

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received: 5/16/2013 Received By: rkite
Wanted: As time permits Same as LRB:
For: Legislative Fiscal Bureau By/Representing: Probst
May Contact: Drafter: rkite
Subject: Nat. Res. - parks and forestry Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Legislative Fiscal Bureau
Carbon copy (CC) to:

Pre Topic:

LFB:.....Probst -

Topic:

Managed forest land (MFL) withdrawal exception

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 5/17/2013			_____			
/1	rkite 6/10/2013	wjackson 5/17/2013	phenry 5/20/2013	_____	srose 5/20/2013		
/2		wjackson 6/10/2013	rschluet 6/10/2013	_____	mbarman 6/10/2013		

FE Sent For:

<END>

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FE Sent For:

1/2 WJ 6/10

6/20/13

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/?	rkite	1/1 WJ 5/17 WLS		<u>ph/sc</u>			

FE Sent For:

<END>

NATURAL RESOURCES -- FORESTRY AND PARKS

MFL Withdrawal

Motion:

Move to require DNR to, upon request of an owner to withdraw at least one acre of the owner's land from the managed forest law (MFL) program, order withdrawal of the land from the MFL program if all of the following apply: (a) the purpose for which the owner requests that the Department withdraw the land is to construct a human residence; (b) the land was designated as managed forest land before October 11, 1997; (c) if the land is not subject to a city, village, town or county zoning ordinance that establishes a minimum acreage for the construction of a human residence, the owner requests that the Department withdraw not more than three acres of land; and (d) if the land is subject to a city, village, town, or county zoning ordinance that establishes a minimum acreage for the construction of a human residence that is more than one acre, the owner requests that the Department withdraw no more than the acreage of land required by the applicable zoning ordinance for construction of a human residence. Specify this option may only be exercised one-time per MFL parcel as defined under NR 46.15(25). In addition, specify that DNR may not order withdrawal of the remainder of the land under the MFL order unless the remainder fails to meet MFL program eligibility requirements.

Note:

Under the MFL program, an owner of 10 or more contiguous acres of productive forest land (at least 80% of the parcel is capable of producing at least 20 cubic feet of sellable timber per acre per year) can petition DNR to enroll land in the MFL program. If the petition and corresponding forest management plan is approved, DNR issues an order designating the land as MFL for a period of 25 or 50 years. The landowner is required to follow the approved management plan throughout the period of the MFL order. If a landowner fails to follow the management plan, then DNR may withdraw the land from the program, and the landowner is subject to a withdrawal fee and withdrawal taxes. Landowners may also request that DNR withdraw land from the program, and with certain exceptions, if land is withdrawn from the MFL program before the expiration of the MFL order, the landowner must pay a withdrawal fee and withdrawal taxes. The withdrawal fee of \$300 is deposited in the forestry account. The withdrawal taxes due (calculated by the Department of Revenue) are generally the higher of either: (a) the MFL owner's past tax liability (calculated using the assessed value of the property and net tax rate in the municipality in the year prior to withdrawal multiplied by the years the land was designated as MFL); or (b) five percent of the

stumpage value of merchantable timber on the land (less any acreage share and yield taxes paid by the owner). DNR remits all withdrawal taxes to the municipality where the land is located and the municipality retains 80% of the payment and remits 20% to the county. Under s. 77.88(3) of the statutes, an owner may request that DNR withdraw a portion of an MFL order if it meets one of the following requirements: (a) an entire parcel of managed forest land; (b) all of an owner's managed forest land within a quarter-quarter section (40 acres); or (c) all of an owner's managed forest land within a government lot or fractional lot as determined by the U.S. government survey plat. If any remaining land under the MFL order continues to meet the eligibility requirements of the MFL program, it may remain enrolled in the program. For Department-ordered withdrawals, NR 46.22 specifies that DNR may order withdrawal of land from the MFL program if the land comprises any of the following: (a) an entire quarter-quarter section (40 acres), government lot, or fractional lot of managed forest under the same order; (b) an entire parcel of managed forest land; (c) all managed forest land under the same order owned by the owner in a quarter-quarter section, government lot or fractional lot if the withdrawal is required as a result of a mistake by the owner. Under NR 46.15(25), "parcel" is the acreage of contiguous land described in the (MFL) application which is under the same ownership.

The motion would specify that the owner must withdraw at least one acre of land but not more than three acres of land (unless the land is subject to a local zoning ordinance that establishes a minimum acreage for the construction of a human residence in which case, the owner may withdraw the amount of acreage required under the applicable zoning ordinance even if the amount of acreage exceeds three acres). The owner would be required to pay the withdrawal fee of \$300 and the withdrawal taxes on the acreage withdrawn. In addition, it would specify that DNR may not order withdrawal of the owner's remaining MFL-enrolled acreage unless the remaining MFL-enrolled acreage fails to meet MFL eligibility requirements. According to the Department, 14,435 current MFL orders were enrolled prior to October 11, 1997.



State of Wisconsin
2013 - 2014 LEGISLATURE



Rm
run

LRBb010210

RNK: /:...

Wly

LFB:.....Probst – Managed forest land (MFL) withdrawal taxes and fees

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 739, line 4: after that line insert:

INSERT A

3 ^(b) **2.** The department may not order withdrawal of land under ^{par. (a)} **subd. 1.** from a
4 parcel of managed forest land if the department has previously ordered a withdrawal
5 of land under ^{par. (a)} **subd. 1.** from that parcel of managed forest land.

INSERT B

6 (END)

before October 11, 1997. The bill specifies that the owner must withdraw at least one acre of land but not more than three acres of land unless the land is subject to a local zoning ordinance that establishes a minimum acreage for the construction of a human residence. In that case, the owner may withdraw the amount of acreage required under the applicable zoning ordinance even if that amount exceeds three acres. The bill specifies that DNR may not order withdrawal of the owner's remaining MFL unless the remaining MFL fails to meet MFL eligibility requirements.

For further information see the *state and local* 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:

(b) 1501g. INSERT A (1) Except as provided in subchapter (a) par. (b)

1 SECTION 1. 77.88 (3g) of the statutes is created to read:

2 77.88 (3g) WITHDRAWAL FOR CONSTRUCTION OF A RESIDENCE. Upon the request of
3 an owner to withdraw at least one acre of the owner's land as managed forest land,
4 the department shall order withdrawal of the land if all of the following apply:

5 1. *(a) acre* (a) The purpose for which the owner requests that the department withdraw
6 the land is to construct a human residence.

7 2. *(b) acre* (b) The land was designated as managed forest land before October 11, 1997.

8 3. *(c) acre* (c) If the land is not subject to a city, village, town, or county zoning ordinance
9 that establishes a minimum acreage for the construction of a human residence, the
10 owner requests that the department withdraw not more than 3 acres of land.

11 4. *(d) acre* (d) If the land is subject to a city, village, town, or county zoning ordinance that
12 establishes a minimum acreage for the construction of a human residence that is
13 more than one acre, the owner requests that the department withdraw not more than
14 the acreage of land required by the applicable zoning ordinance for construction of
15 a human residence.

16 SECTION 2. 77.88 (8) (am) of the statutes is created to read:

Kite, Robin

From: Probst, Erin
Sent: Monday, June 10, 2013 8:26 AM
To: Kite, Robin
Cc: Hinz, Daryl
Subject: RE: MFL withdrawal b102

Robin- Let's go ahead and put the parcel language in the draft. I think it can't hurt and would make certain that it applies.

Erin

Erin K. (Rushmer) Probst
Legislative Fiscal Analyst
Wisconsin Legislative Fiscal Bureau
ph. (608) 266-3847
fax (608)267-6873
Erin.Probst@legis.wisconsin.gov

-----Original Message-----

From: Kite, Robin
Sent: Sunday, June 09, 2013 11:43 AM
To: Hinz, Daryl; Probst, Erin
Subject: RE: MFL withdrawal b102

I am answering this question from home so I don't have a copy of the motion. I do think the definition of "parcel" in the rules would apply. But I can add it to the draft if you would like me to do that. Let me know.

Robin

-----Original Message-----

From: Hinz, Daryl
Sent: Sun 6/9/2013 10:19 AM
To: Probst, Erin; Kite, Robin
Subject: RE: MFL withdrawal b102

Robin, if "parcel" is undefined in the statute, would the Admin Rule definition apply? Or do we need to copy the definition into the statute to be sure? [Monday response is fine] Daryl

From: Probst, Erin
Sent: Saturday, June 08, 2013 3:47 PM
To: Hinz, Daryl
Subject: Re: MFL withdrawal

Daryl- Wouldn't that definition of parcel still apply? If not, then I suppose it should be included in the draft. I don't have that motion in front of me so I don't recall exactly. If you think it makes sense to define parcel on the draft using that definition, I am on board with that.

Erin

Sent from my iPhone

On Jun 8, 2013, at 2:37 PM, "Hinz, Daryl" <Daryl.Hinz@legis.wisconsin.gov> wrote:

Erin, in motion 181 [& the current summary] we specified "parcel" meant a specific definition in admin rule, but draft 102 leaves it undefined. Which should it be?

Daryl Hinz

Program Supervisor

Legislative Fiscal Bureau

608-266-3847



State of Wisconsin
2013 - 2014 LEGISLATURE

RM run
2
LRBb0102/0
RNK:wlj:ph
stays

LFB:.....Probst – Managed forest land (MFL) withdrawal exception

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

INSERT 1-4

(4/eam)

(a)

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 739, line 4: after that line insert:
- 3 **“SECTION 1501g.** 77.88 (3g) of the statutes is created to read:
- 4 77.88 **(3g)** WITHDRAWAL FOR CONSTRUCTION OF A RESIDENCE. **(a)** Except as
- 5 provided in par. (b), upon the request of an owner to withdraw at least one acre of the
- 6 owner’s land as managed forest land, the department shall order withdrawal of the
- 7 land if all of the following apply:
- 8 1. The purpose for which the owner requests that the department withdraw the
- 9 land is to construct a human residence.
- 10 2. The land was designated as managed forest land before October 11, 1997.

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0102/2ins.
RNK:.....

INSERT 1-4

- 1 No 91 (a) In this subsection, "parcel" means the acreage of contiguous land that is
2 under the same ownership and that is described in the application for designation
3 of that land as managed forest land.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0102/2
RNK:wlj:rs

LFB:.....Probst – Managed forest land (MFL) withdrawal exception

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 739, line 4: after that line insert:

3 **“SECTION 1501g.** 77.88 (3g) of the statutes is created to read:

4 77.88 (3g) WITHDRAWAL FOR CONSTRUCTION OF A RESIDENCE. (a) In this
5 subsection, “parcel” means the acreage of contiguous land that is under the same
6 ownership and that is described in the application for designation of that land as
7 managed forest land.

8 (am) Except as provided in par. (b), upon the request of an owner to withdraw
9 at least one acre of the owner’s land as managed forest land, the department shall
10 order withdrawal of the land if all of the following apply:

