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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Environment and Natural
Resources (SC-ENR)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (August 2012)

June 2014



Wisconsin REALTORS® Association
e-mail: wra@wra.org | Web site: www.wra.org

Roger Rushman, Chairman
e-mail: rushman@firstweber.com
William Malkasian, CAE, President
e-mail: wem@wra.org

Memorandum

To: Senator Mark Miller
From: Tom Larson, Director of Regulatory and Legislative Affairs
Date: March 4, 2008
Re: AB 297

SB 169
File

Thank you again for meeting with us on February 27th to discuss your concerns with Assembly Bill 297, related to piers. During our meeting, you identified several concerns with the bill and you asked us to provide you with ideas on how these concerns could be addressed.

As we indicated, the bill, as currently drafted, represents a delicate compromise between various key stakeholder groups, legislators, the Governor's office, and the Wisconsin Department of Natural Resources. Our challenge was coming up with a regulatory framework that (a) is fair to property owners who, in many cases, have had their piers in the water for decades, and (b) preserves our waterways for continued public use in enjoyment. Like most compromises, the bill consists of "tradeoffs" – provisions which, standing alone, would be objectionable, but were acceptable given other more desirable provisions in the bill. Any changes to the bill would threaten the compromise reached by the various stakeholders and their support for the bill.

Nevertheless, here are some suggestions on how to address the concerns you raised during our meeting:

Definition of "commercial structures" (Section 4, line 7) – As you correctly indicated, the term "commercial structures" is not defined in the bill. While the absence of a definition was unintentional, the term is intended to allow multiple slips in high-density developments such as condominiums, resorts, and hotels.

This term can be defined either by statute or administrative rule (see Wis. Admin. Code Ch. NR 326). The DNR has indicated that revisions to the current administrative rules are necessary (and will be forthcoming) in light of the statutory changes resulting from the enactment of Act 118. To further the intent of this provision, "commercial structure" could be defined conceptually as "a structure on real property other than that zoned for single-family residential purposes."



Burden of proof (Section 10) -- Our goal with this provision was to make sure those pier owners who were not grandfathered were no worse off under this bill than they were under current law. In exchange for requiring property owners with non-grandfathered piers to obtain a permit, this provision allows the DNR to deny the permit only if the DNR can prove that the pier violates the standards in Wis. Stat. s. 30.13.

Under current law, piers can be placed without a permit under Wis. Stat. s. 30.13. If the DNR believes that a pier has been placed which does not meet the requirements of s. 30.13 they can begin an enforcement action under the provisions of Wis. Stat. 30.03. Section 30.03 allows the DNR to commence an action or an administrative proceeding where there is "a possible violation of the statutes relating to navigable waters or a possible infringement of the public rights relating to navigable waters." In such an action, the state has the burden of proof. *See, Sterlingworth Condominium Ass'n v. DNR*, 205 Wis.2d 710, 725-26, 556 N.W. 2d 791 (Ct. App. 1996) in which the court explained the difference in the burden of proof in a permit proceeding vs. an enforcement proceeding:

We conclude that *Sterlingworth*, as the applicant for the permit and petitioner on review, assumed the burden of proving that its proposal would not be detrimental to the public interest.

We also note that the ALJ explained to *Sterlingworth* at the outset of the hearing that "it could withdraw its request for hearing [and] [i]t could then construct the non-cribbed piers at issue and defend itself in an enforcement action," **in which case the DNR would have had the burden of proof.**

AB 297 attempts to keep the current burdens the same even though it imposes a different mechanism. Instead of relying on DNR enforcement, it imposes a specific permit requirement for existing piers over a certain size. By itself, a new permit requirement would shift the burden from DNR who now has the burden in an enforcement context, to the applicant. This bill provides that the burden of proof remains with the DNR for piers requiring a permit. The end result is the same -- DNR has the burden to establish that an existing pier violates public rights.

Transient use (Section 4, lines 12-14) -- Under this section, boat slips allowed for transient use are NOT rental units. They are open boat slips available to the public for use less than 24 hours. The most common use is the bar or restaurant on a lake that has slips for people to pull up to for lunch or dinner. Generally, the DNR likes having these spaces because it fosters public rather than private use of the piers. I am not sure what the concern is with this provision.

Replacement of entire grandfathered pier (Section 5, lines 4-6 (30.12(1k)(e)(1))) -- You raised a concern about whether this provision allows property owners to replace an existing grandfathered pier, with a new pier of the same dimensions. The provision does allow complete replacement in an effort to avoid the problems and the gamesmanship related to a similar provision (the 50% rule) found in the state's shoreland zoning regulations. For example, if a property owner has a 56-foot pier, with seven eight-foot

sections and a 200 square-foot deck at the end and wants to replace the pier but can't due to a prohibition on replacement of the entire pier, the property owner will leave whatever is necessary related to the existing pier (e.g., one post or one section) and replace the remaining portions of the pier in order to be in compliance. Trying to define "replacement" in a way that prevents gamesmanship will be very difficult, if not impossible. Nevertheless, here is some alternative language that may address your concerns -- "If a riparian owner completely replaces a pier or wharf that is exempt under this section, the new pier or wharf must comply with the requirements under 30.12(1g)(f)."

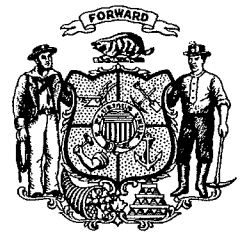
Confusion related to Wis. Stat. sec. 30.13(1) (Section 13) – You raised a concern about confusion created by this bill's reference to both sec. 30.13 and 30.12 as the authority for placing a pier without a permit. If this section does create confusion, we think it can be remedied by deleting this section (Section 13) from the bill.

As we indicated during our meeting, this bill is important for both property owners and the environment because it eliminates the confusion created by the various conflicting pier regulations (executive order, administrative rules, statutes) that are in effect today. In doing so, the bill establishes clear standards for determining which existing piers are reasonable in size, and which are too big and must be removed. If the bill is not passed this session, property owners and the public will have to wait at least another year before this issue is resolved.

If you have questions, please feel free to contact me at (608) 212-0066.



WISCONSIN STATE LEGISLATURE



Charles P. Dykman
4611 Tonyawatha Trail
Monona, WI 53716

March 9, 2008

Senator Mark Miller
Room 409 South
State Capitol
Madison, Wisconsin

Dear Mark:

I ask that you send SB 169, the pier bill, to the floor where, hopefully, it will be passed and sent to the Governor's office.

This is not a perfect bill. I think that any bill dealing with the riparian exception to the public trust doctrine cannot satisfy everyone, and will always be contentious. But the exception does exist; riparians are entitled to install piers. The problem is not that. The problem is that when the "jobs" bill was passed two sessions ago, (too quickly, I believe) two matters were not considered.

First, Wis. Stats. § 30.12(1g)(f), added by the "jobs" bill, addressed pier length by limiting pier length to the 3 foot water depth or the point where there is adequate depth for a boat hoist or mooring, *whichever is less*. The result is that in places where water becomes 18 inches or 2 feet deep a few feet from shore, that is the limit of a pier's length. Monona residents who use a boat lift will tell you, as I do, that this makes it nearly impossible to enter or exit a boat, or to maneuver to the boat hoist. I'm sure that everyone would concede that 30.12 (1g)(f) should have read: "*whichever is further from shore.*" SB 169 does that.

Second, 30.12(1g)(f) limits piers to 6 feet in width. While almost all Lake Monona Piers do not exceed 4 feet in width, most have a boat loading platform at the end, to prevent those who are boarding boats from falling into the water. These platforms usually use a sidewise section of pier, which is 8 feet wide by 4 feet long, as the building block for the platform, resulting in a platform that is usually 8 feet by 16 feet or 24 feet. There are other configurations too. If a pier exceeds 6 feet in width, it is "illegal", meaning that the DNR can cite the owner. Of course, permits for "illegal" piers are possible, or not, but the DNR's object has always been not to hassle pier owners who exercise reasonable judgment. The real problem exists because in a sample study the DNR did a year or two ago, over 50% of Lake Monona's piers were "illegal", most because they had a boat loading platform that exceeded 6 feet in width.

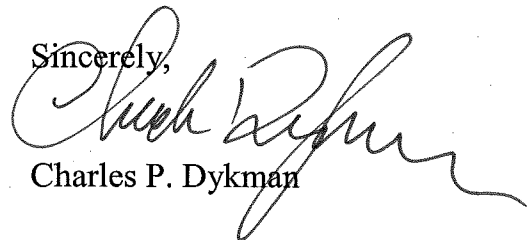
Most of Monona's "illegal" piers have been in existence since the 1970s, before the DNR started to believe that pier width could have detrimental effects on a lake's fishery. We now know that because of shading, fewer weeds and macrophytes grow under piers. But we do not know the extent to which piers affect a fishery. One pier cannot logically have any effect. And the over 50% of Lake Monona's piers having platforms exceeding 6 feet in width have not affected Monona's fishery. Lake Monona is uniformly known as one of the best, if not the best Bluegill lakes in the country. Other species are also common. Lake Monona's piers, as they now exist, do not affect Lake Monona's fishery.

SB 169 recognizes the balancing necessary to keep a dynamic fishery and yet allow the public and riparians to utilize piers that in part support the tax base of Monona and other communities with lakes. While a more sophisticated bill would take into account the number of piers on a lake, this would be administratively difficult. So, SB 169 does two things. It limits platforms to 8 feet wide located at the end of a pier. It also grandfathers existing platforms that do not exceed 300 square feet, though the actual statute is more complex than that. SB 169 was acceptable to the DNR last session as AB 850.

The DNR has not yet attempted to uniformly enforce § 30.12 pier width standards on Lake Monona. I suppose that it could do so, but with much unhappiness among persons who have had small platforms for over 50 years. Piers must be taken in and put out each year. Each year, the number of platforms that are grandfathered will decrease, as owners decide that larger platforms aren't worth the work. New piers will be limited to 8 feet in width, but only if SB 169 is passed.

The situation now is most unfortunate. Monona residents have piers that were installed in good faith and have been there for many years. While SB 169 could be tweaked to be a better bill, that seems to be impossible now. I would appreciate it if you would bring SB 169 to the Senate floor, and end the considerable wrangling that has accompanied all pier legislation.

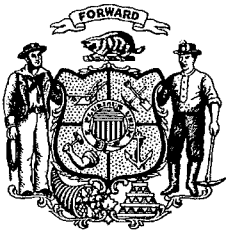
Sincerely,

A handwritten signature in black ink, appearing to read "Charles P. Dykman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Charles P. Dykman



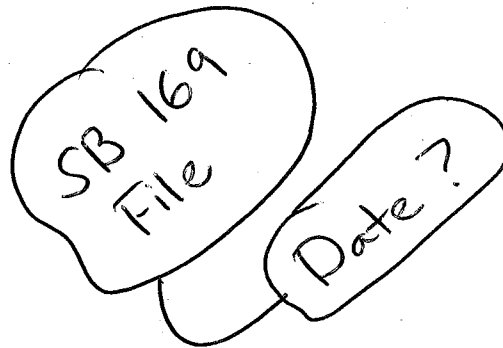
WISCONSIN STATE LEGISLATURE

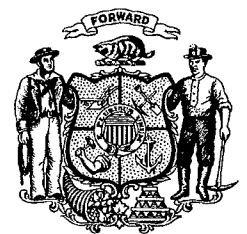
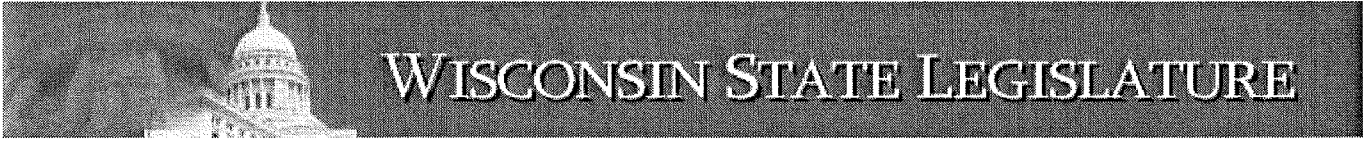


Amendment to Pier Bill

Changes fall under grandfathering provision for piers and wharves

- People are allowed to maintenance and repair grandfathered piers, but full replacement is not allowed without conforming to new standards.
- Removes language that says the DNR can not object to a minor relocation or reconfiguration of a pier. "Minor" was an undefined and unclear term which made it difficult to determine what DNR could and could not object to.





Ted Griggs

①

Decks (200 sq ft) are too large.

- Material occupies too much space during off season
- Potential harm to shoreline
- Big platforms invite bigger boats, more use, more impermanent material on shoreline.

Jim Brakken

- Contributes to irresponsible pier construction
- Cumulative impact
- Opposed to double density boat slips - creative workarounds
- What are "commercial streets" (zoning?)
- opposed to increased boat slips
- opposed to prohibiting DNR fees denying applications

SB 169
File
Date?

- opposed to provision
that puts DNR on equal
footing.

- reduce "loading platform"
Maximum to 10 sq ft.

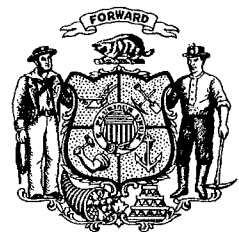
Paul Kent, attorney
HR326 Rule does not reflect
act 118 changes.

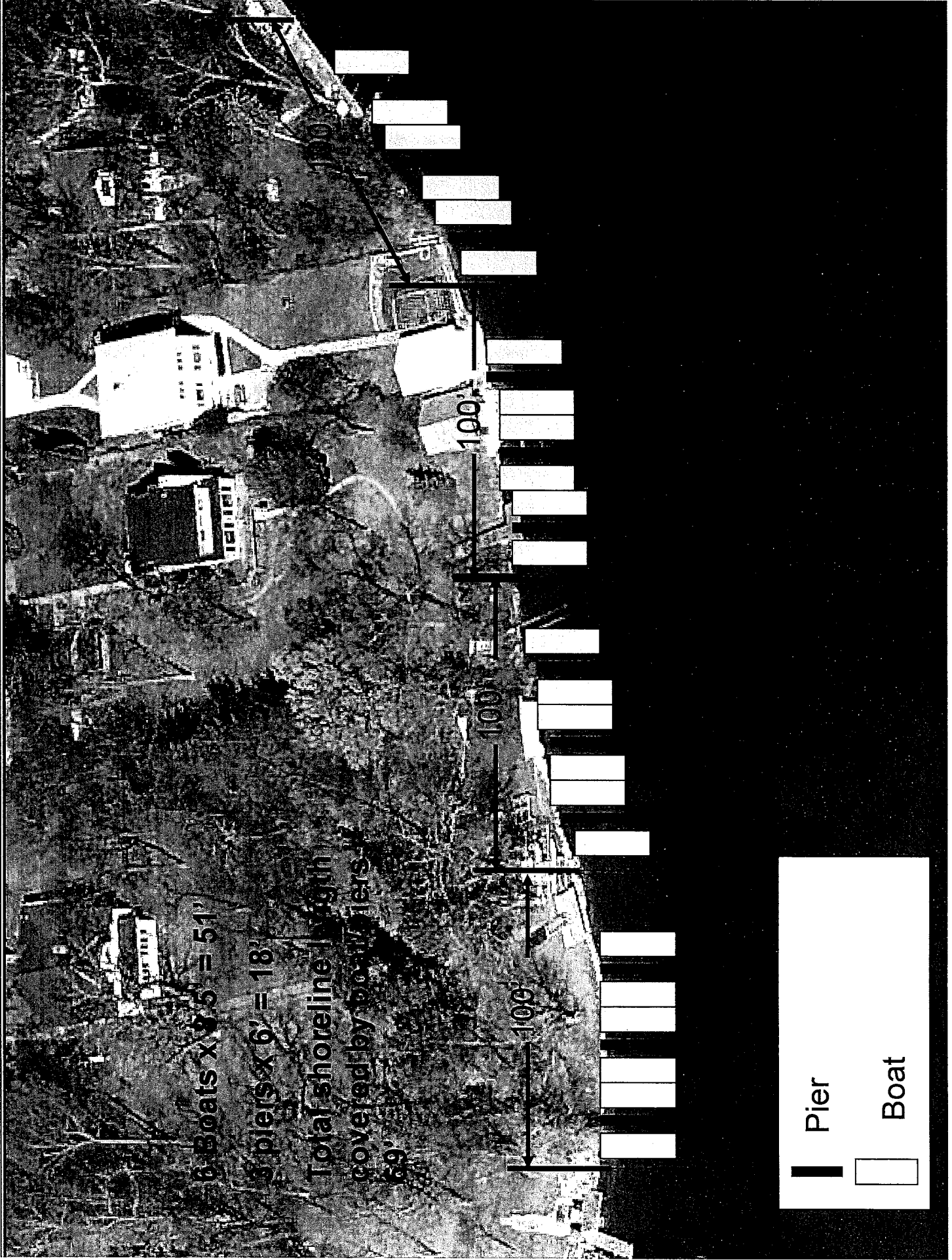
Legislature needs to weigh in
on policy

"Commercial property" is a
matter of local zoning.



WISCONSIN STATE LEGISLATURE





6 Boats x 25' = 51'

3 piers x 6' = 18'



Total shoreline length covered by boat/piers = 69'

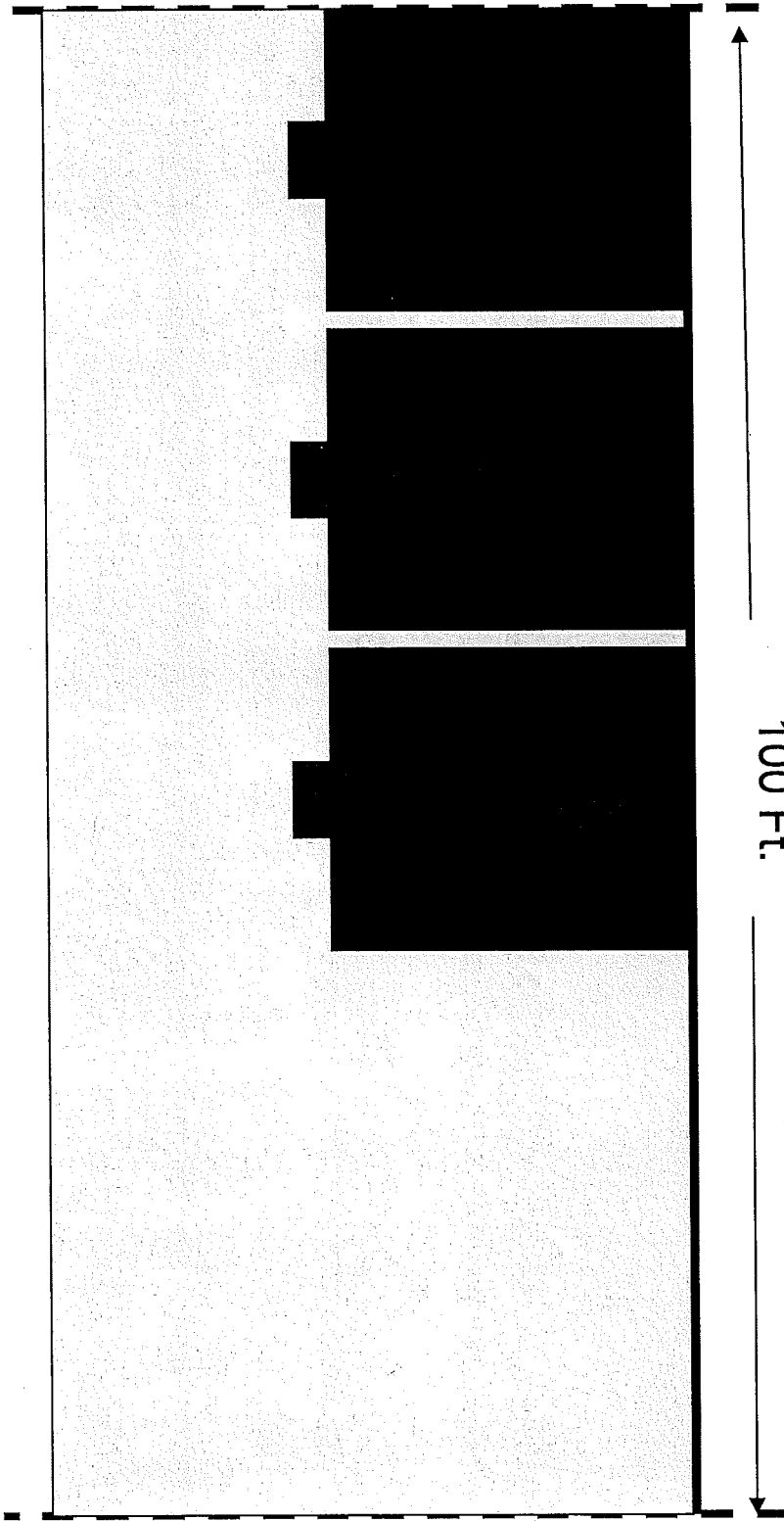
100'

100'

100'

Legend:

-  Pier
-  Boat

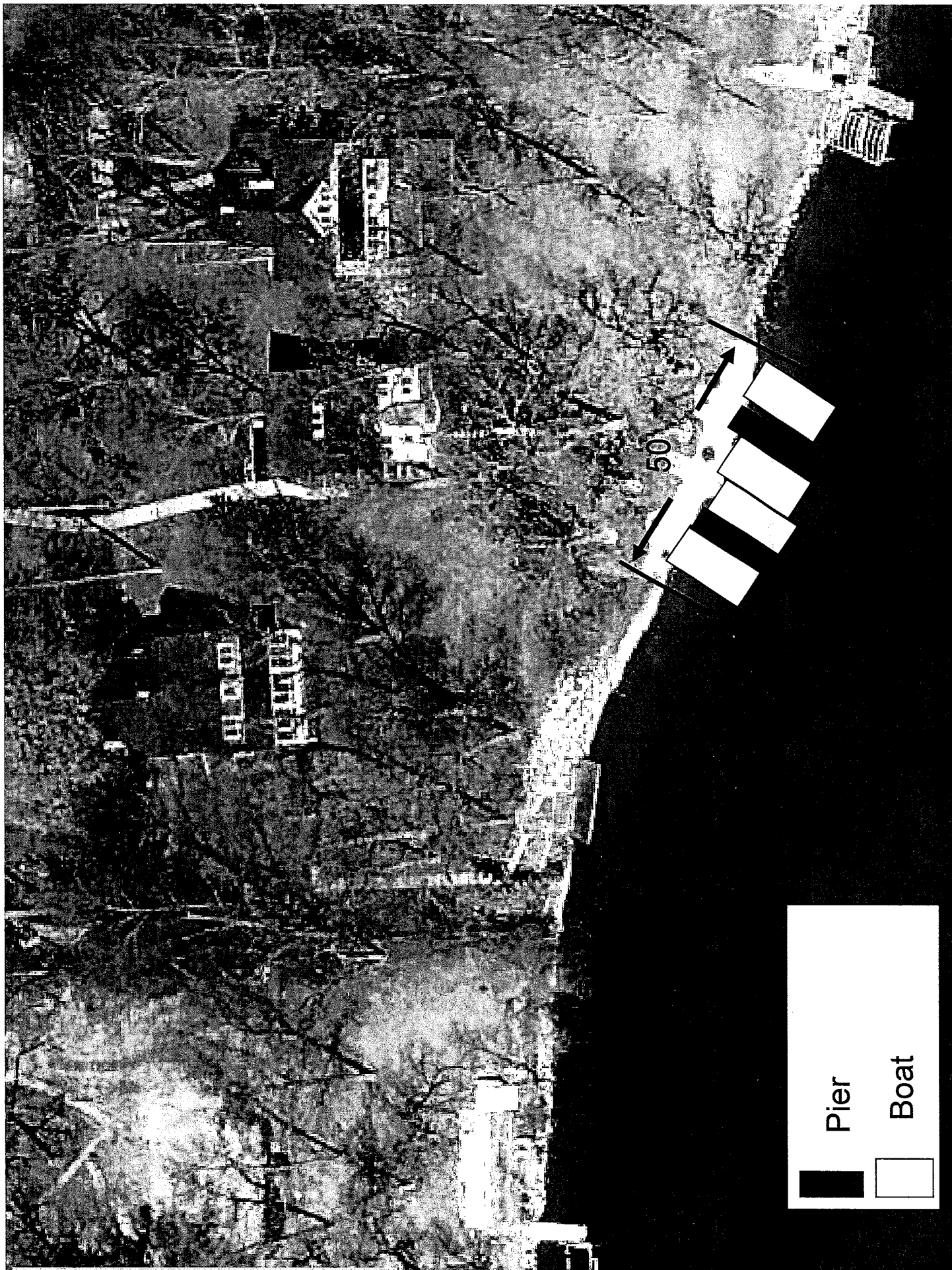


100 Ft.



AB 297 - Considerations

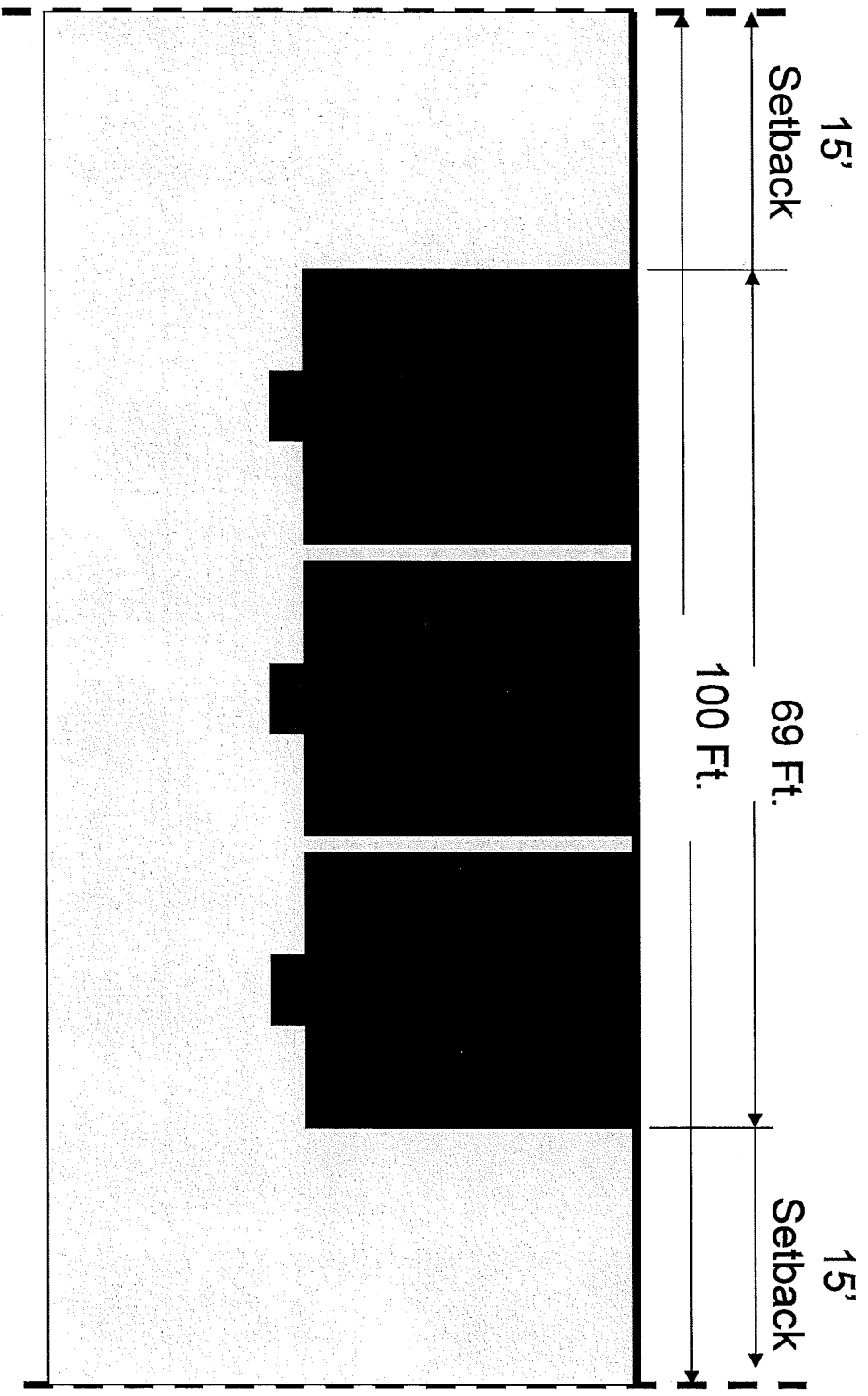
- Proposal would double the potential number of boats allowed along the shoreline.
- For every 100 feet of shoreline a total of 69 feet could be used for boats and piers leaving only 31 feet of shoreline devoid of structures (boats or piers).
- The zone of impact along the shoreline would significantly increase resulting in greater shallow water habitat disturbance and decreased natural scenic beauty.
- Shading of the shallow water zone results in a critical loss of habitat. If 30 feet of lakebed is cleared of plants for swimming, virtually the entire near shore zone of habitat would be impaired.
- Some communities have pier and boat setbacks from neighbor property lines (Delavan 15', Geneva 12', Lauderdale 8'). This proposal would result in the chopping up of the shallow water habitat into tiny pieces providing no resource value.
- Storage of piers and boat lifts over the winter would require more space in the upland buffer making it difficult to realize their benefits.

- Notes on slides;
 - By using the Waukesha County GIS website I selected 100 and 50 foot distances then superimposed piers and boats on this image. I utilized the grid/scale tool in PowerPoint to estimate the total area to be covered by pier/boats then inserted the symbols to reflect these structures. Admittedly not a 100% perfect representation but adequate to show the impact of the proposal. Okauchee Lake used.



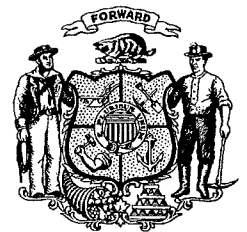
50

| | |
|---|------|
|  | Pier |
|  | Boat |





WISCONSIN STATE LEGISLATURE



- ▶ Home
- ▶ Lobbying in Wisconsin
- ▶ Organizations employing lobbyists
- ▶ Lobbyists

Presented by the Wisconsin Government Accountability Board



as of Tuesday, February 26, 2008

2007-2008 legislative session

Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

Senate Bill 169

relating to: the regulation of certain structures in navigable waters, granting rule-making authority, and making an appropriation. (FE)

TEXT
sponsors
LBR analysis

STATUS
committee actions
and votes
text of amendments

COST & HOURS
of lobbying efforts
directed at this
proposal

| Organization | | These organizations have reported lobbying on this proposal: | Place pointer on icon to display comment click icon to display prior comments | | |
|--------------|-----------|--|--|----------|------|
| Profile | Interests | | Date Notified | Position | Comm |
| ● | ● | Riparian Owners and Marine Contractors Association, Inc. | 2/7/2008 | ↑ | |
| ● | ● | River Alliance of Wisconsin | 5/16/2007 | ↓ | 💬 |
| ● | ● | Wisconsin Association of Campground Owners | 2/7/2008 | ↑ | |
| ● | ● | Wisconsin Builders Association | 4/30/2007 | ↑ | |
| ● | ● | Wisconsin Realtors Association | 5/25/2007 | ↑ | |
| ● | ● | Wisconsin Seasonal Residents Association | 2/7/2008 | ↑ | |
| ● | ● | Wisconsin Wildlife Federation | 6/10/2007 | ↑ | |

Select a legislative proposal and click "go"

House

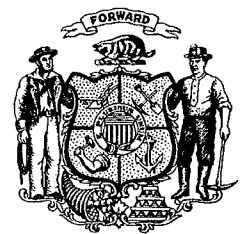
Proposal Type

Proposal Number (enter proposal number)

Legislative Session



WISCONSIN STATE LEGISLATURE



2007 SENATE BILL 169

April 27, 2007 - Introduced by Senators BRESKE, KEDZIE, DARLING, PLALE and ROESSLER, cosponsored by Representatives GUNDERSON, KLEPFISCH, KREUSER, ALBERS, BALLWEG, BRES, HAHN, KAUFERT, KERKMAN, LEMAHIEU, LOTHIAN, MONTGOMERY, MURSAU, MUSSER, NELSON, NYGREN, SOLETSKI, STASKUNAS, TAUCHEN, TOWNSEND, VRUWINK and VUKMIR. Referred to Committee on Environment and Natural Resources.

1 AN ACT to amend 25.29 (1) (c), 30.12 (1g) (f), 30.12 (1p) (a) (intro.), 30.12 (1p) (a)
2 2., 30.12 (3m) (a), 30.13 (1) (intro.), 30.285 (1) (a), 30.285 (2) (intro.) and 30.291
3 (1); and to create 30.03 (4) (am), 30.12 (1j), 30.12 (1k), 30.12 (3m) (am), 30.12
4 (3m) (ar), 30.12 (3m) (cm), 30.12 (3m) (d), 30.206 (1g) and 30.285 (1) (e) of the
5 statutes; relating to: the regulation of certain structures in navigable waters,
6 granting rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no person may deposit any material or place any structure upon the bed of any navigable water where no bulkhead line has been established or, if a bulkhead line has been established, beyond that established line unless the person is granted a permit by the Department of Natural Resources (DNR). A bulkhead line is a line established by a municipality in the public interest that conforms as nearly as practicable to an existing shore. This bill does the following:

Permit exemption for certain piers and wharves

This bill modifies the current law permitting exemption for certain piers and wharves. Under current law, in order for the permit exemption to apply, the pier or wharf may not be in an area of special natural resource interest, may not interfere with the riparian rights of other riparian owners, and may only have a specified

number of boat slips that varies depending on the riparian owner's shoreline footage. Additionally, current law provides that the pier or wharf may extend no further than one of two points, whichever of these two points is closer to the shoreline. This bill changes this distance requirement so that the pier or wharf may extend to whichever of these two points is farther from the shoreline.

Current law also specifies that for the exemption to apply, the pier or wharf may be no more than six feet wide. This bill expands the exemption for a pier so that a pier may have an area as a loading platform that is more than six feet wide if the platform is not more than eight feet wide, it extends perpendicular to one or both sides of the pier, and it is located at the lakeward end of the pier or at the end of the pier that extends into a stream.

Additional boat slips

This bill allows a riparian owner of a property that is adjacent to a lake of 50 acres or more and on which there are three or more dwelling units or on which there are commercial structures to place a pier or wharf having more boat slips than would be allowed without a permit, if the owner obtains an individual permit authorizing the configuration of the pier or wharf or if the configuration of the pier or wharf is authorized under a general permit. The number of additional boat slips that the owner may have under the bill depends on the property's shoreline footage and the use of the property. Under the bill, DNR may not refuse to allow an application for an individual permit and may not deny an individual permit on the basis of the number of slips proposed by a riparian owner if the number of slips proposed does not exceed the number allowed under the bill.

Exemption for certain existing structures

The bill creates a new permitting exemption for certain piers and wharves that were placed on the bed of a navigable water on or before February 6, 2004. The exemption applies if the pier or wharf meets certain size requirements, the pier or wharf does not interfere with the riparian rights of other riparian owners, and the riparian owner registers the pier or wharf with DNR by a specific date. Generally, under this exemption, the pier or wharf may not be more than eight feet wide except that a pier may have a loading platform that is more than eight feet wide if the platform meets certain other configuration requirements.

Prohibition on enforcement

The bill prohibits DNR from taking any enforcement action against a riparian owner of a pier, wharf, boat shelter, boat hoist, or boat lift (structure) for which a permit or written authorization was issued on or before February 6, 2004, if the structure is in compliance with the permit or authorization. The prohibition does not apply to enforcement actions initiated by DNR before February 6, 2004, if the enforcement action is still pending on the bill's effective date.

Repair, replacement, and maintenance

The bill specifies that if a structure is exempt from permit requirements or enforcement action, the owner may repair, maintain, or replace the structure without obtaining a permit as long as the owner does not enlarge the structure. If the exempt structure is a pier or wharf, the owner may relocate or reconfigure the

pier or wharf if the owner does not enlarge it, the owner has previously registered the pier or wharf with DNR, and the owner registers the reconfigured or relocated pier or wharf with DNR. The bill provides that DNR may not object to a minor relocation or reconfiguration.

Solid piers

The bill also authorizes DNR to promulgate rules that limit the issuance of individual permits for solid piers to outlying waters, harbors connected to outlying waters, the Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the Mississippi River. A solid pier is a pier that does not allow for the free flow of water beneath the pier. The bill specifies that the rules may not prohibit issuance of individual permits for solid piers used for private or commercial purposes.

Consideration of alternatives

The bill requires that DNR, in determining whether to issue an individual permit to the owner of a proposed pier or wharf, must consider all reasonable alternatives offered by DNR and the owner of the pier or wharf relating to the location, design, construction, and installation of the pier or wharf.

Other provisions

Current law requires that an amount equal to 1.4 times the estimated motorboat gas tax payment be transferred each fiscal year from the transportation fund to the conservation fund. The estimated motorboat gas tax payment for each fiscal year is calculated by multiplying the number of registered motorboats on January 1 of the previous fiscal year by 50 gallons and then multiplying this product by the excise tax imposed on gasoline and diesel fuel on April 1 of the previous fiscal year. This bill provides that for fiscal years 2007-08, 2008-09, and 2009-10, the motorboat gas tax payment is calculated by multiplying the number of registered motorboats on January 1 of the previous fiscal year by 50.5 gallons rather than 50 gallons. The bill also increases an appropriation to DNR for water resources management to increase funding in fiscal year 2007-08 for the administration of activities related to permitting and exemption determinations for piers, wharves, and other structures.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 SECTION 1. 25.29 (1) (c) of the statutes is amended to read:
2 25.29 (1) (c) For fiscal year 1992-93, and for each fiscal year thereafter, an
3 amount equal to the estimated motorboat gas tax payment multiplied by 1.4. The
4 Except for fiscal years 2007-08, 2008-09, and 2009-10, the estimated motorboat gas

1 tax payment is calculated by multiplying the number of motorboats registered under
2 s. 30.52 on January 1 of the previous fiscal year by 50 gallons and multiplying that
3 product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal
4 year. For fiscal years 2007-08, 2008-09, and 2009-10, the estimated motorboat gas
5 tax payment is calculated by multiplying the number of motorboats registered under
6 s. 30.52 on January 1 of the previous fiscal year by 50.5 gallons and multiplying that
7 product by the excise tax imposed under s. 78.01 (1) on April 1 of the previous fiscal
8 year.

9 SECTION 2. 30.03 (4) (am) of the statutes is created to read:

10 30.03 (4) (am) In determining an appropriate remedy for a violation under this
11 chapter relating to a pier or wharf, the department may not order the removal of a
12 pier or wharf unless the department considers all reasonable alternatives offered by
13 the department and the owner of the pier or wharf relating to the location, design,
14 construction, and installation of the pier or wharf.

15 SECTION 3. 30.12 (1g) (f) of the statutes is amended to read:

16 30.12 (1g) (f) A pier or wharf that is no more than 6 feet wide, that extends no
17 further than to a point where the water is 3 feet at its maximum depth, or to the point
18 where there is adequate depth for mooring a boat or using a boat hoist or boat lift,
19 whichever is closer to farther from the shoreline, and which that has no more than
20 than 2 boat slips for the first 50 feet of riparian owner's shoreline footage and no more
21 than one additional boat slip for each additional 50 feet of the riparian owner's
22 shoreline. Notwithstanding the width limitation in this paragraph, a pier may have
23 an area as a loading platform that is more than 6 feet wide if the platform is not more
24 than 8 feet wide, it extends perpendicular to one or both sides of the pier, and it is

1 located at the lakeward end of the pier or at the end of the pier that extends into a
2 stream.

3 SECTION 4. 30.12 (1j) of the statutes is created to read: *Double density*

4 30.12 (1j) BOAT SLIPS FOR CERTAIN PIERS AND WHARVES. (a) Subject to pars. (b)
5 and (c), the riparian owner or owners of a property that is adjacent to a lake of 50
6 acres or more and on which there are 3 or more dwelling units or on which there are
7 commercial structures may, in lieu of placing a pier or wharf described under sub.
8 (1g) (f), place a pier or wharf that has either of the following number of boat slips,
9 whichever is smaller:

10 1. Four boat slips for the first 50 feet of the property's shoreline footage and no
11 more than 2 boat slips for each additional 50 feet of the property's shoreline footage.

12 2. One boat slip for each dwelling unit, plus an additional number of boat slips
13 if the additional slips are open to the public and the use of the additional slips is
14 limited to the transient docking of boats for less than 24 hours.

15 (b) If the riparian owner or owners of a property described in par. (a) are eligible
16 to place a pier or wharf with the number of boat slips specified in par. (a), the pier
17 or wharf must be located in an area other than an area of special natural resource
18 interest, may not interfere with the riparian rights of other riparian owners, and
19 must meet all of the requirements for the placement of the pier or wharf specified
20 under sub. (1g) (f) except for the limitation on the number of boat slips allowed under
21 sub. (1g) (f).

22 (c) If the riparian owner or owners of a property described in par. (a) are eligible
23 and propose to place a pier or wharf with the number of boat slips specified in par.

24 (a), the riparian owner or owners shall apply to the department for an individual
25 permit under s. 30.208 authorizing the configuration of the pier or wharf unless the

1 3. The riparian owner registers the pier or wharf with the department, in the
2 manner and form required by the department, no later than the first day of the 36th
3 month beginning after the effective date of this subdivision ... [revisor inserts date].

4 (c) The department shall make available to riparian owners a form for
5 registration of a pier or wharf under par. (b) 3. that is designed so that it may be
6 recorded with the register of deeds. A riparian owner may, but is not required to,
7 record the registration form with the register of deeds of the county where the pier
8 or wharf is located. The register of deeds may charge the fee under s. 59.43 (2) (ag)
9 for the recording of a pier or wharf registration under par. (b) 3. The department may
10 not charge a fee for the registration of a pier or wharf under par. (b) 3.

11 (cm) Except as provided in par. (d), the department may not take any
12 enforcement action under this chapter against a riparian owner for the placement
13 of any of the following:

14 1. A structure for which the department has issued a permit under this section
15 on or before February 6, 2004, if the structure is in compliance with that permit.

16 2. A structure for which the department has issued a written authorization on
17 or before February 6, 2004, if the structure is in compliance with that written
18 authorization.

19 3. A structure that is exempt under par. (b).

20 (d) The prohibition on enforcement action under par. (cm) does not apply to
21 enforcement action initiated by the department before February 6, 2004, if the
22 enforcement action remains pending on the effective date of this paragraph
23 [revisor inserts date].

1 configuration is authorized by the department under a general permit under s.
2 30.206 (1g). The department may not deny the permit on the basis of the number of
3 slips proposed by the riparian owner or owners if the number of slips proposed does
4 not exceed the number allowed under par. (a). A riparian owner or owners who apply
5 for a permit under this paragraph shall be presumed to be entitled to the number of
6 slips allowed under par. (a).

7 SECTION 5. 30.12 (1k) of the statutes is created to read:

8 30.12 (1k) EXEMPTION FOR CERTAIN STRUCTURES. (a) In this subsection,
9 "structure" means a pier, wharf, boat shelter, boat hoist, or boat lift.

10 (b) In addition to the exemptions under sub. (1g), a riparian owner of a pier or
11 wharf that was placed on the bed of a navigable water on or before February 6, 2004,
12 is exempt from the permit requirements under this section if all of the following
13 apply:

14 1. The pier or wharf is not more than 8 feet wide as measured across the
15 shortest horizontal distance of any portion of the pier or wharf surface, except that
16 a pier may have an area as a loading platform that is more than 8 feet wide if the
17 platform is located at the lakeward end of the pier, or located at the end of the pier
18 that extends into a stream, does not have more than 300 square feet in surface area,
19 and meets the following width requirements:

20 a. If the platform has a surface area of 200 square feet or less, the platform may
21 be of any width.

22 b. If the platform has a surface area of more than 200 square feet but not more
23 than 300 square feet, the platform may not be more than 10 feet wide.

24 2. The pier or wharf does not interfere with the riparian rights of other riparian
25 owners.

1 (e) A riparian owner who is exempt under par. (b) from the permit requirements
2 under this section or who is exempt under par. (cm) from enforcement action under
3 this chapter may do all of the following:

4 1. Repair, maintain, or replace the exempt structure without obtaining a
5 permit from the department under this section unless the owner enlarges the
6 structure.

7 2. If the exempt structure is a pier or wharf, relocate or reconfigure the pier or
8 wharf if the riparian owner does not enlarge the pier or wharf, the riparian owner
9 registered the pier or wharf with the department under par. (b) 3. and, before
10 relocating or reconfiguring the pier or wharf, the riparian owner registers the
11 reconfigured or relocated pier or wharf with the department under this subdivision.

12 [The department may not object to a minor relocation or reconfiguration.] ~~the~~
13 ~~department object to the relocation or reconfiguration of the pier or wharf~~ *If*
14 the riparian owner retains the pier or wharf in its original location and configuration,
15 the pier or wharf continues to qualify for the exemptions under pars. (b) and (cm)

16 (f) A decision of the department against the owner of a structure for which an *the*
17 exemption is claimed under this subsection is subject to a trial de novo. *dept. may not do.*

18 SECTION 6. 30.12 (1p) (a) (intro) of the statutes is amended to read:

19 30.12 (1p) (a) (intro) The department may promulgate rules concerning the
20 exempt activities under sub. (1g) and concerning piers and wharves under sub. (1j)
21 that only do any of the following:

22 SECTION 7. 30.12 (1p) (a) 2. of the statutes is amended to read:

23 30.12 (1p) (a) 2. Establish reasonable construction and design requirements
24 for the placement of structures under sub. (1g) (c), (d), (f), (g), (h), and (km) that are
25 consistent with the purpose of the activity and for piers and wharves under sub. (1j).

1 SECTION 8. 30.12 (3m) (a) of the statutes is amended to read:
2 30.12 (3m) (a) For a structure or deposit that is not exempt under sub. (1g) and
3 that is not subject to a general permit under sub. (3), and for a structure or deposit
4 for which the department requires an individual permit under sub. (2m) or s. 30.206
5 (3r), a riparian owner may apply to the department for the individual permit that is
6 required under sub. (1) in order to place the structure for the owner's use or to deposit
7 the material.

8 SECTION 9. 30.12 (3m) (am) of the statutes is created to read:
9 30.12 (3m) (am) 1. Except as provided under subd. 2., the department may not
10 refuse to allow a riparian owner to apply for an individual permit for the placement
11 of a pier or wharf, including a solid pier, that exceeds the number of boat slips
12 authorized under sub. (1g) (f) or (1j). The department shall evaluate permit
13 applications under this paragraph on an individual basis and shall grant such
14 applications if the department finds that the pier or wharf meets the requirements
15 under par. (c) 1. to 3.

16 2. The department may deny an individual permit to the riparian owner or
17 owners of a property that is adjacent to a lake of 50 acres or more and on which there
18 are 3 or more dwelling units if the riparian owner or owners apply for an individual
19 permit for the placement of a pier or wharf with a number of boat slips that exceeds
20 the number of boat slips specified in sub. (1j) (a) 2.

21 SECTION 10. 30.12 (3m) (ar) of the statutes is created to read:
22 30.12 (3m) (ar) The department shall issue an individual permit under this
23 subsection to a riparian owner for a pier or wharf that was placed on the bed of a
24 navigable water on or before February 6, 2004, unless the department demonstrates
25 that one or more of the conditions under s. 30.13 (1) (a) to (e) has not been met. The

1 department may not charge a riparian owner described under this paragraph a fee
2 for an individual permit issued under this subsection.

3 SECTION 11. 30.12 (3m) (cm) of the statutes is created to read:
4 30.12 (3m) (cm) In determining whether to issue an individual permit to the
5 owner of a proposed pier or wharf, the department may not deny the permit unless
6 the department considers all reasonable alternatives offered by the department and
7 the owner of the pier or wharf relating to the location, design, construction, and
8 installation of the pier or wharf.

9 SECTION 12. 30.12 (3m) (d) of the statutes is created to read:
10 30.12 (3m) (d) 1. In this paragraph, "solid pier" means a pier that does not allow
11 for the free flow of water beneath the pier.

12 2. The department may promulgate rules that limit the issuance of individual
13 permits for solid piers to outlying waters, harbors connected to outlying waters, the
14 Fox River from the dam at De Pere to Lake Winnebago, Lake Winnebago, and the
15 Mississippi River. The rules may establish reasonable conditions to implement the
16 criteria under par. (c) 1. to 3. The rules may not prohibit the issuance of individual
17 permits for solid piers used for private or commercial purposes.

18 SECTION 13. 30.13 (1) (intro.) of the statutes is amended to read:
19 30.13 (1) CONSTRUCTION ALLOWED WITHOUT PERMIT UNDER CERTAIN
20 CIRCUMSTANCES. (Intro.) A riparian proprietor may construct a wharf or pier in a
21 navigable waterway extending beyond the ordinary high-water mark or an
22 established bulkhead line in aid of navigation without obtaining a permit under s.
23 30.12 if the pier or wharf is exempt from obtaining a permit under s. 30.12 or if all
24 of the following conditions are met:

25 SECTION 14. 30.206 (1g) of the statutes is created to read:

should be period

1 30.206 (1g) GENERAL PERMIT FOR CERTAIN PIERS AND WHARVES. The department
2 may issue a general permit under this section for the configuration of a pier or wharf
3 under s. 30.12 (1j).

4 SECTION 15. 30.285 (1) (a) of the statutes is amended to read:
5 30.285 (1) (a) The number of exempted activities that are conducted under ss.
6 30.12 (1g) and (1k), 30.123 (6), 30.19 (1m), and 30.20 (1g) of which the department
7 is aware.

8 SECTION 16. 30.285 (1) (e) of the statutes is created to read:
9 30.285 (1) (e) The number of piers and wharves for which the department
10 issued a permit authorizing the configuration of the pier or wharf under s. 30.12 (1j)
11 (c).

12 SECTION 17. 30.285 (2) (intro.) of the statutes is amended to read:
13 30.285 (2) (Intro.) For each record kept under sub. (1) (b) to (d) (e), the
14 department shall include all of the following:

15 SECTION 18. 30.291 (1) of the statutes is amended to read:
16 30.291 (1) For purposes of determining whether an exemption is appropriate
17 under s. 30.12 (1k), (2m) or (2r), 30.123 (6m) or (6r), or 30.20 (1m) or (1r), whether
18 a general permit is appropriate under s. 30.206 (3), or whether authorization to
19 proceed under a general permit is appropriate under s. 30.206 (3r), any employee or
20 other representative of the department, upon presenting his or her credentials, may
21 enter the site and inspect any property on the site.

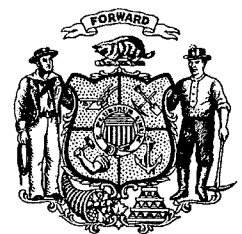
22 SECTION 19. Fiscal changes.
23 (1) WATER RESOURCES MANAGEMENT - LAKE, RIVER, AND INVASIVE SPECIES
24 MANAGEMENT. In the schedule under section 20.005 (3) of the statutes for the
25 appropriation to the department of natural resources under section 20.370 (4) (aq)

1 of the statutes, as affected by the acts of 2007, the dollar amount is increased by
2 \$130,000 for fiscal year 2007-08 to increase funding for administration of activities
3 related to permitting and exemption determinations for piers, wharves, and related
4 structures under sections 30.12 (1g), (1j), (1k), and (3m), 30.13, and 30.206 (1g) of the
5 statutes, as affected by this act.

6 SECTION 20. Effective dates. This act takes effect on the day after publication,
7 except as follows:

8 (1) SECTION 19 (1) of this act takes effect on the day after publication, or on the
9 2nd day after publication of the 2007-09 biennial budget act, whichever is later.

(END)



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as of Tuesday, February 26, 2008

2007-2008 legislative session
Legislative bills and resolutions

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Assembly Bill 297

the regulation of certain structures in navigable waters and granting rule-making authority.
 (FE)

TEXT
sponsors
LBR analysis

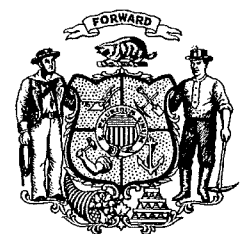
STATUS
committee actions
and votes
text of amendments

COST & HOURS
of lobbying efforts
directed at this
proposal

| Organization | | These organizations have reported lobbying on this proposal: | Place pointer on icon to display comment click icon to display prior comments | | |
|--------------|-----------|--|--|----------|------|
| Profile | Interests | | Date Notified | Position | Comm |
| ● | ● | Riparian Owners and Marine Contractors Association, Inc. | 1/24/2008 | ↑ | |
| ● | ● | River Alliance of Wisconsin | 5/16/2007 | ↓ | 💬 |
| ● | ● | Wisconsin Association of Lakes Inc | 1/24/2008 | ↔ | |
| ● | ● | Wisconsin Builders Association | 4/30/2007 | ↑ | |
| ● | ● | Wisconsin Realtors Association | 5/25/2007 | ↑ | |
| ● | ● | Wisconsin Seasonal Residents Association | 1/24/2008 | ↑ | |
| ● | ● | Wisconsin Wildlife Federation | 6/10/2007 | ↑ | |

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Senate

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SB 169
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Committee on Environment and Natural Resources

Assembly Bill 297

Relating to: the regulation of certain structures in navigable waters, granting rule-making authority, and making an appropriation.

By Representatives Gunderson, Kleefisch, Kreuser, Albers, Ballweg, Bies, Hahn, Kaufert, Kerkman, LeMahieu, Lothian, Montgomery, Mursau, Musser, Nelson, Nygren, Soletski, Staskunas, Tauchen, Townsend, Vruwink and Vukmir; cosponsored by Senators Breske, Kedzie, Darling, Plale and Roessler.

March 03, 2008 Referred to Committee on Environment and Natural Resources.

March 11, 2008 **EXECUTIVE SESSION HELD**

Present: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Absent: (0) None.

Moved by Senator Jauch, seconded by Senator Wirch that **Senate Amendment 1** be recommended for introduction and adoption.

Ayes: (3) Senators Miller, Jauch and Wirch.

Noes: (2) Senators Kedzie and Schultz.

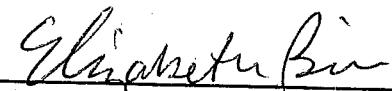
INTRODUCTION AND ADOPTION OF SENATE AMENDMENT 1 RECOMMENDED, Ayes 3, Noes 2

Moved by Senator Jauch, seconded by Senator Wirch that **Assembly Bill 297** be recommended for concurrence as amended.

Ayes: (5) Senators Miller, Jauch, Wirch, Kedzie and Schultz.

Noes: (0) None.

CONCURRENCE AS AMENDED RECOMMENDED, Ayes 5, Noes 0


Elizabeth Bier
Committee Clerk