

## **NEW PIER LEGISLATION**

On April 1, 2008 Governor Doyle signed new legislation concerning the placement of piers on Wisconsin Waterways. The subject of piers has been controversial in recent years, and the Wisconsin State legislature has considered bills regarding pier placement in navigable waters in the past two legislative sessions.

The Wisconsin Association of Lakes has been actively working on pier bills for the best outcome achievable for our member's interests within the current political atmosphere.

The WAL Board approved two key policy goals to help guide our involvement. First, to ensure that pier placement does not damage habitat, obstruct navigation or interfere with the rights of other riparian owners or the public. Second, to maintain current law, which generally recognizes that the right to place piers should be proportional to shoreline frontage, rather than the density of shoreland development.

### **How we got to where we are now on piers**

In 2003 Act 118 (the "Jobs Creation Bill") the Legislature decided to reform pier law by defining piers (by length, width and boat mooring capacity) that may be placed without any state permit. Shortly after that law was enacted, DNR convened a committee of stakeholders (including WAL representatives) to develop administrative rules (NR 326) authorizing other piers under general permits and setting standards for piers.

Legislators and landowners reacted to DNR's proposed pier regulations, raising concern that owners of some existing piers would require individual permits to keep them. Proposed NR 326 was suspended by the Legislature.

In 2005, the Assembly then introduced its own pier bill, which proposed to expand the number of "grandfathered" piers, permit greater boat mooring density for multi-family piers and make some other changes in the state laws. After that bill passed the Assembly, WAL and a few other conservation and development groups were included in a legislative working group, which also contained representatives of the DNR, Builders, Realtors, the Governor's office, the Assembly, and the Senate, to develop a "consensus compromise pier regulation package," which they did.

WAL was able to negotiate significant changes within this work group, including:

- Limits on grandfathered piers with a limited window for registration,
- Limits on the boat slip density for multi-family and commercial property,
- Required permits for higher density piers on multi-family and commercial property,
- Maintaining local authority to establish stricter pier regulations.

No-one, including WAL, felt that this compromise bill was the best bill, but for very different reasons.

The Senate passed this compromise bill in March 2006, but the Assembly added an amendment. The Senate then concurred in the Assembly version, and the Governor vetoed the bill that was sent to him.

This session AB 297 was introduced, which was the same bill as last session's initial compromise bill. The DNR and the Governor's office agreed that opposing a bill that they had previously supported would be damaging to their ability to continue the trust and confidence they had with legislators, so they supported it. Legislators also agreed with AB 297, though many were not happy with the compromise.

## **What does AB 297 contain?**

The following is a summary of the major provisions of AB 297:

- Continues the existing pier width of not more than 6 feet.
- Allows the pier to extend to a point where the water is 3 feet deep or to a point where there is adequate depth for mooring a boat or using a boat hoist or boat lift, whichever is farther from the shoreline.
- Allows a loading platform of not more than 8 feet wide provided it extends perpendicular to one or both sides of the pier and is located at the lakeward end of the pier or the end that extends into a stream.
- Grandfathers piers, including boat hoists and boat lifts, that were placed on or before February 6, 2004 that are not more than 8 feet wide;
  - Piers placed on or before February 6, 2004 may have a loading platform at the lakeward end of the pier or end that extends into a stream that is more than 8 feet wide, provided the platform does not have more than 300 square feet of surface area.
  - If such platform has 200 square feet or less, the platform may be of any width;
  - if such platform is more than 200 square feet but not more than 300 square feet, the platform may not be more than 10 feet wide.
  - Any such grandfathered piers cannot interfere with the riparian rights of other riparian owners.
  - In addition, owners of grandfathered piers must register a grandfathered pier with the DNR within 2 years and 11 months of the effective date of AB 297.
- Allows repair, maintenance, relocation and reconfiguring of grandfathered piers provided the pier is not enlarged. Relocated and reconfigured piers must be registered with the DNR.
- Continues the existing allowance of no more than 2 boat slips for the first 50 feet of shoreline and no more than one additional boat slip for each additional 50 feet of shoreline.

- Allows the property owner to apply for an individual permit for a pier that exceeds the above number of boat slips and if such pier was placed on or before February 6, 2004, requires the DNR to issue the individual permit, without charging a permit fee, unless the DNR demonstrates that one or more of certain specified conditions have not been met.
- On lakes of 50 acres or more, allows owners of property on which there are 3 or more dwelling units or on which there are commercial structures to apply for an individual permit to increase the number of boat slips to the smaller of
  - 4 boat slips for the first 50 feet of shoreline and no more than 2 additional boat slips for each additional 50 feet of shoreline, or
  - 1 boat slip for each dwelling unit, plus an additional number of boat slips if these are open to the public and are limited to transient docking for less than 24 hours.

WAL was able to negotiate some amendments to the original AB 297 which:

- Prevent perpetual replacement of grandfathered piers (repair and maintenance of existing piers are allowed), and
- Preserve the DNR's authority to challenge some piers.

A more complete analysis of AB 297 will be provided at a later date after an extensive review has been made of the many provisions contained in the Bill.

AB 297 was sent to the Governor and is signed into law.