



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3256/1
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2015 SENATE BILL 434

December 7, 2015 – Introduced by Senators TIFFANY and MOULTON, cosponsored by Representatives MURSAU, T. LARSON, E. BROOKS, SWEARINGEN and CZAJA. Referred to Committee on Sporting Heritage, Mining, and Forestry.

1 **AN ACT** *to repeal* 77.06 (5), 77.07, 77.82 (1) (bn), 77.82 (4g), 77.83 (1) (a) 1. and
2 2., 77.86 (2), 77.87, 77.88 (2) (a) 1., 77.88 (2) (e), 77.88 (3g), 77.88 (4), 77.88 (5)
3 (a) 1. and 2., 77.88 (5) (ab), 77.88 (5) (ar), 77.88 (5) (b), 77.88 (5) (c) and 77.91
4 (3); *to renumber* 77.88 (2) (d) 2.; *to renumber and amend* 77.06 (1) (b) 2.,
5 77.82 (12), 77.83 (1) (a) (intro.), 77.86 (1) (b) 2., 77.88 (2) (a) (intro.), 77.88 (2)
6 (a) 2., 77.88 (2) (a) 3., 77.88 (2) (d) 1., 77.88 (2) (f), 77.88 (3) and 77.88 (5) (a)
7 (intro.); *to amend* 20.370 (1) (cr), 26.06 (1), 74.25 (1) (a) 6., 74.30 (1) (f), 75.36
8 (2) (a), 77.06 (1) (a), 77.06 (1) (c), 77.10 (1) (a), 77.81 (6), 77.82 (1) (a) 1., 77.82
9 (1) (b) 3., 77.82 (2) (dm), 77.82 (4), 77.82 (11), 77.83 (1) (b) 1., 77.88 (2) (am), 77.88
10 (2) (b), 77.88 (2) (c), 77.88 (3) (title), 77.88 (5) (am) 1., 77.88 (5m), 77.88 (8) (b),
11 77.88 (11), 77.89 (1) (a), 77.89 (2) (b) and 77.91 (3m); and *to create* 23.0951,
12 23.27 (3) (c), 77.06 (1) (b) 2. b., 77.06 (1) (b) 2. c., 77.06 (1) (b) 2. d., 77.81 (4m),
13 77.82 (1) (bp), 77.82 (12) (a) 2., 77.82 (12) (a) 4., 77.82 (12) (a) 5., 77.82 (12) (a)
14 6., 77.83 (1) (am), 77.83 (1) (d), 77.86 (1) (b) 2. a., 77.86 (1) (b) 2. b., 77.86 (1) (b)

SENATE BILL 434

1 2. c., 77.86 (1) (b) 2. d., 77.86 (1) (e), 77.86 (1) (f), 77.88 (2) (a) (title), 77.88 (2)
2 (ac) (title), 77.88 (2m), 77.88 (3) (am), 77.88 (3) (b) 1. (intro.) and 2., 77.88 (3) (d),
3 77.88 (3j), 77.88 (3k), 77.88 (3L), 77.88 (4m), 77.88 (5) (ac), 77.88 (5) (am) (title),
4 77.91 (6) (d) and 77.91 (8) of the statutes; **relating to:** taxes on managed forest
5 lands, eligibility for the managed forest land program, management plans for
6 managed forest land, sale or transfer of managed forest land, productivity of
7 managed forest land, closed managed forest land, forest production areas,
8 natural heritage inventory, wildlife action plans, providing an exemption from
9 emergency rule procedures, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to the managed forest land (MFL) program administered by the Department of Natural Resources (DNR).

Introduction

Under current law, certain forested land may be designated as MFL under a program administered by DNR. Under this program, the owner of land designated as MFL makes an annual acreage share payment that is lower than, and in lieu of, the property taxes that normally would be payable. In exchange, the owner must comply with certain forestry practices and have a management plan prepared for the land. The owner must also open the MFL to the public for hunting, fishing, hiking, sight-seeing, and cross-country skiing, but may designate up to a certain number of acres as being closed to the public. For MFL that is designated as closed, the owner must pay an additional closed acreage fee. An owner seeking to have land designated as MFL submits an application to DNR that contains a management plan for the land. If the MFL meets the eligibility requirements under the program, which include minimum acreage requirements and requirements as to how much merchantable timber can be produced on the land, DNR approves the application and issues an order designating the land as MFL. An owner may choose to have the order last 25 or 50 years.

A similar program exists for land designated as forest croplands (FCL). Since July 1985, no new land may be subject to the FCL program. However, there is forest land that is currently in this program since the designations last for 25 or 50 years.

SENATE BILL 434***Taxes and fees***

Under current law, an owner pays a severance tax for wood products removed from FCL and a yield tax for merchantable timber cut from MFL. This bill eliminates both taxes.

Under current law, subject to limitations, land may be withdrawn from the MFL program with payment of a withdrawal tax. The withdrawal tax is the higher of two amounts: the amount of past tax liability, less the taxes paid, or 5 percent of the fair market value of the merchantable timber on the land, less the taxes paid. Variations on this method of calculating the withdrawal taxes are used depending on when the land was designated as MFL, how long the land has been designated as MFL, and whether the MFL is subject to an original order or an order that has been renewed. Under this bill, those methods are replaced with a single method of calculating this tax: the total net property tax rate imposed by the municipality in which the land is located is multiplied by the assessed value of the land being withdrawn, with the result then multiplied by ten years, or the number of years the MFL was subject to the order, whichever is fewer.

Under current law, the amount that is collected as closed acreage fees is collected by the applicable taxation district and paid to the applicable county, which pays these amounts to DNR for deposit into the conservation fund. This bill requires the taxation district to retain 80 percent of the closed acreage fees and to pay 20 percent of the closed acreage fees to the county. None of the amount collected is paid to DNR.

Eligible land

Under current law, a parcel of land is eligible for designation as MFL only if it consists of at least ten contiguous acres. Under this bill, the minimum acreage requirement is increased to 20 acres, but the owner of an MFL parcel of less than 20 acres may apply for a one-time renewal of the order designating the parcel as MFL without meeting the 20-acre requirement.

Under current law, a parcel that is developed for a human residence is not eligible for designation as MFL. Under the bill, a parcel is not eligible if there is any building or improvement associated with a building located on the parcel. The bill defines "building" to include any structure used as shelter, as a place of employment, or as storage and "improvement" to include any accessory building, structure, or fixture that is placed on a parcel for the parcel's benefit. The bill specifically excludes roads, certain rights-of-way, fences, hunting blinds, and other structures from being considered improvements. This bill requires DNR to promulgate rules relating to hunting blinds and authorizes emergency rule making.

Under current law, the owner of land that is designated as managed forest land under an order that takes effect on or after April 28, 2004, may file an application with DNR to designate as managed forest land an additional parcel of land if the additional parcel is at least three acres in size and is contiguous to any of that designated land. This bill allows any owner of MFL to apply to designate an additional parcel of land as MFL regardless of the date of the order designating the

SENATE BILL 434

land as MFL. The tax rate applicable to an added parcel is the tax rate currently applicable to the parcel to which the land is being added.

Management plans

Under current law, an amendment to or repeal of the MFL subchapter of the statutes does not affect the terms of an order or management plan, except as expressly agreed to in writing by the land owner and DNR. Under this bill, subject to certain exceptions, DNR may not amend or otherwise change the terms of an order or management plan to conform with changes made to the statutes subsequent to the date on which the order was entered or the plan was approved. If a statute is enacted or a rule is promulgated during the period of the order that materially changes the terms of the order, the state shall require the landowner to elect between acceptance of modifications to the contract or voluntary withdrawal of the land without penalty.

Under current law, an MFL order may be renewed at the end of its term. DNR may deny an application for renewal only if the land does not comply with the eligibility requirements, the owner has failed to comply with the management plan for the MFL, or delinquent taxes are owed on the land. Under this bill, DNR may deny the application if the land that is subject to the renewal application is not identical to the MFL under the existing order or if certain requirements for establishing, updating, and reviewing mandatory forestry soil and conservation practices in a management plan are not met.

Sales and transfers of land

Under current law, an owner may sell or transfer an entire parcel of MFL. An owner may also sell or transfer part of a parcel of MFL, if the land being sold or transferred is all of the owner's land located in a quarter-quarter section or in a government lot or fractional lot, provided that the land remaining meets the eligibility requirements for designation as MFL. Under the bill, an owner may voluntarily withdraw part of an MFL parcel for the purpose of selling it or using it as a construction site. The land withdrawn may not be less than one acre and may not be more than five acres. The bill limits the number of times that MFL may be withdrawn for this purpose and requires the owner to pay the withdrawal taxes and the withdrawal fee.

Productivity of land

This bill creates a provision that allows an owner of MFL that has been damaged by a natural disaster to restore the productivity of the land so that it meets the requirements under the MFL program for producing merchantable timber. If the owner fails to complete the restoration within a time period specified by DNR, either DNR may order withdrawal of the land or the owner of the land may request withdrawal of the land. The owner is exempt from payment of withdrawal taxes if the owner makes the request and DNR determines that the MFL is unable to meet the production requirements for merchantable timber and if the owner withdraws only the number of acres necessary for the parcel to again meet the production

SENATE BILL 434

requirements. This bill defines “natural disaster” as fire, ice, snow, wind, flooding, insects, drought, or disease.

This bill also allows an owner who is unable to meet the requirements for producing merchantable timber for environmental, ecological, or economic reasons to request withdrawal of that part of a parcel that is unsuitable for the production of merchantable timber. The owner is exempt from payment of withdrawal taxes or fees.

Under current law, a person may not cut any merchantable wood products on FCL or any merchantable timber on MFL unless the owner has filed a notice with DNR. DNR may prescribe the amount of forest products or timber to be removed unless the notice of intention to cut was provided to DNR by a cooperating forester authorized to assist in the harvesting and sale of timber or by an accredited forester. Under this bill, DNR may not prescribe the amount of forest products or timber to be removed if the notice of intention to cut was provided to DNR by additional persons meeting specified education and work experience requirements.

Closed lands

Under current law, an owner may designate MFL as closed to public access. The closed area may consist of a quarter-quarter section, a government lot, a fractional lot, or a combination thereof or up to 160 acres in each municipality. Under this bill, an owner may designate any MFL as closed to public access, and the limit on acreage that can be designated as closed applies only to land owned by a business entity.

This bill also allows an owner of land designated as closed to permit a person who performs land management activities on the land to access the land to conduct recreational activities.

Other provisions

Under current law, a “forest production area” is an area in a state forest that DNR has classified as an area in which the primary management objective relates to the production of timber and other forest products. This bill requires DNR to propose a variance to the master plans of all state forests except for the southern state forests and Governor Knowles State Forest so that 75 percent of all the land in those state forests combined is classified as a forest production area.

Under current law, DNR conducts a natural heritage inventory program to determine the existence and degree of endangerment of natural areas. Under this bill, activities under the program related to private property may be conducted only with the permission of the property owner.

This bill authorizes DNR to prepare a state wildlife action plan that identifies which native wildlife species with low or declining populations are most at risk and that provides guidance for activities to conserve those species. The plan may not require action by property owners or the department and may not be referenced as guidance on DNR forms.

SENATE BILL 434

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:

1 **SECTION 1.** 20.370 (1) (cr) of the statutes is amended to read:

2 20.370 (1) (cr) *Forestry — recording fees.* All moneys received under ss. 77.82
3 (2m) (d) and (4) and 77.88 (2) ~~(d)~~ (ac) 1. for the payment of fees to the registers of deeds
4 under s. 77.91 (5).

5 **SECTION 2.** 23.0951 of the statutes is created to read:

6 **23.0951 Wildlife action plan.** The department may prepare a state wildlife
7 action plan that identifies which native wildlife species with low or declining
8 populations are most at risk and provides guidance for activities to conserve those
9 species. The plan may not require action by property owners or the department. The
10 department may not require that the plan be used as guidance on official department
11 forms.

12 **SECTION 3.** 23.27 (3) (c) of the statutes is created to read:

13 23.27 (3) (c) *Rights of property owners.* The department may conduct activities
14 under this subsection related to private property only with the permission of the
15 owner of the property.

16 **SECTION 4.** 26.06 (1) of the statutes is amended to read:

17 26.06 (1) Foresters, forest supervisors, rangers and wardens of the department
18 and the cruisers and foresters of the board of commissioners of public lands have the
19 enforcement powers specified in s. 26.97 with respect to, and may seize, without
20 process, any forest products unlawfully severed from public lands of the state, federal
21 lands leased to the state, county forest lands entered under s. 28.11, forest croplands

SENATE BILL 434

1 entered under subch. I of ch. 77 or managed forest land designated under subch. VI
2 of ch. 77. Seized products cut from lands under the control of the board of
3 commissioners of public lands shall be held for the commissioners and those cut from
4 forest croplands, managed forest land or county forest shall be held for the owner,
5 and subject to the payment of ~~severance taxes, yield taxes or severance share~~ thereon
6 to the state. Products cut from state forest lands or federal lands leased to the
7 department shall be appraised and sold. Products appraised at more than \$500 shall
8 be sold on sealed bids not less than 10 days after a class 1 notice has been published,
9 under ch. 985, in the county where the material is located. Any sheriff may seize and
10 hold for the owner thereof any forest products unlawfully severed or removed.

11 **SECTION 5.** 74.25 (1) (a) 6. of the statutes is amended to read:

12 74.25 (1) (a) 6. Pay to the county treasurer ~~20%~~ 20 percent of collections of
13 occupational taxes on coal docks, ~~20%~~ 20 percent of collections of the taxes imposed
14 under ss. 77.04 and 77.84 (2) (a) ~~and, (am), and (bp),~~ and ~~all~~ 20 percent of collections
15 of payments for lands under s. 77.84 (2) (b), and (bm), ~~and (bp).~~

16 **SECTION 6.** 74.30 (1) (f) of the statutes is amended to read:

17 74.30 (1) (f) Pay to the county treasurer ~~20%~~ 20 percent of collections of
18 occupational taxes on coal docks, ~~20%~~ 20 percent of collections of the taxes imposed
19 under ss. 77.04 and 77.84 (2) (a) ~~and, (am), and (bp),~~ and ~~all~~ 20 percent of collections
20 of payments for lands under s. 77.84 (2) (b), and (bm), ~~and (bp).~~

21 **SECTION 7.** 75.36 (2) (a) of the statutes is amended to read:

22 75.36 (2) (a) If property is acquired by a county taking a tax deed under this
23 chapter, the county is not required to pay any special charges or special assessments
24 until the property is sold by the county. In the case of lands designated as forest
25 croplands or managed forest lands, the county is not required to pay any taxes under

SENATE BILL 434**SECTION 7**

1 s. 77.04, ~~77.07 or 77.87~~ until the forest crop is cut. The liens of the tax certificate and
2 of all general property taxes, special assessments, special charges and special taxes
3 levied against the property shall merge in the county's title.

4 **SECTION 8.** 77.06 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
5 is amended to read:

6 77.06 (1) (a) No person shall cut any merchantable wood products on any forest
7 croplands where the forest crop taxes are delinquent nor until 30 days after the
8 owner has filed with the department of natural resources a notice of intention to cut,
9 specifying by descriptions and the estimated amount of wood products to be removed
10 and the proportion of present volume to be left as growing stock in the area to be cut.
11 ~~The department of natural resources may require a bond executed by some surety~~
12 ~~company licensed in this state or other surety for such amount as may reasonably~~
13 ~~be required for the payment to the department of natural resources of the severance~~
14 ~~tax hereinafter provided.~~ Merchantable wood products include all wood products
15 except wood used for fuel by the owner.

16 **SECTION 9.** 77.06 (1) (b) 2. of the statutes, as created by 2015 Wisconsin Act 55,
17 is renumbered 77.06 (1) (b) 2. (intro.) and amended to read:

18 77.06 (1) (b) 2. (intro.) If The department of natural resources may not
19 prescribe the amount of forest products to be cut if the notice of intention to cut was
20 provided to the department of natural resources by ~~a~~ any of the following:

21 a. A cooperating forester authorized under s. 28.05 to assist the state in the
22 harvesting and sale of timber, ~~or by a forester accredited by the Society of American~~
23 ~~Foresters, Association of Consulting Foresters, or Wisconsin Consulting Foresters,~~
24 ~~the department may not prescribe the amount of forest products to be removed.~~

25 **SECTION 10.** 77.06 (1) (b) 2. b. of the statutes is created to read:

SENATE BILL 434

1 77.06 (1) (b) 2. b. A forester accredited by the Society of American Foresters,
2 Association of Consulting Foresters, or Wisconsin Consulting Foresters.

3 **SECTION 11.** 77.06 (1) (b) 2. c. of the statutes is created to read:

4 77.06 (1) (b) 2. c. A person who holds at least a bachelor's degree from a forestry
5 program provided by a nationally or regionally accredited institution of higher
6 education and who has engaged in the equivalent of 5 years of full-time work
7 preparing forest management plans or marking trees for cutting.

8 **SECTION 12.** 77.06 (1) (b) 2. d. of the statutes is created to read:

9 77.06 (1) (b) 2. d. A person who holds a degree or diploma from a 2-year forestry
10 program provided by an accredited technical or vocational school and who has
11 engaged in the equivalent of 5 years of full-time work preparing forest management
12 plans or marking trees for cutting.

13 **SECTION 13.** 77.06 (1) (c) of the statutes, as created by 2015 Wisconsin Act 55,
14 is amended to read:

15 77.06 (1) (c) Cutting in excess of the amount prescribed by the department of
16 natural resources, or cutting that the department finds is inconsistent with sound
17 forestry practices, shall render the owner liable to ~~double the severance tax~~
18 prescribed in s. 77.06 (5) a forfeiture equal to 20 percent of the value of the timber
19 cut and subject to cancellation under s. 77.10.

20 **SECTION 14.** 77.06 (5) of the statutes is repealed.

21 **SECTION 15.** 77.07 of the statutes, as affected by 2015 Wisconsin Act 55, is
22 repealed.

23 **SECTION 16.** 77.10 (1) (a) of the statutes is amended to read:

24 77.10 (1) (a) The department of natural resources shall on the application of
25 the department of revenue or the owner of any forest croplands or the town board of

SENATE BILL 434**SECTION 16**

1 the town in which said lands lie and may on its own motion at any time cause an
2 investigation to be made and hearing to be had as to whether any forest croplands
3 shall continue under this subchapter. If on such hearing after due notice to and
4 opportunity to be heard by the department of revenue, the town and the owner, the
5 department of natural resources finds that any such lands are not meeting the
6 requirements set forth in s. 77.02 or that the owner has made use of the land for
7 anything other than forestry or has failed to practice sound forestry on the land, the
8 department of natural resources shall cancel the entry of such description and issue
9 an order of withdrawal, and the owner shall be liable for the tax and penalty under
10 sub. (2). Copies of the order of withdrawal specifying the description shall be filed
11 by the department of natural resources with all officers designated to receive copies
12 of the order of entry and withdrawal and this subchapter shall not thereafter apply
13 to the lands withdrawn, ~~except s. 77.07 so far as it may be needed to collect any~~
14 ~~previously levied severance or supplemental severance tax.~~ If the owner shall not
15 repay the amounts on or before the last day of February next succeeding the return
16 of such lands to the general property tax roll as provided in sub. (4), the department
17 of natural resources shall certify to the county treasurer the descriptions and the
18 amounts due, and the county treasurer shall sell such lands as delinquent as
19 described in s. 77.04 (2). Whenever any county clerk has certified to the taking of tax
20 deed under s. 77.04 (2) the department of natural resources shall issue an order of
21 withdrawal as to the lands covered in such tax deed. Such order may also be issued
22 when examination of tax records reveals prolonged delinquency and noncompliance
23 with the requirements of s. 77.04 (2).

24 **SECTION 17.** 77.81 (4m) of the statutes is created to read:

SENATE BILL 434

1 77.81 (4m) “Natural disaster” means fire, ice, snow, wind, flooding, insects,
2 drought, or disease.

3 **SECTION 18.** 77.81 (6) of the statutes is amended to read:

4 77.81 (6) “Recreational activities” ~~include~~ means recreational outdoor
5 activities that are compatible with the practice of forestry, as determined by the
6 department. “Recreational activities” ~~includes~~ hunting, fishing, hiking,
7 sight-seeing, cross-country skiing, horseback riding, and staying in cabins.

8 **SECTION 19.** 77.82 (1) (a) 1. of the statutes is amended to read:

9 77.82 (1) (a) 1. It consists of at least ~~10~~ 20 contiguous acres, except as provided
10 in this subdivision. The fact that a lake, river, stream or flowage, a public or private
11 road or a railroad or utility right-of-way separates any part of the land from any
12 other part does not render a parcel of land noncontiguous. If a part of a parcel of at
13 least ~~10~~ 20 contiguous acres is separated from another part of that parcel by a public
14 road, that part of the parcel may be enrolled in the program, even if that part is less
15 than ~~10~~ 20 acres, if that part meets the requirement under subd. 2. and is not
16 ineligible under par. (b). The owner of a parcel of less than 20 acres that is subject
17 to a managed forest land order before the effective date of this subdivision [LRB
18 inserts date], may apply one time for a renewal of the order under sub. (12) without
19 meeting the 20-acre requirement.

20 **SECTION 20.** 77.82 (1) (b) 3. of the statutes is amended to read:

21 77.82 (1) (b) 3. A parcel that is ~~developed for a human residence~~ on which a
22 building or an improvement associated with a building is located. This provision first
23 applies to managed forest land subject to an order on the effective date of this
24 subdivision [LRB inserts date].

25 **SECTION 21.** 77.82 (1) (bn) of the statutes is repealed.

SENATE BILL 434

1 **SECTION 22.** 77.82 (1) (bp) of the statutes is created to read:

2 77.82 (1) (bp) 1. For purposes of par. (b) 3., and except as provided in subd. 2.,
3 an improvement is any of the following:

4 a. Any accessory building, structure, or fixture that is built or placed on the
5 parcel for its benefit.

6 b. Landscaping that is done on the parcel.

7 2. An improvement does not include any of the following:

8 a. A public or private road.

9 b. A railroad or utility right-of-way.

10 c. A fence, unless the fence prevents the free and open movement of wild
11 animals across any portion of the parcel.

12 d. Culverts.

13 e. Bridges.

14 f. Hunting blinds, as specified by rules promulgated by the department.

15 g. Structures and fixtures that are needed for sound forestry practices.

16 **SECTION 23.** 77.82 (2) (dm) of the statutes is amended to read:

17 77.82 (2) (dm) ~~A~~ Subject to sub. (12), a proposed management plan.

18 **SECTION 24.** 77.82 (4) of the statutes is amended to read:

19 77.82 (4) **ADDITIONS TO MANAGED FOREST LAND.** An owner of land that is
20 designated as managed forest land ~~under an order that takes effect on or after April~~
21 ~~28, 2004,~~ may file an application with the department to designate as managed forest
22 land an additional parcel of land if the additional parcel is at least 3 acres in size and
23 is contiguous to any of that designated land. The application shall be accompanied
24 by a nonrefundable \$20 application recording fee unless a different amount for the
25 fee is established by the department by rule at an amount equal to the average

SENATE BILL 434

1 expense to the department of recording an order issued under this subchapter. The
2 fee shall be deposited in the conservation fund and credited to the appropriation
3 under s. 20.370 (1) (cr). The application shall be filed on a department form and shall
4 contain any additional information required by the department. The tax rate
5 applicable to an addition under this subsection shall be the tax rate currently
6 applicable to the parcel to which the land is being added.

7 **SECTION 25.** 77.82 (4g) of the statutes is repealed.

8 **SECTION 26.** 77.82 (11) of the statutes is amended to read:

9 77.82 (11) ~~DURATION; EFFECT OF CHANGES.~~ An order issued under this subchapter
10 remains shall constitute a contract between the state and the owner and shall
11 remain in effect for the period specified in the application unless the land is
12 withdrawn under s. 77.84 (3) (b) or 77.88. ~~An amendment to or repeal of this~~
13 ~~subchapter does not affect the terms of an order or management plan, except as~~
14 ~~expressly agreed to in writing by the owner and the department and except~~ Except
15 as provided in sub. subs. (3) (f) and (11m), the department may not amend or
16 otherwise change the terms of an order or management plan to conform with changes
17 made to any provision of this subchapter subsequent to the date on which the order
18 was entered or the plan was approved. If a statute is enacted or a rule is promulgated
19 during the period of the order that materially changes the terms of the order, the
20 landowner shall elect between acceptance of modifications to the contract consistent
21 with the provisions of the statute or rule or voluntary withdrawal of the land without
22 penalty.

23 **SECTION 27.** 77.82 (12) of the statutes is renumbered 77.82 (12) (a) (intro.) and
24 amended to read:

SENATE BILL 434**SECTION 27**

1 77.82 (12) (a) (intro.) An owner of managed forest land may file an application
2 with the department under sub. (2) for renewal of the order. An application for
3 renewal shall be filed no later than the June 1 before the expiration date of the order.
4 The application shall specify whether the owner wants the order renewed for 25 or
5 50 years. The provisions under subs. ~~(3),~~ (5), (6), and (7) do not apply to an application
6 under this subsection ~~paragraph~~. The department may deny the application only if
7 ~~the~~ any of the following applies:

8 1. The land fails to meet the eligibility requirements under sub. (1), if the

9 3. The owner has failed to comply with the management plan that is in effect
10 on the date that the application for renewal is filed, or if there

11 7. There are delinquent taxes on the land.

12 (b) If the application is denied, the department shall state the reason for the
13 denial in writing.

14 **SECTION 28.** 77.82 (12) (a) 2. of the statutes is created to read:

15 77.82 (12) (a) 2. The land that is subject to the application for renewal of the
16 order is not identical to the land that is designated as managed forest land under the
17 existing order.

18 **SECTION 29.** 77.82 (12) (a) 4. of the statutes is created to read:

19 77.82 (12) (a) 4. The management plan does not contain any mandatory
20 forestry or soil conservation practices, as described in sub. (3) (c) 6. and 7., or any
21 mandatory management activities, as described in sub. (3) (d), that the department
22 determines are required to be continued during the term of the renewed order.

23 **SECTION 30.** 77.82 (12) (a) 5. of the statutes is created to read:

24 77.82 (12) (a) 5. No review of the mandatory forestry or soil conservation
25 practices or the mandatory management activities contained in the management

SENATE BILL 434

1 plan has been conducted within the 5 years immediately preceding the date of the
2 application for renewal.

3 **SECTION 31.** 77.82 (12) (a) 6. of the statutes is created to read:

4 77.82 (12) (a) 6. Within the 5 years immediately preceding the date of the
5 application for renewal, the management plan has not been updated to reflect the
6 completion of any forestry or soil conservation practices or management activities
7 contained in the plan.

8 **SECTION 32.** 77.83 (1) (a) (intro.) of the statutes is renumbered 77.83 (1) (a) and
9 amended to read:

10 77.83 (1) (a) An owner may designate land subject to a managed forest land
11 order as closed to public access.—~~The closed area may consist of either:~~

12 **SECTION 33.** 77.83 (1) (a) 1. and 2. of the statutes are repealed.

13 **SECTION 34.** 77.83 (1) (am) of the statutes is created to read:

14 77.83 (1) (am) Notwithstanding par. (a), not more than 160 acres owned by any
15 business entity, as defined in s. 13.62 (5), may be designated as closed managed forest
16 land in each municipality.

17 **SECTION 35.** 77.83 (1) (b) 1. of the statutes is amended to read:

18 77.83 (1) (b) 1. The addition does not result in increasing the closed portion of
19 the land to an area greater than that permitted under par. ~~(a)~~ (am).

20 **SECTION 36.** 77.83 (1) (d) of the statutes is created to read:

21 77.83 (1) (d) An owner of land designated as closed under par. (a) may permit
22 a person who performs land management activities on the land to access the land to
23 conduct recreational activities.

24 **SECTION 37.** 77.86 (1) (b) 2. of the statutes, as created by 2015 Wisconsin Act
25 55, is renumbered 77.86 (1) (b) 2. (intro.) and amended to read:

SENATE BILL 434**SECTION 37**

1 77.86 (1) (b) 2. (intro.) An owner who is required under the terms of an approved
2 management plan to cut merchantable timber on managed forest land is not required
3 to obtain approval of the cutting of that timber before the cutting takes place if a
4 ~~cooperating forester authorized under s. 28.05 to assist the state in the harvesting~~
5 ~~and sale of timber, or a forester accredited by the Society of American Foresters,~~
6 ~~Association of Consulting Foresters, or Wisconsin Consulting Foresters, any of the~~
7 ~~following provided the required notice of intent to cut to the department under subd.~~
8 1.:

9 **SECTION 38.** 77.86 (1) (b) 2. a. of the statutes is created to read:

10 77.86 (1) (b) 2. a. A cooperating forester authorized under s. 28.05 to assist the
11 state in the harvesting and sale of timber.

12 **SECTION 39.** 77.86 (1) (b) 2. b. of the statutes is created to read:

13 77.86 (1) (b) 2. b. A forester accredited by the Society of American Foresters,
14 Association of Consulting Foresters, or Wisconsin Consulting Foresters.

15 **SECTION 40.** 77.86 (1) (b) 2. c. of the statutes is created to read:

16 77.86 (1) (b) 2. c. A person who holds at least a bachelor's degree from a forestry
17 program provided by a nationally or regionally accredited institution of higher
18 education and who has engaged in the equivalent of 5 years of full-time work
19 preparing forest management plans or marking trees for cutting.

20 **SECTION 41.** 77.86 (1) (b) 2. d. of the statutes is created to read:

21 77.86 (1) (b) 2. d. A person who holds a degree or diploma from a 2-year forestry
22 program provided by an accredited technical or vocational school and who has
23 engaged in the equivalent of 5 years of full-time work preparing forest management
24 plans or marking trees for cutting.

25 **SECTION 42.** 77.86 (1) (e) of the statutes is created to read:

SENATE BILL 434

1 77.86 (1) (e) The department shall not restrict an approved cutting based on
2 standards established under s. 23.27 (3).

3 **SECTION 43.** 77.86 (1) (f) of the statutes is created to read:

4 77.86 (1) (f) The department shall notify the person who filed the notice of
5 intention to cut by certified letter or electronic mail no later than the end of the next
6 business day of the department's decision to approve or deny a cutting notice.

7 **SECTION 44.** 77.86 (2) of the statutes is repealed.

8 **SECTION 45.** 77.87 of the statutes is repealed.

9 **SECTION 46.** 77.88 (2) (a) (title) of the statutes is created to read:

10 77.88 (2) (a) (title) *Authority to transfer.*

11 **SECTION 47.** 77.88 (2) (a) (intro.) of the statutes is renumbered 77.88 (2) (a) and
12 amended to read:

13 77.88 (2) (a) ~~Except as provided in par. (am), an An~~ owner may sell or otherwise
14 transfer ownership of all or part of a parcel of the owner's managed forest land if the
15 land transferred is one of the following:

16 **SECTION 48.** 77.88 (2) (a) 1. of the statutes is repealed.

17 **SECTION 49.** 77.88 (2) (a) 2. of the statutes is renumbered 77.88 (3) (b) 1. a. and
18 amended to read:

19 77.88 (3) (b) 1. a. All of ~~an~~ the owner's managed forest land within a ~~quarter~~
20 ~~quarter quarter-quarter~~ section.

21 **SECTION 50.** 77.88 (2) (a) 3. of the statutes is renumbered 77.88 (3) (b) 1. b. and
22 amended to read:

23 77.88 (3) (b) 1. b. All of ~~an~~ the owner's managed forest land within a
24 government lot or fractional lot as determined by the U.S. government survey plat.

25 **SECTION 51.** 77.88 (2) (ac) (title) of the statutes is created to read:

SENATE BILL 434**SECTION 51**

1 77.88 (2) (ac) (title) *Transferred land; requirements met.*

2 **SECTION 52.** 77.88 (2) (am) of the statutes is amended to read:

3 77.88 (2) (am) *Transferred land; requirements not met.* If the land transferred
4 under par. (a) does not meet the eligibility requirements under s. 77.82 (1) (a) and
5 (b), the department shall issue an order withdrawing the land from managed forest
6 land designation and shall assess against the owner a withdrawal tax under sub. (5)
7 and the withdrawal fee under sub. (5m).

8 **SECTION 53.** 77.88 (2) (b) of the statutes is amended to read:

9 77.88 (2) (b) *Remaining land; requirements met.* If the land remaining after
10 a transfer under par. (a) ~~is contiguous and~~ meets the eligibility requirements under
11 s. 77.82 (1) (a) ~~2-~~ and (b), it the remaining land shall continue to be designated as
12 managed forest land ~~until the expiration of the existing order, even if the parcel~~
13 ~~contains less than 10 acres. Notwithstanding s. 77.82 (12), an owner may not file an~~
14 ~~application with the department for renewal of the order if the parcel contains less~~
15 ~~than 10 acres. No withdrawal tax under sub. (5) or withdrawal fee under sub. (5m)~~
16 ~~may be assessed when the remaining land is withdrawn at the expiration of the~~
17 ~~order.~~

18 **SECTION 54.** 77.88 (2) (c) of the statutes is amended to read:

19 77.88 (2) (c) *Remaining land; requirements not met.* If the ~~remaining~~ land
20 remaining after a transfer under par. (a) does not meet the eligibility requirements
21 under s. 77.82 (1) (a) ~~2-~~ and (b), the department shall issue an order withdrawing
22 the land and shall assess against the owner the withdrawal tax under sub. (5) and
23 the withdrawal fee under sub. (5m). Notwithstanding s. 77.90, the owner is not
24 entitled to a hearing on an order withdrawing land under this paragraph.

SENATE BILL 434

1 **SECTION 55.** 77.88 (2) (d) 1. of the statutes is renumbered 77.88 (2) (ac) 1. and
2 amended to read:

3 77.88 (2) (ac) 1. ~~Within~~ If the land transferred under par. (a) meets the
4 eligibility requirements under s. 77.82 (1) (a) and (b), the land shall continue to be
5 designated as managed forest land if the transferee, within 30 days after a transfer
6 of ownership, the transferee shall, on files a form provided by the department, file
7 with the department a report of the transfer signed by the transferee. By signing the
8 form, the transferee certifies to the department an intent to comply with the existing
9 management plan for the land and any amendments to the plan. The transferee
10 shall provide proof that each person holding any encumbrance on the land agrees to
11 the designation. The transferee may designate an area of the transferred land closed
12 to public access as provided under s. 77.83. The department shall issue an order
13 continuing the designation of the land as managed forest land under the new
14 ownership. The transferee shall pay a \$100 fee that will accompany the report. The
15 fee shall be deposited in the conservation fund. Twenty dollars of the fee or a different
16 amount of the fee as may be established under subd. 2. shall be credited to the
17 appropriation under s. 20.370 (1) (cr). The department shall immediately notify each
18 person entitled to notice under s. 77.82 (8).

19 **SECTION 56.** 77.88 (2) (d) 2. of the statutes is renumbered 77.88 (2) (ac) 2.

20 **SECTION 57.** 77.88 (2) (e) of the statutes is repealed.

21 **SECTION 58.** 77.88 (2) (f) of the statutes is renumbered 77.88 (2) (ac) 3. and
22 amended to read:

23 77.88 (2) (ac) 3. If the transferee does not provide the department with the
24 certification required under ~~par. (e)~~ subd. 1., the department shall issue an order
25 withdrawing the land and shall assess against the transferee the withdrawal tax

SENATE BILL 434**SECTION 58**

1 under sub. (5) and the withdrawal fee under sub. (5m). Notwithstanding s. 77.90,
2 the transferee is not entitled to a hearing on an order withdrawing land under this
3 ~~paragraph~~ subdivision.

4 **SECTION 59.** 77.88 (2m) of the statutes is created to read:

5 77.88 **(2m)** DAMAGE TO LAND. (a) If a parcel of managed forest land has been
6 damaged by a natural disaster, the owner of the parcel may notify the department,
7 and the department shall establish a period of time that the owner of the parcel will
8 have to restore the productivity of the land so that it meets the requirements under
9 s. 77.82 (1) (a) 2.

10 (b) If the owner fails to complete the restoration in the applicable period of time,
11 the owner may request that the department withdraw all or part of the land in
12 accordance with sub. (3), (3k), or (3L), or the department may proceed with a
13 withdrawal by department order under sub. (1).

14 (c) The department may promulgate a rule that establishes criteria to be used
15 by the department for determining the length of time that an owner shall have to
16 complete the restoration.

17 **SECTION 60.** 77.88 (3) (title) of the statutes is amended to read:

18 77.88 **(3)** (title) VOLUNTARY WITHDRAWAL; TOTAL OR PARTIAL.

19 **SECTION 61.** 77.88 (3) of the statutes is renumbered 77.88 (3) (b) (intro.) and
20 amended to read:

21 77.88 **(3)** (b) Parts of parcels. (intro.) ~~An owner may~~ Upon request that the
22 ~~department withdraw all or any of an owner of managed forest land to withdraw part~~
23 ~~of the owner's land meeting one of the requirements specified under sub. (2) (a) 1. to~~
24 ~~3. If any remaining land meets the eligibility requirements under s. 77.82 (1) a parcel~~
25 of managed forest land, the department shall issue an order withdrawing the land

SENATE BILL 434

1 subject to the request and shall assess against the owner the withdrawal tax under
2 sub. (5) and the withdrawal fee under sub. (5m). If the land being withdrawn is
3 within a proposed ferrous mining site, the department shall issue the order within
4 30 days after receiving the request. if all of the following apply:

5 **SECTION 62.** 77.88 (3) (am) of the statutes is created to read:

6 77.88 (3) (am) *Entire parcels.* Upon request of an owner of managed forest land
7 to withdraw an entire parcel of managed forest land, the department shall issue an
8 order withdrawing the land.

9 **SECTION 63.** 77.88 (3) (b) 1. (intro.) and 2. of the statutes are created to read:

10 77.88 (3) (b) 1. (intro.) The land to be withdrawn is one of the following:

11 2. The land remaining after the withdrawal will continue to meet the eligibility
12 requirements under s. 77.82 (1).

13 **SECTION 64.** 77.88 (3) (d) of the statutes is created to read:

14 77.88 (3) (d) *Ferrous mining site.* If the land being withdrawn under this
15 subsection is within a proposed ferrous mining site, the department shall issue the
16 order within 30 days after receiving the request.

17 **SECTION 65.** 77.88 (3g) of the statutes is repealed.

18 **SECTION 66.** 77.88 (3j) of the statutes is created to read:

19 77.88 (3j) **VOLUNTARY WITHDRAWAL; OTHER CONSTRUCTION; SMALL LAND SALES.** (a)
20 Except as provided in par. (b), upon the request of an owner of managed forest land
21 to withdraw part of a parcel of the owner's land, the department shall issue an order
22 withdrawing the land subject to the request if all of the following apply:

23 1. The purpose for which the owner requests that the department withdraw the
24 land is for the sale of the land or for a construction site.

SENATE BILL 434**SECTION 66**

1 2. The land to be withdrawn is not less than one acre and not more than 5 acres.

2 Partial acres may not be withdrawn.

3 3. If the land is subject to a city, village, town, or county zoning ordinance that
4 establishes a minimum acreage for ownership of land or for a construction site, the
5 owner requests that the department withdraw not less than that minimum acreage.

6 4. The land remaining after withdrawal meets the eligibility requirements
7 under s. 77.82 (1) (a) and (b).

8 (b) 1. For land that is designated as managed forest land under an order with
9 a term of 25 years, the department may not issue an order of withdrawal under par.
10 (a) if the department has previously issued an order of withdrawal under par. (a)
11 from that parcel of managed forest land during the term of the order.

12 2. For land that is designated as managed forest land under an order with a
13 term of 50 years, the department may not issue an order of withdrawal under par.
14 (a) if the department has previously issued 2 orders of withdrawal under par. (a) from
15 that parcel of managed forest land during the term of the order.

16 (c) Upon issuance of an order withdrawing land under this subsection, the
17 department shall assess against the owner of the land the withdrawal tax under sub.
18 (5) and the withdrawal fee under sub. (5m).

19 **SECTION 67.** 77.88 (3k) of the statutes is created to read:

20 77.88 (3k) VOLUNTARY WITHDRAWAL; PRODUCTIVITY. Upon the request of an owner
21 of managed forest land to withdraw part of a parcel of the owner's land, the
22 department shall issue an order of withdrawal if the department determines that the
23 parcel is unable to produce merchantable timber in the amount required under s.
24 77.82 (1) (a) 2. The order shall withdraw only the number of acres that is necessary

SENATE BILL 434

1 for the parcel to resume its ability to produce the required amount. No withdrawal
2 tax under sub. (5) or withdrawal fee under sub. (5m) may be assessed.

3 **SECTION 68.** 77.88 (3L) of the statutes is created to read:

4 77.88 (3L) VOLUNTARY WITHDRAWAL; SUSTAINABILITY. Upon the request of an
5 owner of managed forest land to withdraw part of a parcel of the owner's land, the
6 department shall issue an order of withdrawal if the department determines that the
7 parcel is unsuitable, due to environmental, ecological, or economic concerns or
8 factors, for the production of merchantable timber. The order shall withdraw only
9 the number of acres that is necessary for the parcel to resume its sustainability to
10 produce merchantable timber. No withdrawal tax under sub. (5) or withdrawal fee
11 under sub. (5m) may be assessed.

12 **SECTION 69.** 77.88 (4) of the statutes is repealed.

13 **SECTION 70.** 77.88 (4m) of the statutes is created to read:

14 77.88 (4m) EXPIRATION OF ORDERS. The department shall maintain a list of
15 orders designating managed forest lands that have expired. The department shall
16 add a parcel to the list within 30 days after the date of expiration. For each expired
17 order, the list shall provide a description of the land and shall identify each
18 municipality in which the managed forest land is located.

19 **SECTION 71.** 77.88 (5) (a) (intro.) of the statutes is renumbered 77.88 (5) (ae)
20 and amended to read:

21 77.88 (5) (ae) Tax liability; general. Except as provided in ~~pars. par. (am), (ar),~~
22 ~~and (b),~~ for land withdrawn during a managed forest land order, the withdrawal tax
23 shall be the higher of the following: equal the amount of past tax liability under par.
24 (ac) that is applicable to the land.

25 **SECTION 72.** 77.88 (5) (a) 1. and 2. of the statutes are repealed.

SENATE BILL 434**SECTION 73**

1 **SECTION 73.** 77.88 (5) (ab) of the statutes is repealed.

2 **SECTION 74.** 77.88 (5) (ac) of the statutes is created to read:

3 77.88 **(5)** (ac) *Calculation of past tax liability.* For purposes of this subsection,
4 the amount of past tax liability for land to be withdrawn from the managed forest
5 land program shall be calculated by multiplying the total net property tax rate in the
6 municipality in which managed forest land to be withdrawn is located in the year
7 prior to the year in which an order withdrawing the land is issued by an amount
8 equal to the assessed value of the land for that same year, as calculated by the
9 department of revenue, and by then multiplying that product by 10 or by the number
10 of years the land was designated as managed forest land, whichever number is fewer.

11 **SECTION 75.** 77.88 (5) (am) (title) of the statutes is created to read:

12 77.88 **(5)** (am) (title) *Converted forest croplands.*

13 **SECTION 76.** 77.88 (5) (am) 1. of the statutes is amended to read:

14 77.88 **(5)** (am) 1. The amount ~~calculated under par. (a)~~ of past tax liability under
15 par. (ac) for the land.

16 **SECTION 77.** 77.88 (5) (ar) of the statutes is repealed.

17 **SECTION 78.** 77.88 (5) (b) of the statutes is repealed.

18 **SECTION 79.** 77.88 (5) (c) of the statutes is repealed.

19 **SECTION 80.** 77.88 (5m) of the statutes is amended to read:

20 77.88 **(5m)** **WITHDRAWAL FEE.** The withdrawal fee assessed by the department
21 under subs. (1) (c), (2) (ac) 2., (am), and (c), ~~and (f)~~, (3), and (3m) shall be \$300.

22 **SECTION 81.** 77.88 (8) (b) of the statutes is amended to read:

23 77.88 **(8)** (b) The department may not order withdrawal of land remaining after
24 a transfer of ownership is made under par. (a) 1., 2., or 3., or after a lease is entered
25 into under par. (a) 3., ~~or after the department orders withdrawal of land under sub.~~

SENATE BILL 434

1 ~~(3g) (am)~~ unless the remainder fails to meet the eligibility requirements under s.
2 77.82 (1).

3 **SECTION 82.** 77.88 (11) of the statutes is amended to read:

4 77.88 **(11)** LIABILITY FOR PREVIOUS TAXES. Withdrawal of land under this section
5 does not affect the liability of the owner for previously levied taxes under s. 77.84 ~~or~~
6 77.87.

7 **SECTION 83.** 77.89 (1) (a) of the statutes, as affected by 2015 Wisconsin Act 55,
8 is amended to read:

9 77.89 **(1)** (a) By June 30 of each year, the department, from the appropriation
10 under s. 20.370 (5) (bv), shall pay 100 percent of each payment received under ~~ss. s.~~
11 77.84 (3) (b) ~~and 77.87 (3)~~ and 100 percent of each withdrawal tax payment received
12 under s. 77.88 (7) to the treasurer of each municipality in which is located the land
13 to which the payment applies.

14 **SECTION 84.** 77.89 (2) (b) of the statutes is amended to read:

15 77.89 **(2)** (b) The municipal treasurer shall pay all 20 percent of the amounts
16 received under s. 77.84 (2) (b) and (bm) to the county treasurer, as provided under
17 ss. 74.25 and 74.30. ~~The county treasurer shall, by June 30 of each year, pay all~~
18 ~~amounts received under this paragraph to the department. All amounts received by~~
19 ~~the department shall be credited to the conservation fund and shall be reserved for~~
20 ~~land acquisition, resource management activities, and grants under s. 77.895 and~~
21 shall deposit the remainder in the municipal treasury.

22 **SECTION 85.** 77.91 (3) of the statutes is repealed.

23 **SECTION 86.** 77.91 (3m) of the statutes is amended to read:

24 77.91 **(3m)** REPORT TO LEGISLATURE. Beginning with calendar year ~~1992~~ 2015,
25 the department shall calculate for each calendar year whether the amount of land

SENATE BILL 434**SECTION 86**

1 exempt from penalty or tax under s. 77.10 (2) (c) or 77.88 (8) that is withdrawn during
2 that calendar year under s. 77.10 or 77.88 exceeds ~~1%~~ 1 percent of the total amount
3 of land that is subject to contracts under subch. I or subject to orders under this
4 subchapter on December 31 of that calendar year. If the amount of withdrawn or
5 classified land that is so exempt exceeds ~~1%~~ 1 percent, the department shall make
6 a report of its calculations to the governor and the chief clerk of each house of the
7 legislature for distribution to the appropriate standing committees under s. 13.172
8 (3).

9 **SECTION 87.** 77.91 (6) (d) of the statutes is created to read:

10 77.91 (6) (d) Any signature required of an official or employee of the
11 department or a landowner under this subchapter may be satisfied by an electronic
12 signature, as defined in s. 137.11 (8).

13 **SECTION 88.** 77.91 (8) of the statutes is created to read:

14 77.91 (8) EMERGENCY RULES. The department may use the procedure under s.
15 227.24 to promulgate emergency rules under s. 77.82 (1) (bp) 2. f. for the period before
16 the date on which permanent rules under s. 77.82 (1) (bp) 2. f. take effect.
17 Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this
18 subsection remain in effect until the first day of the 25th month beginning after the
19 effective date of the emergency rule or the date on which the permanent rules take
20 effect, whichever is earlier. Notwithstanding s. 227.24 (1) (a) and (3), the department
21 is not required to provide evidence that promulgating rules under this subsection as
22 emergency rules is necessary for the preservation of the public peace, health, safety,
23 or welfare and is not required to provide a finding of emergency for rules promulgated
24 under this subsection.

25 **SECTION 89. Nonstatutory provision.**

SENATE BILL 434

1 (1) STATE FOREST PLAN VARIANCE. Before March 1, 2017, the department of
2 natural resources shall propose a variance to the master plans of all state forests
3 except for the southern state forests, as defined in section 27.016 (1) (c) of the
4 statutes, and except for Governor Knowles State Forest so that 75 percent of all the
5 land in those state forests combined is classified as a forest production area as
6 provided in section 28.04 (3) (am) of the statutes.

7 **SECTION 90. Initial applicability.**

8 (1) YIELD AND SEVERANCE TAXES. The treatment of sections 26.06 (1), 75.36 (2)
9 (a), 77.07, 77.10 (1) (a), 77.86 (2), 77.88 (5) (a) 1. and 2., (ar), and (b) and (11), and
10 77.89 (1) (a) of the statutes first applies to the removal of wood products from forest
11 croplands and the cutting of merchantable timber from managed forest land that
12 occurs on the effective date of this subsection.

13 (2) MINIMUM ACREAGE. The treatment of section 77.82 (1) (a) 1. of the statutes
14 first applies to land designated as managed forest land by an order issued on the
15 effective date of this subsection.

16 **SECTION 91. Effective dates.** This act takes effect on the day after publication,
17 except as follows:

18 (1) The treatment of sections 26.06 (1), 75.36 (2) (a), 77.07, 77.10 (1) (a), 77.86
19 (2), 77.88 (5) (a) 1. and 2., (ar), and (b) and (11), and 77.89 (1) (a) of the statutes and
20 SECTION 90 (1) of this act take effect on the first day of the 3rd month beginning after
21 publication.