

# In the Board Room: Lake Districts and a County's Role

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**ATTOLLES**  
LAW, s.c.

# Presentation Overview:

1. Introduction: Why This Topic? Why Now?
2. Lake Districts – An Overview
3. Statutory Powers and Authority
4. Statutory Requirements and Steps for Formation
5. Key Points for a County's Consideration
6. Important Resources
7. Questions?

# Introduction: Why This Topic? Why Now?





## Why This Topic? Why Now?

- Common Challenges Facing Counties:
  - Levy limit, and budget constraints
  - Deterioration of dams and other infrastructure
  - Lack of clarity in ownership issues
  - Restrictions on a county's ability to regulate waters of the state
  - Counties are responsible for many roles



## Why This Topic? Why Now?

- Common Challenges Facing Lake Property Owners:
  - Rising costs of maintenance
  - No mechanism to “force” other owner participation
  - Inability to adopt binding rules and regulations for the lake
  - Concerns about lack of responses from state and local government entities



## Why This Topic? Why Now?

- While there are over 200 lake districts already in Wisconsin, there has been a rise in the number of lake district petitions.

*Why? Are lake districts becoming a popular tool to work around other statutory restrictions?*

# Lake Districts: An Overview



An aerial photograph of a city, likely Madison, Wisconsin, showing a mix of urban buildings and green spaces. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

## Lake Districts: An Overview

- Long history of concerned citizens banding together to address issues with lakes
- Challenge of no central oversight authority
- Inapplicability of other environmental legislation to address unique challenges of inland lakes
- 1959: Various lake associations joined together and formed the Wisconsin Federation of Lakes.
- 1974: Wisconsin Statutes Ch. 33 created – a “new” kind of lake management association and the “public inland lake protection and rehabilitation district”



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# Lake Districts: An Overview

What is a “Lake District”?

- Lake organizations, lake associations, sanitary districts, task forces and conservation organizations
- Lake Protection and Rehabilitation Projects
- Public Inland Lake Protection and Rehabilitation Districts
  - Wis. Stat. s. 33.21 – Wis. Stat. s. 33.37
  - A specialized unit of government with distinct powers and authority

An aerial photograph of a city, likely Chicago, showing a mix of modern high-rise buildings and older, lower-rise structures. A semi-transparent white banner is overlaid across the middle of the image, containing the title text. The background shows a dense urban landscape with green trees interspersed among the buildings.

## Lake Districts: An Overview

### Unique Characteristics of Lake Districts:

- A governmental body with certain governmental powers
- Led by elected representatives that do not have to be residents of the boundary area
- Taxing authority – power to levy and collect taxes and special assessments
- Ordinance creation and enforcement authority

# Lake Districts: Statutory Powers and Authority





# Lake Districts: Statutory Powers and Authority

Wis. Stat. s. 33.22 – A lake district created under Wis. Stat. Ch. 33 may:

1. Sue and be sued
2. Enter into contracts
3. Accept gifts and donations
4. Appropriate money

An aerial photograph of a city, likely Milwaukee, Wisconsin, showing a mix of modern high-rise buildings and older, lower-rise structures. A semi-transparent white box is overlaid on the center of the image, containing the title text.

# Lake Districts: Statutory Powers and Authority

Wis. Stat. s. 33.31 and s. 33.32 – A lake district created under Wis. Stat. Ch. 33 may:

1. Borrow money
2. “Use any other financing method prescribed by law”
3. Levy an annual tax to pay principal and interest on outstanding debt
4. Levy special assessments “for the purposes of carrying out district protection and rehabilitation projects or for other lake management activities”



# Lake Districts: Statutory Powers and Authority

Other authority granted by the Wisconsin Statutes:

1. Wis. Stat. s. 30.77(am)1. – Regulate boating activities (in certain circumstances) through adoption of ordinances
2. Wis. Stat. s. 30.78(1g) - Adopt regulations of seaplanes
3. Wis. Stat. s. 66.0113 – Adopt and authorize the use of a citation to be issued for violations of ordinances
4. Wis. Stat. s. 66.0114 – Commence an action for violation of ordinances
5. Wis. Stat. s. 30.79 – Create “Water Safety Patrol Units”
6. Wis. Stat. s. 66.0301 – Enter into Intergovernmental Agreements



# Lake Districts: Statutory Powers and Authority

Wis. Stat. s. 33.22 – A lake district created under Wis. Stat. Ch. 33 must also:

1. Adhere to Wisconsin's Open Meeting Laws
2. Adhere to Wisconsin's Public Records Laws
3. Utilize lowest responsible bidder process for contracts in excess of \$2,500.00
4. Board commissioners must comply with ethical requirements for local government officials

# Lake Districts: Statutory Requirements and Steps





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## Lake Districts: Statutory Requirement - Purpose

Purpose of a Lake District:

Wis. Stat. s. 33.21: A lake district may be created for the purpose of undertaking a program of lake protection and rehabilitation of a lake or parts thereof within the district.

UW Extension: The purpose of a district is to maintain, protect, and improve the quality of a lake and its watershed for the mutual good of the members and the lake environment.



# Lake Districts: Statutory Requirements - Formation

- “Anyone” may petition to form a lake district
- Formation process *must comply* with all requirements of Wis. Stat. Ch. 33
- Actual formation must occur by municipal action pursuant to Wis. Stat. s. 33.23 (does not include counties).
  - Different process than formation by a county and different governing body.
  - Less complicated requirements and verification
  - Governmental body action and involvement required
- A county board may create a lake district pursuant to Wis. Stat. s. 33.24(2) “if the conditions set forth in s. 33.26 are found to exist.”



## Lake Districts: Statutory Requirements - Formation

Wis. Stat. s. 33.24 – County board may form a lake district of the requirements of s. 33.26 are found to exist.

*Key Point: A county's authority to form a lake district creates obligations in that formation process.*



## Lake Districts: Statutory Requirements - Formation

Wis. Stat. s. 33.25 sets forth the requirements of the Petition:

1. Petition must be filed before the county board takes action – a valid petition is a prerequisite to action.
2. Petition must be signed by “persons constituting 51 percent of the landowners or of the owners of 51 percent of the lands within the proposed district.”
  - a. Municipality included in the boundaries may sign
  - b. Specific rules regarding corporate or trust owners

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## Lake Districts: Statutory Requirements - Formation

Wis. Stat. s. 33.25 (2): The Petition must set forth specific information:

1. The name of the proposed district;
2. The necessity for the proposed district;
3. That the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district;
4. That the lands to be included therein will be benefited by such establishment; and
5. The boundaries of the territory to be included in the proposed district.



# Lake Districts: Statutory Requirements - Formation

Who verifies all of this information??

- County clerk?
- County staff?
- Wis. Stat. s. 33.25(3) – Petition *shall be* verified by one of the petitioners, and shall be accompanied by a plat or sketch indicating the approximate area and boundaries of the district.

*Reality check: A Lake District Petition requires a lot of staff time and effort.*



# Lake Districts: Statutory Requirements - Formation

Wis. Stat. s. 33.25(4) – “Every petition is presumed to have been signed by the persons whose signatures appears thereon, until proved otherwise.”

- What is “proven otherwise?!”
- *Nielsen v. Waukesha County Board of Supervisors*: Requirements for a verification under sub. (3) are:
  - Made under oath
  - Carries the authority of a notary public
  - Every person giving the oath is considered to have been lawfully sworn
- No difference between “certified” and “verified”



# Lake Districts: Statutory Requirements - Boundaries

Wis. Stat. s. 33.25(2)(d) – Boundaries must be included in the petition.

- The boundaries of a lake district usually include the property of all riparian owners and can include off-lake property that benefits from the lake or affects the lake's watershed.
- The district may include all or part of a lake or more than one lake.
- A city or village must give its approval to be included in a district.





# Lake Districts: Statutory Requirements - Process

Wis. Stat. s. 33.26 – After submission and verification of the petition, a county must follow a specific process:

1. After submission of the petition, the county board must:
  - a. Arrange for a public hearing to be held not later than 30 days after submission
  - b. Appoint a committee to conduct the hearing
    - i. Adhere to particular notice requirements
    - ii. Hearing must allow an opportunity for all “interested persons” to offer “objections, criticisms or suggestions”
    - iii. A person may file a written objection with the county clerk prior to the public hearing



# Lake Districts: Statutory Requirements - Process

Wis. Stat. s. 33.26 process (cont.):

2. Conduct the public hearing.
3. After the public hearing, the committee “shall report to the county board within 3 months after the date of the public hearing.”
  - a. What is “report”? Look to elements of the statute for all necessary information to be provided to the county board.
  - b. Examples: Number of persons speaking in favor of forming the district, number of persons speaking against forming the district, information listing the petition requirements and whether they are met, and *any other information necessary for the county board to make a thorough decision.*



# Lake Districts: Statutory Requirements - Process

Wis. Stat. s. 33.26 process (cont.):

4. Submit report to the county board
5. County board must render a decision within 6 months after the date of the public hearing.
  - a. County board must consider “the committee’s report and any other evidence submitted to the board...”
  - b. Evidentiary record
  - c. If the county board makes the required findings based on the record, it “shall” establish the district.



# Lake Districts: Statutory Requirements - Process

Wis. Stat. s. 33.26 process (cont.):

6. Required findings for formation:
  - a. That the petition is signed by the requisite owners;
  - b. That the proposed district is necessary;
  - c. That the public health, comfort, convenience, necessity or public welfare will be promoted by the establishment of the district;
  - d. That the property to be included in the district will be benefited by the establishment of the proposed district.



# Lake Districts: Statutory Requirements - Process

Wis. Stat. s. 33.26 process (cont.):

7. County board, by order, shall:
  - a. Declare its findings
  - b. Establish the boundaries
  - c. Declare the district organized
  - d. Give the district a corporate name by which it shall be known
  - e. Establish an initial district board of commissioners.

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# Lake Districts: Statutory Requirements – Governance

After formation...then what?

*Key Point: A Lake District is an independent governmental unit with specific powers and authority.*



# Lake Districts: Statutory Requirements – Governance

- Governance:
  - Governed by a board of commissioners:
    - One person appointed by the county board who is a member of the county land conservation committee (or appointed by the committee)
    - One person appointed by the governing municipality within which the largest portion of the valuation of the district lies
    - Three electors or owners of property within the district. At least one shall be a resident of the district
  - Residents who live in the district and are eligible voters and property owners have a vote in the affairs of the district (subject to statutory restrictions)

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# Lake Districts: Statutory Requirements – Governance

Wis. Stat. s. 33.29 - The lake district board of commissioners shall be responsible for:

- Initiating and coordinating research and surveys for the purpose of gathering data on the lake, related shorelands and the drainage basin
- Planning lake protection and rehabilitation projects
- Contacting and attempting to secure the cooperation of government officials for the purpose of enacting ordinances deemed necessary by the board as furthering the objectives of the district
- Adopting and carrying out lake protection and rehabilitation plans and obtaining any necessary permits therefor
- Preparing the proposed annual budget for presentation at the annual meeting of the district.



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# Lake Districts: Statutory Requirements – Governance

“With great power comes great responsibility.”

- Voltaire  
(and Peter Parker)

# Lake Districts: Key Points for a County's Consideration



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# Lake Districts: Key Points for a County's Consideration

## *Verification of the Petition*

- *Statutory obligation vs. Real Life*
- *Liability?*



# Lake Districts: Key Points for a County's Consideration

## Boundary Determinations

- Statutory Obligations vs. Real Life
- Who determines “benefit”?
- County board is not obligated to remove a property just because the owner requests removal. *See Fort Howard Paper Company v. Town of Ashwaubnon.*

An aerial photograph of a city with various buildings and greenery. A semi-transparent white box is overlaid on the center of the image, containing the title text.

## Lake Districts: Key Points for a County's Consideration

May the county board restrict the authority of the lake district, such as removing the power to levy taxes?

- No – Statutes set a Lake District's authority
- Only change a county board may make is the district boundaries (subject to statutory restrictions)

An aerial photograph of a city, showing a mix of modern high-rise buildings and older, lower-rise structures. A semi-transparent white rectangular box is overlaid on the center of the image, containing the title text in a dark blue font.

## Lake Districts: Key Points for a County's Consideration

### Property Owner Remedies

- Prior to formation of the Lake District – request removal from the boundary
- After formation – request detachment pursuant to Wis. Stat. s. 33.33



## Lake Districts: Key Points for a County's Consideration

County obligations after formation of the lake district

- Continue representation on the lake district board of commissioners
- Cooperation – but not required
- Assist with grant applications
- Liability?



## Lake Districts: Key Points for a County's Consideration

What are the potential benefits to a county if a lake district is formed?

- Shift of certain obligations
- Increased focus and resources on specific issues.
- Greater public involvement may result in better relations



# Lake Districts: Important Resources





# Lake Districts: Important Resources

“People of the Lakes: A Guide for Wisconsin Lake Organizations”

[https://www3.uwsp.edu/cnr-ap/UWEXLakes/Documents/organizations/Lake%20Districts/Lake\\_Org\\_Guide2018.pdf](https://www3.uwsp.edu/cnr-ap/UWEXLakes/Documents/organizations/Lake%20Districts/Lake_Org_Guide2018.pdf)

Wisconsin Lakes and Rivers Convention 2025

<https://wisconsinwaterweek.org/home/lakes-and-rivers-convention/>

University of Wisconsin Stevens Point, College of Natural Resources –  
Extension Lakes Program (Lake Districts)

<https://www3.uwsp.edu/cnr-ap/UWEXLakes/Pages/organizations/districts/default.aspx>

An aerial photograph of a city, likely Stevens Point, Wisconsin, showing a mix of modern and older buildings, streets, and green spaces. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

# Lake Districts: Important Resources

University of Wisconsin Stevens Point, College of Natural Resources –  
Extension Lakes Program  
[www.uwsp.edu/cnr/uwexplakes](http://www.uwsp.edu/cnr/uwexplakes)

Wisconsin Lakes  
[www.wisconsinlakes.org](http://www.wisconsinlakes.org)

Wisconsin Department of Natural Resources  
[www.dnr.state.wi.us](http://www.dnr.state.wi.us)

# Questions?



# Thank You!



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