



2001 SENATE BILL 476

February 28, 2002 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Environmental Resources.

1 **AN ACT** *to repeal* 26.01 and 28.005; *to renumber* 24.01 (3), 24.01 (6), 24.01 (8)
2 and 24.01 (11); *to amend* 23.093, 23.0965 (1), 23.10 (1), 23.10 (2), 23.10 (4),
3 23.10 (5), 23.13, 23.15 (title), 23.15 (1), 24.01 (intro.), 24.01 (2), 24.03, 24.251,
4 24.28, 24.341, 24.39 (1), 24.39 (2), 24.39 (4) (a) (intro.), 24.39 (4) (c), 24.39 (4) (e),
5 24.39 (4) (f), 24.39 (4) (i), 24.53, 24.54 (1), 25.156 (4), 25.29 (1) (a), 25.29 (2), 25.29
6 (3), 25.29 (3m) (a), 25.29 (3m) (b), 25.29 (4m), 25.29 (7) (a), 25.29 (7) (b), 26.10,
7 27.011, 27.016 (6), 29.601 (4), 84.28 (2), 95.21 (1) (f) and 347.06 (4); and *to*
8 **create** 23.05 (intro.) of the statutes; **relating to:** the placement in the statutes
9 of certain definitions concerning natural resources and public lands
10 administration (suggested as remedial legislation by the board of
11 commissioners of public lands).

Analysis by the Legislative Reference Bureau

Under current law, many of the laws relating to natural resources and public lands administration are contained in chapters 23, 24, and 26 through 29 of the statutes. Many of the definitions of terms used in those chapters are currently located in chapter 24 and apply throughout chapters 23 to 29. This bill places those

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definitions currently located in chapter 24 that apply to terms used throughout chapters 23, 24, and 26 to 29 in chapter 23. Also, the bill provides that these definitions no longer apply to chapter 25, which covers trust funds established by the legislature for the purpose of state finance.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the board of commissioners of public lands and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 23.05 (intro.) of the statutes is created to read:

2 **23.05 Definitions.** (intro.) In this chapter, ch. 24, and chs. 26 to 29, unless
3 the context requires otherwise or unless otherwise defined:

NOTE: Currently, definitions located at the beginning of ch. 24, stats., relate to natural resources and public lands administration generally, but they currently also apply to ch. 25, which concerns trust funds. Because most of the definitions in ch. 24 are not relevant to ch. 25, this draft provides that these definitions no longer apply to ch. 25.

4 **SECTION 2.** 23.093 of the statutes is amended to read:

5 **23.093 Carp control research.** The department of ~~natural resources~~ may
6 enter into contracts with public or private agencies for the accelerated research and
7 development of a specific toxic material for the control and eradication of carp in the
8 waters of the state.

9 **SECTION 3.** 23.0965 (1) of the statutes is amended to read:

10 23.0965 (1) The department of ~~natural resources~~ shall enter into an agreement
11 with Ducks Unlimited, Inc., to make payments from the appropriation under s.
12 20.370 (5) (au) to Ducks Unlimited, Inc., to fund its conservation efforts in the United
13 States, Canada, and Mexico.

14 **SECTION 4.** 23.10 (1) of the statutes is amended to read:

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1 warden (or county, or special conservation warden) for the (county of), state of
2 Wisconsin, and do authorize and empower to execute and fulfill the duties of that
3 office according to law, during good behavior and the faithful performance of the
4 duties of that office.

5 In testimony whereof, the secretary has hereunto affixed the secretary's
6 signature and the official seal of the department, at its office in the city of Madison,
7 Wisconsin, this day of, (year)

8 (Seal)

STATE OF WISCONSIN

9 DEPARTMENT OF NATURAL RESOURCES.

10 By

11 **SECTION 7.** 23.10 (5) of the statutes is amended to read:

12 23.10 (5) The department of ~~natural resources~~ shall furnish to each
13 conservation warden at the time of the warden's appointment, a pocket identification
14 folder in form and substance as follows: ~~A~~ a leather-covered folder, size when folded,
15 3 by 4 inches; on one of the inner sides thereof shall be securely fastened a photograph
16 of such appointee to be furnished by the appointee, and partly on the photograph and
17 partly on the margin of such folder shall be an impression of the seal of the
18 department of ~~natural resources~~; such appointee shall also affix the appointee's
19 signature below the photograph on such folder; on the other inner side of such folder
20 shall be securely fastened a miniature true copy of the commission issued to such
21 appointee, which shall be signed by the secretary. The appointee shall carry the
22 identification folder on his or her person at all times that the appointee is on official
23 duty, and the appointee shall on demand exhibit the same to any person to whom the
24 appointee may represent himself or herself as a conservation warden. The cost of
25 such identification folder shall be charged to the appropriation for the department.

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1 **SECTION 8.** 23.13 of the statutes is amended to read:

2 **23.13 Governor to be informed.** The board of commissioners of public lands
3 and the department of ~~natural resources~~ shall furnish to the governor upon the
4 governor's request a copy of any paper, document, or record in their respective offices
5 and give the governor orally such information as the governor may call for.

6 **SECTION 9.** 23.15 (title) of the statutes is amended to read:

7 **23.15 (title) Sale of state-owned lands under the jurisdiction of the**
8 **department of natural resources.**

9 **SECTION 10.** 23.15 (1) of the statutes is amended to read:

10 **23.15 (1)** The natural resources board may sell, at public or private sale, lands
11 and structures owned by the state under the jurisdiction of the department of ~~natural~~
12 ~~resources~~ when the natural resources board determines that said lands are no longer
13 necessary for the state's use for conservation purposes and, if real property, the real
14 property is not the subject of a petition under s. 16.375 (2).

NOTE: SECTIONS 2 to 10 of the draft change current references to "department of natural resources" in ch. 23 to "department". This is because the definition of department of natural resources, placed at the beginning of ch. 23 by this draft, refers to the department of natural resources as the "department" in chs. 23 through 29.

15 **SECTION 11.** 24.01 (intro.) of the statutes is amended to read:

16 **24.01 Definitions and classification.** (intro.) In ~~chs. 23 to 29~~ this chapter,
17 unless the context requires otherwise or unless otherwise defined:

18 **SECTION 12.** 24.01 (2) of the statutes is amended to read:

19 **24.01 (2)** "Board" means the board of commissioners of public lands, ~~except that~~
20 ~~this definition does not apply to ch. 25.~~

21 **SECTION 13.** 24.01 (3) of the statutes is renumbered 23.05 (1).

22 **SECTION 14.** 24.01 (6) of the statutes is renumbered 23.05 (2).

23 **SECTION 15.** 24.01 (8) of the statutes is renumbered 23.05 (3).

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1 **SECTION 16.** 24.01 (11) of the statutes is renumbered 23.05 (4).

NOTE: SECTIONS 13 to 16 renumber definitions which are currently located in ch. 24, stats., and place them in ch. 23, stats. Under current law, these definitions are placed at the beginning of ch. 24. However, because these definitions apply to chs. 23 and 24 and 26 to 29, they are more appropriately placed at the beginning of ch. 23.

2 **SECTION 17.** 24.03 of the statutes is amended to read:

3 **24.03 Escheats.** The board of commissioners of public lands shall, whenever
4 it shall have reason to believe that any lands have escheated to the state for defect
5 of heirs, cause due inquiry to be made to ascertain the rights of the state, and the
6 attorney general shall bring any suit or action or take any requisite proceeding
7 necessary to protect and secure the rights of the state. The board may either take
8 possession of, or cause to be sued for and recovered as aforesaid when necessary, any
9 real estate believed to have escheated to the state, or may proceed directly to sell all
10 the right, title, and interest of the state therein, without first obtaining possession
11 thereof and without establishing title thereto by action.

12 **SECTION 18.** 24.251 of the statutes is amended to read:

13 **24.251 Patents, issuance; county may record.** Whenever it shall appear
14 to the board of commissioners of public lands that all the conditions relating to the
15 issuance of patents have been complied with, the board may issue patents, and the
16 county board of any county may cause such patents to be recorded in the county and
17 pay the cost of such recording.

18 **SECTION 19.** 24.28 of the statutes is amended to read:

19 **24.28 Forfeiture.** In the case of the nonpayment of interest when due
20 according to the terms of the certificate of sale, or of any taxes, which before said
21 annual interest is paid shall have been returned to the board of commissioners of
22 public lands by the county treasurer as due and unpaid upon such land, or of the
23 principal when required by the board, such certificate shall become void from the

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1 time of such failure, and the purchaser, the purchaser's heirs and assigns, shall
2 forfeit all right and interest in the lands described in such certificate; and the board
3 may take immediate possession thereof and may resell the same as hereinafter
4 provided.

5 **SECTION 20.** 24.341 of the statutes is amended to read:

6 **24.341 Offset to refund on void sales.** Whenever any claim shall be made
7 under s. 24.34, the board of ~~commissioners of public lands~~ shall make an
8 investigation and determination, and offset the value of the use of said land, property
9 removed therefrom, and the damage or injury thereto by such claimant, together
10 with interest thereon, against the amounts actually paid to the state and to any other
11 persons on account of the purchase, possession, use, damage, or injury to such lands
12 by said claimants. The refund or payment to be made under s. 24.34 shall in no case
13 be more than the excess, if any, of the amounts paid out by such claimant with
14 interest over such offset.

15 **SECTION 21.** 24.39 (1) of the statutes is amended to read:

16 **24.39 (1)** The board of ~~commissioners of public lands~~ may grant leases of parts
17 or parcels of any public lands except state park lands and state forest lands; The
18 board may grant easements, or leases to enter upon any of said lands, to flow the
19 same, or to prospect for and to dig and remove therefrom ore, minerals, and other
20 deposits, and to sell therefrom such timber as the board shall find necessary to
21 prevent future loss or damage. All sales of standing live timber shall be on a selective
22 cutting basis in line with federal forest practices. Such easements, leases, licenses,
23 and sales shall be made only for a full and fair consideration paid or to be paid to the
24 state, the amount and terms whereof shall be fixed by said board, and such
25 easements, leases, licenses, and sales shall conform to the requirements, so far as

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1 applicable, prescribed by ch. 26 for the exercise by the department of ~~natural~~
2 resources of similar powers affecting state park lands and state forest lands.

3 **SECTION 22.** 24.39 (2) of the statutes is amended to read:

4 24.39 (2) In negotiating for such leases, licenses, or sales, and in exercising the
5 other powers conferred by this section, the board of ~~commissioners of public lands~~
6 shall, so far as it finds it desirable and practicable, request and make proper use of
7 such services and information as the department of ~~natural resources~~ may be able
8 to furnish.

9 **SECTION 23.** 24.39 (4) (a) (intro.) of the statutes is amended to read:

10 24.39 (4) (a) (intro.) Subject to pars. (c) and (d) the board of ~~commissioners of~~
11 ~~public lands~~ may:

12 **SECTION 24.** 24.39 (4) (c) of the statutes is amended to read:

13 24.39 (4) (c) No leases under par. (a) may be executed without a prior finding
14 of the department of ~~natural resources~~ under s. 30.11 (5) that any proposed physical
15 change in the area contemplated as the result of the execution of any term lease is
16 consistent with the public interest in the navigable waters involved.

17 **SECTION 25.** 24.39 (4) (e) of the statutes is amended to read:

18 24.39 (4) (e) Such lease shall be for a term not to exceed 50 years, and shall
19 include therein any and all conditions and terms the board of ~~commissioners of public~~
20 ~~lands~~ believes to be necessary in the public interest. A lessee or the lessee's heirs,
21 successors, or assigns of a lease ~~which~~ that has reached the end of its term shall have
22 first opportunity to contract with the board of ~~commissioners of public lands~~ for a new
23 lease.

24 **SECTION 26.** 24.39 (4) (f) of the statutes is amended to read:

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1 24.39 (4) (f) A municipality may sublease rights leased to it under par. (a) 1.
2 or 2. to corporations or private persons. A municipality may also make physical
3 improvements on and above the bottoms to which rights were leased from the board
4 of commissioners of public lands and may sublease these improvements to
5 corporations or private persons. Any subleases under this paragraph shall be
6 consistent with this subsection and with whatever standards or restrictions the
7 department of natural resources, acting under s. 30.11 (5), may have found at the
8 time of execution of the original lease by the board of commissioners of public lands
9 to the municipality.

10 **SECTION 27.** 24.39 (4) (i) of the statutes is amended to read:

11 24.39 (4) (i) All leases entered into by the board of ~~commissioners of public~~
12 ~~lands~~ under this subsection and s. 30.11 shall be deemed to be subject to this section
13 and any other applicable laws of this state or of the United States.

14 **SECTION 28.** 24.53 of the statutes is amended to read:

15 **24.53 Investigate land claims; deduct expenses.** The board of
16 ~~commissioners of public lands~~ shall investigate the rights of the state to school lands,
17 normal school lands, university lands, and agricultural college lands. The expenses
18 incurred in making these investigations and taking necessary steps to protect
19 common school lands, normal school lands, university lands, and agricultural college
20 lands and timber on those lands, as well as the expense of necessary surveys, records,
21 appraisals, and sales, upon the approval of the board, shall be deducted from the
22 gross receipts of the fund to which the proceeds from the sale of the land or timber
23 will be added.

24 **SECTION 29.** 24.54 (1) of the statutes is amended to read:

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1 24.54 (1) The department of administration shall provide an office for the
2 board. The board shall conveniently arrange and preserve in that office all records,
3 books, reports, surveys, maps, field notes, plats, and other papers pertaining to the
4 public lands owned by the state, including all public lands that have been or shall
5 be received from the United States or any officer of the United States. The board may
6 perfect the records, books, reports, surveys, maps, field notes, plats, and other papers
7 when incomplete, and cause copies of those documents to be made when from injury,
8 loss, use, or accident it shall become necessary. Any copy, when certified to be a
9 correct copy by the executive secretary of the board under the executive secretary's
10 signature and the official seal of the office to have been made for any of the causes
11 specified in this subsection, shall have the same force and effect in all courts and
12 places as the original. Any copy from the original records, books, reports, surveys,
13 maps, field notes, plats, or other papers, or from any record or paper required by law
14 to be kept in the office, or any copy from a certified copy of one of those documents,
15 when certified by the executive secretary of the board or any member of the board
16 of commissioners of public lands under the official seal of the board, shall be received
17 in evidence with the same effect as the original.

NOTE: In SECTIONS 17 to 29, references to the "department of natural resources",
"board of commissioners of public lands", or both, which appear in the statutes affected
in those SECTIONS, are deleted and are replaced with the terms "department" and "board",
respectively. This change is made because department of natural resources is referred
to as the "department" in the definition of the DNR at the beginning of ch. 23, and the term
"board of commissioners of public lands" is also referred to as the "board" in the definition
of the board of commissioners of public lands in s. 24.01 (2), stats.

18 **SECTION 30.** 25.156 (4) of the statutes is amended to read:

19 25.156 (4) The members of the board shall promulgate rules restricting the
20 executive director, executive assistant to the executive director, internal auditor,
21 chief investment officer, chief financial officer, chief legal counsel, chief risk officer,

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1 investment directors, and employees from having financial interest, directly or
2 indirectly, in firms or corporations providing services to the department board and
3 governing the receipt of gifts or favors therefrom, and also governing personal
4 investments of all employees including the executive director, executive assistant to
5 the executive director, internal auditor, chief investment officer, chief financial
6 officer, chief legal counsel, chief risk officer, and investment directors to prevent
7 conflicts of interest.

8 **SECTION 31.** 25.29 (1) (a) of the statutes is amended to read:

9 25.29 (1) (a) Except as provided in ss. 25.293 and 25.295, all moneys accruing
10 to the state for or in behalf of the department of natural resources under chs. 26, 27,
11 28, 29, and 350, subchs. I and VI of ch. 77, and ss. 23.09 to 23.31, 23.325 to 23.42,
12 23.50 to 23.99, 30.50 to 30.55, 70.58, 71.10 (5), and 71.30 (10), including grants
13 received from the federal government or any of its agencies except as otherwise
14 provided by law.

15 **SECTION 32.** 25.29 (2) of the statutes is amended to read:

16 25.29 (2) License fees and other state moneys collected by each field employee
17 of the department of natural resources shall be remitted to the department of natural
18 resources within one month after receipt together with a report of the number of
19 licenses issued and details covering the type and the amount of money remitted.

20 **SECTION 33.** 25.29 (3) of the statutes, as affected by 2001 Wisconsin Act 16, is
21 amended to read:

22 25.29 (3) Funds accruing to the conservation fund from license fees paid by
23 hunters and from sport and recreation fishing license fees shall not be diverted for
24 any other purpose than the administration of the department of natural resources

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1 when it is exercising its responsibilities that are specific to the management of the
2 fish and wildlife resources of this state.

3 **SECTION 34.** 25.29 (3m) (a) of the statutes is amended to read:

4 25.29 (3m) (a) The total amount that the department of natural resources may
5 expend for a given fiscal year from the fish and wildlife account of the conservation
6 fund for administrative costs may not exceed 16% of the expenditures from that
7 account for that fiscal year.

8 **SECTION 35.** 25.29 (3m) (b) of the statutes is amended to read:

9 25.29 (3m) (b) For purposes of par. (a), administrative costs consist of the costs
10 incurred in the administration of the department of natural resources and its
11 divisions and in providing support services for the ~~department~~. department.

12 **SECTION 36.** 25.29 (4m) of the statutes, as affected by 2001 Wisconsin Act 16,
13 is amended to read:

14 25.29 (4m) No moneys that accrue to the state for or in behalf of the department
15 of natural resources under ch. 29 may be expended or paid for the enforcement of the
16 treaty-based, off-reservation rights to fish held by members of federally recognized
17 American Indian tribes or bands domiciled in Wisconsin.

18 **SECTION 37.** 25.29 (7) (a) of the statutes is amended to read:

19 25.29 (7) (a) Eight percent of the tax levied under s. 70.58 or of the funds
20 provided for in lieu of the levy shall be used to acquire and develop forests of the state
21 for the purposes or capable of providing the benefits described under s. 28.04 (2)
22 within areas approved by the department of natural resources and the governor and
23 located within the region composed of Manitowoc, Calumet, Winnebago, Sheboygan,
24 Fond du Lac, Ozaukee, Washington, Dodge, Milwaukee, Waukesha, Jefferson,
25 Racine, Kenosha, Walworth, Rock, and Outagamie counties.

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1 **SECTION 38.** 25.29 (7) (b) of the statutes is amended to read:

2 25.29 (7) (b) An additional 4% of the tax levied under s. 70.58 or of the funds
3 provided in lieu of the levy shall be used to purchase forests for the state for the
4 purposes or capable of providing the benefits described under s. 28.04 (2) within
5 areas approved by the department of natural resources and the governor and located
6 within the region specified under par. (a).

NOTE: SECTIONS 31 to 38 change the reference in ch. 25 from “department” to
“department of natural resources”. This is because this draft makes the definition of
department of natural resources, in ch. 23 under this draft, inapplicable to ch. 25.
Therefore, the entire term “department of natural resources” must be used when it is
mentioned in ch. 25.

7 **SECTION 39.** 26.01 of the statutes is repealed.

NOTE: This SECTION repeals the definition of department of natural resources in ch.
26. This is because in SECTION 1 of the draft, the definition of “department of natural
resources” placed in ch. 23 is also made applicable to ch. 26.

8 **SECTION 40.** 26.10 of the statutes is amended to read:

9 **26.10 Reports by the department to the board of commissioners of**
10 **public lands.** The department shall report monthly to the board of commissioners
11 of public lands all trespasses committed, all materials seized, all sales made, and all
12 moneys received under ss. ~~26.01~~ 26.03 to 26.09.

NOTE: This SECTION deletes a reference to s. 26.01, stats., since this section is
repealed in this draft.

13 **SECTION 41.** 27.011 of the statutes is amended to read:

14 **27.011 Copper Culture Mounds State Park.** The department of natural
15 resources shall accept a grant of lands in the city of Oconto, Oconto county County,
16 and shall develop and maintain it as a state park to be known as Copper Culture
17 Mounds State Park.

NOTE: This SECTION deletes the reference to “department of natural resources” in
ch. 27 and replaces it with “department”. The definition of “department of natural
resources” at the beginning of ch. 23, in which it is referred to as “the department”, is
applicable to ch. 27.

SENATE BILL 476**SECTION 42**

1 **SECTION 42.** 27.016 (6) of the statutes is amended to read:

2 27.016 (6) Annually, on or before January 1, the department shall review all
3 applications received under this section in the previous year and shall make the
4 grants that it approves from the appropriation under s. 20.370 (1) (eq). If insufficient
5 funds are available to pay all approved grants, the natural resources board shall
6 prorate the available funds among the applicants in proportion to the approved grant
7 amounts.

NOTE: In this SECTION, the term “natural resources” modifies “board”. This is necessary because in ch. 27, the term “board” refers to the board of commissioners of public lands, not the board of natural resources.

8 **SECTION 43.** 28.005 of the statutes is repealed.

NOTE: This SECTION repeals the definition of “department of natural resources” in ch. 28. This is because, under SECTION 1, the definition of “department of natural resources” created in ch. 23 applies to ch. 28.

9 **SECTION 44.** 29.601 (4) of the statutes is amended to read:

10 29.601 (4) USE OF PESTICIDES. The department of natural resources, after public
11 hearing, may promulgate rules governing the use of any pesticide, which it finds is
12 a serious hazard to wild animals other than those it is intended to control, and the
13 making of reports about the pesticide. In promulgating the rules, the department
14 to the extent relevant shall consider the need for pesticides to protect the well-being
15 of the general public. “Pesticide” has the meaning given in s. 94.67.

NOTE: This SECTION deletes the reference to “department of natural resources” and replaces it with “department”. The definition of “department of natural resources” at the beginning of ch. 23, in which it is referred to as “the department”, is applicable to ch. 29.

16 **SECTION 45.** 84.28 (2) of the statutes is amended to read:

17 84.28 (2) The department may administer a program for the construction,
18 maintenance, and marking of roads, including fire roads, service areas, trailer or
19 vehicle parking stalls or parking areas, and other facilities consistent with highway
20 construction and for the marking of scenic routes in the state parks, state forests, the

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1 lower Wisconsin state riverway as defined under s. 30.40 (15), state fish hatcheries,
2 other public used areas under the jurisdiction of the department of natural
3 resources, and other public lands as defined in ~~ch. 24 s. 23.05 (2)~~, for highways or fire
4 roads leading from the most convenient state trunk highways to such lands, and for
5 the relocation and construction of state trunk highways in or near state parks when
6 required in the interests of public safety. Within the limitations and for the purposes
7 of this section, work may be performed by or under the supervision or authority or
8 with the approval of the department, upon the request for such work filed by the
9 department of natural resources as to the lower Wisconsin state riverway, as defined
10 in s. 30.40 (15), or as to state park or forest lands, or by the board of commissioners
11 of the public lands as to other classes of public lands. Outside the lower Wisconsin
12 state riverway, as defined in s. 30.40 (15), and outside the limits of the park, state
13 forest, and public land areas, direct connections to the most convenient state trunk
14 highway may be built or maintained under this section. Roads in unincorporated
15 areas within 5 miles of the boundaries of the Horicon national wildlife refuge or the
16 Horicon marsh wildlife area may be built or maintained under this section upon
17 request of the town board, if the department of transportation certifies that such
18 roads are or will be used by a substantial number of visitors to such area. Costs
19 incurred under this section shall be the responsibility of the department of natural
20 resources, commissioners of public lands, or town board, as appropriate.

21 **SECTION 46.** 95.21 (1) (f) of the statutes is amended to read:

22 95.21 (1) (f) "Warden" has the meaning designated under s. ~~24.01 (11)~~ 23.05 (4).

23 **SECTION 47.** 347.06 (4) of the statutes is amended to read:

24 347.06 (4) A duly authorized warden, as defined in s. ~~24.01 (11)~~ 23.05 (4), may
25 operate a vehicle owned or leased by the department of natural resources upon a

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1 highway during hours of darkness without lighted headlamps, tail lamps, or
2 clearance lamps in the performance of the warden's duties under s. 29.924 (2).

NOTE: SECTIONS 45, 46, and 47 change cross-references to definitions currently existing in ch. 24 to the renumbered definitions in ch. 23.

3

(END)