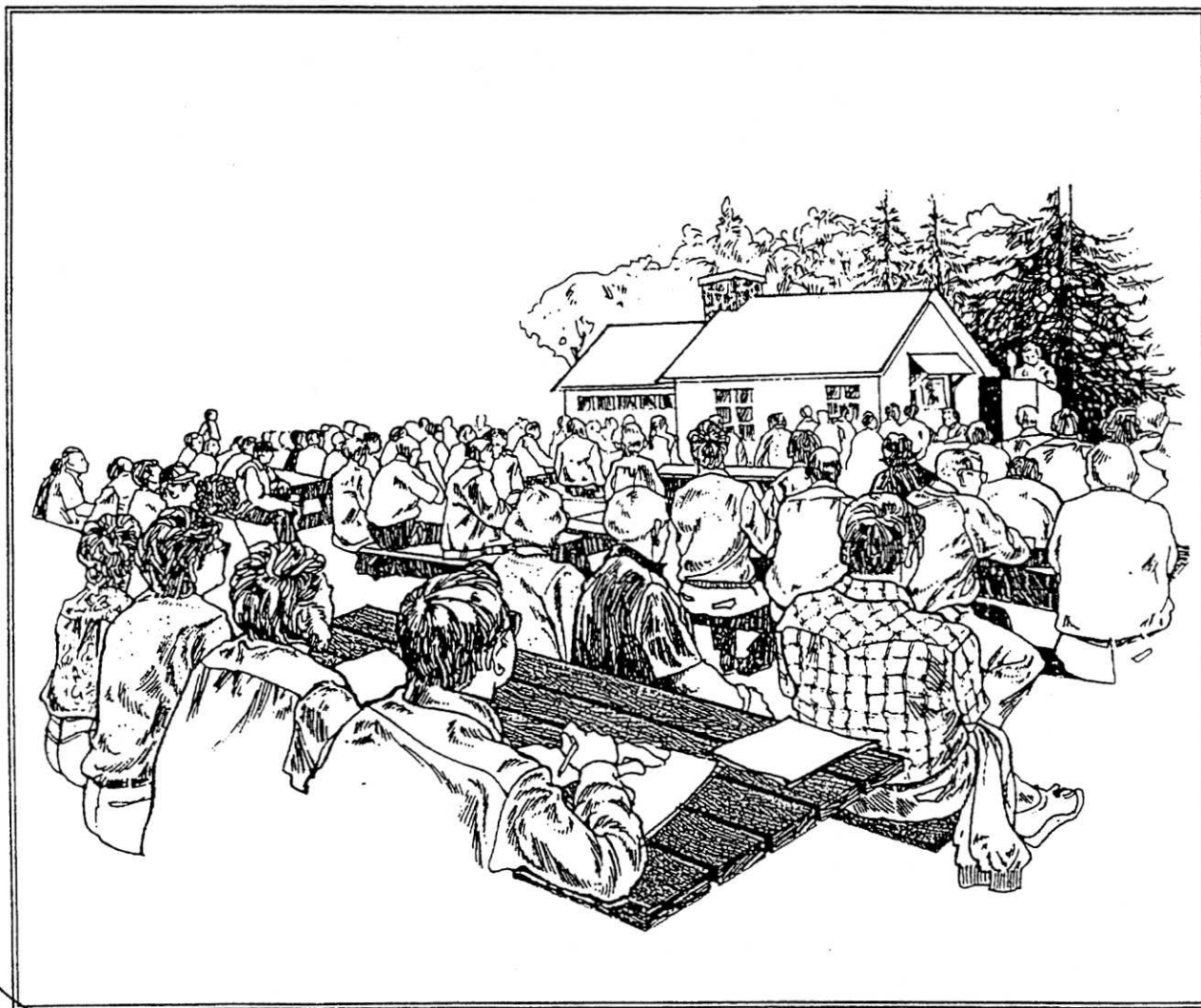


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A Guide to Wisconsin's Lake Management Law

Chapter 33

Tenth Edition - 1996



Welcome to the Tenth Edition

The information in this 10th edition of *A Guide to Wisconsin Lake Management Law* supercedes the information in any previous edition. The tenth edition includes:

- o Information on lake associations and comparisons between voluntary and public lake management organizations;
- o Expanded information on financing and developing budgets for lake districts;
- o Legislative changes in Chapter 33 through October 1996; and
- o Expanded information on sanitary districts and lake sanitary districts.

This guide is another example of the "Wisconsin Lakes Partnership" at work: the Wisconsin Association of Lakes, the University of Wisconsin Extension and the Department of Natural Resources working together to revitalize, perpetuate and protect healthy lake ecosystems. We hope *A Guide to Wisconsin's Lake Management Law* continues to be a beneficial instrument in your lake management "Tool Box. "

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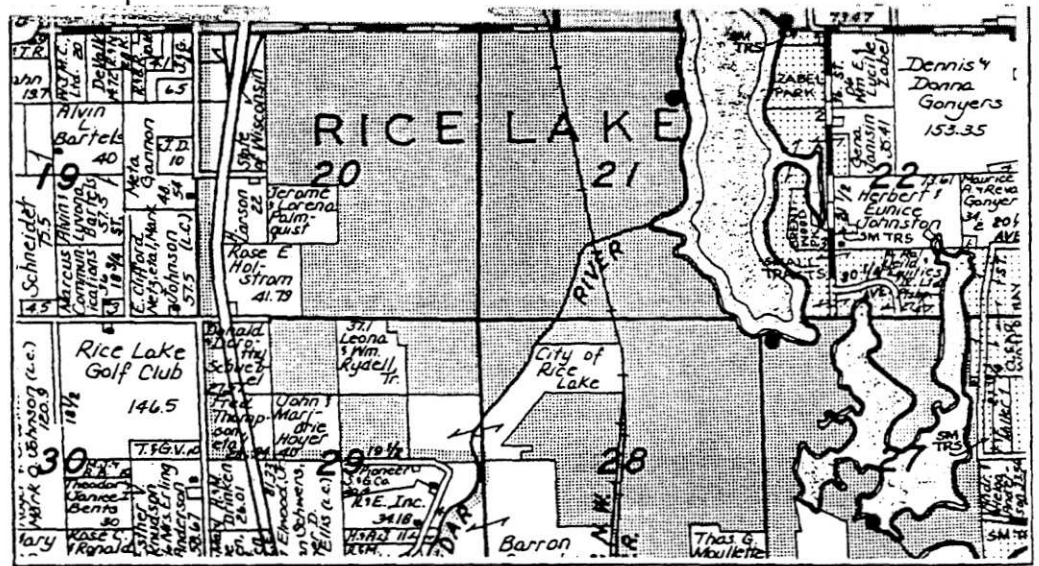
A Legacy of Lakes

Lake management organizations have been part of the scene in Wisconsin for at least a century. The state's first lake association was established on Lake Geneva in 1898. The number of voluntary organizations concerned with the health of lakes continued to grow slowly over the years, but the problems with lakes grew faster.

A sense of urgency caused more lake area residents to band together. They formed organizations aimed at finding solutions, but in some cases their success was limited by their lack of authority to deal with the issues at hand. By 1959, a statewide network of lake associations coalesced into the Wisconsin Federation of Lakes. In the mid-1960's environmental deterioration of lakes was becoming commonplace. Polluted water caused algae blooms, excessive aquatic plant growth, and in some cases toxic contamination. In 1972 the Cuyahoga river in Ohio actually caught fire. Many lakes and rivers were unfit for swimming or fishing. The 1972 Federal Clean Water Act and other environmental laws set the stage for major cleanup of many sources of pollution. But these laws did little to address the unique challenges of inland lakes.

Lakes are round,
governments are
square.

Lakes do not fit neatly within the boundaries of local governments and governments often have other priorities. The problem-lakes are round and governments are square. Before 1974, Wisconsin did not have local public institutions designed to manage lakes.



Rockford Map Company, Rockford, IL.

The first attempts at publicly administered lake management took place in the early 1930s. Several Wisconsin lake communities formed "town sanitary districts" to focus on lake problems. These governmental bodies could be established with boundaries following the shape of the lake. As government bodies, they could levy taxes to spread the cost of operations equitably. However there were shortcomings with town sanitary districts. Their primary purpose was to provide sewer and water service for urbanizing areas, but in those early days they lacked the comprehensive power needed to address the complex problems involved in lake management.

In response to a growing awareness of the harmful effects of pollution and the decline of the quality of Wisconsin lakes, a major six year demonstration project was conducted by the University of Wisconsin Extension (UWEX) and the Department of Natural Resources (DNR). In reply to the project's recommendations the Legislature enacted a 1974 law aimed at solving lake problems. Chapter 33 of the Wisconsin Statutes was created to provide for the formation of a new kind of lake management organization-the public inland lake protection and rehabilitation district. Over the last twenty years, some 200 lake districts have been organized around the state. A state organization representing lake districts, the Wisconsin Association of Lake Districts was formed in 1981.

The 1974 law also established a state educational assistance and cost sharing program for lake management organizations. Over the years, program details and funding levels have changed, but this state/local partnership has continued to mature. In the 1990's, voluntary lake associations meeting certain standards. (qualified lake associations) were added to the list of eligible lake grant participants. In 1992, the Wisconsin Association of Lakes (WAL), was created through the merger of the Wisconsin Federation of Lakes and the Wisconsin Association of Lake Districts. The Wisconsin Association of Lakes has grown into a strong advocate for lake organizations throughout the Badger State.

Lakes are an indispensable thread in the tapestry of land and water that makes Wisconsin an exceptional place to live. Our past history of oblivious abuse and overuse of Wisconsin's lakes is a flaw on that tapestry. Our growing awareness, our capacity to weave partnerships and our collective wisdom toward intelligent use will help remove past imperfections.

LAKE ORGANIZATION COMPARISONS

Public lake management organizations include special districts, like public inland lake districts, town sanitary districts, and commissions formed by local governments. Voluntary lake management organizations include unincorporated associations and nonprofit corporations.

Most of the local citizen management of Wisconsin's lakes is accomplished by one of two types of organization: lake districts or voluntary lake associations. The lake district law (Chapter 33 of the Wisconsin Statutes), and the non-profit corporation law (Chapter 181 of the Wisconsin Statutes), establishes detailed outlines for the structure and operation of the types of organizations involved.

Similarly, Chapter 60 establishes a structure for the creation and operation of a town sanitary district. Wisconsin law makes special provisions for "lake sanitary districts." These are town sanitary districts which include at least 60% of the shoreline of a lake which does not have a public inland lake district. These lake sanitary districts have both sanitary district and lake district powers. (Lake districts can also obtain sanitary district powers.)

30.50(4q)
Sec. 30.77(3)(am)
60.782

Sec. 33.22(4)

Under the state's broad "intergovernmental cooperation law" (Sec. 66.30 of the Wisconsin Statutes), local units of government can work together to create a lake management structure called an **intergovernmental commission**. City, county, village, town or tribal governments can also deal directly with lake concerns within their boundaries if they are motivated to do so.

What's Best for You? The type of organization best for your lake is determined by many factors: the lake community's long range goals, the number of people living on and using the lake, the size and type of lake, and the degree of urgency of threats to the health of the lake ecosystem. If your agenda is broad and ambitious, the more stable funding of a public organization may be essential.

Leaders of voluntary lake associations are sometimes frustrated by the lack of participation and financial commitment from those living on the lake who aren't involved. In other communities, a voluntary association has genuine advantages over a public one. Voluntary associations may be able to act more quickly than governmental bodies on some issues. In addition, some communities may be willing to support a voluntary organization rather than forming a new unit of government, particularly

one with taxing power. Lakes may have both a voluntary and a public management organization. If you are considering establishment of a lake management organization, the following are some issues and comparisons you might want to consider:

Formation: Lake districts, sanitary districts and commissions are established by orders or resolutions adopted by town, county or village boards or city councils. In some cases, more than one resolution is required. Typically, these lake organizations are formed at the request of interested citizens. In many cases, a formal petition is required. Lake associations are not required to meet any formal requirements to form. Many associations do incorporate under Chapter 181 of the Wisconsin Statutes and opt to meet the standards needed to be eligible for state cost sharing grants.

Powers: Public lake management organizations are governmental bodies. They have elected or appointed leaders and adopt annual budgets. Some may levy taxes, special assessments or other charges to support their operations. Voluntary associations have no powers over their membership or others using the lake; dues are voluntary. Some associations are created mainly for social purposes. Others are highly directed organizations seeking to address issues affecting lakes.

Regulatory authority: None of these organizations have broad regulatory authority. Instead, they rely on the cooperation of general purpose units of government (cities, villages, towns, counties and tribes) to address many of the jurisdictional issues that affect the use of Wisconsin lakes.

A lake district may enact and enforce boating ordinances if the authority is delegated by a local unit of government.

A sanitary district may require the installation and inspection of private sewage systems.

Boundaries: Because public lake management organizations are governmental bodies, they are required to have strictly defined boundaries. The state statutes provide little guidance on the creation of these boundaries for lake districts, sanitary districts or intergovernmental commissions. None is required to include the entirety of a lake, lakeshore, or watershed. All may include more than one lake. In every case, an accurate legal description of the boundary of the proposed district is required. Lake management organizations established as intergovernmental commissions operate in areas deemed appropriate by the governmental units that establish them.

The concept of lake stewardship seems to weaken with increased distance from the lake.

Voluntary lake associations are not required to establish boundaries. Most associations include riparians and those living or owning property on the lake or within a mile of the lake. The concept of lake stewardship seems to weaken with increased distance from the lake.

Geographical Scope: Most of the issues influencing Wisconsin lakes occur in the lake, along the shores or within the lake's watershed. Ideally, a lake management organization should incorporate all of the lands within its watershed. In many areas of the state, watersheds are quite large in relation to the surface water of the lake. Lake district organizers find it politically difficult to include territory miles from the lake even though activities there may impact the lake. Voluntary organizations also have tough going when soliciting membership away from the lakeshore.

Financial Fairness: A public organization is equipped to ensure that the costs of local lake management are equitably shared by those who benefit. Funding for local government commissions comes from the participating local units who also appoint representatives to the governing body of the commission. A voluntary organization obtains its basic financial resources from its members. As a result, the benefits of its work are enjoyed by those who have contributed, and those who have not, alike.

Public Accountability: Public lake management organizations are subject to state laws protecting public access to records, meetings and decision making. All public organizations must give advance notice of their meetings and hold them in public places. Public organizations must make their records available for inspection by any member of the public. This is appropriate, because these organizations raise and expend public funds. Voluntary organizations are not subject to open meeting or public records laws. To be recognized as a "qualified lake association" under Wisconsin law, a voluntary organization must permit any person who lives near the lake to be a member and to vote for the board of directors.

Availability of Funding: Lake and sanitary districts, intergovernmental commissions, "qualified lake associations," "nonprofit conservation organizations," towns, tribes, villages, cities and counties are all eligible to receive matching funds from the State of Wisconsin.

Whether you choose to form a public or voluntary organization, it is possible to create an organization that can address most lake management challenges.

VOLUNTARY LAKE ORGANIZATIONS

The oldest lake management organizations in Wisconsin are voluntary, private citizen associations. These voluntary groups are also the most numerous lake management organizations with nearly 600 in the state. Their diversity is remarkable. Some are very informal neighborhood associations. Others are chartered as nonprofit corporations, exempt from federal income tax and recognized by the State of Wisconsin as **qualified lake associations** and **nonprofit conservation organizations**.

This section describes the various forms of voluntary associations established for the protection and management of lakes. In some communities, voluntary associations operate side by side with public lake management organizations. Most lake organizations share the goals of preserving and protecting their lakes but the abilities, authority and structure of public organizations and voluntary groups can vary greatly.

If it isn't true that "there oughta be a law," then certainly there "oughta be a group."

UNINCORPORATED LAKE ASSOCIATIONS

Associations can be formed for any lawful purpose. Informal lake associations probably rank among the earliest forms of environmental conservation organizations in the state. Some lake associations were formed as a mechanism for lakefront owners to get acquainted, get together and get to know one another better. In time, these social interactions led to programs and projects to protect or maintain lake quality.

These free-form lake associations can structure their affairs as they choose. There really are no special rules governing their structure. Some, but not all, adopt a charter including a statement of the organization's name, its purposes and an outline of the governing structure. Some also adopt bylaws or rules of procedure to govern their operations, set membership dues and provide for an election of a board of directors. Subject to the availability of financial resources, there are many lake management activities that may be undertaken by these associations, some in cooperation with local units of government.

Liabilities: Although they are easy to form, **unincorporated voluntary associations** have some important disadvantages. The first of these is the exposure of their members, directors and officers to financial and tax liabilities. Technically, any organization which is not formally recognized as exempt is subject to federal corporate income tax. For most purposes, unincorporated associations are treated as partnerships, potentially exposing their members to liability in the event of damages resulting from activities of the association that result in injury or loss.

For these reasons, many voluntary lake associations incorporate under Chapter 181 of the Wisconsin Statutes, the Wisconsin nonstock corporation law.

INCORPORATED VOLUNTARY LAKE ASSOCIATIONS

Incorporation of a nonprofit (or "nonstock") corporation is accomplished by the filing "articles of incorporation." The articles set forth the name of the corporation, its purposes, membership provisions (if any), the office address of the corporation and its registered agent, and the names and addresses of the initial board of directors. In addition, the articles may limit the period of the corporation's existence and describe rights and classes of members or directors.

Sec. 181.20, 181.31

Sec. 181.31

Filing

The articles of incorporation are filed in the office of the Wisconsin Secretary of State (attn: Corporations Division, PO Box 7846, Madison WI 53707; phone 608/261-9555) and recorded in the office of the register of deeds of the county in which the corporation's principal office is

Sec. 181.32

located. The filing and recording fees currently total approximately \$50.

By-Laws

After the articles of incorporation have been filed, the initial directors named in the articles of incorporation are required to conduct an organization meeting. At the meeting, the directors elect officers, adopt Sec. 181.34 bylaws and may undertake other business. Typical nonprofit corporations bylaws include provisions specifying all of the operating procedures for the conduct of a corporation's business. They typically provide for membership categories and dues, election procedures for the board of directors, election procedures for officers, rights and qualifications of members, directors and officers, terms of office for directors and officers and other "nuts and bolts" procedures. Some provisions-including rights

Sec. 181.31

and classes of members or the number and manner of selection of directors-may be provided for either in the articles of incorporation or in the bylaws.

Powers

Nonprofit corporations enjoy a wide range of powers under Chapter 181 of the Wisconsin Statutes. These include, for example, the rights to: ----

- acquire property,
- borrow money,
- make contracts,
- sue and be sued,
- invest money,
- make donations for public welfare,
- and other general powers.

Sec. 181.04

Sec. 181.297

Sec. 181.287

Sec. 181.29

Sec. 895.52

Each nonprofit corporation enjoys all of these powers unless it specifically restricts its powers by its articles of incorporation. Nonprofit corporation status provides many benefits to a lake association. Some of the most important of these -relate to -the personal liability of members and officers of the corporation. Under Wisconsin law, volunteers of nonprofit corporations (excluding employees) are "immune" from damages for their actions as a volunteer. There are exceptions from this protection in the case of criminal acts, willful misconduct and other wrongdoing. The liability of nonprofit corporation directors and officers is similarly limited. This too is subject to certain exceptions. For example, directors are liable for the repayment of loans made by a nonprofit corporation to an officer or director, where the director voted in favor of making the loan. Directors are also liable for the payment of federal tax withholding on employee salaries in some circumstances. Wisconsin law also limits the liability of nonprofit corporations who own property used for recreational purposes.

QUALIFIED LAKE ASSOCIATIONS

Since 1989, certain voluntary lake associations have been eligible to receive funds through various state grant programs. Because tax funds are used to support these programs, private lake associations are required to meet specific standards in order to be eligible. Generally, the standards aim to ensure that associations are organized and operated for public benefit and do not unreasonably exclude participation.

Qualifications

In order to be recognized as a state qualified lake association, an organization:

- Must be incorporated under Chapter 181 Wisconsin Statutes. (This is a good idea for other reasons, including the liability of the association and its officers.)
- Declare in its Articles of Incorporation or By-laws that the main reason for being incorporated is to support the protection or improvement of one or more inland lakes for the benefit of the general public.
- Demonstrate that a substantial purpose of its past actions was to support the protection or improvement of one or more inland lakes for the benefit of the general public.
- Allow any individual to be a member who resides within one mile of the lake at least one month each year.

Sec. 181.610)

- Allow any individual to be a member who owns real estate within one mile of the lake.
- Not limit or deny the right of any- member or class of members to vote.
- Be in existence for at least one year.
- Have at least 25 members.
- Require annual membership fees of not less than \$10 nor more than \$25.

Grants

Sec. 144.253

Qualified lake associations are eligible to receive state grant funds for certain projects under the Lake Management **Planning Grant Program**. They are also eligible to receive state matching funds under the Lake Management **Protection Grant Program**. Qualified lake associations are also eligible for grants for certain recreational boating projects, including the purchase of capital equipment for aquatic plant harvesting, for public boat launch facilities and navigation buoys.

Sec. 144.254

Sec. 30.92

NONPROFIT CONSERVATION ORGANIZATIONS

Sec. 23.096

Wisconsin law also recognizes certain nonprofit conservation organizations. These "NCOs" are eligible to receive funds under the Lake Management Grant Program and under the state Stewardship Fund Program.' Under both of these programs, the DNR can award matching grants to these organizations for certain land or conservation easement purchases and for some habitat restoration activities. Lake associations (whether incorporated or not) can qualify as NCOs if their purposes include the acquisition of land for conservation purposes and if they are recognized as federal tax-exempt organizations under section 501(c)(3) of the Internal Revenue Code.

FEDERAL TAX EXEMPT STATUS

Many people confuse **nonprofit** with **tax exempt** organizations. Not all nonprofit, public benefit corporations are exempt from federal or state income tax. Since 1969, no organization (other than a government unit) is exempt from federal income tax unless and until its status is formally recognized by the Internal Revenue Service. Governmental

units, including lake districts, enjoy the advantages of being exempt from federal income tax automatically. They don't need to demonstrate their qualifications as all private organizations must.

Federal tax-exempt status provides several advantages:

- The organization is not subject to federal and state income tax.
- Qualifying tax-exempt organizations are eligible to receive tax deductible gifts.,
- Tax-exempt organizations can obtain bulk postal rate privileges.
- Because most foundations are also tax exempt organizations, they are barred from awarding grants to groups not recognized as tax exempt.

Although there are various types of tax exempt organizations, a typical lake association would seek that status as a "charitable, scientific or educational" organization under **Section 501(c)(3) of the Internal Revenue Code**. To qualify as an exempt organization under Section 501(c)(3) an organization must be organized and operated exclusively for "exempt purposes." These may include scientific, educational and charitable activities. Water pollution prevention and control, land protection and other activities of many lake associations are considered "charitable" under federal tax law. The IRS has specifically recognized that an organization formed to preserve a lake as a public recreational facility and to improve the condition of the water in the lake is operated exclusively for charitable purposes.

Exempt organizations are also subject to important limitations on their activities under Section 501(c)(3). The IRS requires that these specific limitations on powers be included in the organizations Articles of Incorporation or other charter. The most important of these are:

(1) No part of the net income or earnings of the organization may be distributed to any director, member or other individual. (This does not prohibit compensation for services performed.)

(2) Exempt organizations may not engage in political activity and are sharply limited in their authority to undertake lobbying activities.

To complicate things further, not all section 501(c)(3) organizations are created equal. Federal tax law makes a distinction between "private foundations" and publicly supported charities. Both are exempt from taxation, but public charities offer donors greater tax benefits. In general, an organization is considered to be publicly supported if it normally receives at least one-third of its total support from the combination of

government or public contributions. The law on exempt organizations, including private foundation determination, is arcane and rife with traps for the unwary. This section is not intended to go beyond a very general description of these provisions.

In order to obtain exempt status under Section 501(c)(3), 'an organization is required to file IRS Form 1023 and related schedules and exhibits, copies of the organizations Articles of Incorporation and Bylaws, financial records including a two year budget for new organizations and other materials. These documents are intended to explain the organization's proposed activities to demonstrate that it meets the requirements for exemption. Wisconsin organizations file these papers with the IRS Exempt Organization Office in Chicago.

From the date of filing, it typically takes about six months to obtain a determination letter. The IRS review is quite detailed, and the Service will usually return an incomplete or improperly prepared application, rather than to request specific modifications. A **determination user fee** is payable at the time the application is filed. These user fees range from \$150 to \$500 depending on the expected annual receipts of the applicant organization.

Some organizations recruit volunteers to develop the incorporation papers and exempt status applications; others obtain professional assistance from an experienced attorney or accountant. Attorneys fees may range from \$800 to \$1500 to establish a nonprofit corporation, prepare the application materials and obtain federal tax-exempt status.

PULLING IT ALL TOGETHER

Voluntary lake associations in Wisconsin have tremendous opportunities to address lake and watershed management issues. The Wisconsin Legislature has consistently recognized their potential by making qualified lake associations and nonprofit conservation organizations eligible for cost sharing funds and other state assistance. Federal tax exempt status makes contributions to lake associations deductible and helps win support from businesses, individuals and foundations.

Where a voluntary association has an ambitious agenda, it can organize in such a way as to qualify as tax-exempt and meet the qualifications as an NCO and a qualified lake association. Where an organization plans extensive political and lobbying activities, exempt status should not be sought. If the requirements for a qualified lake association are not accepted by the organization, it is still worthwhile to incorporate.

LAKE DISTRICTS

Organizing Lake Districts

The lake district has become the dominant type of public lake management organization in Wisconsin. Lake districts have a

unique blend of powers and governance provisions tailored to fit the needs of lake communities.

Districts may be formed under state law to undertake protection, rehabilitation and recreational improvement of public inland lakes. Public inland lakes are defined as those lakes, reservoirs or flowages within the boundaries of the state which have public access. The access need not be developed with docking, launching or parking facilities. If a public user can reach the lake without trespassing on private land, the lake is a public inland lake.

Sec 33.01(8)

General Principles on Boundaries

The law does not provide any guidelines on boundaries for lake districts. The district must have some relationship to a lake, but it may include part of a lake, the whole lake or more than one lake.

The initial decision on the proposed boundaries of a lake district is made by the organizers. The final decision is made by the county or town board or municipal council which creates the -district.

Approval of the city council or village board is required before any portion of a city or village is included within the boundaries of a proposed lake district. A city council or village board has discretion to include the whole municipality or only the part of it.

Sec. 33.24

District Size

A larger district is able to spread costs over a larger tax base and include more of the land areas that affect the lake. A large district may also mean more difficulty in organizing and reaching consensus on issues. A smaller district may not include all of the areas affecting the lake, but is typically easier to organize.

The tax listing office in your county courthouse maintains large scale maps showing tax parcels and is a good place to start to develop a proposed district boundary. Your county Land Conservation Department may be able to help sketch a map of the lake's "watershed" or drainage basin.

Years of experience have lead to these suggested guidelines to assist in setting boundaries:

- O The entire lakeshore should generally be included, especially if the district intends to regulate lake use.
- O Include all riparian property, since all property on the lake will be benefitted by a better lake.
- O Include property which is not on the lake but its use is benefitted by the proximity of the lake (subdivisions, recreation-oriented businesses, etc.).
- O Include areas that directly affect the lake (as much of the watershed as logistically and politically feasible).
- O Include all of the territory to be included in any proposed service area (for example, where sewer or water utility service is contemplated).
- O Include entire parcels of land as they are listed on the tax roll. These parcels are whole quarter-quarter sections of land ("forties") or lots created by platted subdivision or survey. (This is necessary, since taxes and special assessments must be levied on whole tax parcels. There is no mechanism to allocate tax on a parcel which is only partly within the district.)
- O All parts of the district should be connected by land or water. The district should not contain territory surrounded by the district but not within its borders (holes in the district).



FORMATION

Lake districts may be formed under the law to undertake protection and improvement of public inland lakes.

A lake district can be formed in any one of three ways:

- By landowners petition to the county or town board.
- By resolution of a city council or village board (33.01(8)).
- By conversion of a town sanitary district.

O A lake district may be established which includes portions of more than one town or county.

O Where a single town, city or village is involved, their board or council may establish the district.

O Where more than one town, city or village is involved, the county board is required to establish the district.

O Where more than one county is involved, the county with the largest portion of equalized assessed valuation is responsible for consideration of the formation of the district.

Sec. 33.37

DISTRICTS CREATED BY PETITION TO THE COUNTY OR TOWN BOARD

When to Use

Sec. 33.24 and 60.71(1)

Other than a district created by a city or village, a lake district can only be initiated with a petition from property owners within the boundaries of the proposed district. A town board may create a lake district if all of the lake frontage and all of the land within the proposed district lies within that single town. Otherwise, the county board is responsible for acting on the petition. A petition may be addressed to the county board even if the entire district lies in a single town.

The Petition

Content of Petition

Sec. 33.25

A petition to form a lake district must set forth:

- o* The proposed name of the district.
- o* A statement on the necessity for the proposed district.
- o* A statement that the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district.
- o* A statement that the lands to be included will be benefitted by such establishment.
- o* A plat or sketch indicating the approximate area and the boundaries of the district.
- o* A legal description of the boundaries of the district included in the proposed district.

Who Signs the Petition?

The petition should also include signature lines for the landowners and must be verified by one of the petitioners. The petition may be reproduced on several separate sheets for convenience in circulation.

In order for the town or county board to create the lake district, the petition must be signed by either:

- o* 51 % of the owners of land within the proposed district, or
- o* the owners of 51 % of the land area within the proposed district.

Although a larger percentage of petitioners is helpful in winning the support of the town or county board, fifty-one percent is the legally required minimum. The purpose of the petition is to determine whether a critical mass of owners support the formation of the district.

Only certain **owners of land** are qualified to sign a lake district petition. First, each person whose name appears as an owner of real property on the previous year's tax roll is qualified to sign. In addition, the spouse of a person named on the tax role is-eligible to sign the petition, provided that the spouse is "referred to on the tax roll." For example, a tax roll entry such as "John Smith and wife", "Mr. and Mrs. John Smith", or "John Smith *et ux.* " would make both Mr. and Mrs. Smith eligible to sign the petition. However, if the tax roll only identifies the owner as "John Smith" or "Mary Smith", the spouse who is neither named nor referred to may not sign the petition even if he or she has an ownership interest in the property. Ownership of more than one parcel of real estate within the proposed district does not entitle the individual to sign more than once. A partnership, corporation, trust, association or local unit of government is a single owner of property entitled to one petition signature.⁴

When a petition is presented which includes signatures of at least 51 % of the owners or the owners of 51 % of the land within the proposed district, the board must consider and act on the petition. Although it is not legally required, each individual signature on the petition should be dated. The petition is presumed to be signed by the person whose signature appears. It does not matter whether the qualified signers move out of the district or are not living when the petition is considered.

An Alternative

See. 33.25

As an alternative to obtaining the signatures of individual owners of land, city councils and towns and village boards may by resolution represent all persons owning lands within those jurisdictions and sign the petition on behalf of all qualified landowners.

Verification of the Petition

One of the signers must verify that the petition and the signatures are true and correct to the best of his or her knowledge and be signed under oath in the presence of a notary public. The Wisconsin Court of Appeals upheld the following verification to a lake district petition:

(Name), being duly sworn, states that he/she is the person described herein. This is to certify that the signatures on the petition attached hereto are true and correct to the best of his/her knowledge.

The verification must be reproduced on each sheet of the petition. The same person should verify all petitions. This person need not be present when each signature was given but should have been in charge of the petition drive and should have directly received petitions sent through the mail.

Presumption

Every petition is presumed to have been signed by the person whose

Sec. 33.25(4)

signature appears on it, until proven otherwise.

Filing the Petition

Sec. 33.265

After it has been circulated and verified, the petition is filed with the county clerk, or town clerk if the petition is being considered by the town board of supervisors.

Withdrawing from a Petition

Sec. 33.25(5)

A person who has signed a petition may withdraw from the petition by filing a written notice of withdrawal with the county clerk at least ten days before the hearing on the petition. A withdrawal, like the original petition, must be verified.⁷

Consideration of the Petition

Sec. 33.26

The county (or town) board is required to appoint a committee to conduct a public hearing on the formation of a proposed lake district. The hearing must be held within 30 days of the filing of the petition. Any person is entitled to appear at the public hearing and testify on matters pertinent to the formation of the proposed lake district. In addition, any person opposing the organization of the district may file objections with the county clerk (or town clerk) prior to the date of the hearing.

Notice of Hearing

Sec. 33.26(1)

A notice of the hearing, including a legal description of the boundaries of the proposed district, must be published once by the board in a newspaper in general circulation in the area.

Sec. 33.26(2)

Some boards publish a map showing the proposed boundaries, although this is not required. The notice must also be mailed by the board to the last-known address of each landowner within the proposed district. Finally, the town or county clerk must provide written notice of the hearing to the Department of Natural Resources.⁸

Sec. 33.26(5)

Report of Hearing

Sec. 33.26(3)

Within three months after the date of the hearing, the committee is required to report its findings to the board. Typically, these committee reports identify the time, date and place of the hearing; include information on persons who attended or testified at the hearing; describe written comments received from residents and other persons; and set forth the committee's findings and recommendations to the board on the petition.

Sec. 33.26(3)

Not more than six months after the date of the hearing, the board is required to issue an order granting or denying the petition to form a lake district. The board should take into consideration the committee's report and other evidence relevant to the findings it is required to consider.

**The board is required to make formal findings
based on the following five criteria:**

Sec. 33.26(6)

1. **The petition is signed by the requisite number of owners;**
2. **The district is necessary;**
3. **The public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district;**
4. **The property included in the district will be benefited by the district's establishment; and**
5. **The formation of the district will not contribute to long-range pollution.**

Sec. 33.26(3)

The property to be included in the district can only be included if it will be benefitted by the district. The Wisconsin courts have broadly interpreted the requirement that land "benefit" by being included within a proposed district. Where the lands proposed to be included within the district will benefit as a whole the district can be formed.' The courts have also recognized the watershed boundary as an element of determining "benefit. " It is not required that each individual parcel of land be benefitted or be located in the watershed. The board need not examine parcels individually. Parcels of land need not be excluded because the owner objects to inclusion.¹⁰

**Boundary
Changes**

Sec. 33.26(6)

In issuing its order creating the district, the board may reduce the boundaries from those originally proposed. However, new lands may not be added unless another public hearing is held. Owners of the property in the proposed addition must be notified. Changes can only be made at the edge of the district. Deletions should not create holes in the district and noncontiguous property should not be added.

**Adopting and
Filing the Order**

Sec. 33.26(5)

If the board finds that the proposed district meets the five criteria, it is required to adopt a formal order which declares its findings, establishes the district's boundaries, gives the district a name and declares it organized. Upon adoption of the order, the district formation is legally complete. After adoption, a copy of the order should be filed by the initial district board of commissioners with the Wisconsin Department of

Revenue¹¹, the Wisconsin Department of Natural Resources and with the Register of Deeds for each county in which the district is located. The county clerk should notify the city; village or town with the largest assessed value of property within the district of its obligation to appoint a representative to the board of commissioners. In addition, the board must appoint initial commissioners.

Denying the Petition

If the evidence does not support the formation of a lake district, the board is required to issue an order stating why it is denying the petition. The board's order should specifically state why the lake district could not be formed.

Sec. 33.26(4)

Appeal

Any person aggrieved by the board's action may petition for circuit court review within thirty days after the board's decision.

Sec. 33.26(7)

DISTRICTS CREATED BY CITY COUNCIL OR VILLAGE BOARD

A city or village may establish a lake district by a simple resolution, provided that the district boundaries are all within the city or village and include all of the frontage of the lake within this state. A petition of property owners is not required for the creation of a district by a city council or village board. The resolution is adopted in the same manner as other municipal business and is subject to the general rules affecting the conduct of municipal affairs. The law does not require a public hearing in connection with such a district. However, most municipalities have scheduled a public hearing on creation of a lake district in order to provide an opportunity for public comment in the interest of fairness and open government.

Sec. 33.23(1)

A district established under this section is governed by the city council or village board which establishes the district. The city council or village board is required to establish a separate board of commissioners for such a lake district if a petition signed by at least twenty percent of the owners of property in the district request the commission form of governance for the lake district. Upon presentation of such a petition, an election must be held at the next annual or special meeting of the district, whichever occurs first.

Sec. 33.23(3)

Conversion of a Town Sanitary District

By Town

Sec. 33.235(1)

The law also allows formation of a lake district by conversion of an existing sanitary district which encompasses all-the frontage of a lake. Although a lake district may not be created except on a lake which includes contiguous public land or deeded public access, there is no such restriction on the creation of a town sanitary district. Similarly, a town sanitary district may be converted to a lake district, whether the affected lake includes legal public access or not. The town board which created the sanitary district may, by resolution, convert the sanitary district to a lake district with the same boundaries. If more than one town is involved, the conversion can be made by the town in which the largest part of the district lies, based on equalized value. The lake district automatically assumes all the rights and liabilities of the sanitary district.

By County Board

Sec. 33.235(2)

Sanitary districts which do not encompass all the frontage of a lake may be converted by the county board. Commissioners of such a sanitary district may (with approval of the town board) petition the county board and sign for all landowners within the sanitary district. The granting of this petition automatically converts the sanitary district into a lake district, but the method of apportioning the rights and liabilities of the sanitary district within the new lake district must be set out in the county board order creating the district. The new district would include the existing sanitary district and may- include additional territory not included in the existing sanitary district.

Merging with Town Sanitary District

Merging Districts

Sec. 33.235(3)

Town sanitary districts having boundaries partially overlapping or bordering a public inland lake protection and rehabilitation district may merge into the lake district. Merger is achieved by approval of an identical merger resolution by a two-thirds vote of the commissioners of each district, followed by ratification by a majority of those voting at an annual or special meeting of a lake district and a majority of those voting in a referendum of the town sanitary district. The merger becomes effective when the town board which created the sanitary district approves it. The commissioners of each district act jointly until the next annual or special meeting (whichever occurs first) of the district. Then the board of the merged (new) district is created and starts its business subject to statutory requirements. All the rights and liabilities of the existing districts are automatically assumed by the merged district. The method of discharging these rights or obligations must be set out in the merger resolution.

Organizing Districts Across County Lines

When the proposed district lies in more 'han one county' the law gives jurisdiction to the- county with the highest equalized valuation within the proposed district. While it is possible to form separate districts and potentially merge them at a later date the procedure can be streamlined with a single petition to the county board with jurisdiction, which is the county with the largest valuation in the proposed district.

Sec. 33.37 (2)

POWERS OF PUBLIC INLAND LAKE PROTECTION AND REHABILITATION DISTRICTS

A public inland lake protection and rehabilitation district is a special unit of government designed to deal with lake management issues. It is not a general purpose unit of government like a town or county that must deal with a broad range of issues ranging from fire protection to road repairs.

Sec. 33.11

A lake district is empowered to operate on its own initiative, independent of its creating entity and the state, but subject to local ordinances and state law. Lake districts can act in concert with other municipalities to undertake lake protection and rehabilitation projects.

Sec. 33.22 (1)

General Management Powers : Lake districts can operate in a wide variety of lake management activities such as:

- evaluate lake management issues,
- carry out solution to lake management issues,
- develop long range lake management plans,
- undertake projects to enhance recreation,
- monitor water quality,
- cooperate with non-profit organizations on projects,
- operate water safety patrols,
- control erosion,
- survey lake users, local citizens and property owners,
- aerate the lake,
- harvest or treat aquatic plants,
- divert nutrients/dredge, or
- construct and operate dams.

As a **body corporate**, a lake district has broad powers to carry out these lake management functions. These include the power to:

Sec. 33.22(2)(m)

- sue and be sued,
- make contracts,
- accept gifts,
- create, operate and maintain water safety patrols,
- accept grants and state aid,
- purchase, lease, devise or otherwise acquire, hold, maintain or dispose of property,
- disperse money,
- take out loans,
- allocate money for the conservation of natural resources beneficial to the district (payment can be made to a nonprofit organizations),
- do any other acts necessary to carry out a program of lake protection and rehabilitation, and
- levy taxes, special assessments and special charges.

Sec. 33.22(1)

ASSUMPTION OF THE POWERS OF A TOWN SANITARY DISTRICT

Public inland lake protection and rehabilitation districts are also permitted to exercise certain powers of sanitary districts. These powers include the authority to plan, construct and collect charges for the following:

Sec. 33.22(3)

- a system of water supply;
- solid waste collection and disposal; and
- sewer service.

These powers also give authority to:

- Perform related activities and improvements necessary for the promotion of the public health, comfort, convenience, or welfare of the district;
- Provide chemical or mechanical treatment of waters for the suppression of swimmers' itch, algae and nuisance plants;
- Require the inspection of private sewerage systems for compliance with state plumbing code;

- Provide financial assistance for the replacement of failing private sewerage systems; and
- Levy special assessments to finance capital projects.

Sec. 60.77(6)(b)
 Sec. 33.22(3)(a)
 Sec. 33.22(3)(b)
 Sec. 33.22(3)(a)2
 Sec. 33.22(3)(b)2

A lake district may not assume the power to levy town sanitary district taxes.

A lake district can assume only the powers of a sanitary district authorized by the annual meeting.

ENACTMENT AND ENFORCEMENT OF LAKE USE ORDINANCES

Adoption of Lake Use Ordinances

Sec. 30.77(3)(am)

Sec. 30.77(3)(am)3r

A lake district may enact and enforce a local boating ordinance affecting the entire lake if the authority to regulate lake use is delegated to a public inland lake district by at least 50% of the towns, villages, and cities having frontage on the lake, provided that the delegating unit's boundaries include at least 60 % of the lake shoreline. The lake must also be entirely in the district boundaries. Ordinances adopted by a lake district supersede conflicting town, village or city regulations on boating regulations. A lake district's authority to adopt and enforce boating ordinances can be lost if a number of towns, villages or cities rescind their delegating resolution so that the authority is delegated by fewer than 50% of the units of government or by fewer units than would have jurisdiction over 60% of the lake shoreline.

Before a local boating ordinance is enacted, the statutes direct lake districts to take into account various factors in developing local boating ordinances including the extent of congestion, the environmental features of the lake, the size and shape of the lake, and the extent of conflict among boat users.

Local boating regulations are limited by state law. These ordinances may not be contrary to or inconsistent with the provisions of Ch. 30 of the Wisconsin Statutes relating to navigable waters. Local boating ordinances may include restrictions on speed, types of boating activities in specific locations or at least specific times of day or days of the week.

Sec. 30.77(3)(cr)

DNR Advisory Review

Sec. 30.77(3)(d)

In addition, at least 60 days before it takes effect, a proposed local boating ordinance must be submitted to the Wisconsin Department of Natural Resources for advisory review. Within 20 days of submission, the DNR is required to advise the lake district as to the results of its review.

Before a local boating ordinance is enacted, the district is required to conduct a public hearing on the proposed ordinance which must be published as a Class I notice at least 30 days before the hearing. Upon final action, the ordinances are to be posted at all public access points within the district and filed with the Department of Natural Resources. Notice of the hearing must also be provided to the Department of Natural Resources, each municipality having jurisdiction over the lake and any lake association on the lake.

Sec. 30.77(3)(aw)

Lake districts may enact ordinances pertaining to:

- The regulation of equipment, use, operation or inspection of boats, personal watercraft, skin diving, waterskiing, or to an activity regulated by Sec.30.60 to 30.71;
- The regulation of boats and other craft, including:

landing and taking off of aircraft (a strip may be designated or their use on the lake can be prohibited), and
travel across ice-bound lakes by snowmobiles and other motor vehicles.

Sec. 30.60 to 30.71

The state constitution and statutes limit local authority to regulate boating on public waters. Inland lake districts and lake sanitary districts, like other local governments, may use citations for violations of ordinances. Citations may be issued by law enforcement officers employed by the lake district.¹²

Boat Patrols

Sec. 33.22(2m)

Sec. 30.81

Sec. 30.81(3)

Even without delegation to adopt boating ordinances, all lake districts may operate water safety patrols to enforce the state boating laws. A lake district may also enforce lake use ordinances adopted by the county or by all towns, villages or cities on the lake. If neither the lake district nor town, city or village has adopted a valid ordinance for regulation of vehicles or other craft on ice bound lakes, the county may do so. The enactment of ordinances permitting traffic on icebound inland water does not render the lake district liable for any accident occurring on the icebound water. All traffic on icebound inland waters is at the risk of the travelers. Lake districts are eligible for state aid when operating water safety patrols.

Districts should retain an attorney when adopting and enforcing lake use regulations. They should also contact their DNR Law Enforcement Safety Specialist.

GOVERNING A LAKE DISTRICT

The authority to govern a lake district is shared by the board of commissioners and the annual meeting. The board of commissioners has general responsibility for conducting the business of the district. The residents and property owners of the district set the annual budget and thereby determine major policies at the annual or special meetings.

Sec. 33.28

INITIAL BOARD OF COMMISSIONERS

If Created by County Board

①
②
③

Sec. 33.27(1)

Sec. 33.27(2)

Sec.
33.28(2m)(b)

④
⑤

When a district is formed by a county board, the board is responsible for appointing four of five members of an initial board of commissioners which operates the district until the first annual meeting. Three of these must be owners of property within the district, at least one of whom must be a resident of the district if one is willing to serve. If no resident is willing to serve, this requirement is waived. The county board must appoint a member or nominee of the county's Land Conservation Committee as the county board's appointee. Within thirty days after the county board order establishes the district, the governing body of the city, village or town with the largest valuation of property within the district is required to appoint the fifth initial commissioner. Except for the nominee of the Land Conservation Committee and the town, city or village appointee, the terms of these initial commissioners expire at the first annual meeting of the district.

Sec. 33.27(3)

The initial board of commissioners is required to hold an organizational meeting not more than 60 days after the adoption of the order establishing the district. If the board's order is challenged in court, the organizational meeting may be postponed to a date not later than sixty days after the final judgment in any such appeal. At the organizational meeting, the initial board of commissioners elects officers and commences conducting the affairs of the district.

Sec. 33.27(4)

The initial board of commissioners is authorized to make an assessment of all taxable property within the district to pay organizational costs and to operate the district until the receipt of the tax voted by the first annual meeting.

BOARD OF COMMISSIONERS

If Created by Town, Village or city

Sec. 33.23

When a lake district is formed by a city, village or town, the town or village board or city council serves as the board of commissioners. However, a citizen petition for an elected board requires the municipal governing body to convert to that form of governance. Twenty percent of property owners must sign the petition for self governance.

If Created by County Board

At the first annual meeting of the county-formed district, the legal residents and property owners, by secret ballot, elect commissioners to succeed the initial board appointed by the county board.¹³ While the board generally includes three elected commissioners, the annual meeting is empowered to permanently increase the number of elected commissioners to five. In addition to these elected representatives, the permanent board of commissioners includes an appointee of the city, village or town within the district with the largest equalized valuation and a nominee of the Land Conservation Committee appointed by the county board.

*3 up to
5 elected
commissioners*

↳ { JESS TIMMONS
4 715. 485. 8699

Qualifications of Commissioners

Each elected commissioner must be a U.S. citizen eighteen years of age or older, and either:

- a resident elector¹⁴ of the district, or
- an owner of property within the district.¹⁵
- At least one commissioner must be a resident, unless no resident is willing to serve. A person who is an official representative of an organization which is an owner of property may hold office as a commissioner even though that person, as an individual, might not own property within the district.

Sec. 33.01(9)

Sec. 33.28

Sec. 33.285

Terms of Commissions

The members of the board of commissioners appointed by the county or by the city, town or village serve at the pleasure of the appointing authority. Their terms end when their successors are appointed.

Sec. 33.28(2)(c)

Sec. 33.28(7)

The elected members of the board of commissioners serve for staggered three year terms. A vacancy in the membership of the elected commissioners is filled by appointment of the district chairperson, subject to approval by the majority vote of the board.

Powers And Duties Of The Board Of Commissioners

Sec. 33.29

The board of commissioners is broadly responsible for the development and conduct of a lake protection and rehabilitation program.

Examples of Board of Commissioner duties include:

- Clarifying goals and identifying lake issues.
- Initiating and coordinating research and surveys to collect data on the lake and its watershed.
- Carrying out the programs adopted in the annual budget by the annual meeting.
- Cooperating and building working relationships with local units of government for the purpose of preserving and protecting the lake.
- Maintaining liaison with officials of state government.

Sec. 33.28(1)

Except for powers reserved to the annual meeting, all of the powers of the lake district are exercised by the board of commissioners.

Sec. 33.22(3)(b)

Where sanitary district powers have been assumed by a lake district annual meeting, those powers are also exercised by the board of commissioners.

Audit

Sec. 33.29(2)

The board is required to have an audit of the financial transactions of the district prepared at the close of each fiscal year which must be presented and submitted to the annual meeting. The law does not specify further requirements for this audit which may be performed by an accounting firm or by an internal committee.

> Audit

Members of the board of commissioners are entitled to be reimbursed for their actual expenses and may be paid such additional compensation as is approved by the annual meeting.

Sec. 33.28(5)

Officers

Sec. 33.29(3)

Immediately following each annual meeting, the board of commissioners is required to elect three officers: a chairperson, secretary and treasurer. The chairperson is the presiding officer of the board and presides at all meetings of the board of commissioners and at the annual and special meetings. The secretary keeps minutes of all meetings of the

district and is directed to notify the Department of Natural Resources annually of the continued existence of the district. The treasurer is responsible for the receipt of monies due to the district and the payment of district liabilities upon order of the board of commissioners.

Board Meetings and Records

Sec. 33.28(6)

Sec. 33.28(3)

The law directs the board of commissioners to meet at least quarterly. The chairperson or any three commissioners may call meetings at other times. Three commissioners constitute a quorum to conduct business on behalf of the board of commissioners. The annual meeting itself doesn't count as one of the four meetings required of the board of commissioners; they may meet before or after the annual meeting, but it must be a separate meeting.

ANNUAL AND SPECIAL MEETINGS

Sec. 33.30(1)

Every lake district, regardless of how it was formed, must hold an annual meeting of electors and property owners. The first such meeting must be held between May 22 and September 8. Subsequent annual meetings must be held during the same time period, unless the preceding annual meeting sets a different date. The statutes do not specify the location of the meeting; however, meetings should be held in an accessible public place.

NOTICE

Sec. 33.30(2)

Sec. 19.84

Sec. 33.35

Written notice of the annual meeting must be mailed at least ten days in advance of the meeting to all residents and property owners within the district. As an alternative to sending written notice to resident electors, the district may publish notice of the meeting in two successive issues of the local newspaper. The district is required to use "reasonable diligence" to ascertain mailing addresses. Most districts use the tax roll as the mailing list for property owners and use published notice to inform other electors. Notice of the meeting should include the time, date, place and subject matter (agenda) of the meeting and may include notice of the hearing on the proposed budget and a budget summary. Certain actions must be specifically noted in the meeting agenda. These include any proposal to dissolve the district and authorization to borrow money. In addition, the district is directed to mail notice of the annual meeting to the Wisconsin Department of Natural Resources. There is no quorum requirement for the annual meeting.

CONDUCTING THE MEETING

The chairperson of the board of commissioners presides at the annual and special meetings and sets the agenda. A typical-annual meeting agenda would include:

- call to order;
- minutes of previous annual meeting;
- treasurer's report;
- chairpersons' reports;
- budget and tax levy;
- election of commissioners;
- new business;
- adjournment.

Rules of Procedure

Most districts follow Robert's Rules of Order to conduct their deliberations. Some districts have adopted bylaws or rules of procedure in addition to Chapter 33, others just use Chapter 33 as their guide. Bylaws are not required but compliance with Chapter 33 is essential. In case of a conflict between bylaws or other rules of order and Chapter 33 (or another state statute), the statute controls.

VOTING

All district resident electors who are U.S. citizens over 18 years of age ("the electors") are qualified and entitled to vote at the annual meeting of the district. In addition, nonresident property owners who are U.S. citizens 18 years of age or older are entitled to vote at the annual meeting.

Sec. 33.30(3)

For purposes of voting at a lake district annual meeting, an owner of property includes:

Sec. 33.01(9)(b)(1)
Sec. 33.01(9)

- A person whose name appears on the tax roll.
- A person who owns title to real property even though the person's name does not appear on the tax roll.
- A person who is the official representative of a trust, foundation, corporation, association or other organization that owns real property within the district.

To Determine Qualifications for Voting

In order to determine the qualifications of voters, the district should obtain a copy of the tax roll and have it available at the annual meeting. Eligible voters can be checked off as they arrive and given a colored card or other identification to indicate their qualification to vote. Persons whose names appear on the tax roll are qualified to vote. If a person is not named on the tax roll, it is up to that person to provide evidence to the district that he or she is an owner of property or a designated representative of an organizational property owner. Wisconsin law does not define what evidence of ownership is sufficient for a person not named on the tax roll or for an official representation of an organization owner of property to prove ownership. Some lake districts require prospective voters who are not named on the tax roll to provide either: (1) a copy of a deed indicating ownership of the property or (2) a letter on the stationery of an organization owning property which clearly authorizes the person to vote on behalf of that organization. Notification of the district's policy regarding proof of eligibility to vote should be included in the notice of the annual or special meeting.

Each qualified voter is entitled to one vote. Ownership of more than one parcel of real estate within the district does not entitle the owner to more than one vote. Corporations, government bodies and other organizational owners are treated as a single owners with one vote.

POWERS OF THE ANNUAL MEETING

Mandatory Power

The lake district law specifies two mandatory agenda items at the annual meeting. The annual meeting must:

Sec. 33.30(3)(a)

- elect one or more commissioners to fill vacancies occurring in the elected membership of the board by secret ballot, except in districts where the town board, village board or city council serves as the commissioners; and
- approve a budget for the coming year.

Additional Powers

In addition to these required actions, there are several other powers that the annual meeting is authorized to take in its

discretion. These include:

Sec. 33.30(3)(c)

- To vote a tax on all taxable property within the district. Except for tax levied to repay authorized borrowing, and taxes levied for "capital costs," the annual meeting may not vote a tax exceeding 2.5 mils (\$2.50 per \$1,000 of equalized value of property).

Sec. 33.31(4)

- Approve borrowing.

- Sec. 33.35* - Dissolve the district.
- Sec. 33.28(2m)(4)* - Permanently increase the number of elected members of the board of commissioners from three to five.
- Sec. 33.22(3)(b)* - Authorize the assumption of sanitary district powers.
- Sec. 33.22(4x)* - Appropriate money for the conservation of natural resources or for payment to a non-profit organization for the conservation of natural resources within the district or beneficial to the district.
- Sec. 33.30(4)(4)* - Create a non-lapsable fund to finance specifically identified capital costs.
- Sec. 33.30(4)(c)* - Establish any compensation to be paid to the district board of commissioners.
- Sec. 33.30(1)* - Change the annual meeting date.

Even though these are discretionary powers, they are reserved to the Annual Meeting. These actions cannot be taken by the Board of Commissioners unless the Annual Meeting has approved.

SPECIAL MEETINGS

In addition to convening at the annual meeting, the electors and property owners may conduct business at special meetings. Any action that can be taken at an annual meeting may be taken at a special meeting except as follows:

- No motion to consider the dissolution of the district may be taken up at a special meeting.
- The annual budget may not be approved at a special meeting (although it may be amended).
- The special meeting may not consider any matter that was resolved during any other special meeting held since the previous annual meeting.

Sec. 33.305 A special meeting may be called at any time by a majority of the board of commissioners. In addition, the board is required to schedule a special meeting if at least ten percent of the persons qualified to vote at the annual meeting so request.

OPEN MEETINGS LAW

The Wisconsin open meetings law applies to all meetings of lake district and sanitary district commissioners (this includes telephone conference calls and informal meetings).¹⁶ The open meetings law has two basic requirements:

Sec. 19.83

- 1) advance public notice of each meeting must be given, and
- 2) all business must be conducted in open session (unless an exemption applies).

The board chairperson is responsible for giving notice of every meeting to any member of the news media that has requested such notice in writing, and the official newspaper or other news medium likely to give notice if no official paper exists, and by posting the notice in three places likely to be seen by the general public."

Sec. 19.84

Public notice must be given at least twenty-four hours in advance of the meeting, unless for good cause such notice is impossible, in which case notice must be given no less than two hours prior to the meeting.

Meetings of the board must be held in a place which is reasonably accessible to all members of the public. Meetings must be open to all citizens at all times unless an exception applies.

While the open meetings law grants citizens the right to attend and observe meetings of the board of commissioners, it does not grant citizens a right to participate in those meetings." The board is free to determine for itself whether to allow citizen participation. The board is required to keep minutes for each meeting which include a record of motions and roll call votes. All records of the district must be available for public inspection.

Sec. 19.88(3)

Sec. 19.21

CHANGING LAKE DISTRICT BOUNDARIES

Attachment

Districts do not have the legal power of annexation. However, contiguous territory may be attached in one of two ways:

Sec. 33.33(2)

- A landowner may request attachment and may be accepted by majority vote of the commissioners.
- The commission may initiate attachment proceedings by notifying owners and petitioning the county board. The county board proceeds with notice, hearing, and decision in the same manner used to establish the districts. The same rights of appeal would also apply.

Detachment

Upon petition of a landowners or motion of the commissioners, territory may be detached from a district. The commissioners may detached territory after finding that it is not benefitted by continued inclusion in the district. The board decision can be appealed. The commissioners have full discretion regarding the granting of a petition for detachment. Detachment should not create a hole in the district. Financial hardship is not considered a criterion for detachment. Benefit may be determined broadly.

Sec. 33.33(3)

Dissolution

An existing district may be dissolved. The issue of dissolution can be placed on the agenda in one of the following ways:

Sec. 33.35

- A majority vote of the members present at the previous annual meeting.
- Unanimous vote of the commissioners.
- Notification of the commissioners by an individual voter at least 90 days prior to the annual meeting.

The notice of the annual meeting must include a statement that a petition to dissolve the district will be considered. **A two-thirds vote of the electors present at the annual meeting is required to petition the county board for dissolution.** The county board may order dissolution following receipt of the petition. The order shall be conditioned on petition to the circuit court for appointment of a receiver to conclude the affairs of the district under court supervision. The dissolution becomes complete upon the final order of the circuit court.

Merger of Two Lake Districts

Sec. 33.33(1)

Any district may be merged with a contiguous district. First, a merger resolution must be passed by four-fifths of the members of each board of commissioners". Then the merger must be endorsed by a majority of electors and property owners who are present and voting at the next membership meeting, subject to ratification at the next annual meeting. Upon ratification, the board of commissioners shall be constituted in the following manner:

- The two boards act jointly as the governing body of the merged district until the next annual or special meeting.
- At the first annual meeting of the merged district, three commissioners are elected for staggered, three-year terms.
- The representative of the county and the representative of the town, village or city having the largest portion by valuation within the merged district shall remain on the board of the merged district.

A lake district and a town sanitary district may also merge if their boundaries are identical or contiguous. The same procedures listed above would be followed. In addition, town board approval would be necessary. All the rights and liabilities of the sanitary district would be assumed by the lake district, but the method of discharging such rights and obligations shall be set out in the merger resolution.

Filing Changes

Sec. 33.265

When the boundaries of a district are altered, the secretary should file a copy of the authorizing document and legal description of changes with the municipal clerk, the county register of deeds, Wisconsin Department of Revenue, and Wisconsin Department of Natural Resources.

TOWN SANITARY DISTRICTS AND LAKE SANITARY DISTRICTS

By the turn of the century, problems with water quality and other cultural issues were becoming apparent. Some lakes in southern Wisconsin, like Lake Geneva and the Lauderdale Lakes, formed lake organizations in 1898 and 1902, respectively. The first attempts at publicly administered lake management took place in the early 1930s. Several Wisconsin lake communities formed "town sanitary districts" to focus on lake problems. These governmental bodies could be established with boundaries following the shape of the lake. As government bodies, they could levy taxes to spread the cost of operations equitably. However there were shortcomings with town sanitary districts. Their primary purpose was to provide sewer and water service for urbanizing areas, but in those early days they lacked the comprehensive power needed to address the complex problems involved in lake management.

Sanitary districts and lake districts have both evolved over the years. The two types of districts continue to share many characteristics in common. Both rely on citizen petitions to initiate district formation. Both have a board of commissioners. And in both cases, the district boundaries may be adapted to include the area benefitted by the district. Both also have taxing powers that include borrowing, special assessments, special charges and tax levying authority.

A major difference between lake districts and sanitary districts is their method of governance. While a lake district is governed by a board of commissioners and electors at the annual meeting, a town or lake sanitary district is governed by its board of commissioners who are appointed. It may also be noted that non-resident property owners and electors are able to vote for lake district commissioners, budgets and other lake district business at annual meetings. Non-resident property owners do not enjoy these same rights in a town or lake sanitary district.

Legislation in 1996 brought some major changes to sanitary district law. Under Wisconsin Act 349, which became effective on June 4, 1996, lake sanitary districts obtained additional powers.

FORMATION

Sec. 60.71(2)(a)

As with lake districts, the formation of a town sanitary district is initiated by a landowner petition.

A petition to form a town sanitary district must sent forth:

- The proposed name of the district.
- A statement of the necessity for the proposed work.
- A statement that the public health, safety, convenience or welfare be promoted by the establishment of the town sanitary district and that the property to be included will be benefitted by the proposed district.
- A legal description of the boundaries of the proposed town sanitary district.
- A plat or sketch showing the approximate area and boundaries of the proposed town sanitary district.
- A general description of the proposed improvements.

Like a lake district petition, a petition to form a town sanitary district must be signed by at least 51 % of the landowners or the owners of at least 51 % of the land within the proposed district. The sanitary district law does not define owners as precisely as the lake district law does (see page 17). Using the definitions provided for lake districts is probably a safe course to follow in determining the eligibility of signatories.

Sec. 60.71(2)(b)

The petition must also be verified by one of the petitioners. The verification should state that the petition was signed personally by the persons whose signatures appear. The statute presumes that the petition was signed by the person whose signature appears. Sanitary district petitions may not be declared void because of defects in the petition. The town board may permit sanitary district petitions to be amended.

Sec. 60.71(b)

Boundaries

The same consideration for lake district boundaries apply to sanitary districts. However, a sanitary district may not include any portion of a village or city.

Consideration of the petition

Sec. 60.71(4)(b)

The town board is required to conduct a hearing within 30 days after receipt of the petition. Unlike a lake district petition, there is no requirement that a notice of the hearing be mailed to each property owner within the proposed district. The notice must be published as a Class 2 notice, however, and must be mailed to the Wisconsin Departments of Development and Natural Resources.

Sec. 60.71(6)(b)-(9)

Any property owner within the proposed district may appear at the hearing. Any person may file written comments on the proposed district: Within 30 days following the hearing, the town board is required to issue written findings and a decision on the proposed district. As a part of its findings, the town must determine whether: (1) the proposed work is necessary, (2) the public health, safety, convenience or welfare will be promoted by the establishment of the district, (3) the property to be included in the district will be benefitted by the district. If the town makes the required findings, it is required to issue an order establishing the boundaries of the district, declaring it organized and giving the district a name. The petitioners and the town board are entitled to reimbursement for their reasonable costs and disbursements in connection with the petition and hearing, which the commission is required to disburse from the district's funds. The town board is authorized to exclude portions of the proposed territory which it determines would not be benefitted by the establishment of the district. The town may add additional territory, but only following notice and a continued hearing. The order establishing the district must be filed with the register of deeds in each county in which the district is located and with the Department of Natural Resources. If the town rejects the petition, it may recover its reasonable costs and disbursements from the petitioners.

Appeal

Sec. 60.73

Any person aggrieved by the town board's action establishing a town sanitary district may appeal the decision to the circuit court within 90 days after the final determination.

SPECIAL SANITARY DISTRICT POWERS

In 1996, the legislature enacted special provisions relating to sanitary districts which include public inland lakes. Under the current law, a town sanitary district which includes at least 60% of the shoreline of a public inland lake is granted special powers as a lake sanitary district, **provided** that no lake district is in place on the lake.

Town Sanitary District

In addition to the general powers of a sanitary district (see page 23 and 24), a town sanitary district has the following additional powers:

Sec. 30.77(3)(am)Im
Sec. 30.77(3)(am)4

Sec. 60.782

- To enact and enforce lake use-ordinances if that authority is delegated to the district. The authority to adopt these ordinances is identical in scope to the authority of public inland lake districts to adopt these boating ordinances. The authority for a lake sanitary district to adopt boating ordinances must be delegated in the same manner as that authority can be delegated to inland lake districts (see page 24). As with lake districts, the authority to enact these ordinances may be rescinded by the delegating cities, villages and towns.
- Create, operate and maintain a water safety patrol.
- Undertake projects to enhance the recreation uses of the public inland lake, including recreational boating facilities.
- Appropriate money for the conservation of natural resources or for payments to a bona fide nonprofit organization for the conservation of resources within the district or beneficial to the district.
- Acquire property for conservation purposes.

GOVERNING A SANITARY DISTRICT

Sec. 60.74

Unlike a lake district (where governance is shared by the board of commissioners and the annual meeting), a sanitary district board of commissioners has general responsibility for the governance of a town sanitary district, including a lake sanitary district. There is no annual meeting. However, open meetings laws apply to all sanitary district meetings (see page 33).

Sec. 60.74(1)

COMMISSIONERS

If a sanitary district is located within a single town, the town board is authorized to establish itself as the commission. That decision requires the town board to act by a two-thirds vote of the board of supervisors.

Appointing Commissioners

If the sanitary district is located in two or more towns, the town board of the town containing the largest portion of the equalized full value of taxable property may appoint commissioners or provide for their election. Commissioners appointed by the town board serve at the pleasure of the town board. The town board may also provide for the election of commissioners. The first such election may be held as a "special

Sec. 60.74(3)

election. " Thereafter, commissioners are elected during the regular spring elections.

Election of Commissioners

Unlike a lake district, the election of commissioners is limited to resident electors during normal elections. Non-resident property owners are not entitled to vote in a sanitary district election. Sanitary district residents may petition for a change in the manner of selecting commissioners. If the commissioners have been appointed, the town board is required to set elections for commissioners if a petition is filed requesting elections. The petition must be signed by at least 20% of the

Sec. 60.74(4)

electors who cast a vote for governor in the last gubernatorial election. If a petition signed by the same number of electors requests a change to

Sec. 60.74(5)

appointment of commissioners, the town board is required to submit that question to a referendum. If the manner of selecting commissioners is changed by the filing following petition, there is a five year prohibition on the filing of a petition to change the method of selection again.

Because election records are not maintained at the sanitary district level, the determination of electors is estimated based on the area of the district in relation to the voting jurisdiction(s) in which it is located.

Sec. 60.75(1)

The commission shall consist of three members unless a town board constitutes itself as the commission. Then the number of commissioners shall be the number of town board supervisors.

Sec. 60.75

Sec. 60.75(4)

Elected sanitary district commissioners serve for six year terms, except that staggered (2, 4 and 6 year) terms are set for commissioners first elected. Vacancies on *the* board are filled by the town board. The commissioners are required to elect one of its members as president and appoint a secretary and treasurer.

Qualifications of commissioners

Generally, all sanitary district commissioners must be residents of the town sanitary district. However, a nonresident property owner may serve as a commissioner of a sanitary district which is "composed primarily of summer resort property."

Sec. 60.75(3)

FINANCING LAKE MANAGEMENT

The following sources of -revenue are- available to lake districts and sanitary districts. The discussion that follows is directed expressly at lake districts, but generally applies to lake sanitary districts as well. These revenue sources can be used individually or in any combination. Some mechanisms are more appropriate to certain types of lakes. For instance, a district including large properties or businesses is more likely to use the special charges and less likely to rely solely on the mill levy.

GENERAL PROPERTY TAX (MILL LEVY)

For General District Expenses

The lake district annual meetings and sanitary district board of commissioners are authorized to vote a tax upon all taxable property within the district for the cost of operating the district during the coming year. The general property tax is normally used for activities such as bookkeeping, postage, commission expenses, dam maintenance, studies, and monitoring activities that do not specifically impact individual properties. The tax may not exceed the rate of 2.5 mills (\$2.50 per \$1,000) of equalized valuation (1 mill for lake sanitary districts) and must be uniformly applied across the entire district. It is apportioned among the municipalities on the basis of equalized value. All property subject to general property taxes is taxable by the district. Homes built by lessees are taxable. Public and other exempt property is not subject to property tax. The Wisconsin Department of Revenue is required to provide each district with a "certificate of equalized value" by October 1 of each year.

Sec. 33.30(3)(c)

The property tax approved by the annual meeting is included in the tax bills sent out each December by the treasurers of the cities, villages and towns within the boundaries of the district.

It is the responsibility of *the* lake district treasurer and sanitary district commission to deliver a certified statement of the district's tax levy to the clerk of each municipality prior to the last working day of October of each year. This requires the treasurer to apportion the district tax levy among its constituent towns, villages and cities. That allocation is done according to the relative proportion of the district's tax base in each municipality. That information is provided to the district each October in the form of a Certificate of Equalized Value provided by the Department of Revenue. That certificate shows the percentage of the total assessed value of the lake district property within each city, village and town, as adjusted or "equalized" by the Department of Revenue. The treasurer's certified statement to each town should state the same percentage of the District's total tax.

Example: *The Blue Lake District includes land in the Towns of Trout and Bass. The July 4 Annual Meeting of the District votes a tax levy at \$30, 000. The October 1 "Certificate of Equalized Value " provided by the Department of Revenue shows the equalized value of lake district property within the Town of Trout is \$5 million and that within the Town of Bass is \$10 million. On October 15, the lake district treasurer sends a certified statement to the Trout Town Clerk reporting the district tax within that town totalling \$10,000 (or one-third of the total levy). The treasurer sends a certified statement to the Bass Town Clerk reporting the district tax within that town totaling \$20, 000 (or two-thirds of the total levy).*

The taxes collected by the cities, villages and towns are then distributed to the various taxation districts by the town treasurer. All taxes collected before January 1 are distributed to the lake district and the other taxing jurisdictions proportionate to their levies no later than January 15. The taxes received in January are distributed on the February 15 settlement date. The remaining taxes are paid to the lake district in the final August 15 settlement date.

Sec. 74.23, et seq.

SPECIAL CHARGES

For Activities of Benefit to Individual Properties

Sec. 33.32(5)

Sec. 66.60(12)

Sec. 60.77(5)(e)

Special charges to pay for activities with temporary benefits to individual properties, such as sewer and water service, shoreline aquatic plant harvesting, algae control and garbage pickup are collected directly by the lake district commission. These charges must be identified in the annual budget approved at the annual meeting. The annual meeting may prescribe the manner of allocating the charges or may leave that decision to the commission. The charge can vary from one category of property to another depending on the benefit or service received. Delinquent special charges may be entered on the tax roll.

Special charges are often used by districts which contain properties of highly variable valuation. A special charge, based on benefit, may be more equitable than a general property tax in such situations.

Some activities, such as aquatic plant harvesting or aeration of a bay, have both general community benefits and special benefits to a select group of property owners. In these cases, a combination of a mill levy and special charges may be used.

SPECIAL ASSESSMENTS

For Major Projects

Special assessments can be used for a variety of activities which benefit affected property. Because the procedure for making special assessments are quite complex, they are usually reserved for major projects. In order to fund such projects, districts may levy special assessments payable in up to 20 annual installments. If the installment method is used, the payments are charged in the annual tax bill. Otherwise, the special assessments are paid directly to the district.

Sec. 33.32(1)(2)

Sec. 60.77(5)(1)

Sec. 66.60

How to Assess

After approval of a project at an annual or a special meeting the commissioners determine the local share of the cost of the project. They then determine the benefited property to be subject to special assessments. This may include county and municipally-owned real estate in the district. State-owned property may only be assessed with approval of the Public Lands Commission. Size, proximity to the lake, present and potential use of the land including zoning regulations and other factors, may be considered in selecting a method of making assessments.

Sec. 33.32(1)(v)

Notice of Assessment

Notice of the assessment must be given to every person having an interest in an affected parcel within the district and must also be filed with the county clerk. The notice, which is published twice and sent to each person having an interest in an affected parcel, informs affected persons of a place where they may review all assessments. In addition, the notice shall set a day, within three days after the expiration of the 30-day review period, on which the commissioners will hear objections to the assessments.

Sec. 33.32(1)(c)

Sec. 33.32(1)(d)

If, as a result of the hearing, an assessment is increased, a new hearing with notice must be provided.

Appeal

After the hearing, the commissioners publish a final determination of assessments once in the local paper and send a notice to each person having an interest in an affected parcel. Affected persons have 40 days within which to appeal to the circuit court.

Sec. 33.32(1)(e)(f)

As a practical matter, notice is typically sent to the person(s) whose name appears on the tax roll with instructions to share it with anyone else with an interest in the property.

Districts should use an attorney when arranging financing for large projects.

OTHER FINANCIAL POWERS

A district may borrow money and use other financing methods prescribed by law. The commissioners must follow the procedures required by law of all municipalities. Tax incremental financing cannot be used.

Sec. 33.32(1)

Sec. 66

Debt Limit

Bonding or borrowing may be used to acquire capital for large projects. **The debt limit is 5% of the equalized valuation of the district.**

Temporary Borrowing

The district board of commissioners may also borrow when in temporary need according to the provisions and limitations applicable to cities. Temporary borrowing must be approved by a 3/4 vote of the commissioners, and a promissory note, payable with interest on August 30 following the next tax levy, must be given. The property tax levied to repay the loan is not included in the 2.5 mill tax limit. However, the notice for a membership meeting where borrowing may be considered must provide information on that decision item. Districts may borrow funds from the State Board of Commissioners of Public Lands and may invest excess funds in the state managed pool.

Sec. 67.12

Sec. 33.31

Sec. 24.60

Sec. 25.50

OTHER EXTERNAL FUNDING

Grants

There are occasions when lake organizations take on projects or become involved in matters that require more funding than they possess. Grants are a tool that lake groups frequently use to raise needed capital. Grants are used for a wide variety of needs, basically to supplement local funding for projects. Funds are usually for public works projects but may also be used for research, planning, developing new products, providing for special needs for individuals, or to provide art or cultural experiences to a community.

The majority of grants given to Wisconsin lake organizations in the 1980's and 1990's have been **Planning or Protection Grants** from the Wisconsin Department of Natural Resources. Lake organizations also receive grant funding from federal agencies like the Environmental Protection Agency (EPA) and other international, state, and private sources. Funding usually comes from governments but can also be obtained through foundations, corporations, individuals, educational or research institutions or special interest groups.

BUDGET

Statutory Requirements

Like other local units of government in Wisconsin, lake districts and sanitary districts are required to comply with statutory requirements for the adoption of municipal budgets. Wisconsin statutes require that a hearing be held on the proposed budget with notice published fifteen days in advance of the hearing. In addition to the time and place of the public hearing, this notice must include a summary of the proposed budget. The notice

Sec. 65.90 Sec. 65.90(3)

must also include the place where the budget is available in detail for public inspection.

Sec. 33.46

Most lake districts combine the notice of the budget hearing with the notice for the annual meeting. A beginning time should be established for the budget hearing in the notice. The budget hearing typically is held immediately preceding the annual meeting.

Sec. 33.01(1)(g)

Budget Summary

The statutes require that the budget summary identify the following items^f or both the proposed budget and the budget in effect, including the percentage change between the current year's budget and the proposed budget:

Sec. 65.90(3)(v)

(1) For the general fund, all expenditures in the following categories:

- (a) general government,
- (b) public safety,
- (c) public works,
- (d) health and human services,
- (e) culture, recreation and education,
- (f) conservation and development,
- (g) capital outlay,
- (h) debt service,
- (i) other financing uses.

(2) For the general fund, all revenues from the following sources:

- (a) taxes,
- (b) special assessments,
- (c) intergovernmental revenues,
- (d) licenses and permits,
- (e) fines, forfeitures and penalties,
- (f) public charges for services,
- (g) intergovernmental charges,
- (h) miscellaneous revenue,
- (i) other financing sources.

(3) All beginning and year-end fund balances.

(4) The contribution of the property tax to each governmental fund and to each proprietary fund that receives property tax revenue and the totals for all funds.

(5) Revenue and expenditure totals, by fund, for each governmental fund, and for each proprietary fund and the revenue and expenditure totals for all funds combined.

(6) An itemization of proposed increases and decreases to the current year budget due to new or discontinued activities and functions.

The law does not require that expenditures be set forth in detail. But each source of income and expenditure must be put into one of the general categories listed above. For most lake districts only a few of these income and expense categories will be applicable.

Detailed Budget

Sec. 65.90

Sec. 33.30(b)

Sec. 33. of (1)(c)

In addition to this budget summary, a detailed budget is required. That budget should include itemized expenditures in the categories set forth in the budget summary. The statutes specifically require that any item with a cost to the district in excess of \$10,000 be specified in the budget. In addition, a lake district budget is required to separately identify capital costs and costs of operation of the district. The purpose of requiring the identification of costs of operation is that these are the costs subject to the 2.5 mil property tax levy limit.

The lake district treasurer is generally responsible for the preparation of the proposed budget and the budget summary required for publication of the notice of the budget hearing. Typically, the proposed lake district budget is recommended for adoption by the annual meeting by the board of commissioners. Because it is the responsibility of the electors and property owners to adopt the budget, persons entitled to vote at the annual meeting are also entitled to propose -amendments to the annual budget. Budget amendments may be considered at the annual meeting or at a special meeting. However, the authority of the annual meeting to amend the budget is limited. For example, the electors and property owners may not eliminate a mandatory portion of the budget, such as an irrepealable tax levied in order to secure repayment of a district debt, or where a payment in the current budget is required by a previously authorized contract.

Sample Budget

Budget Summary, Proposed Total Budget - XYZ Lake District

Category	199.W budget	199X proposed	%change
REVENUES			
a) Taxes (mill rate < 2.5%)	70,000	75,000	7.1
b) Special Assessments			
Special Charges	25,000	15,000	
c) Intergovernmental Revenues			
Planning Grant	5,000	5,000	
Protection Grant	50,000		
Waterways Commission Grant	1,000	17,500	
Municipal Water Safety Patrol State Assistance	7,500	7,500	
d) Licenses and Permits	0	0	
e) Fines/forfeitures/penalties	0	0	
f) Public charges for services			
Boat launch fees	500	500	
g) Intergovernmental charges	0	0	
h) Miscellaneous revenue			
Lake Fair Raffle	500	500	
i) Other financing sources	0	0	
Total Revenues			
Cash Balance Applied			
Total Revenues & Cash Balance Applied			
<u>EXPENDITURES</u>			
I. CAPITAL COSTS*			
a) Watershed Protection			
Land/easement purchases	100,000	0	
Aquatic Plant Harvester a	0	35,000	
II. COSTS OF OPERATION*			
a) General Government	1,000	1,000	
b) Public safety			
Boat Safety Patrol ^b	<u>10,000</u>	<u>10,000</u>	

c) Public works	0	0	
d) Health & human services	0	0	
e) Culture, recreation, education	1,000	1,500	
f) Conservation and development	0	0	
Aquatic Plant Survey	13,333	13,	
g) Debt servicing	0	0	
h) Other financing uses	0	0	
TOTAL EXPENDITURES			9.9

* Sec. 33.01(1)(c) "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. Sec. 33.01(1)(g) "Costs of operation" means all costs of a program undertaken under ss. 33.001 to 33.37, except capital costs. Sec. 33.30(3)(b) The budget shall separately identify the capital costs and the costs of operation of the district, shall conform with the applicable requirements under s. 65.90 and shall specify any item that has a cost the district in excess of \$10,000.

a Non-lapsible fund created to finance specifically identified capital costs (Aquatic plant harvester purchase, maintenance, and money for replacement costs).

b Individual items with cost over \$10,000 must be listed separately on budget summary.

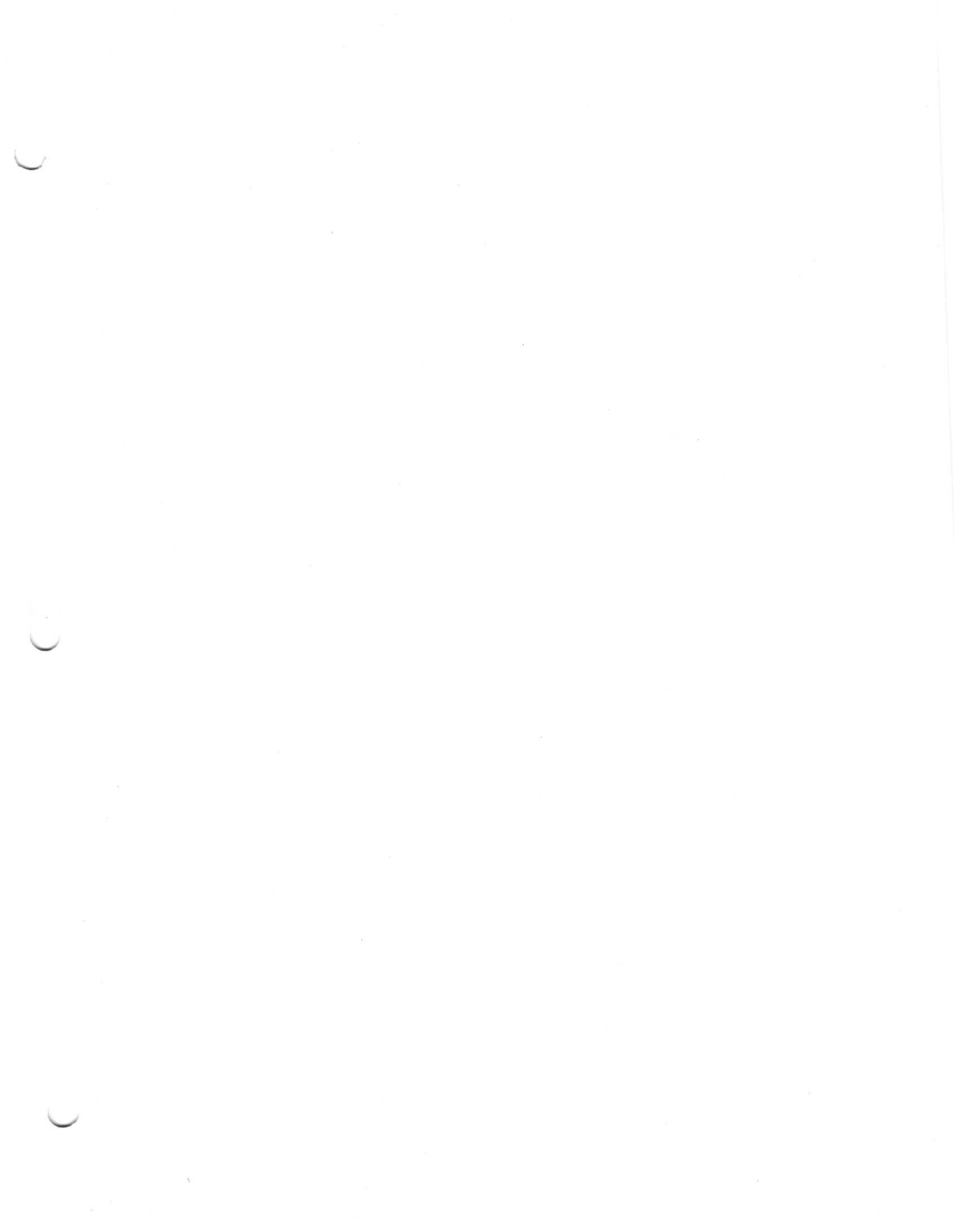
All Governmental and Proprietary Funds Combined	Fund Balance Jan. 1, 199X	Total Revenues	Total Expenditures	Fund Balance Dec. 31, 199X	Property Tax Contribution
General Fund					
Lake Improvement Fund					
Watershed Improvement Fund					
<u>Total</u>					

Sec. 66.90(5)(a)

In addition to the power of the annual meeting, the board of commissioners may also alter the amounts of appropriations and purposes of appropriations upon a two-thirds vote of the entire board of commissioners. Notice of any such change must be published once in a newspaper in general circulation in the district within ten days after the change is made. However, the authority to establish a tax levy is the exclusive province of the annual meeting. Therefore, no modification can be made to the annual budget which would require an increase in the tax levy approved by the annual meeting.

Footnotes

1. The current filing fee for nonstock articles of incorporation is \$35. The recording fee is based on the number of pages. A fee of \$10 is charged for the first page and \$2 for each subsequent page. See secs. 181.68 and 59.57(1), Wis. Stats. [page 8]
2. The Knowles-Nelson Stewardship Fund is a 10 year program aimed at the acquisition and protection of land for public conservation purposes. [page 10]
3. Not all gifts are deductible and there are limits on deductions for charitable donations. In addition, special rules apply to gifts of property other than cash or publicly traded securities. [page 11]
4. Sec. 33.001(9), Wis. Stats. [page 17]
5. The authority of town boards to sign the petition under this section takes effect January 1, 1995. [page 17]
6. Nielsen, et al. v. Waukesha County Board of Supervisors et al., 178 Wis. 2d 498, 504 n.w. 2D 621, (Ct. App. 1993). While the verification requirement has generally been assumed to relate to the signatures as in the example above, the Nielsen case points out that the requirement could be read to apply to the statements made by the petition itself. [page 17]
7. Ibid. [page 18]
8. This should be send to the Wisconsin Department of Natural Resources, Lake Management Section, Box 7921, Madison, Wisconsin 53707. [page 18]
9. Haug v. Wallace Lake Sanitary District, 130 Wis. 2d 347, 387 N.W.2d 133 (Ct. App. 1986). [page 19]
10. Fort Howard Paper Company v. Town of Ashwaubenon, 250 Wis. 145, 26 N.W.2d 661 (1947). [page 191]
11. Wisconsin Department of Revenue, Bureau of Local Financial Assistance, Box 8909, Madison, WI 53707. [page 20]
12. All law enforcement officers require training and must be certified by the Wisconsin Department of Justice. [page 25]
13. Section 33.28(3), Wis. Stats. There is no prohibition against electing persons who served on the initial board to the permanent board. The statutes are silent as to the procedure for nominating the elected commissioners; however, lake districts have found it beneficial to follow Robert's Rules of Order when dealing with this issue. [page 27]



14. Section 33.28(2)(c), Wis. Stats. The qualifications of electors are set forth in ch. 6 of the Wisconsin Statutes. In order to qualify as an elector, a citizen must be a resident of the district. See sec. 6.10, Wis. Stats. [page 27]

Sec. 33.001(9), Wis. Stats. [page 27]

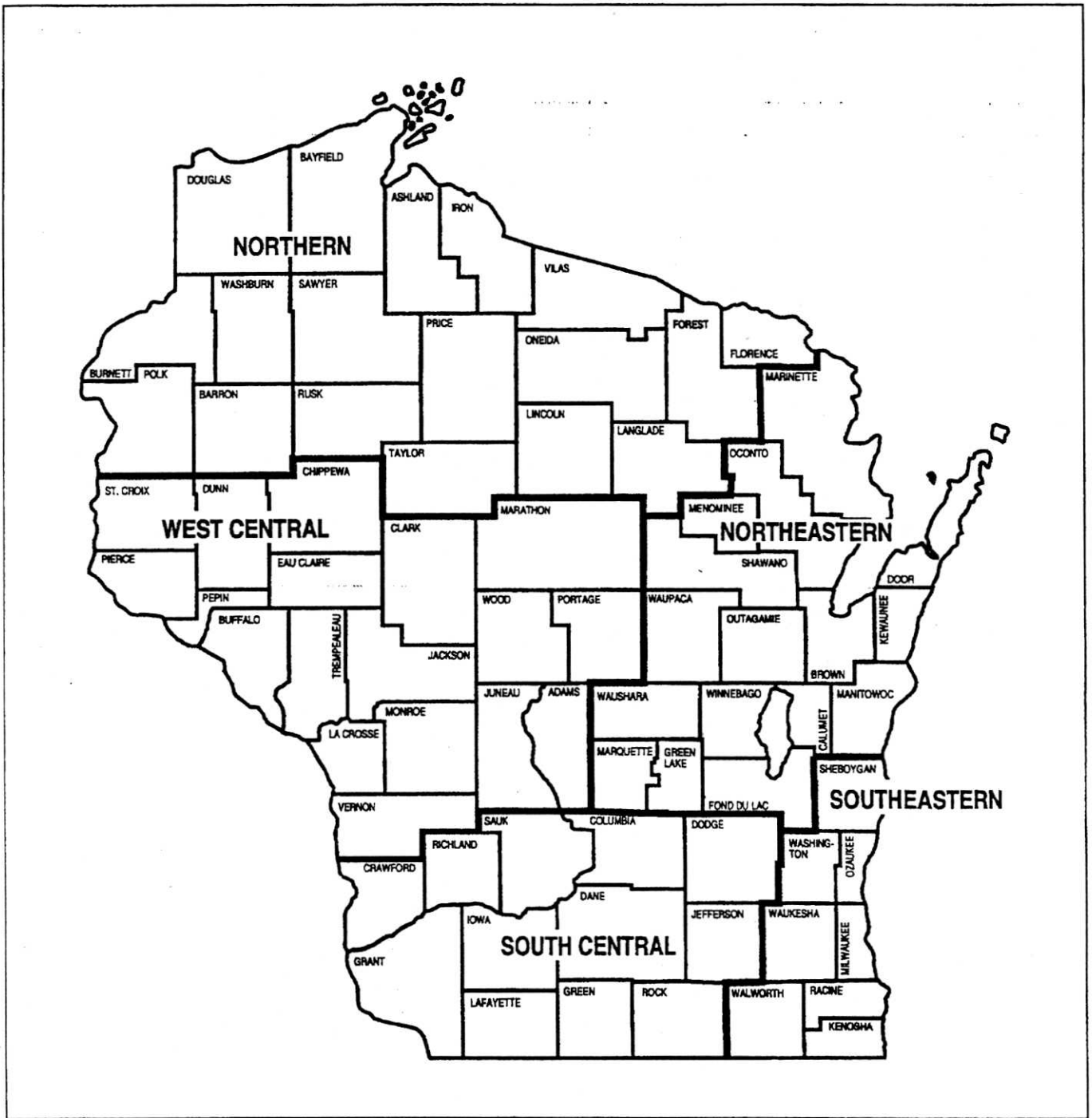
16. Sections 19.81(2) and 19.82(1), Wis. Stats. Further information may be found in Wisconsin Open Meetings Law: A Compliance Guide, Department of Justice, Attorney General James E. Doyle (1993). copy can be found in the *Lake Leaders Handbook*. [page 33]

Op. Atty. Gen. 93, 95 (1977). [page 33]

18. This does not, however, apply to the annual meeting at which citizen participation is mandated by statute. [page 33]

19. A vote of 6-1 is required in a vote of a 7 member board of commissioners. [page 35]

Wisconsin Department of Natural Resources



Northern Region - West
 810 Maple St.
 Spooner, WI 54801
 715-635-2101

Northern Region - East
 107 Sutliff Ave.
 Rhinelander, WI 54501
 715-365-7616

Northeastern Region
 1125 N. Military Ave.
 Green Bay, WI 54307
 414-492-5800

West Central Region
 1300 W. Clairemont Ave. Eau Claire, WI 54702
 715-839-3700

South Central Region
 3911 Fish Hatchery Rd.
 Fitchburg, WI 53711
 608-275-3266

Southeastern Region

2300 N. Dr. M.L. King Dr.
 Milwaukee, WI 53212 414-

Cooperative Extension Service

W

COUNTY EXTENSION OFFICES

ADAMS	608/339-4237	Box 489, Adams, 53910
ASHLAND	715/682-7017	Rm 107 Courthouse, Ashland, 54806
BARRON	715/537-6250	Courthouse, Barron, 54812
BAYFIELD	715/373-6104	117 E. 5th St., Washburn, 54891
BROWN	414/391-4610	1150 Bellevue, Green Bay, 54302
BUFFALO	608/685-6256	Box 276, Alma, 54610
BURNETT	715/349-2151	7410 Co K, Siren, 54872
CALUMET	414/849-1450	Courthouse, Chilton, 53014
CHIPPEWA	715/726-7950	711 N. Bridge, Chippewa Falls, 54729
CLARK	715/743-5121	Box 68 Courthouse, Neillsville, 54456
COLUMBIA	608/742-9680	Box 567 Co Ag Center, Portage, 53901
CRAWFORD	608/326-0223	111 W Dunn, Prairie du Chien, 53821
DANE	608/266-4271	57 Fairgrounds Dr, Madison, 53713
DODGE	414/386-3790	Cty Office Bld, Juneau, 53039
DOOR	414/743-5511	Box 670 Courthouse, Sturgeon Bay, 54235
DOUGLAS	715/394-0363	Rm 107 Courthouse, Superior, 54880
DUNN	715/232-1636	Ag Center, 390 Red Cedar St., Menomonie, 54751
EAU CLAIRE	715/839-4712	227 1st St. W, Altoona, 54720
FLORENCE	715/528-4480	HC1 Box 82A, Florence, 54121
FOND DU LAC	414/929-3170	400 Campus Dr., Fond du Lac, 54935
FOREST	715/478-2212	Courthouse, 200 E Madison, Crandon, 54520
GRANT	608/723-2125	Box 31, 916 E Elm, Lancaster, 53813
GREEN	608/328-9440	N3150B, Hwy 81, Monroe, 53566
GREEN LAKE	414/294-4032	492 Hill St, Courthouse, Green Lake, 54941
IOWA	608/935-3354	216 N Iowa St, Dodgeville, 53533
IRON	715/561-2695	Courthouse, 300 Taconite St., Hurley, 54534
JACKSON	715/284-4257	227 S. 11th St., Black River Falls, 54615
JEFFERSON	414/674-7295	Courthouse, 320 S. Main, Jefferson, 53549
JUNEAU	608/847-9329	Courthouse, 200 E. State St., Mauston, 53948
KENOSHA	414/857-6466	Box 550, 19600 E 8th St., Bristol 53104
KEWAUNEE	414/388-4410	Courthouse, 613 Dodge St., Kewaunee, 54216
LA CROSSE	608/785-9593	300 N 4th St, LaCrosse, 54601
LAFAYETTE	608/776-4820	Ag Center, 627 Washington, Darlington, 53530
LANGLADE	715/627-6236	Box 460, 1575 Neva Rd., Antigo, 54409
LINCOLN	715/536-0304	Box 917, 1106 E 8th St., Merrill, 54452
MANITOWOC	414/683-4167	1701 Michigan, Manitowoc, 54220
MARATHON	715/847-5433	Courthouse, 500 Forest, Wausau, 54403
MARINETTE	715/732-7510	Box 320 Courthouse, 1926 Hall Ave., Marinette, 54143
MARQUETTE	608/297-9153	Box 338 Co. Service Center, Montello, 53949
MENOMINEE	715/779-4654	Box 729 Courthouse, Keshena, 54135
MILWAUKEE	414/475-2200	1304 S 70th, West Allis 53214
MONROE	608/269-8722	Box 309 Courthouse, 112 S Court St., Sparta, 54656
OCONTO	414/834-6845	300 Washington, Courthouse, Oconto, 54153
ONEIDA	715/369-6160	Box 1208 Airport, Rhinelander, 54501

OUTAGAMIE	414/832-5119	3365 W Brewster St., Appleton, 54911
OZAUKEE	414/284-8288	Box 994 Courthouse, Pt Washington, 53074
PEPIN	715/672-5214	Box 39 Cty Gov Ctr, 740 7th Ave. W, Durand, 54736
PIERCE	715/273-3531x243	Box 69 Pierce Office Bldg, 412 W Kinne, Ellsworth, 54011
POLK	715/485-3136	Box 160 Ag Center, 215 Main St., Balsam Lake, 54810
PORTAGE	715/346-1316	County City Bld, 1516 Church St., Stevens Point, 54481
PRICE	715/339-2555	Normal Bld Rm 240, 104 S. Eyder, Phillips, 54555
RACINE	414/886-8460	14200 Washington, Sturtevant, 53177
RICHLAND	608/647-6148	1100 Hwy 14 W, Richland Center, 53581
ROCK	608/757-5696	Courthouse, 51 S Main, Janesville, 53545
RUSK	715/532-2151	Courthouse, 311 Miner Ave E, Ladysmith, 54848
ST CROIX	715/684-3301	Box 6 Ag Center, Baldwin, 54002
SAUK	608/355-3250	505 Broadway, Baraboo, 53913
SAWYER	715/634-4839	Box 351 Courthouse, Hayward, 54843
SHAWANO	715/526-6136	Courthouse, 311 N Main, Shawano, 54166
SHEBOYGAN	414/467-5740	650 Forest Ave, Sheboygan Falls, 53085
TAYLOR	715/748-3327	925 Donald St, Medford, 54451
TREMPEALEAU	715/538-2311	Box 67 Courthouse, Whitehall, 54773
VERNON	608/637-2165	Box 392, Viroqua, 54665
VILAS	715/479-3648	Box 369 Courthouse, Eagle River, 54521
WALWORTH	414/741-3190	W3929 Cty Rd NN, Elkhorn, 53121
WASHBURN	715/635-3192	850 W Beaverbrook Ave., Spooner, 54801
WASHINGTON	414/335-4480	333 E Washington, West Bend, 53095
WAUKESHA	414/548-7770	1320 Pewaukee Rd, Waukesha, 53186
WAUPACA	715/258-6230	Courthouse, 811 Harding St, Waupaca, 54981
WAUSHARA	414/787-4631x220	Box 487 Courthouse, Wautoma, 54982
WINNEBAGO	414/424-0050	500 E Cty Rd Y, Oshkosh, 54901
WOOD	715/421-8440	Box 8095 Courthouse, Wis Rapids, 54495

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