

No. 692, A.]

[Published November 6, 1953.]

CHAPTER 627

AN ACT to amend 31.06 (1) and 59.04 (2); to repeal and recreate 31.06 (3); and to create 31.06 (4) of the statutes, relating to proceedings for the construction of dams in navigable rivers, public rights to the recreational use and natural scenic beauty of rivers, and powers of county boards.

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

SECTION 1. 31.06 (1) of the statutes is amended to read:

31.06 (1) Upon receipt of an application for a permit the commission shall fix a time, not more than 8 weeks thereafter, and a convenient place, for a public hearing thereon; it shall also give notice of such time and place to the applicant who shall cause the same to be published once each week for three successive weeks before such hearing in at least one newspaper, designated by the commission, in each county in which riparian lands will be affected by the proposed dam; *it shall also give notice of such time and place to the county clerk or clerks of the county or counties in which the proposed dam and flowage created thereby are located.*

SECTION 2. 31.06 (3) of the statutes is repealed and recreated to read:

31.06 (3) At such hearing or any adjournment thereof the commission shall consider the application, and shall take evidence offered by the applicant and other persons in support thereof or in opposition thereto, may require the amendment of the application, and if it shall appear that the construction, operation or maintenance of the proposed dam will not materially obstruct existing navigation or violate other public rights and will not endanger life, health or property, the commission shall so find and a permit is hereby granted to the applicant. The enjoyment of natural scenic beauty is declared to be a public right to be considered along with other public rights and the economic need of electric power for the full development of agricultural and industrial activity and other useful purposes in the area to be served. In considering public rights to the recreational use and natural scenic beauty of the river, the commission shall investigate the potentialities of the lake and lake shore created by the flowage and shall weigh the recreational use and scenic beauty thereof against the known recreational use and scenic beauty of the river in its natural state, and the commission shall further weigh the known recreational use and scenic beauty of the particular section of river involved against the known recreational use and scenic beauty of other sections of the same river and other rivers in the area remaining in their natural state (without regard to plans of other dams subsequently filed or to be filed); if it appears that the river in its natural state offers greater recreational facilities and scenic value for a larger number of people than can by proper control of the flowage level be obtained from the use of the lake and lake shore and that the remaining sections of the river and other rivers in the area in their natural state provide an insufficient amount of recreational facilities and scenic beauty, and if it further appears that the economic need of electric power is less than the value of the recreational and scenic beauty advantages of such river in its natural state, the commission shall so find and the permit be denied, provided that in the case of a dam or flowage located outside the boundaries of a state park or state forest the commission shall accept the findings of the county board or boards provided for in sub. (4), if made within 50 days after notice to the county clerk or clerks as provided in sub. (1) and concurred in by all county boards in which the proposed dam and flowage created thereby are located, unless such findings of the county board or boards are contrary to the preponderance of the evidence introduced before the commission.

SECTION 3. 31.06 (4) of the statutes is created to read:

31.06 (4) Not more than 20 days after receiving notice as provided in sub. (1) each county clerk may and upon request of the chairman of the county board shall give written notice as provided in s. 59.04 (2) of a special meeting of the county board to be

held at a time and place set by the county clerk, not less than 2 weeks nor more than 3 weeks after mailing of such notice, for the purpose of making findings as hereinafter provided, and shall give notice of the time, place and purpose of such special meeting to the commission and to the applicant, who shall cause the same to be published at least one week before such special meeting in at least one newspaper in the county, and who shall cause a copy thereof to be mailed at least 7 days prior to such special meeting to every person interested in any lands that will be affected by the proposed dam and whose post office address can by due diligence be ascertained. Proof of such publication and notice shall be filed with the county clerk. At such special meeting the county board shall hear evidence offered by the applicant and other persons and shall find and determine by a majority vote of the county board members elect whether the lake and lake shore created by the flowage or the river in its natural state offers greater recreational facilities and scenic beauty value for the larger number of people. The county clerk shall forthwith certify such finding and determination to the commission. The jurisdiction and findings of each county board shall apply to that part of the proposed dam and flowage which is within the county.

SECTION 4. 59.04 (2) of the statutes is amended to read:

59.04 (2) A special meeting of any county board shall be held * * * :

(a) Upon a written request of a majority of the members thereof addressed and delivered to the county clerk, and specifying the time and place of such meeting. The time shall not be less than one week from the delivery of such request to the clerk, except that in counties having a population of 500,000 or more the time shall not be less than 48 hours from delivery of such request. Upon receiving such request the county clerk shall forthwith mail to each member of the board notice of the time and place of such meeting. Any special meeting may be adjourned from time to time by a vote of a majority of all the members of the board.

(b) *For the purposes and in the manner prescribed in s. 31.06, with the right to adjourn such special meeting from time to time by a vote of a majority of all the members of the board elect. The county clerk shall mail written notice of such special meeting, specifying the time and place and the purpose thereof, to each member of the county board not less than 2 weeks before the day set for such special meeting.*

Vetoed and passed over veto, October 28, 1953.
