



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Assembly Bill 700

**Assembly Substitute
Amendment 1**

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Assembly Substitute Amendment 1 makes numerous changes to the Managed Forest Land (MFL) program. These changes include the following:

Eligibility

Acreage Requirements

Current law requires that in order to be eligible for the MFL program, a parcel must be at least 10 contiguous acres.

The substitute amendment provides that new applications, applications to convert from forest crop law to MFL and renewal applications must be at least 10 contiguous acres, if the application is filed before June 2, 2014. These applications must be at least 15 contiguous acres if the application is filed on or after June 2, 2014. However, if a renewal application is filed on or after June 2, 2014, and the order has not been previously renewed, the parcel is at least 10 contiguous acres and the owner has complied with their management plan throughout the term of the order, the reenrolled parcel may be less than 15 contiguous acres.

Buildings and Improvements

Under current law, a parcel that is developed for a human residence is not eligible for designation as MFL.

The substitute amendment provides that a parcel is not eligible for MFL designation if there is a building or an improvement associated with a building, located on the parcel. A building includes any structure used for sheltering people, machinery, animals, or plants; used for storing property, used for parking, sales, or display space; or used as a place of employment. An improvement is any accessory building, structure, or fixture that is built or placed on the parcel for its benefit or landscaping that is done on the parcel. An improvement

does not include a public or private road, a railroad or utility right-of-way, a fence, unless the fence prevents the free and open movement of wild animals across any portion of the parcel, culverts, bridges, hunting blinds, as specified by the Department of Natural Resources (DNR) by rule, and other buildings, structures, and fixtures that are needed for sound forestry practices, as provided by DNR by rule.

Leasing

Under current law, an MFL owner may not lease MFL land or enter into any other agreement for consideration for the purpose of allowing persons to engage in a recreational activity on MFL land.

Assembly Substitute Amendment 1 removes the leasing prohibition. The substitute amendment provides instead that an MFL owner may enter into a lease or other agreement for consideration that permits people to engage in a recreational activity on closed MFL if the land: (1) is not part of a large property (defined as one or more parcels under the same ownership that collectively are greater than 1,000 acres in size) covered by the large owner management plan requirements in the substitute amendment; and (2) is not part of a large property that qualifies to participate in the new cutting requirements for large properties created in the substitute amendment. These provisions would take effect the day after publication of the legislation.

Closed Acreage

Generally under current law, an MFL owner may close up to 160 acres in a single town, city or village or one or a combination of quarter-quarter sections, fractional lots, or government lots.

The substitute amendment generally allows an MFL owner to designate any or all the land as closed to public access. However, an owner of a large property that cannot be leased under the requirements in the substitute amendment would still be subject to the current law maximums for closed acreage. These changes would take effect on January 1, 2015.

Modifying Closed or Open Status

Current law allows an MFL owner to modify a designation of open or closed land two times during the term of the MFL order.

Under the substitute amendment, if an owner has land that may be leased under the requirements in the substitute amendment, and the owner has modified their open or closed designation two times before January 1, 2015, the owner may make one additional modification during the period beginning on January 1, 2015 until their order expires.

Providing Equivalent Access

Current law requires that the owner of MFL that is designated as open must permit public access to the land for the purposes of hunting, fishing, hiking, sight-seeing, and cross-country skiing.

The substitute amendment specifies that the method and location of public access to MFL land must be equivalent the method and location of access that is used by the landowner. If the owner is unable to provide such access, the DNR is required to modify the designation from open to closed. However, public access to a parcel that is part of a large property is not required if the parcel is not contiguous to another parcel that is part of the large property, the parcel is accessible only for forest management activities and the parcel does not constitute a large percentage of the large property, as determined by the DNR by rule. These provisions would take effect on January 1, 2015.

Withdrawals from the MFL Program

The substitute amendment creates the following new methods under which an MFL owner may voluntarily withdraw from the program:

Damage by a Natural Disaster. Under the substitute amendment, when an owner of managed forest land that has been damaged by a natural disaster notifies the DNR, the DNR is then required to establish a period of time that the owner will have to restore the productivity of the land so that it meets MFL eligibility requirements. If the owner fails to complete the restoration in the applicable period of time, the owner may request that withdrawal of all of part of the land or DNR may order the withdrawal. The owner would be exempt from paying withdrawal taxes and the withdrawal fee if DNR determines that the parcel is unable to meet the timber production requirements and the order withdraws only the number of acres necessary for the parcel to resume the required level of production.

Sale or Construction Site. The substitute amendment allows an owner to voluntarily withdraw part of a parcel for the purpose of selling it or using it as a construction site. The land withdrawn must be between one to five acres in size. For land under a 25 year order, DNR may issue a withdrawal for this purpose one time. For land under a 50 year order, DNR may issue a withdrawal order for this purpose two times. The owner must then pay withdrawal taxes and the withdrawal fee.

Unable to Meet Productivity Requirements. Assembly Substitute Amendment 1 allows an owner to voluntarily withdraw part of a parcel if DNR determines that part of the parcel is unable to meet the productivity requirements of the program (80% of the parcel must be producing or be capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year). The order must withdraw only the number of acres necessary for the parcel to resume its ability to produce the required amount of timber. No withdrawal taxes or fee would be assessed.

Unsuitable for Timber Production. The substitute amendment allows an owner to voluntarily withdraw part of a parcel if the DNR determines that part of the parcel is

unsuitable, due to environmental, ecological, or economic concerns or factors for the production of timber. The order must withdraw only the number of acres necessary for the parcel to resume its ability to produce the required amount of timber. No withdrawal taxes or fee would be assessed.

Withdrawal Tax Calculation, Issuance, and Collection

Assembly Substitute Amendment 1 removes the current methods of calculating the withdrawal tax and replaces them with a new, single method under which the number of years used in the withdrawal tax calculation is limited to 10 years or the number of years the land was designated as MFL, whichever is fewer.

The substitute amendment also directs counties to issue and collect withdrawal taxes, the withdrawal fee, and yield taxes instead of the DNR. This change does not affect the current 80% municipality/20% county split of these funds, but it would allow the counties to keep the withdrawal fee instead of the DNR. These changes would take effect on January 1, 2015.

Funding Public Access Grants

Beginning in the 2015-16 fiscal year, the substitute amendment creates a sum-sufficient appropriation from which the DNR is currently authorized to award grants to nonprofit conservation organizations and local governments to acquire land to be used for hunting, fishing, hiking, sightseeing, and cross country skiing. The total amount awarded for grants in each fiscal year may not exceed \$1 million.

Increasing Town Payments for County Forest Land

Assembly Substitute Amendment 1 increases the amount the DNR is required to pay each town treasurer for each acre of land designated as county forest land in the town from 30¢ per acre to 55¢ per acre beginning with payments in 2014 for land designated as county forest land as of June 30, 2013.

Bill History

Assembly Substitute Amendment 1 was introduced by Representatives Mursau and Clark on March 3, 2014. On March 4, 2014, the Assembly Committee on Environment and Forestry recommended adoption of the amendment by a vote of Ayes, 8; Noes, 0; and recommended passage of the bill, as amended, by a vote of Ayes, 6; Noes, 2.

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